From: Jessica Drew
Marine Scotland Licensing Operations Team
Marine Scotland
9th March 2017

Minister for Business, Innovation and Energy

APPLICATIONS FOR CONSENT UNDER SECTION 36 AND FOR A DECLARATION UNDER SECTION 36A OF THE ELECTRICITY ACT 1989 FOR THE CONSTRUCTION AND OPERATION OF AN OFFSHORE GENERATING STATION, THE DOUNREAY TRÌ FLOATING WIND DEMONSTRATION PROJECT, APPROXIMATELY 6 km OFFSHORE FROM DOUNREAY, CAITHNESS

A DIRECTION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) THAT PLANNING PERMISSION FOR THE ANCILLARY ONSHORE DEVELOPMENT BE DEEMED TO BE GRANTED

Purpose

To seek your determination on the Application submitted by Dounreay Trì Ltd (Company Number SC515140) ("the Company") for consent under section 36 ("s.36") of the Electricity Act 1989 (as amended) ("the Electricity Act") to construct and operate an offshore floating wind demonstration project, comprised of two wind turbine generators ("WTGs") mounted on a single floating platform, each with an installed capacity of up to 6 MW, giving a combined total maximum generating capacity not exceeding 12 megawatts ("MW") ("the Application"); for a declaration under section 36A of the Electricity Act to extinguish public rights of navigation so far as they pass through those places within the territorial sea where structures forming part of the Dounreay Trì Floating Wind Demonstration Project and offshore transmission works are to be located; and for a Direction under section 57(2) of the Town And Country Planning (Scotland) Act 1997 (as amended) ("the 1997 Act") that planning permission for the ancillary onshore development be deemed to be granted.

Priority

Routine.

Background

On 19th October 2016, the Company submitted an application for consent to construct and operate the Dounreay Trì Floating Wind Demonstration Project ("the Development"), approximately 6 km offshore from Dounreay, Caithness (**ANNEX G – PROJECT LOCATION**).

The Application is for the construction and operation of the offshore generating station with a total maximum generating capacity of 12 MW, consisting of:

- one single floating, semi-submersible, column-stabilised platform, comprising of buoyancy columns interconnected in a steel lattice truss framework. The

maximum length will be 230 m, maximum width will be 135 m and maximum height 15 m above water surface. The platform will rotate 360° and have a passive mooring system. The mooring system will consist of up to 8 mooring lines, passing through a 600 tonne clump weight suspended in the water beneath the platform. A total of 16 anchors will be attached to the mooring lines, two per line, with a maximum radius of 800 m from the platform centre;

- two Demonstration offshore wind turbine generators ("WTGs") each with an installed capacity of up to 6 MW, giving a total maximum generating capacity not exceeding 12 MW. Each turbine will be a three bladed structure with a maximum hub height of 124 m above Lowest Astronomical Tide ("LAT"), including the jacket, a maximum blade tip height of 201 m above LAT and a maximum rotor diameter of 154 m;

- grid infrastructure including the installation of one subsea cable which will bring the power ashore immediately to the west of the Dounreay Restoration Site fence line; and

- associated onshore infrastructure, including, underground cabling and turbine transformers comprising medium and low voltage container units, to be located at, or near to the existing Dounreay 132/33/11kV substation.

In conjunction with the consultation on the Application for s.36 consent under the Electricity Act, Marine Scotland Licensing Operations Team ("MS-LOT") has consulted on the application for two marine licences, one concerning the deposit of the platform and mooring system infrastructure, and one for the export cable coming to shore immediately to the west of the Dounreay Restoration Site fence line. The marine licence applications are being considered under the Marine (Scotland) Act 2010 alongside the Application and will be determined in due course.

At this time the Company also applied for a declaration under section 36A of the Electricity Act to extinguish public rights of navigation so far as they pass through those places within the Scottish marine area (in the main, the territorial sea adjacent to Scotland) where structures forming part of the offshore wind farm are to be located.

In addition, the Company submitted an application under section 57(2) of the 1997 Act that planning permission for the ancillary onshore development be deemed to be granted.

In accordance with standard procedure and statutory requirements, this Application has been advertised in line with the legislative requirements and has been subject to wide ranging consultation which afforded interested parties appropriate time to submit representations to the Scottish Ministers. MS-LOT is satisfied that there are no outstanding issues that should prevent consent being granted should you determine that it is appropriate.

CONSIDERATION OF THE APPLICATION

MS-LOT is satisfied that, whilst the Development would have an impact on the environment, by taking into account the extent to which any environmental effects

will be reduced by measures the Company will be required to take under the conditions attached to the s.36 consent and Marine Licences, the environmental issues can be appropriately addressed by way of mitigation, and that any impacts which remain are outweighed by the benefits the Development will bring.

The Company estimates that approximately 240 jobs would potentially be made available, 72 of which could be available locally. This estimation, undertaken by the company, is based upon the Marine Energy supply chain. This survey was carried out in 2009 for the Scottish Government by Sgurr Energy. The survey used a factor of 20 jobs per MW to estimate the workforce requirements for manufacturing, construction and installation. A further assumption was made which assumed that 50% of the Capital Expenditure was allocated to manufacturing of the turbines, and 30% for foundations and installation. The final 20% covers the cabling and onshore infrastructure. For the Development it is assumed that 30% of these jobs would be created locally during the construction and installation phase for the offshore infrastructure, which is consistent with past offshore renewables projects in the region. Assigning this employment factor, 20 jobs per newly installed MW for the maximum project capacity of 12 MW, results in potentially 240 jobs being created. The Development and enhancement of skill sets associated with, construction, installation and maintenance will form a positive employment opportunity for the selected port site.

The Company has already entered into an agreement with Scrabster Harbour to service the facility. This will create seven full time jobs and provide support for other local jobs including supply chain activities. MS-LOT has received confirmation that a contract to fabricate the Development in the Highlands has been signed. The Company intend the works to be carried out at Global Energy Group's Nigg Energy Park facility, with service of the Development at the Port of Scrabster.

Due to the nature of the demonstration facility, and the unknown performance data for the new turbine designs, it is not possible to accurately predict the energy that will be produced by the Development over the lifespan of its consent of 25 years and therefore a calculation of the displacement of CO_2 cannot be made. However, based on Scottish Government's published Renewable Electricity Output Calculator[1], it can be estimated that, depending on the fuel type displaced, between 11,198 tonnes (all fuels including nuclear and renewables) and 31,030 tonnes (coal) of CO_2 could be saved. It is also estimated that the WTG's with a maximum output of 12 MW of electricity will supply sufficient energy to meet the needs of 7,748 households in Scotland.

Any energy generated from the Development will result in the displacement of CO_2 generated from non-renewable sources and the aim of the Development, to further the development of the UK offshore wind industry, will therefore contribute to the reduction of CO_2 emissions from UK power generation in the long term.

Background and consultation information for the Development is set out at Error! Reference source not found. **AND SCOTTISH MINISTERS' CONSIDERATIONS**

[1] http://www.gov.scot/Topics/Statistics/Browse/Business/Energy/onlinetools/ElecCalc

Consultation Summary

SNH raised some concerns regarding the environmental impacts of this Development, and recommended planning conditions should the Scottish Ministers grant consent. These conditions are reflected in **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS**. The Appropriate Assessment ("AA") which was completed concluded that the Development would not on its own or in combination with other plans or projects adversely affect the integrity of any Special Protection Areas ("SPAs") or. Special Areas of Conservation ("SACs") relevant to the Development. SNH recognised that the impacts of the Development, in isolation, were small and agreed with the conclusions, of the AA. This is reflected in **ANNEX E – APPROPRIATE ASSESSMENT**.

The Scottish Environment Protection Agency ("SEPA") did not object to the Development, but did state that if their advice was not taken into account and appropriate conditions imposed, then Marine Scotland must consider their response as an objection.

Conditions are being imposed as part of this consent to further minimise the potential impacts of this Development **(ANNEX D – DRAFT DECISION LETTER AND CONDITIONS, Annex 2)**.

Public Representations

A total of seven (7) valid public representations were received by MS-LOT from members of the public during the course of both public consultation exercises. Of these, five (5) objected to the Development and two (2) supported the Development.

All public representations have been taken into consideration and have been summarised in **ANNEX F – PUBLIC REPRESENTATIONS.**

Publicity

Officials will liaise with Communications once determinations have been made on the Applications to agree the appropriate means of announcing the decisions.

As a potential way of meeting any Freedom of Information requests which may be received, and in order for the determination process to be fully open and transparent, MS-LOT recommend that this submission is published on the Marine Scotland Licensing page of the Scottish Government website, alongside the key documentation relating to the Applications including consultee responses and public representations with personal information, e.g. names, email addresses and phone numbers, redacted.

Recommendation

The Development offers a small but valuable contribution to the renewables obligation and climate change targets, and any adverse effects which the Development may have can be mitigated against or are, on balance, acceptable when weighed against the benefits of the Development. Having taken all material

considerations into account, including the statutory and non-statutory consultation responses, public representations and public objections received, and being satisfied that all legislative requirements have been met, MS-LOT is of the view that you should:

> **Determine that it is appropriate not to cause a public inquiry to be held and to grant consent under section 36 of the Electricity Act 1989 for the 12 MW Dounreay Trì Floating Wind Demonstration Project, to issue a declaration under section 36A to extinguish the public rights of navigation in so far as they pass through those places within territorial waters where the structures forming part of the offshore wind farms are to be located, and to issue a Direction under section 57(2) the Town and Country Planning (Scotland) Act 1997 (as amended) that planning permission for the ancillary onshore development be deemed to be granted.**

Please note that applications for two marine licences under the Marine (Scotland) Act 2010 for the Dounreay Trì Floating Wind Demonstration Project, one concerning the deposit of the Platform and Mooring system infrastructure, and one for the Export Cable coming to shore are being considered alongside this Application. These will be determined and a decision issued in due course.

List of Annexes

Copy List:	For Action	For Comment	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Cabinet Secretary for Economy, Jobs and Fair Work			X		
Cabinet Secretary for Rural Economy and Connectivity			X		
Cabinet Secretary for Environment, Climate Change and Land Reform			X		
DG Economy Mike Palmer - Marine Scotland David Palmer - Marine Scotland Jim McKie - Marine Scotland Karen Major - Marine Scotland Nicola Bain - Marine Scotland Gayle Holland – Marine Scotland David Pratt - Marine Scotland Mark Christie - Marine Scotland David Mallon - Marine Scotland Michael Mcleod – Marine Scotland Ian Davies - Marine Scotland Chris Stark - Energy & Climate Change Frances Pacitti - Energy & Climate Change Simon Coote - Energy & Climate Change David Stevenson - Energy & Climate Change Alan Williams - SGLD Fiona McClean - SGLD Ian Vickerstaff - SGLD Simon Bonsall - Planning Keith Connal - E&RA Iain Malcolm - Freshwater Fisheries Chris Wilcock - Ports and Harbours David Miller – Special Advisor Communications - Economy, Rural Economy, and Environment					

ANNEX A – REGULATORY REQUIREMENTS: LEGISLATION AND POLICY

APPLICATIONS FOR CONSENT UNDER SECTION 36 AND FOR A DECLARATION UNDER SECTION 36A OF THE ELECTRICITY ACT 1989 FOR THE CONSTRUCTION AND OPERATION OF AN OFFSHORE GENERATING STATION, THE DOUNREAY TRÌ FLOATING WIND DEMONSTRATION PROJECT, APPROXIMATELY 6 km OFFSHORE FROM DOUNREAY, CAITHNESS

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LEGISLATION

The Scotland Act 1998, The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 and The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 2) Order 2006

1. The generation, transmission, distribution and supply of electricity are reserved matters under Schedule 5, Part II, section D1 of the Scotland Act 1998. The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 ("the 1999 Order") executively devolved section 36 consent functions under the Electricity Act 1989 (as amended) ("the Electricity Act") (with related Schedules) to the Scottish Ministers. The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 2) Order 2006 revoked the transfer of section 36 consent functions as provided under the 1999 Order and then, one day later, re-transferred those functions, as amended by the Energy Act 2004, to the Scottish Ministers in respect of Scotland and the territorial waters adjacent to Scotland and extended those consent functions to a defined part of the Renewable Energy Zone beyond Scottish territorial waters, as set out in the Renewable Energy Zone (Designation of Area) (Scottish Ministers) Order 2005.

The Electricity Act 1989

2. Any proposal to construct, extend or operate a generating station situated in internal waters or the territorial sea (out to 12 nautical miles ("nm") from the shore) with a generation capacity in excess of 1 megawatt ("MW") requires consent under section 36 ("s.36") of the Electricity Act[1]. A consent under s.36 may include such conditions (including conditions as to the ownership or operation of the station) as appear to the Scottish Ministers to be appropriate. The consent shall continue in force for such period as may be specified in, or determined by or under, the consent.

3. Paragraph 3 of Schedule 9 to the Electricity Act places a duty on licence holders or persons authorised by an exemption to generate, distribute,

[1] S.36(2) modified by The Electricity Act 1989 (Requirement of Consent for Offshore Generating Stations)(Scotland) Order 2002

supply or participate in the transmission of electricity when formulating "relevant proposals" within the meaning of paragraph 1 of Schedule 9 to have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. Such persons are statutorily obliged to do what they reasonably can to mitigate any effect which the proposals would have on these features.

4. Paragraph 3 of Schedule 9 to the Electricity Act also provides that the Scottish Ministers must have regard to the desirability of preserving natural beauty etc. and the extent to which the person by whom the proposals were formulated has complied with their duty to mitigate the effects of the proposals. When exercising any relevant functions, a licence holder, a person authorised by an exemption to generate or supply electricity, and the Scottish Ministers must also avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

5. Under section 36A of the Electricity Act, Scottish Ministers have the power to make a declaration, on application by an applicant when making an application for consent under s.36 of the Electricity Act, which extinguishes public rights of navigation which pass through the place where a generating station will be established; or suspend rights of navigation for a specified period of time; or restrict rights of navigation or make them subject to conditions. The power to extinguish public rights of navigation extends only to renewable generating stations situated in territorial waters.

6. Under section 36B of the Electricity Act, the Scottish Ministers may not grant a consent in relation to any particular offshore generating station activities if they consider that interference with the use of recognised sea lanes essential to international navigation is likely to be caused by the carrying on of those activities or is likely to result from their having been carried on. The Scottish Ministers, when determining whether to give consent for any particular offshore generating activities, and considering the conditions to be included in such consent, must have regard to the extent and nature of any obstruction of, or danger to, navigation which, without amounting to interference with the use of such sea lanes, is likely to be caused by the carrying on of the activities, or is likely to result from their having been carried on. In determining this issue, the Scottish Ministers must have regard to the likely overall effect (both while being carried on and subsequently) of the activities in question and such other offshore generating activities which are either already subject to s.36 consent or are activities for which it appears likely that such consents will be granted.

7. Under Schedule 8 to the Electricity Act and the Electricity (Applications for Consent) Regulations 1990 (as amended) ("the 1990 Regulations"), notice of applications for s.36 consent must be published by the applicant in one or more local newspapers, in one or more national newspapers, and in the Edinburgh Gazette to allow representations to be made to the Application.

The Scottish Ministers must also serve notice of any application for consent upon any relevant planning authority.

8. Paragraph 2(2) of Schedule 8 to the Electricity Act provides that where a relevant planning authority notifies the Scottish Ministers that they object to an application for s.36 consent and where they do not withdraw their objection, then the Scottish Ministers must cause a Public Local Inquiry ("PLI") to be held in respect of the application. In such circumstances before determining whether to give their consent the Scottish Ministers must consider the objections and the report of the person who held the PLI.

9. An application for deemed planning permission was made for the ancillary onshore elements of the Development. Section 21 of the Growth and Infrastructure Act 2013 amended Section 57(2) of the Town and Country Planning (Scotland) Act 1997 ("the 1997 Act") to allow Scottish Ministers to direct that planning permission is deemed to be granted for the ancillary onshore components and related onshore infrastructure for a marine based electricity generating station consented under s.36 of the Electricity Act.

10. Where a s.36 application contains an onshore element of the generating station, then a planning authority objection will trigger a PLI, which will be confined to the onshore element. Paragraph 7A(7) of Schedule 8 to the Electricity Act gives the Scottish Ministers powers of direction in relation to the scope of any PLI.

11. Marine Scotland Licensing Operations Team ("MS-LOT"), on behalf of the Scottish Ministers consulted with the planning authorities most local to the Development, which in this instance were The Highland Council ("THC") and Orkney Islands Council ("OIC"). The Councils did not object to the Applications but suggested conditions in relation to onshore construction environment management documents, the removal of unused turbines and associated infrastructure, the publication of underwater cable and infrastructure locations for the benefit of local fishermen, design plans, project environment monitoring programme, contracting of an Ecologic Clerk of Works, lighting and marking plans, a decommissioning plan, a restoration plan and noise.

12. If the Councils had objected to the Applications, and even then if they did not withdraw their objections, the Scottish Ministers would not have been statutorily obliged to hold a PLI under paragraph 2(2) of Schedule 8 to the Electricity Act.

13. The Scottish Ministers are, however, required under paragraph 3(2) of Schedule 8 to the Electricity Act to consider all objections received, together with all other material considerations, with a view to determining whether a PLI should be held in respect of the Applications. Paragraph 3(2) of Schedule 8 provides that if the Scottish Ministers think it appropriate to do so, they shall cause a PLI to be held, either in addition to or instead of any other hearing or opportunity of stating objections to the Application.

14. You can be satisfied that all the necessary tests set out within the Electricity Act have been met through the assessment of the Application, and all procedural requirements have been complied with. The Company does not currently hold a generation licence, they intend to apply for one should they receive consent. Your officials have approached matters on the basis that Schedule 9, paragraph 3(1) obligations, as they apply to licence holders and the specified exemption holders, should also be applied to the Company if the generation licence is granted.

Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (as amended) and The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended)

15. The Environmental Impact Assessment Directive (85/337/EEC) is targeted at projects which are likely to have significant effects on the environment and identifies projects which require an Environmental Impact Assessment ("EIA") to be undertaken. The Company identified the proposed Development as one requiring an Environmental Statement ("ES") in terms of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (as amended) ("the 2000 Regulations") and the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) ("the 2007 Regulations").

16. An ES has been produced and the applicable procedures regarding publicity and consultation, as laid down in the 2000 Regulations and the 2007 Regulations, have been followed.

17. In compliance with the 2000 and the 2007 Regulations, consultation has taken place with Scottish Natural Heritage ("SNH"), the Scottish Environmental Protection Agency ("SEPA"), the relevant planning authorities, and such other persons likely to be concerned by the proposed Development by reason of their specific environmental responsibilities on the terms of the ES and additional information in the form of statutory consultation responses.

18. MS-LOT has also consulted a wide range of relevant organisations, including colleagues within the Scottish Government on the Applications and ES in accordance with the regulatory requirements.

19. MS-LOT considers that you can be satisfied that the regulatory requirements have been met. MS-LOT has taken into consideration the environmental information, including the ES and the responses received from the statutory consultative bodies and all other representations and objections received.

The Habitats Directive and the Birds Directive

20. Council Directive 92/43/EEC of 21st May 1992 on the conservation of natural habitats and wild fauna and flora (as amended) ("the Habitats Directive"), provides for the conservation of natural habitats and of wild flora and fauna in the Member States' European territory, including offshore areas such as

the proposed site of the Development. It promotes the maintenance of biodiversity by requiring Member States to take measures which include those which maintain or restore natural habitats and wild species listed in the Annexes to the Habitats Directive at a favourable conservation status and contributes to a coherent European ecological network of protected sites by designating Special Areas of Conservation ("SAC") for those habitats listed in Annex I and for the species listed in Annex II, both Annexes to that Directive.

21. Articles 6 & 7 of the Habitats Directive provide *inter alia* as follows:

> "6.2 Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.
>
> 6.3 Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to an Appropriate Assessment ("AA") of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.
>
> 6.4. If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.
>
> 7. Obligations arising under Article 6 (2), (3) and (4) of this Directive shall replace any obligations arising under the first sentence of Article 4 (4) of Directive 79/409/EEC in respect of areas classified pursuant to Article 4 (1) or similarly recognized under Article 4 (2) thereof, as from the date of implementation of this Directive or the date of classification or recognition by a Member State under Directive 79/409/EEC, where the latter date is later."

22. Council Directive 79/409/EEC of 2nd April 1979 on the conservation of wild birds (as amended and codified) ("the Birds Directive"), applies to the conservation of all species of naturally occurring wild birds in the member states' European territory, including offshore areas such as the proposed site of the Development and it applies to birds, their eggs, nests and habitats. Under Article 2, Member States are obliged to "take the requisite

measures to maintain the population of the species referred to in Article 1 at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level." Article 3 further provides that "[i] in the light of the requirements referred to in Article 2, Member States shall take the requisite measures to preserve maintain or re-establish a sufficient diversity and area of habitats for all the species of birds referred to in Article 1". Such measures are to include the creation of protected areas: Article 3.2.

23. Article 4 of the Birds Directive provides *inter alia* as follows:

> "1. The species mentioned in Annex I [of that Directive] shall be the subject of special conservation measures concerning their habitat in order to ensure their survival and reproduction in their area of distribution. […]
> 2. Member States shall take similar measures for regularly occurring migratory species not listed in Annex I [of that Directive], bearing in mind their need for protection in the geographical sea and land area where this Directive applies, as regards their breeding, moulting and wintering areas and staging posts along their migration routes. To this end, Member States shall pay particular attention to the protection of wetlands and particularly to wetlands of international importance.[…]
> 4. In respect of the protection areas referred to in paragraphs 1 and 2, Member States shall take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. Outside these protection areas, Member States shall also strive to avoid pollution or deterioration of habitats."

24. The Habitats Directive and the Birds Directive have, in relation to the marine environment, been transposed into Scots law by the Conservation (Natural Habitats, & c.) Regulations 1994 (as amended) ("the 1994 Regulations") for devolved matters, the Conservation of Habitats and Species Regulations 2010 ("the 2010 Regulations") for reserved matters and s.36 for various matters which have been executively devolved to include consents under the Electricity Act, and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 for developments out with 12 nm. As the Development is to be sited in internal waters adjacent to Scotland, the 1994 and the 2010 Regulations are applicable in respect of the Application.

25. The 1994, the 2007 and the 2010 Regulations ("the Habitats Regulations") clearly implement the obligation in art. 6(3) & (4) of the Habitats Directive, which by art. 7 applies in place of the obligation found in the first sentence of art. 4(4) of the Birds Directive. In each case the "competent authority", which in this case is the Scottish Ministers, is obliged to "make an Appropriate Assessment ("AA") of the implications for the site in view of the site's conservation objectives". Such authority is also obliged to consult SNH, for the purpose of regulation 61 of the 2010 Regulations, to have regard to any representations made by SNH. Regulation 61(5) and (6) of the 2010 Regulations is as follows:

"(5) In the light of the conclusions of the assessment, and subject to regulation 62 (considerations of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or European offshore marine site (as the case may be).

(6) In considering whether a plan or project will adversely affect the integrity of a site, the authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which they propose that the consent, permission or other authorisation should be given."

26. Developments in, or adjacent to, European protected sites, or in locations which have the potential to affect such sites, must undergo what is commonly referred to as an Habitats Regulations Appraisal ("HRA"). The appraisal involves two stages:

Stage 1 - Where a project is not connected with or necessary to the site's management and it is likely to have a significant effect thereon (either individually or in combination with other projects), then an AA is required.

Stage 2 - In light of the AA of the project's implications for the site in view of the site's conservation objectives, the competent authority must ascertain to the requisite standard, that the project will not adversely affect the integrity of the site, having regard to the manner in which it is proposed to be carried out and to any conditions or restrictions subject to which the consent is proposed to be granted.

27. In line with advice from SNH, and to ensure compliance with European Union obligations under the Habitats Directive and the Birds Directive, due consideration has been given to all of the Special Protection Areas ("SPA'") and SACs at **ANNEX E**, the result of which has identified no Likely Significant Effects ("LSE") on any qualifying interest. MS-LOT, on behalf of the Scottish Ministers, undertook an AA and concluded that the Development will not adversely affect the integrity of any of the assessed SACs or SPAs, either alone or in combination with other plans or projects. Conditions can also be imposed on any grant of consent ensuring that the sites are protected from damage.

28. SNH was consulted on the AA and agreed with the conclusions that have been reached. The AA for the Development (**ANNEX E – APPROPRIATE ASSESSMENT)** will be published and available on the Marine Scotland licensing page of the Scottish Government's website.

Marine (Scotland) Act 2010

29. The Marine (Scotland) Act 2010 ("the 2010 Act") regulates activities in the territorial sea adjacent to Scotland in terms of marine environment issues. Subject to exemptions specified in subordinate legislation, under Part 4 of

the 2010 Act, licensable marine activities may only be carried out in accordance with a marine licence granted by the Scottish Ministers.

30. Under Part 2 of the 2010 Act, the Scottish Ministers have general duties to carry out their functions in a way best calculated to further the achievement of sustainable development, including the protection and, where appropriate, the enhancement of the health of that area. The Scottish Ministers, when exercising any function that affects the Scottish marine area under the 2010 Act, or any other enactment, must act in a way best calculated to mitigate, and adapt to climate change.

31. The Environmental Impact Assessment Consent Decision ("EIA Consent Decision") for the Development has been given consideration under the 2007 Regulations. The EIA Consent Decision will be published and available on the Marine Scotland licensing page of the Scottish Government's website.

Climate Change (Scotland) Act 2009

32. Under Part 2 of the 2010 Act the Scottish Ministers must, when exercising any function that affects the Scottish marine area under the Climate Change (Scotland) Act 2009 (as amended), act in the way best calculated to mitigate and adapt to climate change so far as is consistent with the purpose of the function concerned. Under the Climate Change (Scotland) Act 2009 (as amended), annual targets have been agreed with relevant advisory bodies for the reduction in carbon emissions.

33. Due to the nature of the demonstration facility, and the unknown performance data for the new turbine designs, it is not possible to accurately predict the energy that will be produced by the Development over the lifespan of its consent of 25 years and therefore a calculation of the displacement of CO_2 cannot be made. However, based on Scottish Government's published Renewable Electricity Output Calculator[2], it can be estimated that, depending on the fuel type displaced, 11,198 tonnes (all fuels including nuclear and renewables) and 31,030 tonnes (coal) of CO_2 could be saved. It is also estimated that the wind turbine generators ("the WTGs") with a maximum output of 12 MW of electricity will supply sufficient energy to meet the needs of 7,748 households in Scotland.

34. Any energy generated from the Development will result in the displacement of CO_2 generated from non-renewable sources and the aim of the Development, to further the development of the UK offshore wind industry, will therefore contribute to the reduction of CO_2 emissions from UK power generation in the long term.

Town and Country Planning (Scotland) Act 1997 (as amended)

35. The Scottish Ministers have powers under section 57(2) of the 1997 Act, as amended by section 21 of the Growth and Infrastructure Act 2013, on

[2] http://www.gov.scot/Topics/Statistics/Browse/Business/Energy/onlinetools/ElecCalc

granting or varying a consent under s.36 of the Electricity Act, to give a direction for planning permission to be deemed to be granted for the ancillary onshore development, subject to such conditions (if any) as may be specified in the direction, for:

a) so much of the operation or change of use to which the consent relates as constitutes development;

b) any development ancillary to the operation or change of use to which the consent relates.

MARINE AND TERRESTRIAL POLICY

Marine Policy

The UK Marine Policy Statement 2011

36. The UK Marine Policy Statement 2011 ("the Statement") prepared and adopted in accordance with Chapter 1 of Part 3 of the Marine and Coastal Access Act 2009 (as amended) ("the 2009 Act") requires that when Scottish Ministers take authorisation decisions that affect, or might affect, the marine area they must do so in accordance with the Statement.

37. The Statement, jointly adopted by the UK Administrations, sets out the overall objectives for marine decision making. It specifies issues that decision-makers need to consider when examining and determining applications for energy infrastructure at sea: the national level of need for energy infrastructure as set out in the Scottish National Planning Framework; the positive wider environmental, societal and economic benefits of low carbon electricity generation; that renewable energy resources can only be developed where the resource exists and where economically feasible; and the potential impact of inward investment in offshore wind, wave, tidal stream and tidal range energy related manufacturing and deployment activity. The associated opportunities on the regeneration of local and national economies need also to be considered.

38. Chapter 3, paragraphs 3.3.1 to 3.3.5, 3.3.16 to 3.3.19, 3.3.22 to 3.3.24, 3.3.26, and 3.3.29 to 3.3.30 of the Statement are relevant and have been considered as part of the assessment of the Application.

39. The Statement introduced the framework for preparing Marine Plans and taking decisions affecting the marine environment. It clearly states that the new system of marine planning introduced across the UK will integrate with terrestrial planning. Existing terrestrial planning regimes generally extend to mean low water spring tides ("MLWS"). The marine plan area boundaries extend up to the level of mean high water spring tides ("MHWS"). The Statement also makes it clear that the geographic overlap between the Marine Plan and existing plans will help organisations to work effectively together and to ensure that appropriate harmonisation of plans is achieved. MS-LOT has, accordingly, had regard to the terms of relevant terrestrial

planning policy documents and Plans when assessing the Applications for the purpose of ensuring consistency in approach.

40. MS-LOT has had full regard to the Statement when assessing the Application and considers that the Development accords with the Statement.

Scotland's National Marine Plan

41. The National Marine Plan ("NMP"), developed in accordance with the 2010 Act and the the 2009 Act, provides a comprehensive statutory planning framework for all activities out to 200 nm. The NMP was formally adopted on 25th March 2015. Scottish Ministers must take authorisation and enforcement decisions, which affect the marine environment, in accordance with the Plan.

42. The NMP sets an objective to promote the sustainable development of offshore wind, wave and tidal renewable energy in the most suitable locations. In doing so it sets out a presumption in favour of sustainable development and use of the marine environment when consistent with the policies and objectives of the Plan. It also contains specific policies relating to the mitigation of impacts on habitats and species, and in relation to treatment of cables.

43. Of particular relevance to this proposal are:

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

44. MS-LOT has had full regard to the National Marine Plan when assessing the Application. It is considered that the Development accords with the Plan.

Other Marine Policy

45. The Development will contribute to Scotland's renewable energy targets via its connection to the National Grid. It will also provide wider benefits to the offshore wind industry which are reflected within Scotland's Offshore Wind Route Map and the National Renewables Infrastructure Plan. Scotland has considerable potential for offshore renewable energy developments. Estimates indicate that Scotland has up to 25% of Europe's offshore wind potential (Scotland's Renewable Resource 2001). Offshore wind is seen as an integral element in Scotland's contribution towards action on climate change. The development of offshore wind also represents one of the biggest opportunities for sustainable economic growth in Scotland for a generation. Scotland's ports and harbours present viable locations to service

the associated construction and maintenance activities for offshore renewable energy. In addition, Scottish research institutions provide a base of academic excellence for delivering technological advancements and technology transfer and are also well placed to benefit from the creation of this new industry around Scotland.

Terrestrial Policy

46. MS-LOT has had full regard to the terms of relevant terrestrial planning policy documents and Plans.

47. In addition to high level policy documents regarding the Scottish Government's policy on renewables (2020 Renewable Route Map for Scotland - Update (published 30th Oct 2012)), MS-LOT has had full regard to the a number of national and local level planning documents.

Scottish Planning Policy

48. Scottish Planning Policy ("SPP") published in 2014 sets out the Scottish Government's planning policy on renewable energy development. Terrestrial and marine planning facilitate development of renewable energy technologies, link generation with consumers and guide new infrastructure to appropriate locations. Efficient supply of low carbon and low cost heat and generation of heat and electricity from renewable energy sources are vital to reducing greenhouse gas emissions and can create significant opportunities for communities. Renewable energy also presents a significant opportunity for associated development, investment and growth of the supply chain, particularly for ports and harbours identified in the National Renewables Infrastructure Plan. Communities can also gain new opportunities from increased local ownership and associated benefits.

49. Whilst it makes clear that the criteria against which applications should be assessed will vary depending upon the scale of the development and its relationship to the characteristics of the surrounding area, it states that these are likely to include impacts on landscapes and the historic environment, ecology (including birds, mammals and fish), biodiversity and nature conservation; the water environment; communities; aviation; telecommunications; noise; shadow flicker and any cumulative impacts that are likely to arise. It also makes clear that the scope for the development to contribute to national or local economic development should be a material consideration when considering an application.

50. You can be satisfied that these matters have been addressed in full both within the Applications, the ES and within the responses received to the consultations by the relevant planning authorities, SEPA, SNH, and other relevant bodies.

National Planning Framework 3

51. Scotland's National Planning Framework 3 ("NPF3") adopted in June 2014 is the national spatial plan for delivering the Scottish Government's Economic Strategy. It provides a framework for the spatial development of Scotland as a whole, setting out the Scottish Government's development priorities over the next 20-30 years.

52. NPF3 sets out the ambition for Scotland to move towards a low carbon country, placing emphasis on the development of onshore and offshore renewable energy. It recognises the significant wind resource available in Scotland, and reflects targets to meet at least 30% of overall energy demand from renewable sources by 2020 including generating the equivalent of at least 100% of gross electricity consumption from renewables with an interim target of 50% by 2015. It also identifies targets to source 11% of heat demand and 10% of transport fuels from renewable sources by 2020.

53. NPF3 aims for Scotland to be a world leader in offshore renewable energy and expects that, in time, the pace of onshore wind development will be overtaken by the development of marine energy including wind, wave and tidal.

54. Chapter 3 paragraphs 3.1, 3.2, 3.4, 3.6, 3.8, 3.9 of NPF3 are of particular relevance to the Application.

Strategic and Local Development Plans

The Highland-wide Local Development Plan ("HwLDP")

55. The Highland-wide Local Development Plan (HwLDP) (2012) sets out the general policies for 2.24 the Highland Council area. Of note is the aspiration that by 2030, Caithness and Sutherland "have become an international centre of excellence for marine renewables – the Pentland Firth will be the location for marine renewables; related facilities and industries will be available locally."

56. Policy 28 – Sustainable Development supports developments which promote and enhance the social, economic and environmental wellbeing of the people of Highland.

57. Policy 29 – Design Quality and Place-Making establishes the expectation that new developments should be designed to make a positive contribution to the architectural and visual quality of the place in which it is located.

58. Policy 31 – Developer Contributions establishes a requirement for proposed developments, which create the need for improved public services, facilities or infrastructure, to make a fair and reasonable contribution in cash or kind towards these additional costs or requirements.

59. Policy 49 – Coastal Development sets a framework for ensuring the sustainable use and development of the coastal areas. Development proposals for the coast or for installations in near-shore waters should, in both

their location and their design, show consideration to the range of existing interests ensuring best use of resources taking account of existing and planned marine activities and development. Proposals should not have an unacceptable impact on the natural, built or cultural heritage and amenity value of the area.

60. Policy 51 – Trees and Development supports developments which promote significant protection to existing hedges, trees and woodlands on and around development sites. The acceptable developable area of a site is influenced by tree impact, and adequate separation distances will be required between established trees and any new development. Where appropriate a woodland management plan will be required to secure management of an existing resource

61. Policy 55 – Peat and Soils establishes that unacceptable disturbance of peat will not be permitted unless it is shown that the adverse effects of such disturbance are clearly outweighed by social, environmental or economic benefits arising from the development proposal. Where development on peat is clearly demonstrated to be unavoidable then The Council may ask for a peatland management plan to be submitted which clearly demonstrates how impacts have been minimised and mitigated.

62. Policy 56 – Travel requires new developments to include sufficient information with the application to enable the consideration of any likely on- and off- site transport implications of the development.

63. Policy 57 - Natural, Built and Cultural Heritage considers impacts on natural, built and cultural heritage designations and features. These are split into three categories including local/regional importance (e.g. North Cliffs Special Protection Area (SPA) and Sites of Special Scientific Interest (SSSI) at Red Point Coast, Sandside Bay, and Strathy Coast), national importance and international importance.

64. Policy 58 – Protected Species requires a survey of the site and surrounding area, to be carried out to establish if a protected species may be present at the site or may be affected by the proposed development.

65. Policy 59 – Other Important Species requires the consideration of the presence of and adverse effects on any Other Important species which may be individually and/or cumulatively affected by the development.

66. Policy 60 – Other Important Habitats seeks to safeguard the integrity of features of the landscape which are of major importance because of their linear and continuous structure or combination as habitat “stepping stones” for the movement of wild fauna and flora.

67. Policy 61 – Landscape requires new developments to be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed.

68. Policy 63 – Water Environment supports proposals for development that do not compromise the objectives of Council Directive 2000/60/EC of 23rd October 2000 establishing a framework for Community action in the field of water policy (the Water Framework Directive).

69. Policy 67 - Renewable Energy Developments supports the principle of renewable energy development. This support, however, is subject to clearly addressing important issues and criteria.

70. Policy 72 – Pollution details that proposals resulting in significant pollution such as noise (including aircraft noise), air, water and light will only be approved where a detailed assessment report on the levels, character and transmission and receiving environment of the potential pollution is provided by the applicant to show how the pollution can be appropriately avoided and if necessary mitigated

71. Policy 77 – Public Access requires new developments which affects a route included in a Core Paths Plan or an access point to water, or significantly affects wider access rights to establish suitable alternative access.

72. The Highland Coastal Development Strategy: identifies the Highlands and Islands as containing some of the world's best renewable energy resources in terms of wind, wave and tidal currents. The North Coast in particular has the greatest potential for marine renewable energy generation due to its exposure and the strong tidal flows through the Pentland Firth. The development of the marine renewables industry is identified as a key opportunity for the North Coast due to the potential energy generation. The vision is to strengthen an already diverse renewable energy industry in the Highlands and Islands and develop a truly mixed renewable energy economy which supports the development of wave and tidal energy devices, biomass and deep-water offshore wind farms. This is also considered important for retaining a coastal population.

The Pilot Pentland Firth and Orkney Waters Marine Spatial Plan

73. This plan sets out an integrated planning policy framework to guide marine development, activities and management decisions in the Plan area. The policies most relevant to this proposal are:

General Policies	
General Policy 1A	Sustainable development
General Policy 1B	Supporting sustainable social and economic benefits
General Policy 1C	Safeguarding the marine ecosystem
General Policy 2	The well-being, quality of life and amenity of coastal communities
General Policy 3	Climate change
General Policy 4A	Nature conservation designations
General Policy 4B	Protected species
General Policy 4C	Wider biodiversity
General Policy 4D	Landscape and seascape

General Policy 4E	Geodiversity
General Policy 5A	Water environment
General Policy 5B	Coastal processes and flooding
General Policy 7	Integrating coastal and marine
General Policy 8A	Noise
General Policy 8B	Waste and marine litter
General Policy 9	Invasive non-native species
Sectoral Policies	
Sectoral Policy 1	Commercial fisheries
Sectoral Policy 4	Renewable energy generation
Sectoral Policy 5	Recreation, sport, leisure and tourism
Sectoral Policy 6	Marine transport
Sectoral Policy 7	Ports, harbours and dredging
Sectoral Policy 8	Pipelines, electricity and telecommunications infrastructure

Caithness Onshore Supplementary Guidance November 2016.

74. Onshore Wind Energy Supplementary Guidance is a material consideration in the determination of planning applications. This guidance requires the proposal to be assessed, as noted above, in accordance with Policy 67 of the HwLDP. The Supplementary Guidance also expands on the considerations / criteria set out in the HwLDP policy.

Caithness and Sutherland Local Development Plan: Modified Proposed Plan

75. The proposed onshore site is within the area identified for Energy Business Expansion in the plan's strategy. The Plan also refers to a "strong, diverse and sustainable economy characterised as being an internationally renowned centre for renewable energy, world class engineering, land management, sea based industries and a tourist industry that combines culture, history and adventure. One of the overall aims is to ensure that development helps to maintain and grow a strong and diverse Caithness and Sutherland Economy. The Proposed Plan confirms the boundaries of the Special Landscape Areas.

Highland Council Supplementary Planning Policy Guidance

76. The following Supplementary Guidance forms a statutory part of the development plan and are pertinent to the determination of the Application:

- Flood Risk and Drainage Impact Assessment: Supplementary Guidance (January 2013);
- Highland Historic Environment Strategy: Supplementary Guidance (March 2013);
- Managing Waste in New Developments: Supplementary Guidance (March 2013);
- Sustainable Design Guide: Supplementary Guidance (January 2013); and

- Highland Statutorily Protected Species: Supplementary Guidance (March 2014).

The Orkney Local Development Plan 2014, The Proposed Orkney Local Development Plan (with minor modifications) 2016 and Supplementary Guidance.

77. The adopted and proposed Local Development Plans for Orkney support the principle of renewable energy and sustainable development to deliver Scottish Government policy for renewable energy.

Summary

78. MS-LOT considers that the policy documents as outlined above are broadly supportive of the Development.

MATERIAL CONSIDERATIONS

79. MS-LOT has carefully considered the issues in connection with the Applications and has identified the material considerations, for the purposes of deciding whether it is appropriate to cause a PLI to be held or for making a decision on the Applications for consent under s.36 and for a declaration under s.36A of the Electricity Act.

80. MS-LOT are content that the material considerations have been addressed in the Applications, the ES, and within the responses received to the consultations by the relevant planning authorities, in this case THC and OIC, SEPA, SNH and other relevant bodies. The material considerations have been addressed in **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS**.

PUBLIC LOCAL INQUIRY ("PLI")

81. In terms of paragraph 2(2) of Schedule 8 to the Electricity Act, if the relevant planning authority made a valid objection and did not withdraw it, you must convene a PLI, which must be confined to so much of the application as it relates to land within the area of the authority whom the objection was made (except in so far as you direct otherwise) before you may determine the application, the objection and the report of the inquiry.

82. Where a s.36 application contains an onshore element of an offshore generating station, then a planning authority objection will trigger a PLI which will be confined to the onshore element. Paragraph 7A(7) of Schedule 8 to the Electricity Act 1989 gives the Scottish Ministers powers of direction in relation to the scope of any PLI.

83. Neither of the planning authorities (THC and OIC) consulted on the Application, raised any objection to the Development, therefore a PLI is not automatically triggered in this instance.

84. In addition, paragraph 3(2) of Schedule 8 to the Electricity Act provides that where objections, or copies of objections, have been sent to the Scottish Ministers in pursuance of the Electricity (Applications for Consent) Regulations 1990 in those cases where a PLI must not be convened by them in terms of paragraph 2(2) of Schedule 8 (i.e. those cases where the planning authority either has not objected, or objected and withdrawn their objection or where the "relevant planning authority" is the Scottish Ministers on account of the fact that all of the development being located at sea), then the Scottish Ministers "shall consider those objections together with all other material considerations" with a view to determining whether a PLI should be held with respect to the application and, if they think it appropriate to do so, they shall cause a PLI to be held.

DETERMINATION ON WHETHER TO CAUSE A PUBLIC LOCAL INQUIRY TO BE HELD UNDER THE ELECTRICITY ACT

85. Before you can make a decision on the Applications for an s.36 consent and for an s.36A declaration, you must determine whether it is appropriate to cause a PLI to be held. Advice regarding the matters you must consider before you may make a decision regarding the holding of a PLI is included in **ANNEX B – BACKGROUND INFORMATION AND SCOTTISH MINISTERS' CONSIDERATIONS**. If, following your consideration of that advice, you are content that causing a PLI to be held is not appropriate in terms of the statutory provisions then, and only then, can you proceed to make a decision on the Applications for s.36 consent and for the s.36A declaration.

DECISION ON THE APPLICATIONS FOR CONSENT UNDER SECTION 36 AND DECLARATION UNDER SECTION 36A

86. If, having considered the Applications, the ES, the responses, representations and the objections received, as outlined in **ANNEX B – BACKGROUND**

INFORMATION AND SCOTTISH MINISTERS' CONSIDERATIONS, together with other material considerations as outlined in **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS**, you determine that it would not be appropriate for a PLI to be held, then it remains for you to grant or refuse consent under s.36, and to issue or refuse to issue a declaration under s.36A to the Development, having regard to the considerations in **ANNEX B – BACKGROUND INFORMATION AND SCOTTISH MINISTERS' CONSIDERATIONS**

DECISION AS TO WHETHER TO GIVE A DIRECTION FOR DEEMED PLANNING UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)

87. If, having considered the Applications, the ES, the responses, representations and the objections received, as outlined in **ANNEX B - BACKGROUND INFORMATION AND SCOTTISH MINISTERS' CONSIDERATIONS**, together with other material considerations as outlined in **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS**, you determine that it would not be appropriate for a PLI to be held, then it remains for you to grant or refuse a direction for deemed planning permission for the ancillary onshore infrastructure required in connection with the Development, having regard to the considerations in **ANNEX B**.

ANNEX B – BACKGROUND INFORMATION AND SCOTTISH MINISTERS' CONSIDERATIONS

APPLICATIONS FOR CONSENT UNDER SECTION 36 AND FOR A DECLARATION UNDER SECTION 36A OF THE ELECTRICITY ACT 1989 FOR THE CONSTRUCTION AND OPERATION OF AN OFFSHORE GENERATING STATION, THE DOUNREAY TRì FLOATING WIND DEMONSTRATION PROJECT APPROXIMATELY 6 km OFFSHORE FROM DOUNREAY, CAITHNESS

A DIRECTION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) THAT PLANNING PERMISSION FOR THE ANCILLARY ONSHORE DEVELOPMENT BE DEEMED TO BE GRANTED

BACKGROUND INFORMATION

The following applications have been made by Dounreay Trì Ltd (Company Number SC515140) having its registered office at Ostgotagatan 100, SE-166 64, Stockholm, Sweden ("the Company"), to the Scottish Ministers for:

i. a consent under section 36 of the Electricity Act 1989 (as amended) ("the Electricity Act") for the construction and operation of the Dounreay Trì Floating Wind Demonstration Project, approximately 6 km offshore from Dounreay, Caithness ("the Development");

ii. a declaration under section 36A of the Electricity Act 1989 to extinguish public rights of navigation so far as they pass through those places within the Scottish marine area (in the main, the territorial sea adjacent to Scotland) where structures (but not, for the avoidance of doubt, the areas of sea between those structures) forming part of the Dounreay Trì Floating Wind Demonstration Project and offshore transmission works are to be located;

iii. two marine licences under the Marine (Scotland) Act 2010 ("the 2010 Act") for the deposit of any substance or object, and for the construction, alteration or improvement of any works in relation to the Dounreay Trì Floating Wind Demonstration Project; and

iv. a direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) ("the 1997 Act") that planning permission for the ancillary onshore development be deemed to be granted.

THE APPLICATION

Referring to the application at i and iv above made by the Company, submitted on the 19th October 2016, for consent under section 36 ("s.36") of the Electricity Act for the construction and operation of the Development approximately 6 km offshore from Dounreay, Caithness ("the Application") with a maximum generation capacity of 12 Megawatts ("MW"), and for a direction under section 57(2) of the 1997 Act that planning permission for the ancillary shore development be deemed to be granted (Figures 1, 2 and 3 of **ANNEX G – DEVELOPMENT LOCATION).**

At this time, the Company also applied for a declaration under section 36A of the Electricity Act, application ii, to extinguish public rights of navigation so far as they pass through those places within the Scottish marine area (in the main, the territorial sea adjacent to Scotland) where structures (but not, for the avoidance of doubt, the areas of sea between those structures) forming part of the offshore wind farm and offshore transmission works are to be located.

The Application consisted of an application letter, Environmental Statement ("ES"), and two supporting marine licence application forms. The Application is to construct and operate one single floating, semi-submersible, column-stabilised platform supporting two offshore demonstration wind turbine generators ("WTGs") each with an installed capacity of up to 6 MW. A subsea cable will be laid to connect the turbines to the onshore elements of the Development.

The total onshore elements consist of a cable joint transition bay and a substation or switchgear, and underground cabling to be located at or near to the existing Dounreay 132/33/11kV substation.

The elements of the Development which relate to the direction Under Section 57 (2) of the 1997 Act and for which deemed planning has been requested be deemed to be granted are the cable joint transition bay, a substation or switchgear and underground cabling.

In tandem with the consultation on the applications i and iv, Marine Scotland Licensing Operations Team ("MS-LOT") has consulted on the two marine licence applications, application iii, also submitted on 19th October 2016.

Project Description

The Development is for the construction and operation of the offshore generating station with a maximum generating capacity of 12 MW, consisting of:

- one single floating, semi-submersible, column-stabilised platform, comprising of buoyancy columns interconnected in a steel lattice truss framework. The maximum length will be 230 m, maximum width will be 135 m and maximum height 15 m above water surface. The platform will rotate 360° and have a passive mooring system. The mooring system will consist of up to 8 mooring lines, passing through a 600 tonne clump weight suspended in the water beneath the platform. A total of 16 anchors will be attached to the mooring lines, two per line, with a maximum radius of 800 m from the platform centre;

- two Demonstration offshore WTGs each with an installed capacity of up to 6 MW, giving a total maximum generating capacity not exceeding 12 MW. Each turbine will be a three bladed structure with a maximum hub height of 124 m above Lowest Astronomical Tide ("LAT"), including the jacket, a maximum blade tip height of 201 m above LAT and a maximum rotor diameter of 154 m;

- grid infrastructure including the installation of one subsea cable which will bring the power ashore immediately to the west of the Dounreay Restoration Site fence line; and

- associated onshore infrastructure, including, underground cabling and turbine transformers comprising medium and low voltage container units, to be located at, or near to the existing Dounreay 132/33/11kV substation.

The Development shall be constructed in accordance with that specified in the Application, the ES and by the conditions imposed by the Scottish Ministers.

Location of Development

The Development will be located approximately 6 km offshore from Dounreay, Caithness. The location and boundary of the site is shown in figures 1, 2 and 3 at **ANNEX G – DEVELOPMENT LOCATION**

The Dounreay site was selected for use for development of the demonstration site for the multi-turbine platform for a number of reasons.

In 2014, Marine Scotland completed a detailed geophysical survey, including drop down video and grab samples, of the area, which provided a clear understanding of the water depths and seabed conditions. This information is publically available. The site has suitable water depths, close to shore thus reducing the export cable length and other costs compared with other sites which were further from shore. The site has a substrate which is comprised of gravelly sand and thus better suited to drag embedment anchors which are the proposed anchorage method for the Development.

The average wind speed at the Dounreay site has been calibrated with data from the Forss Wind Farm, thus negating the need for an offshore anemometer mast and is deemed suitable for the Development.

The Company have previously had discussion with the Scottish Fishermen's Federation ("SFF") in 2014 and were advised that the Dounreay site appeared to lie out-with intensively fished areas which would minimise disruption to fishermen operating in this area.

IMPACTS OF THE DEVELOPMENT

Seascape, Landscape and Visual Impacts

Scottish Natural Heritage ("SNH"), the Scottish Ministers' statutory advisors on visual impacts on designated landscape features, were consulted on the Application for the Development. SNH did not object to the Development and deferred advice on this matter to The Highland Council ("THC").

However, SNH confirmed that the Development is unlikely to significantly impact on or affect the integrity of nationally protected National Scenic Areas ("NSAs") or Wild Land Areas ("WLAs"). SNH confirmed that due to the relatively small footprint of the

development and distance from the NSA, significant effects are mitigated. With regard to the WLA, SNH agreed with the ES that there would be minor or negligible impact.

SNH considered the potential for moderate, and ergo significant, effects on sections of coastal character and high sensitivity visual receptors extending between Local Coastal Character Areas ("LCCAs"). However, these impacts will be largely localised and, therefore, do not trigger issues of national interest.

SNH disagreed that seascape receptors (LCCAs) only including offshore developments. SNH stated that to omit consideration of terrestrial wind energy proposals currently being considered along the seaboard within or adjacent to the LCCAs means the cumulative assessment is incomplete, and results of assessment are therefore misleading.

SNH stated that as the location of the Development (offshore) and relatively small footprint avoids complex interactions with the coast, this reduces or avoids intrusion on the experience of the indented coastline and bays. However SNH confirmed that in contrast, the scale and colour of the turbines and platform heightens visibility.

SNH considered that there will be moderate significant on local coastal character, which partially relates to the uncharacteristic context of the seascape site and scale of the turbines. However this is mitigated by the lower sensitivity of the coastal character and the context of the type of wind and wider energy production infrastructure and turbines within the area. SNH confirmed that the level of sensitivity on the landscape increases markedly immediately west of the area due to the costal and landscape character increasing in wildness qualities.

The view of SNH was that the visual material provided in the impact assessment was poor in quality. The clarity of rendering makes the closer views difficult to discern, the visualisations underestimate the visibility of the turbines, and colour of the platform (bright yellow) will contrast with the sea surface. However as these impacts are largely localised they do not trigger issues of national interest to SNH.

THC stated that the standard of information presented is not in accordance with THC standards and as a result THC did not consider that the assessment presented to be robust. However, THC acknowledged that visualisations in the ES are based on a worst case scenario and that the assessment is a subjective matter. THC stated that given the small footprint of the offshore site, alongside the wider panorama of coast and sea, the impact can be considered as acceptable.

THC concluded that the proposal will introduce a new feature to the coastline and consider that this will have localised significant visual impacts. However, THC stated that adverse visual impacts may be successfully mitigated by the reduction in height of the turbines and siting of these in the north west of the area under consideration.

THC's conclusion was that the landscape and seascape effects depicted in the ES are understated, but considered acceptable as these are judged to be relatively limited in extent. The visual impacts outlined in the ES are based on a realistic worst case scenario, with the largest of the turbines at the closest point to the shore.

Concerns have been raised about the significance of visual impacts. Whilst acknowledging the concerns of third parties and SNH, THC considered the localised visual impacts of the proposal to be acceptable on balance.

When assessing a development, THC advised that the cumulative effect of the Development together with similar developments in proximity is required and provided details of projects in the wider area that are operational, approved or have been submitted but not yet determined. However, given the impacts are based on relatively small areas of character type, these impacts were judged to be acceptable.

Orkney Islands Council ("OIC") were pleased to see that the ES considered the visual impacts of the development on the west coast of Orkney along with that of the NSA (Hoy and West Mainland – Orkney) and the Wild Land Area of Hoy.

OIC were content that the ES assessed the development to be acceptable taking account of the relevant matters and impacts on landscape/seascape, and confirmed that, considering the proximity of the development to Orkney and the ferry routes to and from Orkney, the development will not have a significant adverse visual impact.

The Melvich Community Council ("MCC") felt that the developers of this proposal have clearly not shown consideration of the visual impact of the turbines to the area. MCC confirmed that the turbines, being of such a significant height, would have a substantial impact on the view across to Orkney, and this would put off any individuals who were considering moving to Melvich and Portskerra in the future.

Issues regarding the lighting and marking of the Development will be addressed through the consideration of the relevant Marine Licence application.

Conditions requiring the submission of a Design Statement ("DS") and Development Specification and Layout Plan ("DSLP") have been included in the draft decision letter and consent attached at **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS.**

Coastal Character assessment

Regarding the impact on coastal character, SNH stated that they agreed overall with the conclusion of no significant impacts, and therefore required no specific mitigation. However, SNH did refer to pre-application advice regarding the need to calculate seabed disturbance, not just in area, but also in volume; and also to calculate suspended sediment created if dredging for the clump weight plinth. This advice considered it unlikely that that such calculation of volumes would alter the judgement for all effects that magnitude is Negligible. Therefore this would not trigger identification of a significant effect requiring specific mitigation. SNH also recognised that the greatest potential for suspended sediment would come from jetting for export cable burial, and will have a magnitude of Negligible or perhaps Low. Therefore, suspended sediment from the dredging will have no significant effect requiring specific mitigation.

SNH confirmed that they have no reason to believe seabed processes and land forms in the project area are regionally important, or are not robust to potentially

altered hydrodynamics. Therefore they are of Low vulnerability, and would not require specific mitigation.

SNH reiterated that their advice explicitly stating receptor vulnerability should be taken up, with the exception of offshore component of "Changes… due to altered hydrodynamics", which is relevant to the queries raised regarding adequacy of the bathymetry data used. SNH have confirmed that due to revisions to the text their opinions 'have firmed' and this data was adequate for the assessment.

Marine Mammal/European Protected Species ("EPS") Impacts

Whale and Dolphin Conservation ("WDC") stated that they felt that the Development would have negligible level of impact on marine mammals in the area as long as pile driving was not required. Should pile driving be require then an addendum to the ES and Habitats Regulation Appraisal ("HRA") would be required. WDC requested involvement with the development of a Vessel Management Plan ("VMP"), and that Marine Mammal Observers ("MMO") be used at all times through construction and deployment of the wind farm floating platform and cable laying.

Discussions between WDC and the Company have been on-going regarding the type of installation being utilised, the use of high definition aerial video surveys being undertaken and the monitoring requirements to be applied. These discussions have resulted in WDC withdrawing their request for MMOs to be present on the installation vessels.

SNH agreed with the general conclusions of the ES, that the impacts on cetaceans were likely to be minor/negligible based on the sensitivities of the features and (estimated) duration/magnitude of the activities. Taking into account the scale of the project, and the information provided, SNH broadly agreed with the general conclusions of the ES, that the impacts on marine mammals and benthic features were likely to be small or negligible. However, in some cases, SNH confirmed that there was insufficient justification to support those conclusions.

SNH stated that a licence to disturb European Protected Species ("EPS") would not be required given the short duration of the construction period and relatively low importance of the area for cetaceans.

Marine Scotland Science ("MSS") advised that consideration had not been given to the proximity of the development site to the Inner Hebrides and the Minches candidate Special Areas of Conservation ("cSAC") for the harbour porpoise.

MSS agreed with the requirement for a VMP during the construction period, but suggested this should extend to the operational phase of the Development. MSS recommended that the number of vessels and their duration at the site should be reduced wherever possible, and that the behaviour of the vessels should be in line with the Scottish marine wildlife watching code.

In addition MSS recommended that a monitoring programme be put in place to inspect the mooring lines for entangled debris and 'ghost fishing gear' and where possible, to remove it.

Conditions requiring the submission of an Offshore Construction Method Statement ("OffCMS"), Project Environmental Monitoring Plan ("PEMP") and VMP have been included in the draft decision letter and consent attached at **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS.**

Benthic Impacts

SNH agreed overall with the conclusions that impacts on the benthic features of the site will be minor/negligible, based on the sensitivities of the features and the (estimated) duration/magnitude of the activities. SNH advised that a benthic survey of the cable route and mooring system location be undertaken before installation.

MSS were generally happy with the assessments of the impacts to benthic ecology. However they stated that some topics required refinement, particularly regarding the use of previously collected multibeam data, stating that the sediment loads and smothering impacts from cable trenching activities and impact of cable installation on the beach dynamics and the biota of Sandside Bay should be further examined.

Issues regarding marine cable laying will be addressed through the consideration of the relevant Marine Licence application.

Ornithological Impacts

SNH agreed overall with the conclusions that the impacts on bird features would be minor/negligible based upon the site-specific survey results, sensitivities of the features and the duration/magnitude (estimated) of the works.

SNH did however state that monitoring should be undertaken, which would provide data on the behaviour of bird species to the platform. In addition SNH confirmed that aerial surveys should continue during the breeding season, covering pre-construction, construction and post construction, to monitor the densities of the seabirds.

SNH stated that the key potential impacts of the proposal are collision risk and displacement during the operation and maintenance phase of the project.

SNH stated that the physical presence of the turbines, platform and vessels may result in displacement. The construction phase displacement would be localised and temporary. Due to the small area affected, the displacement which could be caused during the operation and maintenance phase, on the regional populations of species recorded during the site-specific surveys, is unlikely to have a significant adverse impact.

SNH confirmed that the most abundant species recorded, puffin, would have a loss of 0.1% of the receptor population if all mortalities were breeding adults. However SNH confirmed that it is unlikely that there will be 100% mortality for displaced birds. Puffins have a large foraging range and it is unlikely that the loss of the development area and 1 km buffer is unlikely to have a significant impact on the regional population.

Moderate numbers of arctic tern were recorded during site surveys. SNH confirmed that the site was of medium importance to this receptor species. SNH stated that with an 102% increase in annual mortality, a reduction of 48.4% breeding success, and assuming a 50% mortality rate due to displacement, a high magnitude impact will be the result on the breeding population of this species. However, SNH agreed with the ES, that this assessment is highly precautionary as it is likely that the receptor population is larger than estimated, and the loss of the project footprint will not have a significant adverse impact on the regional population.

With regard to collision risk, SNH stated that the collision risk modelling included gannet, great skua, herring gull, greater black-backed gull, kittiwake and Arctic tern and presumed that other birds recorded at the site were excluded due to the flight height data indicating that they fly below the lowest turbine rota.

SNH stated that the ES confirmed that only one collision risk model was used; however, additional models were detailed in the ES. Site specific flight height data shows a greater proportion of birds within the rotor height, and therefore resulted in slightly higher predicted collisions. SNH stated that they were disappointed that this worst case is not presented in the ES; but accepted that predicted collisions are low for all species modelled.

SNH confirmed that there were inconsistencies with the use of avoidance rates in the collision rick modelling between the ES and the Marine Ornithology Appendix. However they re-affirmed that predicted collisions are low for all species modelled, so this point is not important for this assessment. SNH stated that additional mortality caused by collisions would only cause a small increase to the baseline annual adult mortality rate for all species. SNH stated that overall that it would be unlikely that there would be significant impacts to the receptor populations.

SNH also commented on the impacts of the development during the non-breeding season. SNH stated that whilst they welcomed the use of Biologically Defined Minimum Population Size ("BDMPS") populations from the Furness et al. (2015)[1] report, they have not currently agreed the best way to incorporate the report into impact assessments, and considered that any assessment should be qualitative. However SNH did state that it is unlikely that there will be any significant adverse impacts during the non-breeding season.

No cumulative impact assessment had been included within the ES; however, these were considered within the information supplied to inform the Habitats Regulations Appraisal, which confirmed that there would be no adverse effect on site integrity as a result of combination with other developments.

SNH stated that since the impact assessment was based on only one year of site-specific survey data, monitoring of seabird densities and distribution covering pre-construction, construction and post-construction should be considered. This

[1] Furness, R.W. (2015). Non-breeding season populations of seabirds in UK waters: Population sizes for Biologically Defined Minimum Population Scales (BDMPS). Natural England Commissioned Reports, Number 164.

monitoring would be extremely informative for future proposals and to validate the conclusions of the ES.

In addition, SNH advised that if the Development is consented monitoring should be undertaken to understand the seabirds behaviour to the platform given its low floating structure. SNH reiterated that this research would be informative for future proposals with similar technology.

Royal Society for the Protection of Birds Scotland ("RSPB Scotland") considered that even though the development is located in an environmentally sensitive region, the project is small scale and unlikely to cause an adverse impact on seabirds in the Pentland Firth or the onshore bird population.

RSPB Scotland recognised the need and importance of demonstrating new renewable energy technologies and floating wind as of particular interest to them. On the basis that a condition is imposed on any consent for an environmental monitoring programme which is made public, RSPB Scotland are keen to offer their support to the Development.

However, despite overarching support RSPB Scotland were keen to point out that they do have concerns over the marine ornithological assessment. Based on these concerns RSPB Scotland confirmed that any proposals for future projects/phases would require these concerns to be addressed.

RSPB Scotland commented that it is unclear whether survey data collected included the project area and the buffer area combined, and if so how this was done.

Regarding collision mortality, RSPB Scotland noted numerous inconsistencies in the results presented and the main text of the ES. The estimated mortality rates have been based on generic flight height assumptions from Johnston et al 2014[2] as a proportion of flights through the turbine window. RSPB Scotland stated that the estimates are not specific to turbine design and do not allow for a design incorporating a larger swept area as intended for the Development. The calculated mortalities based on site specific flight parameters are higher than those based on generic flight height parameters presented in the main text. Discussions surrounding these differences would have been appropriate and would have provided justification.

RSPB Scotland regretted the omission of a review of any available existing information relating to seabird densities and stated that the ES did not make clear whether the reported seabird densities in the study area are higher or lower than elsewhere in the region.

RSPB Scotland welcomed the approach of assessing the impacts of the development on the non-breeding seabird populations against the BDMPS. However RSPB Scotland stated that this consideration should have been applied in the context of the Birds Directive through the undertaking of a HRA. RSPB Scotland

[2] Johnston, A., Cook, A.S.C.P., Wright, L.J., Humphreys, E.M., Burton, N.H.K., 2014. Modelling flight heights of marine birds to more accurately assess collision risk with offshore wind turbines. J. Appl. Ecol. 51, 31 – 41.

considered this to be a serious omission within the Application. RSPB Scotland confirmed that even though this is a small scale proposal, potential in-combination effects with future renewable and other anthropogenic marine activities could have an adverse effect on the seabird populations unaccounted for in contemporary HRAs. RSPB Scotland emphasised that this must be a consideration when appraising this and other proposals against member states' obligations under the Birds Directive.

In addition RSPB Scotland stated that the colony size information on which the assessments of impacts to colonies is based is over 15 years old. There has been adjustment made for known decline in Kittiwake numbers, however no adjustment for other species e.g. fulmar had been made.

Conditions requiring the submission of an Offshore Environmental Management Plan ("OffEMP"), a PEMP and appointment of an Environmental Clerk of Works ("ECoW") have been attached to the decision letter and consent attached at **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS.**

Fish (including diadromous fish) and Shellfish

Broadly, SNH agreed with the general conclusions that the impacts on diadromous fish, marine fish including marine fish Priority Marine Features ("PMFs") and shellfish are likely to be minor / negligible based on the sensitivities of the features and the (estimated) duration / magnitude of the activities.

SNH highlighted that there is potential for interaction between some fish and shellfish, however the impact is unlikely to be significant. As pin-piling is no longer required, installation noise is unlikely. Some dredging may cause habitat disturbance, however SNH welcome the mitigation measures proposed.

SNH welcomed the measure of burying the cable to a target depth of 2 m, with rock armour protection where burial is unachievable. It was noted that burying the cable would not be expected to reduce the extent of the emission from the electromagnetic field, the distance between the cable and the water column would be increased.

The ES states that there is potential for cumulative impacts to arise from the Development and the Orkney-Caithness interconnector cable, however SNH agree that the construction impacts are likely to be temporary and unlikely to overlap.

MSS agreed with the conclusion of no Likely Significant Effect ("LSE") on the three salmon Special Area of Conservations ("SACs") considered, that no appraisal is required for salmon SACs further afield, and that the main issue is establishing the correct level of engagement with the National Research and Monitoring Strategy for Diadromous Fish.

Conditions requiring the submission of a Fisheries Management and Mitigation Strategy ("FMMS") and a PEMP, have been attached to the decision letter and consent attached at **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS.**

Fisheries Impacts

MSS were content with the conclusion that no significant impacts were to be expected on the identified fisheries arising from the Development, assuming appropriate conditions were imposed.

MSS stated that the project description did not provide a clear description of the type of scour protection. This should be included in a Cable Plan ("CaP"). In addition MSS stated that the proposed mitigation measures of a Fisheries Liaison Officer ("FLO"), Fisheries Mitigation Plan ("FMP"), FMMS and operational safety zone are satisfactory. MSS confirmed that the mitigation option for the export cable should include a cable burial plan and cable protection monitoring. Impacted fishermen should be given the opportunity to review and influence both documents.

The SFF acknowledged that extensive desktop and physical research had gone into choosing the site, with consideration given to lessening impacts on fishing. However the SFF expressed concerns regarding the dredging proposed to provide a flat bottom for the plinth, and the scour protection for the anchors. The SFF stated that due to the lack of detail in the ES, these would potentially be a significant problem at the time of decommissioning, because they would make it virtually impossible to restore the area to its pre-development state.

The SFF commented that the lack of detail given on the export cable route, 2.8 km of rock dumping, together with the potential scour protection and dredging would result in the need for a lot of discussion to take place around these subjects together with discussion surrounding the CaP.

Given the evidence provided regarding the seabed and route options, the SFF stated that they are prepared to discuss the suitability of rock dumping or mattresses for use in any given area, and that this would also be the appropriate time to discuss scour protection and whether the wave motion is sufficient to make this a problem.

The SFF noted the commitment to follow the Fishing Liaison with Offshore Wind and Wet Renewables Group ("FLOWW") guidelines and stressed the importance of having a good FLO with particular reference being made to the implementation of arbitrary phrases used within the ES such as 'operational advisory zone'.

The SFF stated that there are sections of the ES in relation to fishing activity which are confusing and misleading, mixing three levels of data together rather than concentrating on relevant local figures.

In addition the SFF stated that the description and value of the fleet is not helpful and claims to use local vessels to deploy equipment and cables is positively disingenuous. The SFF stated that they wished to see, from the Developer, clarity on the work which can genuinely be offered to local vessels to mitigate the disturbance during construction. The SFF were surprised that the developers have not referenced the 2012 publication "Best Practice Guidelines for Fishing Industry Financial and Economic Impact Assessment" which the SFF state would have assisted the developer greatly

Once the works have been completed the SFF have stated that they wish to see a post lay survey to confirm burial of the cable which should be disseminated by the FLO, and

that the SFF should be notified of lost gear which becomes trapped in the mooring system along with the Fishing for Litter project.

The SFF reaffirmed that they are open to further discussion especially surrounding the Cable Burial Plan and the Developer's mitigation proposals.

The Company stated that no significant impacts were identified from the loss of fishing grounds, however they did find that there would be moderate impacts identified to creel fishing due to loss of access to fishing grounds, localised nature of the fishing activity and greater sensitivity to change.

Issues regarding marine cable laying will be addressed through the consideration of the relevant Marine Licence application.

Conditions requiring the submission of a DSLP and FMMS, and appointment of a FLO have been included in the draft decision and consent attached at **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS.**

Noise Impacts

The ES assessed the potential noise effects through operational, construction and decommissioning stages of the Development. THC stated that in relation to the offshore section of the Development the turbines would not produce unacceptable noise or shadow flicker issues. However an upper limit noise condition would be required.

In relation to the onshore aspects of the Development, THC stated that no residential or commercial properties would be significantly affected, and upper noise limits for the operation of the substation/switchgear could be secured by condition in addition to controls which exist under the Control of Pollution Act 1974 (as amended).

A condition requiring the monitoring of noise emissions has been included in the draft decision letter and consent attached at **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS.**

Terrestrial ecology

SNH confirmed that no protected species were recorded within the onshore survey area other than breeding birds, and the mitigation outlined in the ES is standard in relation to avoiding impacts on breeding birds. In addition to pre-construction checks for breeding birds which the Company will undertake, SNH advised that checks for EPS (e.g. otter) and other protected species should be completed prior to works commencing.

Conditions requiring the submission of an Onshore Environmental Management Plan ("OnEMP"), Onshore Cable Plan ("OnCaP") and Onshore Construction Method Statement ("OnCMS") have been included in the draft decision letter and consent attached at **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS.**

Air Quality

THC stated that the onshore construction activities could give rise to some local air quality impacts associated with dust, however these were not considered to be significant and would be addressed with mitigation as detailed within the ES. The submission of a Construction Environmental Management Plan was requested. This will be dealt with through the requirement for an Onshore Environmental Management Plan ("OnEMP").

Conditions requiring the submission of a OnEMP and Traffic and Transportation Plan ("TTP") have been included in the draft decision letter and consent attached at **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS.**

Geology and Hydrology

The Scottish Environment Protection Agency ("SEPA") noted that the finalised location of the onshore infrastructure was yet to be agreed but that indicative proposals were outlined. SEPA stated that, as long as the infrastructure is located within the corridors shown in the ES, they were content as development within these areas will not have a significant environmental effect on most of the aspect of the environment in which they have a specific interest (such as peat, watercourses and private water supplies). SEPA detailed that cable corridor 1 (where open cut trenching would be used from the Horizontal Directional Drilling compound to the substation location) could have a direct effect on vegetation classification MG10 habitat but they were content that this could be successfully addressed via the mitigation.

THC stated that there were no significant impacts with regard to geology and hydrology; however they consider it appropriate that a Flood Risk Assessment ("FRA") was undertaken, and a Flood Drainage Impact Assessment and Strategy ("FDIAS") be developed once the onshore site had been fully selected.

A condition requiring the submission of a OnEMP has been included in the draft decision letter and consent attached at **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS.**

Habitats Regulations Appraisal

As SNH advice confirmed that the Development is likely to have no significant effect on the qualifying interests of the Faray and Holm of Faray SAC, North Rona SAC, the Sanday SAC, the River Thurso SAC, River Borgie SAC and the River Naver SAC, MS-LOT, on behalf of the Scottish Ministers, as the "competent authority", were not required to carry out an Appropriate Assessment ("AA").

In line with advice from SNH, and to ensure compliance with European Union obligations under the Habitats Directive and the Birds Directive, due consideration has been given to all of the SPAs and SACs , the result of which has identified no LSE on any qualifying interest. MS-LOT, on behalf of the Scottish Ministers, undertook an AA and concluded that the Development will not adversely affect the integrity of any of the assessed SACs or SPAs, either alone or in combination with

other plans or projects. Conditions can also be imposed on any grant of consent ensuring that the sites are protected from damage.

SNH was consulted on the AA and agreed with the conclusions that have been reached. The AA for the Development is attached at **ANNEX E – APPROPRIATE ASSESSMENT.**

Having carried out the AA, it can be ascertained, with the required level of confidence, that the Development, subject to appropriate conditions being included within the consent, will not adversely affect the integrity of the likely qualifying interests of the SPAs and SACs, proposed SPAs ("pSPAs") or candidate SPAs ("cSCAs") identified. In addition, SNH confirmed there are no adverse effects on features of Ramsar sites.

Scottish Ministers, as a "competent authority" under the Habitat Regulations, must be satisfied that the proposal will not adversely affect the integrity of any European site (SACs and SPAs) either alone or in combination with other plans or projects before authorisations can be given for the proposal.

SNH agreed with all conclusions reached in the AA (**ANNEX E – APPROPRIATE ASSESSMENT).**

SNH noted that conditions would be included in the draft decision letter and consent attached at **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS**.

Summary

MS-LOT has undertaken a full and thorough consultation with relevant stakeholders and members of the public and is of the opinion that there are no considerations which would prevent consent being granted to the Development in its current location, subject to the imposition of conditions (subject to the Minister's approval). The Application has been considered fully and carefully, as have its accompanying documents and all relevant responses from consultees. Third party representations received have also been considered.

MS-LOT is satisfied that whilst the Development would have an impact on the environment, by taking into account the extent to which any environmental effects will be reduced by measures the Company has agreed to take, or will be required to take under the conditions attached to the s.36 consent, marine licences and deemed planning permission, the environmental issues can be appropriately addressed by way of mitigation and monitoring and that any impacts which remain are outweighed by the benefits the Development will bring.

CONSULTATION EXERCISE

Consultation on the Application and Environmental Statement

Under Schedule 8 to the Electricity Act and Regulations made under that Act, the Scottish Ministers are required to consult any relevant planning authority. In addition, to comply with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("the EIA Regulations"), there is a requirement to consult SNH and

SEPA and any other person likely to be concerned by the Development by reason of their specific environmental responsibilities.

In complying with the EIA Regulations, the Company identified the proposed Development as an EIA development and hence one which would require an ES. This ES should describe the environmental impacts and the proposed mitigation measures associated with the Development.

The formal consultation process undertaken by the Scottish Ministers, which related to the application for s.36 consent (application i), the marine licence applications (application iii) and the ES, and the application that deemed planning permission be granted for the ancillary onshore development (application iv) commenced on 19th October 2016. Public notices were placed in the press and Edinburgh Gazette to notify any interested parties. All documents were made publicly available.

MS-LOT consulted a wide range of relevant organisations, including colleagues within the Scottish Government, on the Applications and the ES. In accordance with the statutory requirements, as part of the overall consultation, MS-LOT sought the advice of the SNH, SEPA and the planning authorities most local to the Development, THC and OIC.

Statutory Consultees

Scottish Natural Heritage ("SNH") stated that from their review of the application, the ES, Information to inform an HRA, and other supporting information, their conclusion was that the proposal is unlikely to have any significant adverse impacts on international or national natural heritage interests.

The project is relatively small scale with the majority of impacts being localised and (during construction) temporary in nature. Although there may be some cumulative impacts with other developments, SNH stated that it is unlikely that these will have a significant adverse impact. SNH did raise some concerns regarding the impact assessment, which are detailed in the appendices to the response.

SNH advised that advice on landscape and visual impacts in respect of the exact location and development of the onshore infrastructure to support the offshore development, is deferred to THC.

SNH also advised that a PEMP should be drafted with focus on the behaviour of seabirds around the platform and turbines, the density and distribution of seabirds within the site-specific survey area, and entanglement risk for marine mammals.

SNH assessed the HRA supporting information and the ES in relation to SACs and deduced that of the SAC's appraised, there would be no LSE on any of the qualifying features.

SNH confirmed, after assessment, that the Development is likely to have significant effect on certain qualifying interests of the; North Caithness Cliffs SPA, Hoy SPA, East Caithness Cliffs SPA, Sule Skerry and Sule Stack SPA, Cape Wrath SPA, Marwick Head SPA, Rousay SPA, Copinsay SPA, Handa SPA, West Westray SPA, Calf of Eday

SPA, North Rona and Sula Sgeri SPA, Troup, Pennan and Lion's Heads SPA, Fair Isle SPA, The Shiant Isles SPA, Buchan Ness to Collieston Coast SPA, Foula SPA, Sumburgh Head SPA, Fowlsheugh SPA, Flannan Isles SPA, Noss SPA, Fetlar SPA, Firth of Forth SPA, St Kilda SPA, Forth Islands SPA, Hermaness, Saxa Vord and Valla Field SPA, Mingulay and Berneray SPA, Flamborough Head and Bempton Cliffs SPA.

SNH stated that the qualifying interests which would experience potential impacts from the Development were:

1. Common guillemot (breeding);
2. Razorbill (breeding);
3. Puffin (breeding);
4. Northern Fulmar (breeding);
5. Northern Gannet (breeding);
6. Great Skua (breeding);
7. Kittiwake (breeding);
8. Great black-backed gull (breeding); and
9. Herring gull (breeding).

SNH assessed the impacts of disturbance, displacement and collision to these qualifying interests and stated that any disturbance caused by installation operations or vessel movements would be localised and temporary.

SNH confirmed that displacement would be a key impact for some species, however given the small numbers potentially affected, there would be no adverse impact on the site integrity for individual SPAs. SNH agreed with the information to inform the HRA report and the conclusion that there will be no adverse effect on site integrity.

SNH stated that collision risk would be very low or in some cases no collisions are predicted.

Further to this, SNH assessed the cumulative /in combination impacts on the qualifying interests in relation to other marine developments, and confirmed that they agreed with the information to inform the HRA report which concluded that there will be no adverse effect on site integrity.

SNH's conclusion is that the development will have no adverse effect on site integrity, either alone or in-combination, for the qualifying interests of the SPAs listed above.

SNH highlighted the consultation exercise, on-going at that time, regarding the proposed designation of a suite of 15 marine SPAs used by 31 seabird species, identified as being important foraging areas for many breeding seabirds and migratory birds. SNH confirmed that although these sites have policy protection as proposed SPAs (pSPAs), there was not, at that time, a defined set of conservation objectives for these sites. SNH detailed that for the pSPAs assessed, no LSE for the qualifying interests was identified. Due to the rationale for site selection, and/or the low numbers recorded during site specific surveys, or the low proportion recorded

flying at collision risk height, or the collision risk mortality is not significant, displacement is not a significant impact.

Issues regarding decommissioning will be addressed through the consideration of the relevant Marine Licence application.

Conditions requiring the submission of an OffEMP, an Offshore Operation and Maintenance Plan ("OffOMP"), an OnCaP, an OnEMP, a PEMP, a VMP and the appointment of an ECoW have been included in the draft decision letter and consent attached at **ANNEX D – DECISION LETTER AND CONDITIONS**.

Scottish Environmental Protection Agency ("SEPA") did not object to the Application on the understanding that appropriate conditions were imposed on any consent. Should any such conditions not be applied, their response was to be considered as an objection. General advice on certain aspects of impacts to the marine environment was provided through SEPA standard advice. Project specific advice was also provided as follows.

SEPA advised, in relation to impacts on the marine environment of radioactive contamination elements, that a condition should be imposed requiring that prior to commencement of development (1) the finalised route of the cabling be agreed with the determining authority in consultation with SEPA; (2) confirmation of the method of laying the cable, and if buried, the depth of burial be provided; and (3) justification, in relation to disturbance of any radioactive contamination, for the method of cable laying chosen, be provided.

SEPA welcomed the proposed Particle Monitoring Strategy ("PMS") and requested a condition to allow its agreement prior to the commencement of development. Similarly SEPA requested a condition be imposed to cover similar monitoring and decommissioning.

SEPA requested that a condition was imposed requiring the appointment of an ECoW for the project, and that SEPA should be informed of the appointment.

A condition was requested requiring onshore works to be carried out in line with the mitigation measures outlined in Table 21-7, Table 22-145 and Table 24-15 of the ES.

SEPA noted that the finalised location of the onshore infrastructure was yet to be agreed, but that indicative proposals were outlined. SEPA stated that as long as the infrastructure is located within the corridors shown in the ES, they were content with the proposal, as development within these areas would not have a significant environmental effect on most of the aspect of the environment in which they have a specific interest (such as peat, watercourses and private water supplies). SEPA detailed that cable corridor 1 (where open cut trenching would be used from the Horizontal Directional Drilling compound to the substation location) could have a direct effect on vegetation classification MG10 habitat but they were content that this impact could be successfully addressed via the mitigation.

With regard to decommissioning of the onshore facilities, SEPA noted the proposal to leave, in situ, cables and potentially building foundations. Any proposal to discard

materials on land that are likely to be classed as waste would be unacceptable. However, section 4.52 of the ES makes it clear that decommissioning best practice and legislation will be applied at that time, and as a result SEPA are content with the proposals. SEPA noted that a similar approach would be taken for marine works, but they defer to Marine Scotland on this issue

In relation to radioactive monitoring, SEPA were of the view that the current beach monitoring arrangements undertaken by Dounreay Site Restoration Limited ("DSRL") would be highly beneficial in validating the effectiveness of offshore monitoring during these works, provided the monitoring is undertaken during installation works and for a period thereafter. SEPA therefore, recommended that the applicant discusses the possibility of making use of this data with DSRL, and any agreement can form the basis of an appropriate condition.

Should the applicant be unable to reach agreement with DSRL then SEPA required the imposition of a condition requiring a full monitoring programme during cable laying, and for a reasonable period following intrusive works.

The Applicant should note that disposal of any particles recovered during monitoring may require authorisation from SEPA. Proposed engineering works within the freshwater environment would require authorisation under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended). The management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012. SEPA confirmed that other environmental licences may be required for any installations or processes.

Discussions have confirmed that both the Company and SEPA are content with the draft conditions attached at Annex D

Issues regarding marine cable laying and emergency response and co-operation planning will be addressed through the consideration of the relevant Marine Licence application.

Conditions requiring the submission of a Construction Programme ("CoP"), a DSLP, an OffEMP, an OffCMS, an OffOMP, an OnCap, an OnCMS, an OnEMP, a PEMP, a PMS, and the appointment of an ECoW have been included in the decision letter and consent attached at **ANNEX D – DECISION LETTER AND CONDITIONS**.

The Highland Council ("THC") raised no objections, and stated that they considered Marine Scotland to be more appropriately placed to come to a view on the acceptability or otherwise of effects on the marine environment and ecology. THC confined their assessment principally to the planning issues surrounding the onshore aspects of the Development.

THC considered in their response, the Highland Wide Local Development Plan ("HwLDP"), the Draft Caithness Landscape Sensitivity Study, the Caithness and Sutherland Local Development Plan, National Policy the renewable energy agenda, and the Highland Renewable Energy Strategy .

Regarding traffic, THC noted that the Traffic Statement ("TS") concludes there is no potential for significant environmental impacts from traffic and transport. Mitigation measures identified include the TS and a Construction Traffic Management Plan which will form part of the Onshore Construction Method Statement. THC were satisfied with the proposed methodology and content of the TS. THC recommended that the TS be updated when the project has progressed to a stage when reliable data is available prior to commencement of the Development. Thereafter, a programme of mitigation/improvement works should be agreed and carried out by the developer in consultation with THC as Roads Authority. In addition THC stated that a Construction Traffic Management Plan should be submitted

THC further confirmed that they were satisfied with the views expressed by SNH and MSS regarding the natural heritage of the area and confirmed that subject to the appropriate mitigation, the development was acceptable.

In relation to the onshore interests relating to the cable route, there are a number of onshore archaeological records existing within and in proximity of the site. THC noted that the applicant has considered this and concluded that the area of the application site has potential for further finds. THC together with Historic Environment Scotland ("HES") generally agreed with the conclusions within the ES subject to mitigation this issue.

THC commented that no offshore sites with statutory designation have been identified, however the mitigation in the ES and appropriate investigation and recording should be considered by condition.

THC considered that the landscape and seascape effects have been underestimated in the ES, but are judged to be acceptable when taking all relevant matters into account. Impacts are generally greater than recognised in the ES but it is considered that these are relatively limited in extent and do not significantly compromise the characteristics of the landscape and seascape characters as a whole. Concerns were raised about the acceptability of the visual impacts as depicted in the ES.

THC stated that the standard of information presented was not in accordance with THC standards and did not consider that the assessment robustly demonstrated the acceptability of the proposals. However, THC acknowledged that visualisations in the ES are based on a worst case scenario and that the assessment is a subjective matter. THC stated that given the small footprint of the offshore site, alongside the wider panorama of coast and sea, the impact was considered as acceptable.

THC concluded that the proposal would introduce a new feature to the coastline and that this will have localised significant visual impacts. However, THC stated that adverse visual impacts may be successfully mitigated by the reduction in height of the turbines and siting of these in the north west of the area under consideration

When assessing a wind farm proposal, consideration of similar developments in proximity to the proposal to assess cumulative effects is required. THC detailed projects in the wider area that are operational, approved or have been submitted but not yet determined.

On reviewing the WLAs impacts and taking into account SNH response, THC have confirmed that on balance there would be no impact on the physical or perceptual qualities of the wild land.

THC stated that the turbine platform has no direct impact on land based recreational access, however the proposed cable landfall at Sandside Bay is a well-used recreational area. THC stated that, should the method of construction require, maintenance of access to Sandside Bay during construction must be secured by a condition.

Regarding noise and disturbance, THC requested that a condition be imposed regarding noise for the turbines, and from the substation/switchgear. No concerns were raised in relation to potential interference with radio/television networks. However THC stated that nonetheless, a condition should be imposed to secure a scheme of mitigation should this issue arise. Further assessment of shadow flicker has confirmed that, based on known interference scenarios and available date, there are no potential problems foreseen regarding shadow flicker, and as a result, a condition is not considered necessary.

As a Marine Safety Navigational Risk Assessment has been produced and mitigation detailed, THC confirmed that subject to the mitigation, the development is acceptable.

THC confirmed that there were no significant effects on agriculture and soils, and agreed with SEPA that the submission of the final details of cable routes and a Construction Environmental Management Plan was requested. This will be dealt with through the requirement for an Onshore Environmental Management Plan.

THC stated that there were no significant impacts with regard to geology and hydrology; however they did consider it appropriate that a Flood Risk Assessment was undertaken, and a Flood Drainage Impact Assessment and Strategy be developed once the onshore site had been fully selected.

THC stated that the construction activities onshore could give rise to some local air quality impacts associated with dust. However these were not considered to be significant and would be addressed with mitigation as detailed within the ES but requested the submission of an Onshore Environmental Management Plan.

THC considered that the proposal has had regard to the desirability of preserving natural beauty and that it has mitigated the effects of the development on the natural beauty of the countryside. However, in considering these matters it is not consider that having “regard to” and “in doing what he reasonably can” to mitigate these effects means that the effects of the development are acceptable.

THC stated that development has the potential to result in socio-economic benefits to the area through the potential creation of local employment and business opportunities, construction employment and through its contribution to meeting renewable energy targets.

With regard to tourism, THC confirmed that this is an important sector for the Highland economy and the North Coast 500 route is a key part of this. To date no studies have blamed the existence of wind farms as a reason for a decline in tourist numbers. Although it may be that some will be deterred from returning to the area, given the range of activities pursued by visitors to Caithness and Sutherland , THC did not consider that the proposal would be significantly detrimental. While sea views would be affected, the character would remain. It is also possible that a development such as this could become an attraction in its own right.

THC confirmed that all material considerations raised by consultees/third parties have been considered and that there are no other relevant material factors highlighted for consideration of the application.

Conditions requiring the submission of a CoP, a DSLP, an OnCap, an OnCMS, an OnEMP, a PMS and a VMP have been included in the draft decision letter and consent attached at **ANNEX D – DECISION LETTER AND CONDITIONS**.

Orkney Islands Council ("OIC") confirmed that they were satisfied with the report put forward by THC and are happy to take their lead from THC on the application.

In relation to deployment/operation and maintenance, OIC stated that only limited information was provided. If a harbour area or pier in the Orkney area is to be used, OIC affirmed that the method of deployment and full details of route(s) to be used from the selected harbour/port facility to the site would be required. OIC confirmed that full discussion would be required to be undertaken with the Harbours Authority and OIC to enable OIC to fully assess the impacts of the chosen routes on existing routes to and within Orkney.

OIC noted that the current area of search for the landfall location for the Orkney to Caithness interconnector is within the proposed area of search for the Project's landfall and export cable at East Sandside in Reay. OIC stated that mitigation subject to consultation and collaboration with developers will be required to ensure there is no significant conflict where there is potential for overlap of Project infrastructure or construction activity with proposed developments in the area i.e. Scottish Hydro Electric Transmission Limited (SHET) Orkney-Caithness interconnector and Highlands and Islands Enterprise DDC for offshore floating wind. OIC highlighted the need, given the limited locations where the interconnector subsea cable between Orkney and Caithness can be placed, for early discussion on this matter. This will ensure the needs of Orkney and the wider area meet a key ambition of NPF3 to deliver the Scottish Government's low carbon strategy. NPF3 states that interconnectors to Orkney and onshore connections for offshore renewables on other parts of the coast are all required to fully realise the potential for diverse and widely distributed renewable energy development.

OIC were pleased to see that the ES considered the visual impacts of the development on the west coast of Orkney, along with that of the NSA (Hoy and West Mainland Orkney) and the Wild Land Area of Hoy. OIC stated that the ES assessed the development to be acceptable taking account of the relevant matters and impacts on landscape/seascape, and confirmed that considering the proximity of the

development to Orkney and the ferry routes to and from Orkney, the development would not have a significant adverse visual impact.

Conditions requiring the submission of a CoP, a DSLP, OffCMS, an OffOMP and a VMP have been included in the draft decision letter and consent attached at **ANNEX D – DECISION LETTER AND CONDITIONS**.

Non-statutory consultees

Aberdeen International Airport stated that as the proposal is located out with the consultation zone for Aberdeen Airport. They had no comment to make and need not be consulted further.

Civil Aviation Authority ("CAA") agreed that the appropriate aviation consultees were identified and required that the positions of each consultee should be established by consultation.

The CAA stated that there may be a number of unlicensed airfields in the area which could reasonably be expected to take an interest in the development. In addition the CAA detailed that Associated Aerodrome Licence Holders or Operators may have registered safeguarding maps with their Local Planning Authorities or have other agreed means of notification and consultation. The CAA recommended that an aeronautical chart was purchased to verify the presence of aerodromes known to the CAA in any particular area, and the site of the turbine checked to see if it falls within the range of an aerodrome using the distances recommended in CAP 764 https://publicapps.caa.co.uk/modalapplication.aspx?catid=1&pagetype=65&appid=11&mode=detail&id=5609.

The CAA also recommended that Emergency Service Helicopter Support Units were consulted as they may operate in the area of concern, and be affected by the introduction of tall obstacles. In addition the CAA stated that both the Air Ambulance and Scottish Police should be consulted, where appropriate. The CAA also stated that, for offshore developments, the Maritime and Coastguard Agency should be consulted.

The CAA detailed that any structure of 150 metres or more must be lit in accordance with the Air Navigation Order and should be appropriately marked. Owing to the proposed height of the turbines, the CAA stated that there is no CAA requirement for the turbines to be lit, although if an aviation stakeholder (including the Ministry of Defence) made a request for lighting it is highly likely that the CAA would support such a request. In addition, the CAA confirmed that should the proposed maximum turbine heights (which is to the blade tips, not hub or nacelle) increase, or turbine locations change, then previously consulted aviation stakeholders would need to be re-consulted to ensure that any impact assessments reflect such changes.

The CAA stated that all structures over 300 feet be charted on aeronautical charts. Therefore these should be reported to the Defence Geographic Centre ("DGC") at least 10 weeks prior to the start of construction. In addition the CAA confirmed that the DGC will require the accurate location of the turbines/meteorological masts, accurate maximum heights, the lighting status of the turbines and/or meteorological

masts and the estimated start/end dates for construction together with the estimate of when the turbines are scheduled to be removed, and also the maximum height of any construction equipment required to build the turbines.

The CAA stated that developments should be notified through the means of a Notice to Airmen at least 14 days prior to the start of construction.

On behalf of other non-regulatory aviation stakeholders, and in the interest of Aviation Safety, the CAA also requested that any feature/structure 70 ft (21.3 m) in height, or greater, above ground level is also reported to the DGC to allow for the appropriate notification to the relevant aviation communities. The CAA stated that it should be noted that Notices to Airmen would not routinely be required for structures under 300 ft (91.4 m) unless specifically requested by an aviation stakeholder.

Discussions between the Company and the CAA have included consideration of unlicensed/minor aerodromes, and the CAA have confirmed that they are content that appropriate efforts have been made to address their concerns and that this is in line with their role as the relevant approval authority who needs to be satisfied that all issues are identified and mitigated.

Issues regarding the lighting and marking of the Development, and emergency response and co-operation planning will be addressed through the consideration of the relevant Marine Licence application.

A condition requiring the submission of a DSLP has been included in the draft decision letter and consent attached at **ANNEX D – DECISION LETTER AND CONDITIONS**.

Caithness District Salmon Fisheries Board stated that, although the boundaries of the proposed installation are large, the device itself is rather compact and relatively far offshore. With respect to the cable corridor they felt that the ES dealt adequately with the potential issues.

Historic Environment Scotland ("HES") stated that advice should also be sought from THC regarding matters including unscheduled archaeology and category B and C listed buildings. In general, HES stated that they are content that the proposals do not raise significant concerns for their remit.

HES suggested that a suspensive condition be imposed regarding the proposed mitigation relating to marine assets. HES confirmed that their response applies to the Application currently proposed, and any amended scheme may require another consultation.

HES provided details of further information in the form of guidance about national policy which can be found in their 'Managing Change in the Historic Environment' series available online at www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes.

HES confirmed that they had previously been consulted on the proposed project at scoping and pre-application stages and had, at that time identified that the proposed development may have impacts on the setting on a number of nationally important designated historic environment assets, which should be assessed within the ES. HES welcomed the assessment of potential impacts to undesignated marine historic environment assets, and suggested that further geophysical survey work should be carried out to ensure significant impacts are avoided. HES confirmed that they are content that the ES has provided an assessment of these assets and stated that they are content that there are no assets within the project area that are subject to statutory protection.

HES noted that a full geophysical and geotechnical assessment had still to be completed. They noted that the ES outlined the proposed survey work and provided a mitigation strategy for dealing with significant impacts. Best practice would allow for the surveys to be completed prior to a design being finalised and consent being granted, and this would ensure that any potential assets of national importance are avoided. HES confirmed that they are content with the baseline information identified so far; however they are concerned that without the surveys being completed the current mitigation strategy does not address the scenario of a nationally important find being made in an area where avoidance is not possible, for example along the cable route. By proposing to undertake further survey work post-consent, HES stated that there is a risk to the project of reaching an impasse where the Company can neither excavate nor avoid a significant historic environment asset, rendering the cable route or site unusable. The mitigation strategy stated in this circumstance would be to excavate. HES confirmed that is it is unlikely that they would agree to such mitigation where a nationally important find had been made, and preservation in situ would likely be recommended. HES stated that their recommendation would be that such scenario should be included in the mitigation strategy and clearly outline what steps should be taken in such a situation.

Excepting the above issue, HES were content with the information presented in the marine historic environment chapter of the ES, and noted the potential for direct impacts on potential heritage assets of unknown significance. HES stated that they would recommend that Marine Scotland impose a condition requiring the developer to submit the proposed Written Scheme of Investigation (“WSI”) for approval by HES/Marine Scotland prior to commencement of construction. HES detailed that this WSI should cover the proposed investigation of any site where avoidance is not possible, and set out in detail the mitigation strategies, recording and reporting methods of these.

In addition, HES confirmed that a separate condition should be imposed requiring the developer to adopt and implement a suitable protocol for archaeological discoveries (“PAD”), as proposed in the ES, again to be approved by HES/Marine Scotland prior to the commencement of works on site.

HES stated that in the section on cultural heritage significance criteria uses, the criteria for determining national importance for scheduling were taken from the Scottish Historic Environment Policy (SHEP). HES stated that these criteria are not necessarily suitable for identifying significance of other types of historic environment asset, and may not be suitable for considering significance of assets below the level

of national importance. In addition HES stated that assets with low heritage value/significance are those which have poor preservation and/or poor survival of contextual characteristics. This could cause confusion as scheduled monuments will always be of high significance even if their context has been altered or they appear to have poor preservation.

HES do not agree with the statement that visual factors in relation to setting will not apply to a cultural heritage asset which is not visible on the ground surface In addition, HES also disagreed with the ES, in that they consider that setting should be considered on a case by case basis. HES stated that descriptions in ES refer to changes to 'fabric' of a receptor, which would be a direct impact.

HES felt that there will be an additional impact from the construction of a further large building (8 m high), and stated that it would have been helpful if further detail had been provided to clarify the level of impact. It would also have been useful if the distances from the assets to the turbines had been provided. HES stated that there is a lack of clear definition of the setting of some of the assets before the assessment of impacts is described.

HES stated that in a number of cases the presence of the Dounreay Nuclear Facility is described as reducing the contribution of setting to low, for example Cnoc Urray broch (Scheduled Monument SM 564) and Cnoc Stanger cairn (SM 458). Although it is clear that the presence of this facility has had an impact on the setting of some assets in its vicinity such as Cnoc Urray broch and Dounreay Castle (SM 6401) HES do not agree that in all cases the facility has had such a significant impact on setting. While HES do agree that the Dounreay facility impacts on the setting of Cnoc Urray broch to the north of the broch, HES stated that the setting in other directions and other key views has not been impacted, and further description of the setting of this site and further justification for the stated low contribution of setting would have been useful. HES also questioned whether the presence of Reay golf course had a significant impact on the setting of this. However HES were content that the impacts to the setting of these monuments would not raise issues of national importance.

With regard to Achunabust broch (SM 513), HES confirmed that they would find it difficult to accept that the presence of footings of a more recent building would reduce the contribution of setting to low. However, given the distance to the proposed turbines they are content that the setting impacts will not be significant.

HES confirmed that Cnoc Freiceadain long cairns (SM 90078) are described as being located in a prominent topographical location but within a recent farming landscape. HES consider that the setting impacts will not raise issues of national significance for this site.

Balligill Burn limekilns (SM 4290) are described as having a setting which has been little altered and yet HES confirmed that this is determined to be only a medium contribution of setting. HES consider that the setting impacts to this monument will not be so significant as to raise issues of national importance.

With regard to Reay Parish Church and enclosure wall (Listed Building LB 14992), HES stated that they are content that the impacts will not raise issues of national importance.

HES referred to a number of occasions where the assessments refer to wireframes which were provided to ORCA Marine (Orkney Research Centre for Archaeology) when they carried out their assessment; however, these wireframes do not appear to have been provided with the chapter, nor are there other visualisations specifically prepared for this chapter. HES stated that it would have been useful had the wireframes been made available to assist with their review of the assessments.

Overall, HES confirmed that they are content to agree that, while there may be some significant impacts on the setting of some of the assets within their remit from the offshore turbines, they are content that the impacts will not raise issues of national importance.

The Company and HES have now agreed the need for suspensive conditions, and for comprehensive surveys on the cable corridor route, and the Company have agreed to share the results with HES .

Issues regarding marine cable laying will be addressed through the consideration of the relevant Marine Licence application.

Conditions requiring the submission of a DSLP, an OffEMP and OnEMP have been included in the decision letter and consent attached at **ANNEX D – DECISION LETTER AND CONDITIONS**.

Maritime & Coastguard Agency ("MCA") did not object to the Development however they did request that the Company ensure that their guidance set out in guidance note MGN 543 be followed, and that hydrographic surveys should fulfil the requirements of the International Hydrographic Organisation (IHO) Order 1a standard, with the final data supplied as a digital full density data set, and survey report to the MCAr. The MCA stated that this information is yet to be submitted.

The MCA noted that, under Section 1.102 of the Non-Technical Summary and Table 13-67 of the ES, the Company has employed American Bureau of Shipping (ABS) to ensure the floating platform complies with floating wind design standards. The MCA confirmed that this verification should also include an assessment on the suitability of the mooring system. THE MCA recommended that the Applicant follows the Health and Safety Executive guidance for Offshore Installation Moorings (ref: Offshore Information Sheet No 4/2013 – Revision 2), as appropriate.

Safety Zones around the turbines during the construction phase were supported by the MCA, however a detailed justification would be required for a 50 m operational safety zone, with significant evidence from the construction phase in addition to the baseline Naviational Risk Assessment required supporting the case. This will be discussed directly with the Applicant.

The MCA noted that export cable routes, cable burial protection index and cable protections are issues that are yet to be fully developed. The MCA stated that due

cognisance needs to address cable burial and protection, particularly close to shore, where impacts on navigable water depth may become significant. The MCA were further concerned about possible wear and tear on the export cable resulting from the movement of the turbines from waves, tides and currents. Any consented cable protection works must ensure existing and future safe navigation is not compromised. The MCA would accept a maximum of 5% reduction in surrounding depth referenced to Chart Datum.

An Emergency Response Cooperation Plan ("ERCoP") is required to be in place prior to construction to meet the requirements of MCA guidance for the construction and operation phases and pointed to information on MCA website at https://www.gov.uk/government/publications/offshore-renewable-energy-installations-orei.

The MCA confirmed that each turbine must be lit with a single 2000 candela, red aviation light, flashing Morse 'W' in unison and that further consultation with the CAA and MCA should be sought by the applicant.

In addition to MCA providing comment on the post-consent plans (ERCoP, Navigational Safety Plan ("NSP"), OnCaP, CoP, Lighting and Marking Plan and OffOMP, the MCA requested several conditions to be applied to the Marine Licences:

The MCA noted that the Navigational Risk Assessment did not draw any formal conclusions from its assessment; but had been used as a tool to outline impacts on traffic, its purpose purely to highlight risks, and consider any mitigation that may be appropriate in ensuring shipping will not be adversely impacted from the safety of navigation perspective.

The MCA highlighted that the comments given were not considered to be blocks to development, but provided to highlight areas of concern. Subject to the developer meeting requirements the MCA provided a cautious acceptance of the licence request.

Discussions between the Company and the MCA have confirmed the use of appropriate lighting and marking, appropriate updates to navigational charts, and a geophysical survey meeting the IHO standards, which has now been completed and the results of which would be forwarded to the MCA. Confirmation of receipt of this information has not, as yet, been received from the MCA.

Issues regarding the lighting and marking of the Development and emergency response and co-operation planning will be addressed through the consideration of the relevant Marine Licence application.

Conditions requiring the submission of a CoP, DSLP, NSP, OffOMP, Third Party Verification ("TPV") and VMP have been included in the decision letter and consent attached at **ANNEX D – DECISION LETTER AND CONDITIONS**.

Melvich Community Council ("MCC") some members were strongly opposed, to the proposal and others not in favour. They raised a number of concerns:

- The existing wind farm in the MCC area, Strathy North, as well as the proposed Strathy South wind farm have shown a good level of consideration for the impact the turbines would have on the views of those who both live and visit the area. In comparison, MCC members felt that the developers of this proposal have shown no such consideration;
- Should this proposal be approved the turbines, being of such a significant height, will have a substantial impact on the view across to Orkney. MCC stated that members expect that this would put off any individuals who were considering moving to Melvich and Portskerra in the future;
- Wind farms can have a huge impact on the house prices. In Melvich, for example, the community is at risk of losing both the local school and care home, and any drop in house prices would compound current problems in the village. MCC ask that sensitivity to the above concerns be taken into consideration when making a decision on this proposal;
- MCC confirmed that many members of the community feel that proposals such as this will go ahead regardless of the level of objection, all to the benefit of large companies and detriment of their community.

The Company have been in discussions with MCC regarding the options for some form of community benefit, issues around house prices and visual impact and expanding on information regarding job creation.

Conditions requiring the submission of a DSLP and DS have been included in the decision letter and consent attached at **ANNEX D – DECISION LETTER AND CONDITIONS**.

Ministry of Defence ("MoD") confirmed that following their assessment using the 4 corner point grid references supplied in the Application, they have no objection to the Development.

In the interests of air safety, the MoD request that the turbines are fitted with aviation safety lighting in accordance with the Civil Aviation Authority direction, CAP 93 Air Navigation Order section 1 part 28.

The principal safeguarding concern of the MoD relates to the potential for the WTGs to create a physical obstruction to air traffic movements, and cause interference to Air Traffic Control and Air Defence radar installations.

The Defence Infrastructure Organisation Safeguarding wish to be consulted and notified of the progression of applications and submissions relating to this proposal to verify that it will not adversely affect defence interests.

If permission is granted the MoD would like to be advised of the following prior to commencement of construction:

- the date construction starts and ends;
- the maximum height of construction equipment; and
- the latitude and longitude of every turbine.

Issues regarding the lighting and marking of the Development will be addressed through the consideration of the relevant Marine Licence application.

Conditions requiring the submission of a DSLP and an OffCMS have been included in the decision letter and consent attached at **ANNEX D – DECISION LETTER AND CONDITIONS**.

National Air Traffic Services ("NATS") had no objection from a technical safeguarding aspect and stated that, based on the information supplied to date, it did not conflict with their safeguarding criteria. If any changes were proposed then as a statutory consultee, they required to be further consulted on any such changes prior to any planning permission or any consent being granted.

A condition requiring the submission of a DSLP has been included in the draft decision letter and consent attached at **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS**.

Northern District Salmon Fisheries Board had no specific comments to make since, although the boundaries of the proposed installation site are large, the devise itself is compact and relatively far offshore. With respect to the cable corridor, the they stated that the ES dealt adequately with the potential issues.

Northern Lighthouse Board ("NLB") required that the turbine platform should be marked in accordance with IALA Recommendation O-139 on The Marking of Man-Made Offshore Structures as follows:

a) the platform and the structure of each wind generator should be painted yellow all round from sea level to 15 metres or the height of the Aid to Navigation, if fitted, whichever is greater;

b) each wind generator shall be fitted with lights visible from all directions in the horizontal plane. These lights should flash yellow once every 5 seconds, with a range of 5 nautical miles. All lights on these structures should be synchronised. These lights should comply with IALA recommendations and have an availability of not less than 99.8% (IALA Category 1), calculated over a rolling 3 year period;

c) all navigation lights should be mounted below the lowest point of the arc of the rotor blades. They should be exhibited at a height of at least 6 metres above Highest Astronomical Tide;

d) the platform should also be fitted with a sound signal with a nominal range of two nautical miles, placed not less than 6 metres and not more than 30 metres above sea level. The character should be rhythmic blasts corresponding to morse letter 'U' every 30 seconds. The minimum duration of the short blast shall be 0.75 seconds and the sound signal should be operated when the meteorological visibility is two nautical miles or less. The sound signal should comply with IALA recommendations and have an availability of not less than 97.0% (IALA Category 3), calculated over a rolling 3 year period;

e) the structure shall display identification panels with black letters or numbers 1 metre high on a yellow background visible in all directions. These panels shall be easily visible in daylight as well as at night, either by the use of illumination or retro-reflecting material; and

f) aviation lighting should be fitted as required by the Civil Aviation Authority.

The NLB stated that the requirement to mark the turbine platform for the purpose of Aviation and Search and Rescue operations should be sought from the CAA. The NLB also requested that the Morse 'W' indication identified for aviation marking be installed for this purpose.

In addition the NLB stated that they required monitoring of the position of the turbine platform in order that, should the device part of its moorings become mobile, mariners could be informed of any possible danger as soon as practicably possible.

The NLB stated that navigational warnings must be promulgated prior to the commencement of any works related to the project in the marine environment and that the cable landing site should be marked by a Cable Marker Board. They confirmed that the United Kingdom Hydrographic Office must be informed of the device, location and cable route in order that the relevant Admiralty Charts are updated.

In addition the NLB confirmed that all navigational marking and lighting of the site or its associated marine infrastructure will require the Statutory Sanction of the Northern Lighthouse Board prior to deployment.

The Company are in agreement with the points raised. Further, the Company have confirmed that the platform location and orientation will be monitored in real-time. As part of this system a four waypoints shall be set around the platform which effectively "box in" the platform. The Company detailed that an alarm will be triggered at a 24hr control centre in the event that the platform breaches the perimeter. At this point the ERCoP would then be initiated and the appropriate authorities would be notified.

Issues regarding the marine cable laying, lighting and marking of the Development and emergency response and co-operation planning will be addressed through the consideration of the relevant Marine Licence application.

Conditions requiring the submission of a CoP, DSLP, NSP, TPV and VMP have been included in the decision letter and consent attached at **ANNEX D – DECISION LETTER AND CONDITION**.

Pentland Firth Yacht Club had no objections to the development as long as any sea activities were well marked. They confirmed that no dinghies were sailed in that area.

Royal Society for the Protection of Birds Scotland ("RSPB Scotland") stated that whilst located in an environmentally sensitive region, the project is small scale and the associated potential impacts are low. As such, RSPB Scotland consider that

the proposed project is unlikely to cause an adverse impact on seabirds in the Pentland Firth or on onshore bird populations.

RSPB Scotland confirmed that they recognise the need and importance of demonstrating new and emerging renewable energy technologies and floating wind Their own project research has identified a potentially significant capacity for floating wind in Scottish and UK waters that are located further from shore, in areas that are likely to present lower ecological risks.

RSPB Scotland are keen to offer support to Dounreay Trì on the basis that a condition to implement an environmental monitoring programme is imposed to any consent, and that results are made public. Such a condition is considered reasonable given the demonstration nature of this project and the need to better understand, not only the use of the sea and airspace around the development by seabirds and other marine wildlife, but also the interactions of these species with the turbine structures. RSPB Scotland detailed that this could possibly be achieved using a video system approach. Such efforts could improve certainty in environment assessments and prove vital as a means to inform decision-making around any future proposals for larger scale projects in nearby locations or elsewhere in Scottish or UK waters. RSPB Scotland offered their support in developing such a monitoring programme.

RSPB Scotland did, however, express a number of concerns about aspects of the marine ornithological assessment detailed and wished to emphasise that any proposals for future projects or phases would require these to be addressed.

RSPB Scotland stated that the description of the aerial surveys leads to ambiguity in the definition of the study area, and that two years of survey work effort would have provided a more robust environmental baseline. However RSPB Scotland acknowledge the survey, deploy and monitor policy under which this project is proposed. Their preference for two years survey is using a single year of data, it is not possible to exclude the possibility that bird use of the development area was unusually low for the time of year on individual survey days, across whole breeding season or across the whole period surveyed.

RSPB Scotland further confirmed that there are numerous inconsistencies between the collision risk modelling results presented. The estimated mortality rates are not specific to turbine design and do not allow for a turbine design that incorporates a larger swept area as is intended for this project. The calculated collision mortalities based on site specific flight parameters that are tabulated in the Appendix are higher than those based on generic flight height parameters presented in the main text. It would have been appropriate to have discussed these differences in the main text and to have provided justification for the presentation of the collision risk estimates based only on the generic data.

RSPB Scotland regretted the omission of a review of existing information about seabird densities in this part of the North Coast Marine Region, and stated that it is unclear from the ES whether the reported seabird densities in the study area are higher or lower than elsewhere in the region.

RSPB Scotland confirmed that the impacts of the development on non-breeding seabird populations have been assessed against BDMPS as derived in a study commissioned by the UK statutory conservation bodies. RSPB Scotland welcome this approach as a first step in considering population scale impacts on individuals that disperse great distances during the non-breeding season. Such considerations should equally be applied in the context of the Birds Directive (Directive 2009/147/EC) through the undertaking of HRAs. In RSPB Scotland's view, at present the lack of such an assessment for the non-breeding season is, a serious omission. RSPB Scotland state that whilst in this instance the proposal is small scale, the potential in-combination effects from existing and future offshore renewables and other anthropogenic marine activities within UK waters could be having an adverse effect on seabird populations that is unaccounted for in contemporary HRAs. This issue must be a consideration of the decision-maker when appraising this and other proposals against the member state's obligations under the Birds Directive.

RSPB Scotland have commented that the approach taken to assess the affected breeding populations of each seabird species assumes foraging areas that are within the geographical range of more than one colony are shared, and that no territorial issues exist. The impact on any individual colony might be much greater than apparent from consideration of the summed population across all the colonies within foraging range, and the cumulative impact of all marine energy projects within the foraging range of these colonies has not been considered. The colony size information on which the assessments have been based is mostly over 15 years old. While an adjustment has been made for the known decline in kittiwake numbers, no adjustment has been made for other species such as fulmar that are also known to be in sharp decline.

Discussions have been ongoing between the Company and RSPB Scotland, and it was agreed that the best approach would be for the Company to host a workshop to identify the key species, months and survey methods which can deliver cost effective results. Both parties agreed that the issues raised by RSPB Scotland are of much greater importance to a large project. RSPB Scotland further stated that developing and implementing a programme of environmental monitoring could help to address some of the unknowns about the potential impacts of this type of marine renewable energy project. RSPB Scotland stated that they are content that the findings from this future monitoring will address the issues they had raised.

A condition requiring the submission of a PEMP has been included in the decision letter and consent attached at **ANNEX D – DECISION LETTER AND CONDITIONS**.

Royal Yachting Association Scotland ("RYA Scotland") had no objection to the development and was happy with the proposal with two exceptions. The first was that the Clyde Cruising Club be sent details of the final scheme so that it can be included in the electronic updates of and future editions of the relevant Sailing Directions.

RYA Scotland requested clarification of the request for 'A declaration pursuant to Section 36A of the Electricity Act to extinguish public rights of navigation…'. RYA Scotland stated that the location map shows a very large site and the term 'site' was not defined in the application. RYA reiterated that they are strongly opposed to the

creation of any operational safety exclusion zones although recognised the need for reasonable construction exclusion zones.

Discussion between the Company and RYA Scotland have reached agreement to include the Clyde Cruising Club to the distribution list for the Notice to Mariners, confirmed that the MCA had advised that there was no justification for an operational safety zone, and confirmed that RYA Scotland would be made aware of the installation date and final location for the platform.

Scrabster Harbour confirmed that overall they supported the Development. SH stated that floating wind technology has the potential to harness part of the potential renewable resource present around the [Scottish] coast and that without demonstrator projects such as Dounreay Trì Wind this potential may never be realised.

With regard to economics, SH stated that primarily the operations and maintenance support activities will offer job creation and local supply chain opportunities for the Caithness and North Sutherland economy, and play a part in transitioning the local economy away from reliance on the existence of the Dounreay Nuclear plant. In addition SH detailed that the construction phase will also generate local economic benefits, onshore and offshore.

Scottish Fishermen's Federation ("SFF") was consulted and commented on the application on behalf of the 500 plus fishing vessels in membership of its constituent association; the Anglo Scottish Fishermen's Association, the Clyde Fishermen's Association, the Fishing Vessel Agents & Owners Association (Scotland) Ltd, the Mallaig & North-West Fishermen's Association Ltd, the Orkney Fisheries Association, the Scallop Association, the Scottish Pelagic Fishermen's Association, the Scottish Whitefish Producers Association and the Shetland Fishermen's Association.

The SFF acknowledged the extensive desktop and physical research which went in to choosing the site, with due consideration given to lessening any possible impact on fishing. The SFF confirmed that if the final site chosen is, as the ES appears to say, the Southern edge of the area, the aim should be achieved in terms of not majorly interfering with either fishing activity or navigation.

However the SFF did raise concerns regarding the proposal to dredge the seabed to provide a flat bottom for the plinth, and with the proposal for potential scour protection of the anchors. The SFF highlighted the lack of detail within the ES and noted that these would potentially be big problems at the time of decommissioning, as they would make it almost impossible to restore the area to its post development state which would be the SFF preference.

The SFF stated that, given the sparse details given on the export cable route detailing a figure of 2.8 km of rock dumping, SFF expected the need for much further discussion over the Cable Plan. However, in light of the evidence on the seabed and route options, the SFF is prepared to discuss the suitability of rock dump or mattresses for use in any given area.

The SFF noted the commitment to follow the FLOWW guidelines and stressed the importance of a good FLO to ensure the smooth flow of information between developers and stakeholders. The SFF stated that it is determined to see a uniform vocabulary of definitions, based on 40 years of experience in the Oil and Gas sector, to avoid confusion in the marine environment, and this matter is being addressed with the cable industry within the FLOWW group.

The SFF detailed that the paragraphs on fishing activity were confusing and misleading. The SFF stated that the description of the fleet was not helpful and in terms of the value proposed, and the claim to possibly use local vessels was positively disingenuous. The SFF wished for clarity from the Company regarding what work they could genuinely offer local vessels to mitigate the disturbance caused during construction. The SFF were surprised that the Company had not referred to the 2012 publication *'Best Practice Guidelines for Fishing Industry Financial and Economic Impact Assessments'.*

Following the completion of the works, the SFF stated that they would seek a post lay survey to confirm burial of the cable to be disseminated by the FLO. The SFF would also expect to be added to the notifications of any lost gear which becomes trapped in the mooring system along with the Fishing For Litter project.

The SFF remain open to further discussion especially regarding the Cable Burial Plan and on the Company's mitigation proposals.

Discussions between the Company and SFF had failed to resolve SFF concerns regarding the proposed move to the North West quadrant of the Development site, which the Company consider to be the most suitable for the Development, based on survey information and the fact that this site lies outwith intensively fished areas.

The Company affirmed that the SFF would be consulted upon the Cable Laying Plan, Construction Plan and DP. In addition, the Company confirmed the need for a FLO, guard vessels and a crew boat skipper, that the Development would be lit and marked appropriately, and that the final exact location of the platform, mooring system and cable would be forwarded to Kingfisher. Regarding any community benefit, the Company have confirmed that any contribution would be modest, but that they were keen to give direct support to local projects.

The SFF responded to the Company's response and affirmations and confirmed that they were content with the proposals.

Issues regarding the marine cable laying will be addressed through the consideration of the relevant Marine Licence application.

Conditions requiring the submission of a FMMS and the appointment of an FLO have been included in the decision letter and consent attached at **ANNEX D – DECISION LETTER AND CONDITIONS**.

Transport Scotland ("TS") had no objection to the application, and that any increase in traffic movements as a result of construction traffic associated with building the sub-station would not trigger the need for any further assessment of

environmental impacts associated with generated traffic on the trunk road network. Similarly, TS concluded that the proposed development would have no impact on noise or air quality at the trunk road network.

On assessment of the ES, TS stated that the construction method detailed will not result in any abnormal indivisible loads being transported via the trunk road network. There is, therefore, no need for an abnormal load route assessment.

The ES indicates there will be a maximum of 30 HGV trips per day (60 movements) for 5 days. While this is a slight increase in the figure stated within the Scoping Report, TS noted that this level of traffic generation does not trigger the threshold for any further detailed assessment of environmental effects, as indicated within the Institution of Environmental Management and Assessment (IEMA) Guidelines. TS are, therefore, content that their earlier conclusion that there would be no significant environmental impacts on the trunk road and adjacent receptors remained valid.

TS noted that installation of the platform may require dredging to level the seabed, with any dredged material being disposed of at a licenced site onshore. TS also noted that any dredging operations will require to be supported by a separate Marine Licence application and subject to additional consultation.

In conclusion, TS stated that the proposed development will not significantly impact upon the trunk road network nor will it give rise to any significant environmental impacts on receptors adjacent to the trunk road network.

Whale and Dolphin Conservation ("WDC") stated that overall, they were happy with the ES, and were in general agreement that the level of impact on marine mammals in the area would be negligible as long as pile driving would not be required. Should pile driving be required, an addendum to the ES and would need to be submitted.

WDC requested involvement in the development of the VMP and requested that MMOs would be used at all times during construction and deployment of the wind farm floating platform and cable laying.

In addition, WDC agreed with the overall conclusion that there will be no adverse effect on the SACs.

Discussions between the Company and WDC had resulted in a better understand by WDC of the type of installation being utilised and high definition aerial video surveys being undertaken, and resulted in WDC being invited to future workshops to explore the monitoring requirements, all the the satisfaction of WDC, resulting in WDC withdrawing their request for MMOs to be present on the installation vessels.

Conditions requiring the submission of a PEMP and a VMP have been included in the draft decision letter and consent attached at **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS.**

Third Party Advice

Marine Scotland Science ("MSS") also provided advice on marine mammals, marine fish ecology, diadromous fish, benthic ecology, commercial fisheries, physical environment and aquaculture to MS-LOT, as detailed below:

With regard to marine mammals MSS agreed with the list of impacts assessed and also agreed that, due to the lack of pile driving, this project presents a much reduced risk of acoustic injury or disturbance to marine mammals. MSS confirmed that the main activities with the potential to cause disturbance are vessel traffic and cable laying.

However, MSS stated that consideration does not appear to have been given to the proximity of the Development to the Inner Hebrides and the Minches cSAC for harbour porpoise. While MSS consider that it is unlikely that the Development will have an adverse effect on the cSAC, MSS consider that the site should have been considered. The Company have confirmed that consideration was not given to the Inner Hebrides and the Minches cSAC for harbour porpoise based on SNH advice.

MSS agreed that a VMP should be produced for the construction period, and that consideration should be given to a similar plan for during the operation of the wind farm. MSS recommended that consideration should be given to reducing the number of vessels and their duration on site wherever reasonably possible. They also recommended that the behaviour of vessels should be in line with the Scottish marine wildlife watching code, to reduce the impact to any mammals from interaction with the vessels.

During the operational phase, MSS agreed that the risk of entanglement for marine mammals in the vertical clump lines is very small. In addition MSS agree that the risk of entanglement in the catenary lines is small for seals and cetaceans. MSS stated that they consider that the effects of "ghost fishing", whereby derelict fishing gear becomes entangled on the mooring lines and has the potential to then entangle marine mammals, are very difficult to quantify at this stage. However MSS recommend that a monitoring programme is put in place to inspect the mooring lines for such debris and where possible, to remove it. They recommend that details of the frequency of inspections and their outcome be reported to MS-LOT.

MSS broadly agreed with the assessments of Marine Fish species within the ES and accordingly had no points of concern to raise. The removal of debris, including fishing gear, from moorings and cables is welcomed.

With regard to diadromous fish, MSS agreed that the main potential mechanisms for impact on diadromous fish in the marine environment, and mitigation measures have been considered, although there are points of detail in the information presented which are incorrect. MSS confirmed that they had commented at pre application stages and had already agreed with the conclusion of no LSE on the three salmon SACs considered, which lie closest to the development, and that no appraisal is required for salmon SACs further afield.

The main issue to be resolved is the establishing an appropriate level of engagement with the National Research and Monitoring Strategy for Diadromous Fish and the conditions required to ensure this.

MSS was generally happy with the assessments of the impacts to benthic ecology. However, they stated that they had concerns over the reliance of the developer on multibeam data (obtained from MSS and acknowledged to be of relatively low resolution) to produce maps of local bathymetry and to inform biotope allocation in the development area and along the cable corridor. MSS believe that further high resolution video and acoustic surveys should be completed over these areas and used to create more robust mapping, to increase reliability of biotope distributions and to inform on the conditions found on the site of any possible dredging activity.

MSS stated that increases in suspended sediment loads and smothering impacts from cable trenching activities should be further considered. In addition MSS confirmed that the impact of cable installation on the beach dynamics and the biota of Sandside Bay should be examined. The Company have confirmed that the ES does consider suspended sediment loads. The low proportions of fine sediment at the Site and export cable corridor suggest that the amount of suspended sediment resulting from trenching would be small. As a result, the Company stated that there was little potential for a smothering effect to occur. The vulnerability of receptors was assessed as low, together with a low magnitude effect; suggesting that this impact would be of minor significance. With regard to the impact of cable installation on the beach dynamics, the Company referred to the ES and stated that the cable shall be installed by trenching or cutting through course sand and gravel sediments making landfall to the east, at the Dounreay Nuclear Site fence line and not through Sandside Bay.

MSS confirmed the ES findings that the site is out-with intensively fished areas. MSS also state that the documents also provide evidence of engagement with the fishing industry, since 2014.

However, MSS confirmed that the project description does not provide clarity of the type of scour protection for the anchors and the export cable and stated that this should be included in the Cable Plan.

MSS considered that the suggested mitigation options (Fisheries Mitigation Plan & FLO) for the moderate impacts to individual inshore creel fishermen from the exclusion to traditional fishing grounds during construction satisfactory. In addition, MSS stated that the suggested mitigation option (operational safety zone) for the moderate impacts to all four fisheries from the risk of gear damage/ loss is satisfactory.

However MSS noted that there had been no additional mitigation option recommendation for the permanent exclusion to traditional fishing grounds, due to the low intensity of activity, small operational footprint of the proposed safety zone and availability of fishing grounds in the wider sea area. MSS confirmed that a mitigation option for the export cable (6 km offshore) include a Cable Plan and Cable Protection Monitoring, and that impacted fishermen should be given the opportunity to review and influence both documents.

MSS were content with the conclusion that there are no significant impacts to be expected on the identified fisheries arising from the Project proposals assuming all the above conditions are met.

MSS had no concerns relating to physical environment. They had previously requested clarification regarding historic contaminated sediments, and confirmed that this had been adequately addressed in the ES. Further MSS had no concerns regarding the impact on aquaculture sites.

The Company have agreed to conditions requiring a VMP, PEMP and surveys for the identification and removal of fishing gear and other marine debris. In addition the Company highlighted that they had completed their own hi-resolution geophysical survey (2016) and will conduct further geotechnical surveys (summer 2017). The results of these surveys will inform the cable route and cable installation plan. The cable installation and monitoring plans shall be agreed with MS-LOT prior to installation. The Company will then seek to identify and avoid obstacles (reefs, rocks and wrecks) as required by legislation and in order to protect the cable. The Company stated that these surveys would also help to determine whether dredging is required and, if so, determine the chemical composition of the dredged material. A separate licence would be submitted to MS-LOT for dredging.

Issues regarding the marine cable laying will be addressed through the consideration of the relevant Marine Licence application.

Conditions requiring the submission of an OffCMS, OffEMP, OnCaP, OnCMS OnEMP, PEMP and the appointment of an ECoW have been included in the decision letter and consent attached at **ANNEX D – DECISION LETTER AND CONDITIONS**.

Public Representations

A total of seven (7) valid public representations were received by Marine Scotland from members of the public during the course of public consultation exercises. Of these, five representations objected to the Development and two supported the Development.

The five (5) representations making objections, which were received from local residents, raised issues included, but were not limited to, visual impacts, impacts on tourism, impacts on house prices which would have a negative effect upon the area and loss of amenities, the number of actual jobs which would be created and the impact of onshore and offshore wind farms being built without consideration for the local residents.

Other issues raised were related to the impacts on the migration of whales, ornithological concerns, the impact of onshore and offshore wind farms and that the Development would set a precedent of wind farms being built throughout the area without consideration of the impact this would have in the locals residents.

Regarding visual impact, the Company have confirmed that the potential to site the Development further offshore.

Regarding employment, the Company have confirmed that as the project would be serviced from Scrabster Harbour, seven full time jobs would be created and over the 25 year period the Development would be operated, other jobs would be created and supported.

Regarding environmental impacts, the Company have confirmed that the ES had fully assessed the concerns surrounding fishing, marine ornithology, marine mammals and shipping and navigation. In addition the Company confirmed that, based on recent assessments, house process in Scotland had been showed to be unaffected by the development of wind turbines.

The Company stated that the provision of any community benefits is an additional voluntary measure provided by the Developer, and confirmed there was no reference to such funds within the application.

Two (2) representations were received in support of the Development. The representations considered that the proposal would bring skilled employment to the local economy, opportunities for young people to be trained and involved in the project, and could see the growth of a new industry making use of an abundant natural resource. In addition, the representations supported using offshore wind as less contentious than on shore wind, with the advantage of much greater efficiency and reliability.

Other Responses - in relation to the Application and Environmental Statement

British Telecom ("BT") submitted a 'nil return' response

The following organisations had no comments to make:

- The UK Chamber of Shipping;
- Castletown and District Community Council; and
- Transport Scotland Ports and Harbour.

Summary

MS-LOT has fully and carefully considered the Application and accompanying documents and all relevant responses from Consultees, as well as all the third party representations that have been received, with a view to determining whether a PLI should be held with respect to the Application.

MS-LOT considers that there are no significant issues which have not been adequately considered in the ES, and in consultation responses from the relevant onshore planning authorities, SEPA, SNH and other relevant bodies, together with all other objections and third party representations. MS-LOT therefore considers that it has sufficient information to recommend to the Scottish Ministers that they are able to make an informed decision on the Application without the need for a PLI.

Environmental Benefits and Carbon Payback

The amount of CO^2 released through electricity generation in the UK relates directly to the generating plant in use at any given time. This mix changes on a daily basis and will change in the future as UK generating plant is replaced and fuel costs change. The most up to date information from the Department for Business, Energy and Industrial Strategy (BEIS formerly DECC) Digest of UK Energy Statistics states that, in 2015, 379 tonnes of CO^2 were released each gigawatt hour (GWh) when generating electricity from gas; this increased to 920 tonnes per GWh when generating from coal. The average CO^2 release from all fossil fuels was 618 tonnes per GWh.

The key environmental benefit of the Development is the demonstration that useable electricity has been generated from a novel renewable energy source that will reduce or avoid the use of fossil fuels in combustion power plants.

There are multiple benefits associated with the Development, including:

- production of a combined maximum generating capacity of 12 MW of clean energy;
- very low lifetime CO_2 emissions per unit of electricity generated;
- addressing climate change through a move to a low-carbon generation mix for a secure energy future;
- provision of an indigenous source of clean energy;
- contribution to new energy infrastructure; and
- contribution to sustainable economic growth.

The Development provides the opportunity for a contribution to be made towards the ambitious Scottish, UK and European Union renewable energy targets. The Development would deliver a combined maximum generating capacity of 12 MW of low carbon and domestically sourced electricity for the UK and, unlike burning fossil fuels which releases polluting greenhouse gases into the atmosphere, the Development harnesses offshore wind energy in a non-consumptive and non-polluting (i.e. produces no gases or other by-products) manner.

Due to the nature of the demonstration facility, and the unknown performance data for the new turbine designs, it is not possible to accurately predict the energy that will be produced by the Development over the lifespan of its consent of 25 years and therefore a calculation of the displacement of CO_2 cannot be made. However, based on Scottish Government's published Renewable Electricity Output Calculator[3], it can be estimated that, depending on the fuel type displaced, 11,198 tonnes (all fuels including nuclear and renewables) and 31,030 tonnes (coal) of CO_2 could be saved. It is also estimated that the WTG's with a maximum output of 12 MW of electricity will supply sufficient energy to meet the needs of 7,748 households in Scotland.

Any energy generated from the site will result in the displacement of CO_2 generated from non-renewable sources and the aim of the Development, to further the development of the UK offshore wind industry, will contribute to the reduction of CO_2 emissions from UK power generation in the long term.

[3] http://www.gov.scot/Topics/Statistics/Browse/Business/Energy/onlinetools/ElecCalc

Economic Benefits

Scottish Planning Policy ("SPP") advises that economic benefits are material issues which must be taken into account as part of the determination process. SPP also confirms the Scottish Ministers' aim is to achieve a thriving renewables industry in Scotland, the focus being to enhance Scotland's manufacturing capacity, to develop new indigenous industries, particularly in rural areas, and to provide significant export opportunities. The planning system has a key role in supporting this aim and the Scottish Ministers should consider material details of how the proposal can contribute to local or national economic development priorities as stated in SPP.

The Company has already entered into an agreement with Scrabster Harbour to service the facility. This will create seven full time jobs and provide support for other local jobs including supply chain activities. MS-LOT has received confirmation that a contract to fabricate the Development in the Highlands has been signed. The Company intend the works to be carried out at Global Energy Group's Nigg Energy Park facility, with service of the Development at the Port of Scrabster. This demonstrates a beneficial effect for the local economy. Scottish Ministers are fully supportive of this commitment and look forward to future detail of this as the project progresses.

The Company estimates that approximately 240 jobs would potentially be made available, 72 of which could be available locally. This estimation, undertaken by the Company, is based upon the Marine Energy supply chain. This survey was carried out in 2009 for the Scottish Government by Sgurr Energy. The survey used a factor of 20 jobs per MW to estimate the workforce requirements for manufacturing, construction and installation. A further assumption was made which assumed that 50% of the Capital Expenditure was allocated to manufacturing of the turbines, and 30% for foundations and installation. The final 20% covers the cabling and onshore infrastructure. For the Development it is assumed that 30% of these jobs would be created locally during the construction and installation phase for the offshore infrastructure, which is consistent with past offshore renewables projects in the region. Assigning this employment factor, 20 jobs per newly installed MW for the maximum project capacity of 12 MW, results in potentially 240 jobs being created. The Development and enhancement of skill sets associated with, construction, installation and maintenance will form a positive employment opportunity for the selected port site.

Reviewing the potential economic impact of the project as a whole on local ports, Scottish Ministers remain committed to seeking benefits for the local economy, and for Scotland as a whole. As such, Scottish Ministers look forward to the formalisation of commitments made by the Company to the local and Scottish economy as the project moves towards its construction phase.

MS-LOT considers that you can be satisfied that the economic information provided by the Company has been taken into account and that there are no reasons in relation to this which would require consent to be withheld.

CALLS FOR A PUBLIC LOCAL INQUIRY ("PLI")

There is no presumption in law in favour of PLIs being held regarding applications for section 36 consent under the Electricity Act. The circumstances of the case are such that there is no statutory requirement under Paragraph 2(2) of Schedule 8 to the Electricity Act for the Scottish Ministers to cause one to be held. The decision to hold a PLI in this case is entirely at the discretion of the Scottish Ministers. Such discretion must always be exercised in accordance with the general principles of public law.

Under paragraph 3(2) of Schedule 8 to the Act, the Scottish Ministers must be persuaded that it is appropriate for them to hold an inquiry (either in addition to or instead of any other hearing or opportunity of stating objections to the Application).

Consideration

When considering whether to cause a PLI to be held the Scottish Ministers may have regard to whether:

1. they have been provided with sufficient information to enable them to weigh up all of the conflicting issues and, without a public inquiry, whether they can properly weigh any such issues;

2. those parties with a right to make representations have been afforded the opportunity to do so; and

3. they have sufficient information available to them on which to take their decision such that a public inquiry would not provide any further factual evidence which would cause them to change their view on the Application.

The Scottish Ministers can draw upon information contained within:

- the Environmental Statement;
- the representations from the Company;
- the representations from consultees;
- the representations made from members of the public; and
- the Appropriate Assessment.

In all the circumstances, as outlined, the Scottish Ministers can be satisfied that they have sufficient information to weigh up the various competing considerations and properly take account of the representations the various parties have made without the need for an inquiry. The AA concluded that the Development would not adversely affect the integrity of any SPAs.

It is clear that all interested parties (statutory consultees, consultees and other persons) have had sufficient opportunity to make representations on the Application. Representations have been accepted, and have continued to be accepted by MS-LOT even following the expiry of the statutory consultation period. All such

representations have been taken into account for the purposes of making a decision regarding the causing of a PLI to be held.

In light of the terms of the various documents that have been provided to MS-LOT, taken together with all the other information on the subject that is publicly available, any inquiry would not be likely to provide any factual information to assist the Scottish Ministers to resolve the issues of risk and planning judgment raised by the Application.

On the evidence that is before MS-LOT, it is considered sufficient to reach a decision that a PLI would not provide further factual evidence which would require the Scottish Ministers to take a different view on the substantive issues on the Application for consent under section 36. As such, MS-LOT concludes that Scottish Ministers possess sufficient information upon the Development in order to determine the Application.

ANNEX C – ADVICE TO THE SCOTTISH MINISTERS AND RECOMMENDATION

APPLICATIONS FOR CONSENT UNDER SECTION 36 AND FOR A DECLARATION UNDER SECTION 36A OF THE ELECTRICITY ACT 1989 FOR THE CONSTRUCTION AND OPERATION OF AN OFFSHORE GENERATING STATION, THE DOUNREAY TRÌ FLOATING WIND DEMONSTRATION PROJECT, APPROXIMATELY 6 km OFFSHORE FROM DOUNREAY, CAITHNESS

A DIRECTION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) THAT PLANNING PERMISSION FOR THE ANCILLARY ONSHORE DEVELOPMENT BE DEEMED TO BE GRANTED

ADVICE TO THE SCOTTISH MINISTERS IN RELATION TO A PUBLIC LOCAL INQUIRY

When considering whether to cause a Public Local Inquiry ("PLI") to be held the Scottish Ministers may have regard to whether:

1. they have been provided with sufficient information to enable them to weigh up all of the conflicting issues and, without a public inquiry, whether they can properly weigh any such issues;
2. those parties with a right to make representations have been afforded the opportunity to do so; and
3. they have sufficient information available to them on which to take their decision such that a public inquiry would not provide any further factual evidence which would cause them to change their view on the Application.

You can draw upon information contained within:

1. the Environmental Statement ("ES");
2. the representations from the Company;
3. the representations from consultees;
4. the representations made from members of the public; and
5. the Appropriate Assessment.

Having regard to the considerations set out in **ANNEX B - BACKGROUND INFORMATION AND SCOTTISH MINISTERS CONSIDERATIONS**, Marine Scotland Licensing Operation Team's ("MS-LOT") advice is that you have sufficient information to weigh up the various competing considerations and properly take account of the representations the various parties have made without the need for an inquiry.

You can be satisfied that:

1. you possess sufficient information upon the Development in order to determine the Application for consent under section 36 and for a declaration under section 36A of the Electricity Act 1989 (as amended) ("the Electricity

Act") to construct and operate an offshore wind farm with a maximum generating capacity of 12 megawatts ("MW") ("the Application");

2. a PLI into the issues raised by consultees or members of the public would not be likely to provide any further factual information to assist the Scottish Ministers to resolve any issues raised by the Application or to change their views on these matters;

3. the various material considerations relevant to the Application have been taken into account; and

4. both consultees and members of the public have been afforded every opportunity to provide information and to make representations, following prescribed consultation processes set out in the various legislation and regulations set out in **ANNEX A – REGULATORY REQUIREMENTS: LEGISLATION AND POLICY.**

Accordingly you may conclude that it is not appropriate to cause a PLI to be held into these matters.

MS-LOT recommend that you determine that it is not appropriate to cause a PLI to be held.

ADVICE TO THE SCOTTISH MINISTERS IN RELATION TO THE DECISION WHETHER TO GRANT CONSENT UNDER SECTION 36 AND WHETHER TO ISSUE A DECLARATION UNDER SECTION 36A OF THE ELECTRICITY ACT 1989.

MS-LOT advice is that you have sufficient information to weigh up the various competing considerations and properly take account of the representations the various parties have made without the need for an inquiry.

MS-LOT is of the view that in considering the characteristics and location of the Development and the potential impacts, you may be satisfied that the Application has had regard to the preservation of the environment and ecology and that you will have discharged your responsibilities in terms of Schedule 9 to the Electricity Act in this respect, if you decide to grant consent.

MS-LOT considers that where any adverse environmental impacts cannot be prevented, adequate mitigation can be put in place. An obligation has been placed on the Company to give effect to all the mitigation through the attachment of conditions to the consent.

For the reasons set out in **ANNEX A - REGULATORY REQUIREMENTS: LEGISLATION AND POLICY, ANNEX B - BACKGROUND INFORMATION AND SCOTTISH MINISTERS CONSIDERATIONS,** and **ANNEX E - APPROPRIATE ASSESSMENT** you can be certain that the Development alone, and in combination with other plans and projects will not adversely affect site integrity of any European site assessed to have connectivity with the Development, and that is the case where no reasonable scientific doubt remains. Scottish Natural Heritage ("SNH") recognised that the impacts from the Development, in isolation, were small and agreed with the conclusions in the Appropriate Assessment ("AA").

Taking into account the socio-economic benefits and the benefits of renewable energy generation, it is MS-LOT's recommendation that the Scottish Ministers' planning judgment should be that whilst you have carefully considered the environmental impacts, when weighing up that material consideration with the considerations detailed below, you can make an appropriate planning judgment, nevertheless, to grant consent, with conditions, to the Development in its location.

The considerations are:-

1. the benefits that the Development would be expected to bring in terms of the contribution to the development of the renewable energy sector;
2. the need to achieve targets for renewable energy;
3. the economic and social importance of Scotland's renewable energy sector; and
4. the potential to unlock a variety of economic benefits.

You can be satisfied that the Company has had regard to the potential interference of recognised sea lanes essential to international and national navigation. None of the stakeholders responsible for navigational issues objected to the Application. MS-LOT is therefore of the view that you have discharged your responsibilities in terms

of section 36B of the Electricity Act. Any obstruction or danger to navigation has been addressed through specific consent conditions at **ANNEX D - DRAFT DECISION LETTER AND CONDITIONS**.

The Company applied for a declaration under section 36A of the Electricity Act to extinguish public rights of navigation so far as they pass through those places within the Scottish marine area (in the main the territorial sea adjacent to Scotland) where structures (but not, for the avoidance of doubt, the areas of sea between those structures) forming part of the offshore wind farm.

An application for two marine licences under the Marine (Scotland) Act 2010 for the Dounreay Trì Floating Wind Demonstration Project have been considered alongside this Application. These will be determined and decisions issued in due course.

SECTION 36 AND 36A RECOMMENDATION

MS-LOT recommends that you determine to **grant consent under section 36 and issue a declaration under section 36A of the Electricity Act** for the Dounreay Trì Floating Wind Demonstration Project subject to the imposition of conditions. The draft decision letter with conditions is enclosed at **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS**.

ADVICE TO THE SCOTTISH MINISTERS IN RELATION TO THE DECISION WHETHER TO GIVE A DIRECTION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) FOR PLANNING PERMISSION BE DEEMED TO BE GRANTED.

At the same time as the Company applied for consent under Section 36 of the Electricity Act, they also applied for a direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) ("the 1997 Act") that planning permission for the ancillary onshore development be deemed to be granted.

MS-LOT considers that you have sufficient information to weigh the issues and that adequate opportunity was afforded for public representation, following prescribed consultation processes set out in the various legislation and regulations set out in **ANNEX A – REGULATORY REQUIREMENTS: LEGISLATION AND POLICY**

No objections to the ancillary onshore elements of the Development were received from any stakeholder, statutory or non-statutory nor any member of the public.

It is the recommendation of MS-LOT that the Scottish Ministers give a direction that planning permission for the ancillary onshore development be deemed to be granted. A direction will be issued to the Company at the same time as the s.36 consent, should you determine that consent is appropriate.

DEEMED PLANNING RECOMMENDATION

MS-LOT recommends that you determine to **give a direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) that planning permission be deemed to be granted**, subject to the imposition of

conditions, for the Dounreay Trì Floating Wind Demonstration Project ancillary onshore development comprising a cable joint transition bay, a substation or switchgear and underground cabling to be located at, or near to the existing Dounreay 132/33/11kV substation. The draft decision letter with conditions is enclosed at **ANNEX D – DRAFT DECISION LETTER AND CONDITIONS.**

ANNEX D – DRAFT DECISION LETTER AND CONDITIONS

E: MS.MarineRenewables@gov.scot

Scottish Government
Riaghaltas na h-Alba
gov.scot

Mr Marcus Thor
Hexicon AB
Ostgotagatan 100
SE – 166 64
Stockholm
Sweden

XX XXXX 2017

Dear Mr Thor,

CONSENT GRANTED BY THE SCOTTISH MINISTERS UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 FOR THE CONSTRUCTION AND OPERATION OF AN OFFSHORE GENERATING STATION, THE DOUNREAY TRÌ FLOATING WIND DEMONSTRATION PROJECT, APPROXIMATELY 6 km OFFSHORE FROM DOUNREAY, CAITHNESS

DECLARATION ISSUED BY THE SCOTTISH MINISTERS UNDER SECTION 36A OF THE ELECTRICITY ACT 1989 TO EXTINGUISH PUBLIC RIGHTS OF NAVIGATION SO FAR AS THEY PASS THROUGH THOSE PLACES WITHIN THE TERRITORIAL SEA WHERE STRUCTURES FORMING PART OF THE OFFSHORE WIND FARM ARE TO BE LOCATED

A DIRECTION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) THAT PLANNING PERMISSION FOR THE ANCILLARY ONSHORE DEVELOPMENT BE DEEMED TO BE GRANTED

Defined Terms used in this letter and in Annex 1 & 2 are contained in **Annex 3**.

The following applications have been made by Dounreay Trì Ltd (Company Number SC515140) having its registered office at Ostgotagatan 100, SE-166 64, Stockholm, Sweden ("the Company"), to the Scottish Ministers for:

i. a consent under section 36 of the Electricity Act 1989 (as amended) ("the Electricity Act") for the construction and operation of the Dounreay Trì Floating Wind Demonstration Project, approximately 6 km offshore from Dounreay, Caithness ("the Development");

ii. a declaration under section 36A of the Electricity Act 1989 to extinguish public rights of navigation so far as they pass through those places within the

Scottish marine area (in the main the territorial sea adjacent to Scotland) where structures (but not, for the avoidance of doubt, the areas of sea between the structure) forming part of the Dounreay Trì Floating Wind Demonstration Project and offshore transmission works are to be located;

iii. two marine licences under the Marine (Scotland) Act 2010 ("the 2010 Act") for the deposit of any substance or object, and for the construction, alteration or improvement of any works in relation to the Dounreay Trì Floating Wind Demonstration Project; and

iv. a Direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) ("the 1997 Act") that planning permission for the ancillary onshore development be deemed to be granted.

THE APPLICATION

Referring the application at i) and iv) above made by the Company, submitted on the 19th October 2016, for consent under section 36 ("s.36") of the Electricity Act for the construction and operation of the Development approximately 6 km offshore from the coast of Dounreay, Caithness ("the Application") with a maximum generation capacity of 12 Megawatts ("MW"), and for a Direction under section 57(2) of the 1997 Act that planning permission for the ancillary shore development be deemed to be granted. (Figures 1,2 and 3 of **Annex 1**)

At this time, the Company ("Dounreay Trì Ltd") also applied for a declaration under section 36A of the Electricity Act, application ii, to extinguish public rights of navigation so far as they pass through those places within the Scottish marine area (in the main the territorial sea adjacent to Scotland) where structures (but not, for the avoidance of doubt, the areas of sea between those structures) forming part of the offshore wind farm and offshore transmission works are to be located.

In this letter, "the Development" means the proposed Dounreay Trì Floating Wind Demonstration Project electricity generating station as described in **Annex 1** and shown in the Figures within that Annex of this letter.

The Application consisted of an application letter, Environmental Statement ("ES"), and two supporting marine licence application forms. The Application is to construct and operate one single floating, semi-submersible, column-stabilised platform supporting two offshore demonstration WTGs each with an installed capacity of up to 6 MW. A subsea cable will be laid to connect the turbines to the onshore elements of the Development.

The total onshore elements consisting of a cable joint transition bay and a substation or switchgear, and underground cabling to be located at or near to the existing Dounreay 132/33/11kV substation.

The elements of the Development which relate to the Direction under Section 57 (2) of the 1997 Act and for which deemed planning has been requested be deemed to be granted are the cable joint transition bay and a substation or switchgear and underground cabling.

In tandem with the consultation on the applications i and iv, MS-LOT has consulted on two marine licence applications, application iii, also submitted on 19th October 2016.

STATUTORY AND REGULATORY FRAMEWORK

LEGISLATION

The Scotland Act 1998, The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 and The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 2) Order 2006

The generation, transmission, distribution and supply of electricity are reserved matters under Schedule 5, Part II, section D1 of the Scotland Act 1998. The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 ("the 1999 Order") executively devolved section 36 consent functions under the Electricity Act 1989 (as amended) ("the Electricity Act") (with related Schedules) to the Scottish Ministers. The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 2) Order 2006 revoked the transfer of section 36 consent functions as provided under the 1999 Order and then, one day later, re-transferred those functions, as amended by the Energy Act 2004, to the Scottish Ministers in respect of Scotland and the territorial waters adjacent to Scotland and extended those consent functions to a defined part of the Renewable Energy Zone beyond Scottish territorial waters (as set out in the Renewable Energy Zone (Designation of Area) (Scottish Ministers) Order 2005.

The Electricity Act 1989

Any proposal to construct, extend or operate a generating station situated in internal waters or the territorial sea (out to 12 nautical miles ("nm") from the shore), with a generation capacity in excess of 1 MW requires consent under section 36 ("s.36") of the Electricity Act[1]. A consent under s.36 may include such conditions (including conditions as to the ownership or operation of the station) as appear to the Scottish Ministers to be appropriate. The consent shall continue in force for such period as may be specified in or determined by or under the consent.

Paragraph 3 of Schedule 9 to the Electricity Act places a duty on licence holders or persons authorised by an exemption to generate, distribute, supply or participate in the transmission of electricity when formulating "relevant proposals" within the meaning of paragraph 1 of Schedule 9 to have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. Such persons are statutorily obliged to do what

[1] S.36(2) modified by The Electricity Act 1989 (Requirement of Consent for Offshore Generating Stations)(Scotland) Order 2002

they reasonably can to mitigate any effect which the proposals would have on these features.

Paragraph 3 of Schedule 9 to the Electricity Act also provides that the Scottish Ministers must have regard to the desirability of preserving natural beauty etc. and the extent to which the person by whom the proposals were formulated has complied with their duty to mitigate the effects of the proposals. When exercising any relevant functions a licence holder, a person authorised by an exemption to generate or supply electricity and the Scottish Ministers must also avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

Under section 36A of the Electricity Act, Scottish Ministers have the power to make a declaration, on application by an applicant when making an application for consent under section 36 of the Electricity Act, which extinguishes public rights of navigation which pass through the place where a generating station will be established; or suspend rights of navigation for a specified period of time; or restrict rights of navigation or make them subject to conditions. The power to extinguish public rights of navigation extends only to renewable generating stations situated in territorial waters.

Under section 36B of the Electricity Act the Scottish Ministers may not grant a consent in relation to any particular offshore generating station activities if they consider that interference with the use of recognised sea lanes essential to international navigation is likely to be caused by the carrying on of those activities or is likely to result from their having been carried on. The Scottish Ministers, when determining whether to give consent for any particular offshore generating activities and considering the conditions to be included in such consent, must have regard to the extent and nature of any obstruction of, or danger to, navigation which, without amounting to interference with the use of such sea lanes, is likely to be caused by the carrying on of the activities, or is likely to result from their having been carried on. In determining this issue the Scottish Ministers must have regard to the likely overall effect (both while being carried on and subsequently) of the activities in question and such other offshore generating activities which are either already subject to s.36 consent or are activities for which it appears likely that such consents will be granted.

Under Schedule 8 to the Electricity Act and the Electricity (Applications for Consent) Regulations 1990 (as amended) (“the 1990 Regulations”), notice of applications for s.36 consent must be published by the applicant in one or more local newspapers, in one or more national newspapers, and in the Edinburgh Gazette to allow representations to be made to the Application. The Scottish Ministers must also serve notice of any application for consent upon any relevant planning authority.

Paragraph 2(2) of Schedule 8 to the Electricity Act provides that where a relevant planning authority notifies the Scottish Ministers that they object to an application for s.36 consent and where they do not withdraw their objection, then the Scottish Ministers must cause a Public Local Inquiry (“PLI”) to be held in respect of the application. In such circumstances before determining whether to give their consent the Scottish Ministers must consider the objections and the report of the person who held the PLI.

An application for deemed planning permission was made for the ancillary onshore elements of the Development. Section 21 of the Growth and Infrastructure Act 2013 amended Section 57(2) of the the 1997 Act to allow Scottish Ministers to direct that planning permission is deemed to be granted for the ancillary onshore components and related onshore infrastructure for a marine based electricity generating station consented under s.36 of the Electricity Act.

Where a s.36 application contains an onshore element of the generating station, then a planning authority objection will trigger a PLI, which will be confined to the onshore element. Paragraph 7A(7) of Schedule 8 to the Electricity Act gives the Scottish Ministers powers of direction in relation to the scope of any PLI.

MS-LOT, on behalf of the Scottish Ministers consult with the planning authorities most local to the Development, which in this instance were The Highland Council ("THC") and Orkney Islands Council ("OIC"). The Councils did not object to the Applications but suggested conditions in relation to onshore construction environment management documents, the removal of unused turbines and associated infrastructure, the publication of underwater cable and infrastructure locations for the benefit of local fishermen, design plans, project environment monitoring programme, contracting of an Environmental Clerk of Works, lighting and marking plans, a decommissioning plan, a restoration plan and noise.

If the Councils had objected to the Applications, and even then if they did not withdraw their objections, the Scottish Ministers would have been statutorily obliged to hold a PLI under paragraph 2(2) of Schedule 8 to the Electricity Act.

The Scottish Ministers are, however, required under paragraph 3(2) of Schedule 8 to the Electricity Act to consider all objections received, together with all other material considerations, with a view to determining whether a PLI should be held in respect of the Applications. Paragraph 3(2) of Schedule 8 provides that if the Scottish Ministers think it appropriate to do so, they shall cause a PLI to be held, either in addition to or instead of any other hearing or opportunity of stating objections to the Application.

The Scottish Ministers are satisfied that all the necessary tests set out within the Electricity Act have been met through the assessment of the Application and all procedural requirements have been complied with. The Company does not currently hold a generation licence, they intend to apply for one should they receive consent. Your officials have approached matters on the basis that Schedule 9, paragraph 3(1) obligations as apply to licence holders and the specified exemption holders should also be applied to the Company if the generation licence is granted.

Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (as amended) and The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended)

The Environmental Impact Assessment Directive (85/337/EEC) is targeted at projects which are likely to have significant effects on the environment and identifies projects which require an Environmental Impact Assessment ("EIA") to be undertaken. The Company identified the proposed Development as one requiring an ES in terms of the Electricity Works (Environmental Impact Assessment) (Scotland)

Regulations 2000 (as amended) ("the 2000 Regulations") and the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) ("the 2007 Regulations").

An ES has been produced and the applicable procedures regarding publicity and consultation, all as laid down in the 2000 Regulations and the 2007 Regulations, have been followed.

In compliance with the 2000 and 2007 Regulations, consultation has taken place with Scottish Natural Heritage ("SNH"), the Scottish Environment Protection Agency ("SEPA"), the relevant planning authorities, and such other persons likely to be concerned by the proposed Development by reason of their specific environmental responsibilities on the terms of the ES, and additional information in the form of statutory consultation responses.

MS-LOT has also consulted a wide range of relevant organisations, including colleagues within the Scottish Government on the Applications and ES in accordance with the regulatory requirements.

The Environmental Impact Assessment Consent Decision ("EIA Consent Decision") for the Development has been given consideration under the Marine Works Regulations 2007. The EIA Consent Decision will be published and available on the Marine Scotland Licensing page of the Scottish Governments website.

The Scottish Ministers are satisfied that the regulatory requirements have been met and have taken into consideration the environmental information, including the ES, the responses received from the statutory consultative bodies and the representations received.

The Habitats Directive and the Birds Directive

Council Directive 92/43/EEC of 21st May 1992 on the conservation of natural habitats and wild fauna and flora (as amended) ("the Habitats Directive"), provides for the conservation of natural habitats and of wild flora and fauna in the Member States' European territory, including offshore areas such as the proposed site of the Development. It promotes the maintenance of biodiversity by requiring Member States to take measures which include those which maintain or restore natural habitats and wild species listed in the Annexes to the Habitats Directive at a favourable conservation status and contributes to a coherent European ecological network of protected sites by designating Special Areas of Conservation ("SAC") for those habitats listed in Annex I and for the species listed in Annex II, both Annexes to that Directive.

Articles 6 & 7 of the Habitats Directive provide inter alia as follows:

> "6.2 Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.

6.3 Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to an Appropriate Assessment ("AA") of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

6.4. If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

7. Obligations arising under Article 6 (2), (3) and (4) of this Directive shall replace any obligations arising under the first sentence of Article 4 (4) of Directive 79/409/EEC in respect of areas classified pursuant to Article 4 (1) or similarly recognized under Article 4 (2) thereof, as from the date of implementation of this Directive or the date of classification or recognition by a Member State under Directive 79/409/EEC, where the latter date is later."

Council Directive 79/409/EEC of 2nd April 1979 on the conservation of wild birds (as amended and codified) ("the Birds Directive"), applies to the conservation of all species of naturally occurring wild birds in the member states' European territory, including offshore areas such as the proposed site of the Development and it applies to birds, their eggs, nests and habitats. Under Article 2, Member States are obliged to "take the requisite measures to maintain the population of the species referred to in Article 1 at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level." Article 3 further provides that "[i] in the light of the requirements referred to in Article 2, Member States shall take the requisite measures to preserve maintain or re-establish a sufficient diversity and area of habitats for all the species of birds referred to in Article 1". Such measures are to include the creation of protected areas: Article 3.2.

Article 4 of the Birds Directive provides inter alia as follows:

"1. The species mentioned in Annex I [of that Directive] shall be the subject of special conservation measures concerning their habitat in order to ensure their survival and reproduction in their area of distribution. […]
2. Member States shall take similar measures for regularly occurring migratory species not listed in Annex I [of that Directive], bearing in mind their need for protection in the geographical sea and land area where this Directive

applies, as regards their breeding, moulting and wintering areas and staging posts along their migration routes. To this end, Member States shall pay particular attention to the protection of wetlands and particularly to wetlands of international importance.[…]

4. In respect of the protection areas referred to in paragraphs 1 and 2, Member States shall take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. Outside these protection areas, Member States shall also strive to avoid pollution or deterioration of habitats."

The Habitats Directive and the Birds Directive have, in relation to the marine environment, been transposed into Scots law by the Conservation (Natural Habitats, & c.) Regulations 1994 (as amended) ("the 1994 Regulations") for devolved matters, the Conservation of Habitats and Species Regulations 2010 ("the 2010 Regulations") for reserved matters and for various matters which have been executively devolved to include consents under the Electricity Act, and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 for developments out with 12 nm. As the Development is to be sited in internal waters adjacent to Scotland, the 1994 and the 2010 Regulations are applicable in respect of the Application.

The 1994, the 2007 and the 2010 Regulations ("the Habitats Regulations") clearly implement the obligation in art. 6(3) & (4) of the Habitats Directive, which by art. 7 applies in place of the obligation found in the first sentence of art. 4(4) of the Birds Directive. In each case the "competent authority", which in this case is the Scottish Ministers, is obliged to "make an Appropriate Assessment ("AA") of the implications for the site in view of the site's conservation objectives". Such authority is also obliged to consult SNH and, for the purpose of regulation 61 of the 2010 Regulations, to have regard to any representations made by SNH Regulation 61(5) and (6) of the 2010 Regulations is as follows:

"(5) In the light of the conclusions of the assessment, and subject to regulation 62 (considerations of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or European offshore marine site (as the case may be).

(6) In considering whether a plan or project will adversely affect the integrity of a site, the authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which they propose that the consent, permission or other authorisation should be given."

Developments in, or adjacent to, European protected sites, or in locations which have the potential to affect such sites, must undergo what is commonly referred to as an Habitats Regulations Appraisal ("HRA"). The appraisal involves two stages:

Stage 1 - Where a project is not connected with or necessary to the site's management and it is likely to have a significant effect thereon (either individually or in combination with other projects), then an AA is required.

Stage 2 - In light of the AA of the project's implications for the site in view of the site's conservation objectives, the competent authority must ascertain to the requisite standard, that the project will not adversely affect the integrity of the site, having regard to the manner in which it is proposed to be carried out and to any conditions or restrictions subject to which the consent is proposed to be granted.

In line with advice from SNH, and to ensure compliance with European Union obligations under the Habitats Directive and the Birds Directive, due consideration has been given to all of the Special Protection Areas ("SPAs") and SACs, the result of which has identified no Likely Significant Effects ("LSE") on any qualifying interest. MS-LOT, on behalf of the Scottish Ministers, undertook an AA and concluded that the Development will not adversely affect the integrity of any of the assessed SACs or SPAs, either alone or in combination with other plans or projects. Conditions can also be imposed on any grant of consent ensuring that the sites are protected from damage.

SNH was consulted on the AA and agreed with the conclusions that have been reached. The AA for the Development will be published and available on the Marine Scotland licensing page of the Scottish Government's website.

Marine (Scotland) Act 2010

The 2010 Act regulates activities in the territorial sea adjacent to Scotland in terms of marine environment issues. Subject to exemptions specified in subordinate legislation, under Part 4 of the 2010 Act, licensable marine activities may only be carried out in accordance with a marine licence granted by the Scottish Ministers.

Under Part 2 of the 2010 Act, the Scottish Ministers have general duties to carry out their functions in a way best calculated to achieve sustainable development, including the protection and, where appropriate, the enhancement of the health of the area. The Scottish Ministers, when exercising any function that affects the Scottish marine area under the 2010 Act, or any other enactment, must act in a way best calculated to mitigate, and adapt to climate change.

The Scottish Ministers are satisfied that, in assessing the Application, they have acted in accordance with their general duties.

Climate Change (Scotland) Act 2009

Under Part 2 of the 2010 Act the Scottish Ministers must, when exercising any function that affects the Scottish marine area under the Climate Change (Scotland) Act 2009 (as amended), act in the way best calculated to mitigate, and adapt to, climate change so far as is consistent with the purpose of the function concerned. Under the Climate Change (Scotland) Act 2009 (as amended), annual targets have been agreed with relevant advisory bodies for the reduction in carbon emissions.

Due to the nature of the demonstration facility, and the unknown performance data for the new turbine designs, it is not possible to accurately predict the energy that will be produced by the Development over the lifespan of its consent of 25 years and

therefore a calculation of the displacement of CO_2 cannot be made. However, based on Scottish Government's published Renewable Electricity Output Calculator[2], it can be estimated that, depending on the fuel type displaced, 11,198 tonnes (all fuels including nuclear and renewables) and 31,030 tonnes (coal) of CO_2 could be saved. It is also estimated that the WTG's with a maximum output of 12 MW of electricity will supply sufficient energy to meet the needs of 7,748 households in Scotland.

Any energy generated from the Development will result in the displacement of CO_2 generated from non-renewable sources and the aim of the Development, to further the development of the UK offshore wind industry, will therefore contribute to the reduction of CO_2 emissions from UK power generation in the long term.

The Scottish Ministers are satisfied that, in assessing the Application, they have acted in accordance with their general duties, and they have exercised their functions in compliance with the requirements of the Climate Change (Scotland) Act 2009 (as amended).

Town and Country Planning (Scotland) Act 1997 (as amended)

The Scottish Ministers have powers under section 57(2) of the 1997 Act, as amended by section 21 of the Growth and Infrastructure Act 2013, on granting or varying a consent under s.36 of the Electricity Act, to give a direction for planning permission to be deemed to be granted for the ancillary onshore development, subject to such conditions (if any) as may be specified in the direction, for:

a) so much of the operation or change of use to which the consent relates as constitutes development; and

b) any development ancillary to the operation or change of use to which the consent relates.

The Scottish Ministers are satisfied that in assessing the Application, the regulatory requirement have been met.

MARINE AND TERRESTRIAL POLICIES

Marine Policy

The UK Marine Policy Statement 2011

The UK Marine Policy Statement 2011 ("the Statement") prepared and adopted in accordance with Chapter 1 of Part 3 of the Marine and Coastal Access Act 2009 requires that when Scottish Ministers take authorisation decisions that affect, or might affect, the marine area they must do so in accordance with the Statement.

The Statement, jointly adopted by the UK Administrations, sets out the overall objectives for marine decision making. It specifies issues that decision-makers need

[2] http://www.gov.scot/Topics/Statistics/Browse/Business/Energy/onlinetools/ElecCalc

to consider when examining and determining applications for energy infrastructure at sea: the national level of need for energy infrastructure as set out in the Scottish National Planning Framework; the positive wider environmental, societal and economic benefits of low carbon electricity generation; that renewable energy resources can only be developed where the resource exists and where economically feasible; and the potential impact of inward investment in offshore wind, wave, tidal stream and tidal range energy related manufacturing and deployment activity. The associated opportunities on the regeneration of local and national economies need also to be considered.

Chapter 3, paragraphs 3.3.1 to 3.3.5, 3.3.16 to 3.3.19, 3.3.22 to 3.3.24, 3.3.26, and 3.3.29 to 3.3.30 of the Statement are relevant and have been considered as part of the assessment of the Application.

The Statement introduced the framework for preparing Marine Plans and taking decisions affecting the marine environment. It clearly states that the new system of marine planning introduced across the UK will integrate with terrestrial planning. Existing terrestrial planning regimes generally extend to mean low water spring tides ("MLWS"). The marine plan area boundaries extend up to the level of mean high water spring tides ("MHWS").The Statement also makes it clear that the geographic overlap between the Marine Plan and existing plans will help organisations to work effectively together and to ensure that appropriate harmonisation of plans is achieved. MS-LOT has, accordingly, had regard to the terms of relevant terrestrial planning policy documents and Plans when assessing the Applications for the purpose of ensuring consistency in approach.

The Scottish Ministers have had regard to the Statement when assessing the Application and consider that the Development accords with the Statement.

Scotland's National Marine Plan

The National Marine Plan ("NMP"), developed in accordance with the 2010 Act and the Marine and Coastal Access Act 2009 (as amended) ("the 2009 Act"), provides a comprehensive statutory planning framework for all activities out to 200 nm. The NMP was formally adopted on 25th March 2015. Scottish Ministers must take authorisation and enforcement decisions which affect the marine environment in accordance with the Plan.

The NMP sets an objective to promote the sustainable development of offshore wind, wave and tidal renewable energy in the most suitable locations. In doing so it sets out a presumption in favour of sustainable development and the use of the marine environment when consistent with the policies and objectives of the Plan. It also contains specific policies relating to the mitigation of impacts on habitats and species, and in relation to treatment of cables.

Of particular relevance to this proposal are:

- Chapter 4 policies 'GEN 1-21', which guide all development proposals;
- Chapter 6 Sea Fisheries, policies 'FISHERIES 1-3';
- Chapter 8 Wild Salmon and Diadromous fish, policy 'WILD FISH 1';

- Chapter 11 Offshore Wind and Marine Renewable Energy, policies, 'RENEWABLES, 1, 3-10';
- Chapter 12 Recreation and Tourism, policies, 'REC & Tourism 2 and 6; and
- Chapter 14 Submarine Cables, policies 'CABLES 1-4'.

The Scottish Ministers have had full regard to the NMP when assessing the Application. It is considered that the Development accords with the NMP.

Other Marine Policy

The Development will contribute to Scotland's renewable energy targets via its connection to the National Grid. It will also provide wider benefits to the offshore wind industry which are reflected within Scotland's Offshore Wind Route Map and the National Renewables Infrastructure Plan. Scotland has considerable potential for offshore renewable energy developments. Estimates indicate that Scotland has up to 25% of Europe's offshore wind potential (Scotland's Renewable Resource 2001). Offshore wind is seen as an integral element in Scotland's contribution towards action on climate change. The development of offshore wind also represents one of the biggest opportunities for sustainable economic growth in Scotland for a generation. Scotland's ports and harbours present viable locations to service the associated construction and maintenance activities for offshore renewable energy. In addition, Scottish research institutions provide a base of academic excellence for delivering technological advancements and technology transfer and are also well placed to benefit from the creation of this new industry around Scotland.

Terrestrial Policy

The Scottish Ministers have had regard to the terms of relevant terrestrial planning policy documents and Plans.

In addition to high level policy documents regarding the Scottish Government's policy on renewables (2020 Renewable Route Map for Scotland - Update (published 30th Oct 2012)), the Scottish Ministers have had regard to the following documents.

Scottish Planning Policy

Scottish Planning Policy ("SPP"), published in 2014, sets out the Scottish Government's planning policy on renewable energy development. Terrestrial and marine planning facilitate development of renewable energy technologies, link generation with consumers and guide new infrastructure to appropriate locations. Efficient supply of low carbon and low cost heat and generation of heat and electricity from renewable energy sources are vital to reducing greenhouse gas emissions and can create significant opportunities for communities. Renewable energy also presents a significant opportunity for associated development, investment and growth of the supply chain, particularly for ports and harbours identified in the National Renewables Infrastructure Plan. Communities can also gain new opportunities from increased local ownership and associated benefits.

Whilst it makes clear that the criteria against which applications should be assessed will vary depending upon the scale of the development and its relationship to the characteristics of the surrounding area, it states that these are likely to include impacts on; landscapes and the historic environment; ecology (including birds, mammals and fish);biodiversity; nature conservation; the water environment; communities; aviation; telecommunications; noise; shadow flicker and any cumulative impacts that are likely to arise. It also makes clear that the scope for the development to contribute to national or local economic development should be a material consideration when considering an application.

The Scottish Ministers are satisfied that these matters have been addressed in full both within the Applications, the ES and within the responses received to the consultations by the relevant planning authorities, SEPA, SNH, and other relevant bodies.

National Planning Framework 3

Scotland's National Planning Framework 3 ("NPF3") adopted in June 2014 is the national spatial plan for delivering the Scottish Government's Economic Strategy. It provides a framework for the spatial development of Scotland as a whole, setting out the Scottish Government's development priorities over the next 20-30 years.

NPF3 sets out the ambition for Scotland to move towards a low carbon country, placing emphasis on the development of onshore and offshore renewable energy. It recognises the significant wind resource available in Scotland, and reflects targets to meet at least 30% of overall energy demand from renewable sources by 2020 including generating the equivalent of at least 100% of gross electricity consumption from renewables with an interim target of 50% by 2015. It also identifies targets to source 11% of heat demand and 10% of transport fuels from renewable sources by 2020.

NPF3 aims for Scotland to be a world leader in offshore renewable energy and expects that, in time, the pace of onshore wind development will be overtaken by the development of marine energy including wind, wave and tidal.

Chapter 3 paragraphs 3.1, 3.2, 3.4, 3.6, 3.8, 3.9 of NPF3 is of particular relevance to the Application.

Strategic and Local Development Plans

The Highland-wide Local Development Plan ("HwLDP")

The Highland-wide Local Development Plan (HwLDP) (2012) sets out the general policies for 2.24 the Highland Council area. Of note is the aspiration that by 2030, Caithness and Sutherland "have become an international centre of excellence for marine renewables – the Pentland Firth will be the location for marine renewables; related facilities and industries will be available locally."

Policy 28 – Sustainable Development supports developments which promote and enhance the social, economic and environmental wellbeing of the people of Highland.

Policy 29 – Design Quality and Place-Making establishes the expectations of that new developments should be designed to make a positive contribution to the architectural and visual quality of the place in which it is located.

Policy 31 – Developer Contributions establishes a requirement for proposed developments which create the need for improved public services, facilities or infrastructure to make a fair and reasonable contribution in cash or kind towards these additional costs or requirements.

Policy 49 – Coastal Development sets a framework for ensuring the sustainable use and development of the coastal areas. Development proposals for the coast or for installations in near shore waters should, in both their location and their design, show consideration to the range of existing interests ensuring best use of resources taking account of existing and planned marine activities and development. Proposals should not have an unacceptable impact on the natural, built or cultural heritage and amenity value of the area.

Policy 51 – Trees and Development supports developments which promote significant protection to existing hedges, trees and woodlands on and around development sites. The acceptable developable area of a site is influenced by tree impact, and adequate separation distances will be required between established trees and any new development. Where appropriate a woodland management plan will be required to secure management of an existing resource

Policy 55 – Peat and Soils establishes that unacceptable disturbance of peat will not be permitted unless it is shown that the adverse effects of such disturbance are clearly outweighed by social, environmental or economic benefits arising from the development proposal. Where development on peat is clearly demonstrated to be unavoidable then The Council may ask for a peatland management plan to be submitted which clearly demonstrates how impacts have been minimised and mitigated.

Policy 56 – Travel requires new developments to include sufficient information with the application to enable the Council to consider any likely on- and off- site transport implications of the development.

Policy 57 Natural, Built and Cultural Heritage considers impacts on natural, built and cultural heritage designations and features. These are split into three categories including local/regional importance (e.g. North Cliffs Special Protection Area (SPA) and Sites of Special Scientific Interest (SSSI) at Red Point Coast, Sandside Bay, and Strathy Coast), national importance and international importance.

Policy 58 – Protected Species requires a survey of the site and surrounding area, to be carried out to establish if a protected species may be present at the site or may be affected by the proposed development.

Policy 59 – Other Important Species requires the consideration of the presence of and adverse effects on any Other Important species which may be individually and/or cumulatively affected by the development.

Policy 60 – Other Important Habitats seeks to safeguard the integrity of features of the landscape which are of major importance because of their linear and continuous structure or combination as habitat "stepping stones" for the movement of wild fauna and flora.

Policy 61 – Landscape requires new developments to be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed.

Policy 63 – Water Environment supports proposals for development that do not compromise the objectives of Council Directive 2000/60/EC of 23rd October 2000 establishing a framework for Community action in the field of water policy (the Water Framework Directive);

Policy 67 - Renewable Energy Developments supports the principle of renewable energy development. This support, however, is subject to clearly addressing important issues and criteria.

Policy 72 – Pollution details that proposals resulting in significant pollution such as noise (including aircraft noise), air, water and light will only be approved where a detailed assessment report on the levels, character and transmission and receiving environment of the potential pollution is provided by the applicant to show how the pollution can be appropriately avoided and if necessary mitigated

Policy 77 – Public Access requires new developments which affects a route included in a Core Paths Plan or an access point to water, or significantly affects wider access rights to establish suitable alternative access..

The Highland Coastal Development Strategy: identifies the Highlands and Islands as containing some of the world's best renewable energy resources in terms of wind, wave and tidal currents. The north coast in particular has the greatest potential for marine renewable energy generation due to its exposure and the strong tidal flows through the Pentland Firth. development of the marine renewables industry as a key opportunity for the North Coast due to the potential energy generation. The vision is to strengthen an already diverse renewable energy industry in the Highlands and Islands and develop a truly mixed renewable energy economy which supports the development of wave and tidal energy devices, biomass and deep-water offshore wind farms. This is also considered important for retaining a coastal population.

The Pilot Pentland Firth and Orkney Waters Marine Spatial Plan

This plan sets out an integrated planning policy framework to guide marine development, activities and management decisions in the Plan area.

General Policies	
General Policy 1A	Sustainable development
General Policy 1B	Supporting sustainable social and economic benefits
General Policy 1C	Safeguarding the marine ecosystem
General Policy 2	The well-being, quality of life and amenity of coastal communities
General Policy 3	Climate change
General Policy 4A	Nature conservation designations
General Policy 4B	Protected species
General Policy 4C	Wider biodiversity
General Policy 4D	Landscape and seascape
General Policy 4E	Geodiversity
General Policy 5A	Water environment
General Policy 5B	Coastal processes and flooding
General Policy 7	Integrating coastal and marine
General Policy 8A	Noise
General Policy 8B	Waste and marine litter
General Policy 9	Invasive non-native species
Sectoral Policies	
Sectoral Policy 1	Commercial fisheries
Sectoral Policy 4	Renewable energy generation
Sectoral Policy 5	Recreation, sport, leisure and tourism
Sectoral Policy 6	Marine transport
Sectoral Policy 7	Ports, harbours and dredging
Sectoral Policy 8	Pipelines, electricity and telecommunications infrastructure

Caithness Onshore Supplementary Guidance November 2016

Onshore Wind Energy Supplementary Guidance is a material consideration in the determination of planning applications. This Guidance requires the proposal to be assessed, as noted above, within Policy 67 of the HwLDP. The Supplementary Guidance also expands on the considerations / criteria set out in the HwLDP policy.

Caithness and Sutherland Local Development Plan: Modified Proposed Plan

The proposed onshore site is within area identified for Energy Business Expansion in the Plan's strategy. The Plan also refers to a "strong, diverse and sustainable economy characterised as being an internationally renowned centre for renewable energy, world class engineering, land management, sea based industries and a tourist industry that combines culture, history and adventure". One of the overall aims is to ensure that development helps to maintain and grow a strong and diverse Caithness and Sutherland Economy. The Proposed Plan confirms the boundaries of the Special Landscape Areas.

Highland Council Supplementary Planning Policy Guidance

The following Supplementary Guidance forms a statutory part of the development plan and are pertinent to the determination of the Application:

- Flood Risk and Drainage Impact Assessment: Supplementary Guidance (January 2013);
- Highland Historic Environment Strategy: Supplementary Guidance (March 2013);
- Managing Waste in New Developments: Supplementary Guidance (March 2013);
- Sustainable Design Guide: Supplementary Guidance (January 2013); and
- Highland Statutorily Protected Species: Supplementary Guidance (March 2014).

The Orkney Local Development Plan 2014 and The Proposed Orkney Development Plan (with minor modifications) 2016 and Supplementary Guidance.

The adopted and proposed Local Development Plans for Orkney support the principle of renewable energy and sustainable development to deliver Scottish Government policy for renewable energy.

Summary

The Scottish Ministers consider the policies as outlined above are broadly supportive of the Development.

CONSULTATION EXERCISE

Consultation on the Application and Environmental Statement

Under Schedule 8 to the Electricity Act and Regulations made under that Act, the Scottish Ministers are required to consult any relevant planning authority. In addition, to comply with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("the EIA Regulations"), there is a requirement to consult SNH and SEPA and any other person likely to be concerned by the Development by reason of their specific environmental responsibilities

In complying with the EIA Regulations, the Company identified the proposed Development as an EIA development and hence one which would require an ES. This ES should describe the environmental impacts and the proposed mitigation measures associated with the Development.

The formal consultation process undertaken by the Scottish Ministers, which related to the application for s.36 consent (application i), the marine licence applications (application iii) and the ES, and the application that deemed planning permission be granted for the ancillary onshore development (application iv) commenced on 19th October 2016. Public notices were placed in the press and Edinburgh Gazette to notify any interested parties. All documents were made publicly available.

MS-LOT consulted a wide range of relevant organisations, including colleagues within the Scottish Government, on the Applications and the ES. In accordance with the statutory requirements, as part of the overall consultation, MS-LOT sought the

advice of the SNH, SEPA and the planning authorities most local to the Development, THC, and OIC.

Public Representations

A total of seven (7) valid public representations were received by Marine Scotland from members of the public during the course of the public consultation exercise. Of these, five representations objected to the Development and two supported the Development.

The five (5) representations making objections, which were received from local residents, raised issues included, but were not limited to, visual impacts, impacts on tourism, impacts on house prices which would have a negative effect upon the area and loss of amenities, the number of actual jobs which would be created and the impact of onshore and offshore wind farms being built without consideration for the local residents

Other issues raised were related to the impacts on the migration of whales, ornithological concerns, the impact of onshore and offshore wind farms and that the Development would set a precedent of wind farms being built throughout the area without consideration of the impact this would have in the locals residents.

Regarding visual impact, the Company have confirmed the potential to site the Development further offshore.

Regarding employment, the Company have confirmed that as the project would be serviced from Scrabster Harbour, seven full time jobs would be created and over the 25 year period the Development would be operated, other jobs would be created and supported.

Regarding environmental impacts, the Company have confirmed that the ES had fully assessed the concerns surrounding fishing, marine ornithology, marine mammals and shipping and navigation. In addition the Company confirmed that, based on recent assessments, house process in Scotland had been showed to be unaffected by the development of wind turbines.

The Company stated that the provision of any community benefits is an additional voluntary measure provided by the Developer, and confirmed there was no reference to such funds within the application.

Two (2) representations were received in support of the Development. The representations considered that the proposal would bring skilled employment to the local economy, opportunities for young people to be trained and involved in the project and could see the growth of a new industry making use of an abundant natural resource. In addition, the representations supported using offshore wind as less contentious than onshore wind, with the advantage of much greater efficiency and reliability.

Scottish Ministers have recorded, reviewed, and taken into consideration these representations when determining this Application.

Objections

No objections were received from stakeholders.

Objections from members of the public are being maintained.

The Scottish Ministers have considered and had regard to the representations received.

Material Considerations

In light of all the representations received in connection with the Application, the Scottish Ministers have carefully considered the material considerations. This has been done for the purposes of deciding whether it is appropriate to cause a public inquiry to be held and for making a decision on the Application for consent under s.36 of the Electricity Act and for a Declaration under section 36A of the Electricity Act to be granted.

The Scottish Ministers are content that the material concerns have been addressed in the Application and within the responses received to the consultations by the planning authorities most local to the Development, SEPA, SNH, and other relevant bodies.

The Scottish Ministers consider that no further information is required to determine the Applications.

Public Local Inquiry ("PLI")

In terms of paragraph 2(2) of Schedule 8 to the Electricity Act, if the relevant planning authority made a valid objection and did not withdraw it, Scottish Ministers must convene a PLI, which must be confined to so much of the application as it relates to land within the area of the authority whom the objection was made (except in so far as Scottish Ministers direct otherwise) before Scottish Ministers may determine the application, the objection and the report of the inquiry.

Where a s.36 application contains an onshore element of an offshore generating station, then a planning authority objection will trigger a PLI which will be confined to the onshore element. Paragraph 7A(7) of Schedule 8 to the Electricity Act 1989 gives the Scottish Ministers powers of direction in relation to the scope of any PLI.

Neither of the planning authorities (THC and OIC) consulted on the Applications, raised any objection to the Development, therefore a PLI is not automatically triggered in this instance.

In addition, paragraph 3(2) of Schedule 8 to the Electricity Act provides that where objections, or copies of objections, have been sent to the Scottish Ministers in pursuance of the Electricity (Applications for Consent) Regulations 1990 in those cases where a PLI must not be convened by them in terms of paragraph 2(2) of Schedule 8 (i.e. those cases where the planning authority either has not objected, or

objected and withdrawn their objection or where the “relevant planning authority” is the Scottish Ministers on account of the fact that all of the development being located at sea), then the Scottish Ministers “shall consider those objections together with all other material considerations” with a view to determining whether a PLI should be held with respect to the application and, if they think it appropriate to do so, they shall cause a PLI to be held.

Summary

In addition to the issues raised by the representations, the Scottish Ministers have considered all other material considerations with a view to determining whether a PLI should be held with respect to the Application. Those other material considerations are discussed in detail below, as part of the Scottish Ministers’ consideration of the Application.

The Scottish Ministers are satisfied that they have sufficient information to enable them to take those material considerations into proper account when making their final determination on this Application. The Scottish Ministers have had regard to the detailed information available to them from the Application, the ES, the AA and in the consultation responses received from the planning authorities most local to the Development, THC, OIC, SEPA, SNH and other relevant bodies, together with the representations. The Scottish Ministers do not consider that a public local inquiry is required in order to inform them further in that regard.

DETERMINATION ON WHETHER TO CAUSE A PUBLIC INQUIRY TO BE HELD

In the circumstances, the Scottish Ministers are satisfied that:

- they possess sufficient information upon which to determine the Application;
- an inquiry into the issues raised by the objectors would not be likely to provide any further factual information to assist Ministers in determining the Application;
- they have had regard to the various material considerations relevant to the Application, including issues raised by the objection; and
- the objectors have been afforded every opportunity to provide information and to make representations.

Accordingly, the Scottish Ministers have had regard to all material considerations and having drawn upon the information contained within:

- the Environmental Statement;
- the representations from the Company;
- the representations from consultees;
- the representations made from members of the public; and
- the Appropriate Assessment

for this Application, the Scottish Ministers have decided that it is not appropriate to cause a public inquiry to be held.

THE SCOTTISH MINISTERS' CONSIDERATION OF THE ENVIRONMENTAL INFORMATION

The Scottish Ministers are satisfied that the ES has been produced in accordance with the 2000 Regulations and the 2007 Regulations and the applicable procedures regarding publicity and consultation laid down in the 2000 and 2007 Regulations have been followed.

The Scottish Ministers have taken into consideration the environmental information, including the ES and the representations received from the consultative bodies, including THC, OIC, SEPA and SNH and from all other persons.

The Company, at the time of submitting the Application, was not a licence holder or a person authorised by an exemption to generate, distribute, supply or participate in the transmission of electricity when formulating "relevant proposals" within the meaning of paragraph 1 of Schedule 9 to the Electricity Act. The Scottish Ministers have, from the date of the Application for consent, approached matters on the basis that the same Schedule 9, paragraph 3(1) obligations as applied to licence holders and the specified exemption holders should also be applied to the Company. The Scottish Ministers have also, as per regulation 4(2) of the 2000 Regulations, taken into account all of the environmental information and are satisfied the Company has complied with their obligations under regulation 4(1) of those Regulations.

THE SCOTTISH MINISTERS' CONSIDERATION OF THE POSSIBLE EFFECTS ON A EUROPEAN SITE

When considering an application for a s.36 consent under the Electricity Act, which might affect a European protected site, the competent authority must first determine whether a development is directly connected with, or necessary for, the beneficial conservation management of the site. If this is not the case, the competent authority must decide whether the development is likely to have a significant effect on the site. Under the Habitats Regulations, if it is considered that the development is likely to have a significant effect on a European protected site, then the competent authority must undertake an AA of its implications for the site in view of the site's conservation objectives.

Having carried out the AA (considering all the advice received from SNH, Marine Scotland Science ("MSS") and other relevant consultees) it can be stated with confidence that the Development, will not adversely affect site integrity of any the identified SPAs or SACs assessed to have connectivity with the Development.

The Scottish Ministers are convinced that the Development will not adversely affect site integrity of the European protected sites included within the AA. The Scottish Ministers are satisfied that no reasonable scientific doubt remains as to the absence of such effects and that the most up-to-date scientific data available has been used.

In Scotland Scottish Ministers are currently in the process of identifying a suite of new marine SPAs. In 2014 advice was received from the Statutory Nature Conservation Bodies on the sites most suitable for designation and at this stage they became draft SPAs ("dSPAs"). Once Scottish Ministers have agreed the case for a dSPA to be the subject of a public consultation, the proposal is given the status of proposed SPA ("pSPA") and receives policy protection, which effectively puts such sites in the same position as designated sites, from that point forward until a decision on classification of the site is made. This policy protection for pSPAs is provided by Scottish Planning Policy (paragraph 210), the UK Marine Policy Statement (paragraph 3.1.3) and the National Marine Plan for Scotland (paragraph 4.45).

It is not a legal requirement under the Habitats Directive or relevant domestic regulations for the AA to assess the implications of the proposal on the pSPAs. The AA includes an assessment of implications upon those sites in accordance with domestic policy. Scottish Ministers are also required to consider article 4(4) of Council Directive 2009/147/EC on the conservation of wild birds ("the Birds Directive") in respect of the pSPAs. The considerations under article 4(4) of the Birds Directive are separate and distinct to the considerations which must be assessed under this Habitats Directive assessment but they are, nevertheless, set out within the AA.

In accordance with regulation 63 of the 2010 Regulations the Scottish Ministers will, as soon as reasonably practicable following the formal designation of the pSPAs, review their decisions authorising the proposal. This will include a supplementary AA being undertaken concerning the implications of the proposal on the sites as designated if LSE is identified (as they are currently pSPAs their conservation

objectives are currently in draft form, their conservation objectives are finalised at the point the sites are designated).

THE SCOTTISH MINISTERS' CONSIDERATION OF THE APPLICATION

The Scottish Ministers' consideration of the Application and the material considerations are set out below.

For the reasons already set out above, the Scottish Ministers are satisfied that the Development finds support from the applicable policies and guidance. The Scottish Ministers are also satisfied that all applicable Acts and Regulations have been complied with, and that the Development will not adversely affect site integrity on the qualifying interests as given in the Appropriate Assessment.

Seascape, Landscape and Visual Impacts

SNH, the Scottish Ministers' statutory advisors on visual impacts on designated landscape features, were consulted on the Application for the Development. SNH did not object to the Development and deferred advice on this matter to THC.

However, SNH confirmed that the Development is unlikely to significantly impact on or affect the integrity of nationally protected National Scenic Areas ("NSAs") or Wild Land Areas ("WLAs"). SNH confirmed that due to the relatively small footprint of the development and distance from the NSA significant effects are mitigated. With regard to the WLA, SNH agreed with the ES that there would be minor or negligible impact.

SNH considered the potential for moderate and ergo, significant effects, on sections of coastal character and high sensitivity visual receptors extending between Local Coastal Character Areas ("LCCAs"), However, these impacts will be largely localised and, therefore, do not trigger issues of national interest.

SNH disagreed that the seascape receptors (LCCAs) only including offshore developments. SNH stated that to omit consideration of terrestrial wind energy proposals currently being considered along the seaboard within or adjacent to the LCCAs means that the cumulative assessment is incomplete, and results of assessment are therefore misleading.

SNH stated that as the location of the Development (offshore) and relatively small footprint avoids complex interactions with the coast, this reduces or avoids intrusion on the experience of the indented coastline and bays. However SNH confirmed that in contrast, the scale and colour of the turbines and platform heightens visibility.

SNH considered that there will be moderate significant impact on local coastal character, which partially relates to the uncharacteristic context of the seascape site and scale of the turbines. However this is mitigated by the lower sensitivity of the coastal character and the context of the type of wind and wider energy production infrastructure and turbines within the area. SNH confirmed that the level of sensitivity on the landscape increases markedly immediately west of the area due to the costal and landscape character increasing in wildness qualities.

The view of SNH was that the visual material information provided in the impact assessment was poor in quality. The clarity of rendering makes the closer views difficult to discern, the visualisations underestimate the visibility of the turbines and colour of the platform (bright yellow) will contrast with the sea surface. However as these impacts are largely localised they do not trigger issues of national interest to SNH.

THC stated that the standard of information presented is not in accordance with THC standards and as a result THC does not consider that the assessment presented to be robust. However, THC acknowledged that visualisations in the ES are based on a worst case scenario and that the assessment is a subjective matter. THC stated that given the small footprint of the offshore site, alongside the wider panorama of coast and sea, the impact can be considered as acceptable.

THC concluded that the proposal will introduce a new feature to the coastline and considered that this will have localised significant visual impacts. However, THC stated that adverse visual impacts may be successfully mitigated by the reduction in height of the turbines and siting of these in the north west of the area under consideration

THC's conclusion was that the landscape and seascape effects depicted in the ES were understated, but considered acceptable as these are judged to be relatively limited in extent. The visual impacts outlined in the ES were based on a realistic worst case scenario, with the largest of the turbines at the closest point to the shore. Concerns have been raised about the significance of visual impacts. Whilst acknowledging the concerns of third parties, SNH, THC considered the localised visual impacts of the proposal to be acceptable on balance.

When assessing a development, THC advised that the cumulative effect of the Development together with similar developments in proximity is required and provided details of projects in the wider area that are operational, approved or have been submitted but not yet determined. However, given the impacts are based on relatively small areas of character type, these impacts are judged to be acceptable.

OIC were pleased to see that the ES considered the visual impacts of the development on the west coast of Orkney along with that of the NSA (Hoy and West Mainland Orkney) and the Wild Land Area of Hoy.

OIC were content that the ES assessed the development to be acceptable taking account of the relevant matters and impacts on landscape/seascape, and confirmed that, considering the proximity of the development to Orkney and the ferry routes to and from Orkney, the development will not have a significant adverse visual impact.

The Melvich Community Council ("MCC") felt that the developers of this proposal have clearly not shown consideration of the visual impact of the turbines to the area. MCC confirmed that the turbines, being of such a significant height, would have a substantial impact on the view across to Orkney, and this would put off any individuals who were considering moving to Melvich and Portskerra in the future.

The Scottish Ministers consider, having taken account of the information provided by the Company, the responses of the consultative bodies, and having regard to the mitigation measures and conditions proposed, that there are no outstanding concerns in relation to the Development's impact on landscape and visuals that would require consent to be withheld.

Coastal character assessment

Regarding the impact on coastal character, SNH stated that they agreed overall with the conclusion of no significant impacts and therefore required no specific mitigation. However SNH did refer to pre-application, in regard to the need to calculate seabed disturbance, not just in area, but also in volume; and also to calculate suspended sediment created if dredging for the clump weight plinth. This advice considered it unlikely that that such calculation of volumes would alter the judgement for all effects that magnitude is Negligible. Therefore this would not trigger identification of a significant effect requiring specific mitigation. SNH also recognised that the greatest potential for suspended sediment would come from jetting for export cable burial, and will have a magnitude of Negligible or perhaps Low. Therefore, suspended sediment from the dredging will have no significant effect requiring specific mitigation.

SNH confirmed that they have no reason to believe seabed processes and land forms in the project area are regionally important, or are not robust to potentially altered hydrodynamics. Therefore they are of Low vulnerability, and would not require specific mitigation.

SNH reiterated that their advice explicitly stating receptor vulnerability should be taken up, with the exception of the offshore component of "Changes… due to altered hydrodynamics" which is relevant to the queries raised regarding adequacy of the bathymetry data used. SNH have confirmed that due to revisions to the text their opinions 'have firmed' and this data was adequate for the assessment.

The Scottish Ministers consider, having taken account of the information provided by the Company, the responses of the consultative bodies, and having regard to the mitigation measures and conditions proposed, that there are no outstanding concerns in relation to the Development's impact on coastal character that would require consent to be withheld.

Marine Mammal/European Protected Species ("EPS") Impacts

Whale and Dolphin Conservation ("WDC") stated that they felt that the Development would have negligible level of impact on marine mammals in the area as long as pile driving was not required. Should pile driving be require then an addendum to the ES and Habitats Regulation Appraisal ("HRA") would be required. WDC requested involvement with the development of a Vessel Management Plan ("VMP") and that Marine Mammal Observers ("MMOs") be used at all times through construction and deployment of the wind farm floating platform and cable laying.

Discussions between WDC and the Company have been on-going regarding the type of installation being utilised, the use of high definition aerial video surveys being

undertaken and monitoring requirements to be applied. These discussions have resulted in WDC withdrawing their request for MMOs to be present on the installation vessels.

SNH, agreed with the general conclusions of the ES, that the impacts on cetaceans were likely to be minor/negligible based on the sensitivities of the features and (estimated) duration/magnitude of the activities. Taking into account the scale of the project, and the information provided, SNH broadly agreed with the general conclusions of the ES, that the impacts on marine mammals and benthic features were likely to be small or negligible. However, in some cases, there was insufficient justification to support those conclusions.

SNH stated that a licence to disturb European Protected Species ("EPS") would not be required given the short duration of the construction period and relatively low importance of the area for cetaceans.

Marine Scotland Science ("MSS") advised that consideration had not been given to the proximity of the development site to the Inner Hebrides and the Minches candidate Special Areas of Conservation ("cSAC") for the harbour porpoise.

MSS agreed with the requirement for a VMP during the construction period, but suggested this should extend to the operational phase of the Development. MSS recommended that the number of vessels and their duration at the site should be reduced wherever possible, and that the behaviour of the vessels should be in line with the Scottish marine wildlife watching code.

In addition MSS recommended that a monitoring programme be put in place to inspect the mooring lines for entangled debris and 'ghost fishing gear' and where possible, to remove it.

The Scottish Ministers consider, having taken account of the information provided by the Company, the responses of the consultative bodies, and having regard to the mitigation measures and conditions proposed, that there are no outstanding concerns in relation to the Development's impact on Marine Mammals/European Protected Species that would require consent to be withheld.

Benthic Impacts

SNH agreed overall with the conclusions that impacts on the benthic features of the site will be minor/negligible based on the sensitivities of the features and the (estimated) duration/magnitude of the activities. SNH advised that a benthic survey of the cable route and mooring system location be undertaken before installation.

MSS, were generally happy with the assessments of the impacts to benthic ecology. However they stated that some topics required refinement, particularly regarding the use of previously collected multibeam data stating that the sediment loads and smothering impacts from cable trenching activities and impact of cable installation on the beach dynamics and the biota of Sandside Bay should be further examined.

The Scottish Ministers consider, having taken account of the information provided by the Company, the responses of the consultative bodies, and having regard to the mitigation measures and conditions proposed, that there are no outstanding concerns in relation to the Development's impact on benthic ecology that would require consent to be withheld.

Ornithological Impacts

SNH agreed, overall, with the conclusions that the impacts on bird features would be minor/negligible based upon the site-specific survey results, sensitivities of the features and the duration/magnitude (estimated) of the works.

SNH did however state that monitoring should be undertaken which would provide data on the behaviour of bird species to the platform. In addition SNH confirmed that aerial surveys should continue during the breeding season, covering pre-construction, construction and post construction to monitor the densities of the seabirds.

SNH stated that the key potential impacts of the proposal are collision risk and displacement during the operation and maintenance phase of the project.

SNH stated that the physical presence of the turbines, platform and vessels may result in displacement. The construction phase displacement would be localised and temporary. Due to the small area affected, the displacement which could be caused during the operation and maintenance phase on the regional populations of species recorded during the site-specific surveys is unlikely to have a significant adverse impact.

SNH confirmed that the most abundant species recorded, puffin, would have a loss of 0.1% of the receptor population if all mortalities were breeding adults. However SNH confirmed that it is unlikely that there will be 100% mortality for displaced birds. Puffins have a large foraging range and is unlikely that the loss of the development area and 1 km buffer is unlikely to have a significant impact on the regional population.

Moderate numbers of arctic tern were recorded during site surveys, SNH confirmed that the site was of medium importance to this receptor species. SNH stated that with an 102% increase in annual mortality, a reduction of 48.4% breeding success and assuming a 50% mortality rate due to displacement, a high magnitude impact will be the result on the breeding population of this species. However SNH agreed with the ES in that this assessment is highly precautionary as it is likely that the receptor population is larger than estimated and the loss of the project footprint will not have a significant adverse impact on the regional population.

With regard to collision risk, SNH stated that the collision risk modelling included gannet, great skua, herring gull, greater black-backed gull, kittiwake and Arctic tern and presumed that other birds recorded at the site were excluded due to the flight height data indicating that they fly below the lowest turbine rota.

SNH stated that the ES confirmed that only on collision risk model was used however additional models were detailed in the ES. Site specific flight height data shows a greater proportion of birds within the rotor height and therefore resulted in slightly higher predicted collisions. SNH stated that they were disappointed that this worst case is not presented in the ES but accepted that predicted collisions are low for all species modelled.

SNH confirmed that there were inconsistencies with the use of avoidance rates in the collision risk modelling between the ES and the Marine Ornithology Appendix. However they re-affirmed that predicted collisions are low for all species modelled so this point is not important for this assessment. SNH stated that additional mortality caused by collisions would only cause a small increase to the baseline annual adult mortality rate for all species. SNH stated that overall that it would be unlikely that there would be significant impacts to the receptor populations.

SNH also commented on the impacts of the development during the non-breeding season. SNH stated that whilst they welcomed the use of Biologically Defined Minimum Population Size ("BDMPS") populations from the Furness et al. (2015)[3] report they have not currently agreed the best way to incorporate the report into impact assessments and considered that any assessment should be qualitative. However SNH did state that it is unlikely that there will be any significant adverse impacts during the non-breeding season.

No cumulative impact assessment had been included within the ES; however, these were considered within the information to inform the HRA which confirmed that there would be no adverse effect on site integrity as a result of combination with other developments.

SNH stated that since the impact assessment was based on only one year of site-specific survey data monitoring of seabird densities and distribution covering pre-construction, construction and post-construction should be considered. This monitoring would be extremely informative for future proposals and to validate the conclusions of the ES.

In addition, SNH advised that if the Development is consented, monitoring should be undertaken to understand the seabirds behaviour to the platform given its low floating structure. SNH reiterated that this research would be informative for future proposals with similar technology.

Royal Society for the Protection of Birds Scotland ("RSPB Scotland") considered that even though the development is located in an environmentally sensitive region the project is small scale and unlikely to cause an adverse impact on seabirds in the Pentland Firth or the onshore bird population.

[3] Furness, R.W. (2015). Non-breeding season populations of seabirds in UK waters: Population sizes for Biologically Defined Minimum Population Scales (BDMPS). Natural England Commissioned Reports, Number 164.

RSPB Scotland recognised the need and importance of demonstrating new renewable energy technologies and floating wind as being of particular interest to them. On the basis that a condition is imposed on any consent for an environmental monitoring programme which is made public, RSPB Scotland are keen to offer their support to the Development.

However, despite overarching support RSPB Scotland were keen to point out that they do have concerns over the marine ornithological assessment. Based on these concerns RSPB Scotland confirmed that any proposals for future projects/phases would require these concerns to be addressed.

RSPB Scotland commented that it is unclear whether survey data collected included the project area and the buffer area combined, and if so how this was done

Regarding collision mortality, RSPB Scotland noted numerous inconsistencies in the results presented and the main text of the ES. The estimated mortality rates have been based on generic flight height assumptions from Johnston et al 2014[4] as a proportion of flights through the turbine window. RSPB Scotland stated that the estimates are not specific to turbine design and do not allow for a design incorporating a larger swept area as intended for the Development. The calculated mortalities based on site specific flight parameters are higher than those based on generic flight height parameters presented in the main text. Discussions surrounding these differences would have been appropriate and would have provided justification.

RSPB Scotland regretted the omission of a review of any available existing information relating to seabirds densities and stated that the ES did not make clear whether the reported seabird densities in the study area are higher or lower than elsewhere in the region.

RSPB Scotland welcomed the approach of assessing the impacts of the development on the non-breeding seabird populations against the BDMPS. However RSPB Scotland stated that this consideration should have been applied in the context of the Birds Directive through the undertaking of a HRA. RSPB Scotland considered this to be a serious omission within the Application. RSPB Scotland confirmed that even though this is a small scale proposal, potential in-combination effects with future renewable and other anthropogenic marine activities could have an adverse effect on the seabird populations unaccounted for in contemporary HRAs. RSPB Scotland emphasised that this must be a consideration when appraising this and other proposals against member state's obligations under the Birds Directive.

In addition, RSPB Scotland stated that the colony size information on which the assessments of impacts to colonies is based is over 15 years old. There has been

[4] Johnston, A., Cook, A.S.C.P., Wright, L.J., Humphreys, E.M., Burton, N.H.K., 2014. Modelling flight heights of marine birds to more accurately assess collision risk with offshore wind turbines. J. Appl. Ecol. 51, 31 – 41.

adjustment made for known decline in Kittiwake numbers however no adjustment for other species e.g. fulmar had been made.

The Scottish Ministers consider, having taken account of the information provided by the Company, the responses of the consultative bodies, and having regard to the mitigation measures and conditions proposed, that there are no outstanding concerns in relation to the Development's impact on ornithology that would require consent to be withheld.

Fish (including diadromous fish) and Shellfish

Broadly, SNH agreed with the general conclusions that the impacts on diadromous fish, marine fish including marine fish Priority Marine Features ("PMFs") and shellfish are likely to be minor / negligible based on the sensitivities of the features and the (estimated) duration / magnitude of the activities.

SNH highlighted that there was potential for interaction between some fish and shellfish, however the impact was unlikely to be significant. As pin-piling was no longer required, installation noise is unlikely. Some dredging may cause habitat disturbance, however SNH welcome the mitigation measures proposed.

SNH welcomed the measure of burying the cable to a target depth of 2 m, with rock armour protection where burial is unachievable. It was noted that burying the cable would not be expected to reduce the extent of the emission from the electromagnetic field, the distance between the cable and the water column would be increased.

The ES states that there is potential for cumulative impacts to arise from the Development and the Orkney-Caithness interconnector cable, however SNH agree that the construction impacts are likely to be temporary and unlikely to overlap.

MSS agreed with the conclusion of no Likely Significant Effect ("LSE") on the three salmon Special Area of Conservations ("SACs") considered, that no appraisal is required for salmon SACs further afield, and that the main issue is establishing the correct level of engagement with the National Research and Monitoring Strategy for Diadromous Fish.

The Scottish Ministers consider, having taken account of the information provided by the Company, the responses of the consultative bodies, and having regard to the mitigation measures and conditions proposed, that there are no outstanding concerns in relation to the Development's impact on fish (including diadromous fish) and shellfish that would require consent to be withheld.

Fisheries Impacts

MSS were content with the conclusion that no significant impacts were to be expected on the identified fisheries arising from the Development, assuming appropriate conditions were imposed.

MSS stated that the project description did not provide a clear description of the type of scour protection. This should be included in a Cable Plan ("CaP"). In addition MSS

stated that the proposed mitigation measures of a Fisheries Liaison Officer ("FLO"), Fisheries Mitigation Plan ("FMP"), Fisheries Management and Mitigation Strategy ("FMMS") and operational safety zone are satisfactory. MSS confirmed that the mitigation option for the export cable should include a cable burial plan and cable protection monitoring. Impacted fishermen should be given the opportunity to review and influence both documents.

The SFF acknowledged that extensive desktop and physical research had gone into choosing the site, with consideration given to lessening impacts on fishing. However the SFF expressed concerns regarding the dredging proposed to provide a flat bottom for the plinth, and the scour protection for the anchors. The SFF stated that due to the lack of detail in the ES, these would potentially be a significant problem at the time of decommissioning, because they would make it virtually impossible to restore the area to its pre-development state.

The SFF commented that the lack of detail given on the export cable route, 2.8 km of rock dumping, together with the potential scour protection and dredging would result in the need for a lot of discussion to take place around these subjects together with discussion surrounding the CaP.

Given the evidence provided regarding the seabed and route options, the SFF stated that they are prepared to discuss the suitability of rock dumping or mattresses for use in any given area and that this would also be the appropriate time to discuss scour protection and whether the wave motion is sufficient to make this a problem.

The SFF noted the commitment to follow the Fishing Liaison with Offshore Wind and Wet Renewables Group ("FLOWW") guidelines and stressed the importance of having a good FLO with particular reference being made to the implementation of arbitrary phrases used within the ES such as 'operational advisory zone'.

The SFF stated that there are sections of the ES in relation to fishing activity which are confusing and misleading, mixing three levels of data together rather than concentrating on relevant local figures.

In addition the SFF stated that the description and value of the fleet is not helpful and claims to use local vessels to deploy equipment and cables is positively disingenuous. The SFF stated that they wished to see, from the Developer, clarity on the work which can genuinely be offered to local vessels to mitigate the disturbance during construction. The SFF were surprised that the developers have not referenced the 2012 publication "Best Practice Guidelines for Fishing Industry Financial and Economic Impact Assessment" which the SFF state would have assisted the developer greatly.

Once the works have been completed the SFF have stated that they wish to see a post lay survey to confirm burial of the cable which should be disseminated by the FLO, and that the SFF should be notified of lost gear which becomes trapped in the mooring system along with the Fishing for Litter project.

The SFF reaffirmed that they are open to further discussion especially surrounding the Cable Burial Plan and on the Developer's mitigation proposals.

The Company stated that no significant impacts were identified from the loss of fishing grounds however they did find that there would be moderate impacts identified for creel fishing due to loss of access to fishing grounds, localised nature of the fishing activity and greater sensitivity to change.

Issues regarding marine cable laying will be addressed through the consideration of the relevant Marine Licence application.

The Scottish Ministers consider, having taken account of the information provided by the Company, the responses of the consultative bodies, and having regard to the mitigation measures and conditions proposed, that there are no outstanding concerns in relation to the Development's impact on fisheries that would require consent to be withheld.

Noise Impacts

The ES assessed the potential noise effects, through operational, construction and decommissioning stages of the Development. THC stated that in relation to the offshore section of the Development the turbines would not produce unacceptable noise or shadow flicker issues. However an upper limit noise condition would be required.

In relation to the onshore aspects of the Development, THC stated that no residential or commercial properties would be significantly affected, and upper noise limits for the operation of the substation/switchgear could be secured by condition in addition to controls which exist under the Control of Pollution Act 1974 (as amended).

The Scottish Ministers consider, having taken account of the information provided by the Company, the responses of the consultative bodies, and having regard to the mitigation measures and conditions proposed, that there are no outstanding concerns in relation to the Development's impact of noise that would require consent to be withheld.

Terrestrial ecology

SNH confirmed that no protected species were recorded within the onshore survey area other than breeding birds, and the mitigation outlined in the ES is standard in relation to avoiding impacts on breeding birds. In addition to pre-construction checks for breeding birds which the Company will undertake, SNH advised that checks for EPS (e.g. otter) and other protected species should be completed prior to works commencing.

The Scottish Ministers consider, having taken account of the information provided by the Company, the responses of the consultative bodies, and having regard to the mitigation measures and conditions proposed, that there are no outstanding concerns in relation to the Development's impact on terrestrial ecology that would require consent to be withheld.

Air Quality

THC stated that the onshore construction activities could give rise to some local air quality impacts associated with dust however these were not considered to be a significant issue and would be addressed with mitigation as detailed within the ES. The submission of a Construction Environmental Management Plan was requested. This will be dealt with through the requirement for an Onshore Environmental Management Plan ("OnEMP").

The Scottish Ministers consider, having taken account of the information provided by the Company, the responses of the consultative bodies, and having regard to the mitigation measures and conditions proposed, that there are no outstanding concerns in relation to the Development's impact on air quality that would require consent to be withheld.

Geology and Hydrology

SEPA noted that the finalised location of the onshore infrastructure was yet to be agreed but that indicative proposals were outlined. SEPA stated that, as long as the infrastructure is located within the corridors shown in the ES, they were content as development within these areas will not have a significant environmental effect on most of the aspect of the environment in which they have a specific interest (such as peat, watercourses and private water supplies). SEPA detailed that cable corridor 1 (where open cut trenching would be used from the Horizontal Directional Drilling compound to the substation location) could have a direct effect on vegetation classification MG10 habitat but they were content that this could be successfully addressed via the mitigation.

THC stated that there were no significant impacts with regard to geology and hydrology; however they consider it appropriate that a Flood Risk Assessment ("FRA") was undertaken, and a Flood Drainage Impact Assessment and Strategy ("FDIAS") be developed once the onshore site had been fully selected.

The Scottish Ministers consider, having taken account of the information provided by the Company, the responses of the consultative bodies, and having regard to the mitigation measures and conditions proposed, that there are no outstanding concerns in relation to the Development's impact on geology and hydrology that would require consent to be withheld.

Habitats Regulations Appraisal

As SNH advice confirms that the Development is likely to have a no significant effect on the qualifying interests of the Faray and Holm of Faray SAC, North Rona SAC, the Sanday SAC, the River Thurso SAC, River Borgie SAC and the River Naver SAC, MS-LOT, on behalf of the Scottish Ministers, as the "competent authority", were not required to carry out an Appropriate Assessment ("AA").

SNH confirmed that there was no LSE from the Development on certain qualifying interests of the Sule Skerry and Sule Stack SPA, the North Rona and Sula Sgeri SPA, Rum SPA, St Kilda SPA, Caithness and Sutherland Peatlands SPA, Caithness Lochs SPA and North Caithness Cliffs SPA. Therefore MS-LOT on behalf of the Scottish Ministers, as the "competent authority", were not required to carry out an AA.

SNH identified appropriate SACs and SPAs, for which the Development was likely to have significant effect on certain qualifying interests. Therefore, MS-LOT, on behalf of the Scottish Ministers, as the "competent authority", are required to carry out an AA.

Having carried out the AA (considering all the advice received from SNH) it can be ascertained with sufficient confidence that the Development, subject to appropriate conditions being included within the consent, will not adversely affect the integrity of the Scottish Ministers, as a 'competent authority' under the Regulations, must be satisfied that the proposal will not adversely affect the integrity of any European site (SACs and SPAs) either alone or in combination with other plans or projects before authorisations can be given for the proposal.

SNH agreed with all conclusions reached in the AA.

SNH noted that conditions would be included in the decision letter and consent.

Summary

The Scottish Ministers have undertaken a full and thorough consultation with relevant stakeholders and members of the public and are of the opinion that there are no considerations which would prevent consent being granted to the Development in its current location, subject to the imposition of conditions (subject to the Minister's approval). The Application has been considered fully and carefully, as have its accompanying documents and all relevant responses from consultees. Third party representations received have also been considered.

The Scottish Ministers are satisfied that whilst the Development would have an impact on the environment, by taking into account the extent to which any environmental effects will be reduced by measures the Company has agreed to take, or will be required to take under the conditions attached to the s.36 consent, marine licences and deemed planning permission, the environmental issues can be appropriately addressed by way of mitigation and monitoring and that any impacts which remain are outweighed by the benefits the Development will bring.

THE SCOTTISH MINISTERS' DETERMINATION

Subject to the conditions set out in **Annex 2** to this Decision, the Scottish Ministers **GRANT CONSENT** under section 36 of the Electricity Act 1989 (as amended) for the construction and operation of the Development, with a permitted capacity of up to 12 MW (as described in **Annex 1**).

Subject to the conditions set out in **Annex 2** to this Decision, the Scottish Ministers **GRANT A DECLARATION** under section 36A of the Electricity Act 1989 (as amended) for the construction and operation of the Development, with a permitted capacity of up to 12 MW (as described in **Annex 1**).

Subject to the conditions set out in **Annex 2** to this Decision, the Scottish Ministers **GRANT A DIRECTION** under section 57(2) of the Town and Country Planning

(Scotland) Act 1997 (as amended) ("the 1997 Act") that planning permission for the ancillary onshore development be deemed to be granted.

In accordance with the 2000 Regulations and the 2007 Regulations, the Company must publicise this determination for two successive weeks in the Edinburgh Gazette and one or more newspapers circulating in the locality of the Development. The Company must provide copies of the public notices to the Scottish Ministers.

In reaching their decision the Scottish Ministers have had regard to all representations and relevant material considerations and, subject to the conditions included in this consent (**Annex 2**), are satisfied that it is appropriate for the Company to construct and operate the generating station in the manner described in **Annex 1**.

Copies of this letter and consent have been sent to THC and OIC. This letter has also been published on the Marine Scotland licensing page of the Scottish Government's website:

http://www.scotland.gov.uk/Topics/marine/Licensing/marine/scoping

The Scottish Ministers' decision is final and is subject to the right of any aggrieved person to apply by statutory appeal to the Inner House of the Court of Session. The statutory appeal mechanism is provided by sections 36D and 36E of the Electricity Act 1989 in relation to the section 36 consent, and by sections 63A and 63B of the Marine (Scotland) Act 2010 in relation to the marine licences.

Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Yours sincerely,

James McKie
Leader, Marine Scotland Licensing Operations Team
A member of the staff of the Scottish Ministers
March 2017

Annex 1

DESCRIPTION OF THE DEVELOPMENT

The Development shall be approximately 6 km offshore from Dounreay, Caithness, with a permitted generating capacity not exceeding 12 MW and shall be comprised of:

- one single floating, semi-submersible, column-stabilised platform, comprising of buoyancy columns interconnected in a steel lattice truss framework. The maximum length will be 230 m, maximum width will be 135 m and maximum 15 m above water surface; the platform will rotate 360° and have a passive mooring system. The mooring system will consist of up to 8 mooring lines, passing through a 600 tonne clump weight suspended in the water beneath the platform. A total of 16 anchors will be attached to the mooring lines, two per line, with a maximum radius of 800 m from the platform centre;
- two Demonstration offshore wind turbine generators ("WTGs") each with an installed capacity of up to 6 MW, giving a total maximum generating capacity not exceeding 12MW. Each turbine will be a three bladed structure with a maximum hub height of 124 m above Lowest Astronomical Tide ("LAT"), including the jacket, and with a maximum blade tip height of up to 201 m above LAT and a maximum rotor diameter of 154 m;
- grid infrastructure including the installation of one subsea cable which will bring the power ashore immediately to the west of the Dounreay Restoration Site fence line; and
- associated onshore infrastructure, including, underground cabling and turbine transformers comprising medium and low voltage container units, to be located at, or near to the existing Dounreay 132/33/11kV substation.

The Development must be constructed in accordance with that specified in the Application and by the conditions imposed by the Scottish Ministers.

References to "the Development" in this consent must be construed accordingly.

Figure 1 : **Development Location – Dounreay Trì Floating Wind Demonstration Project Onshore and Offshore Project Boundary and Phase 1 turbine deployment locations**

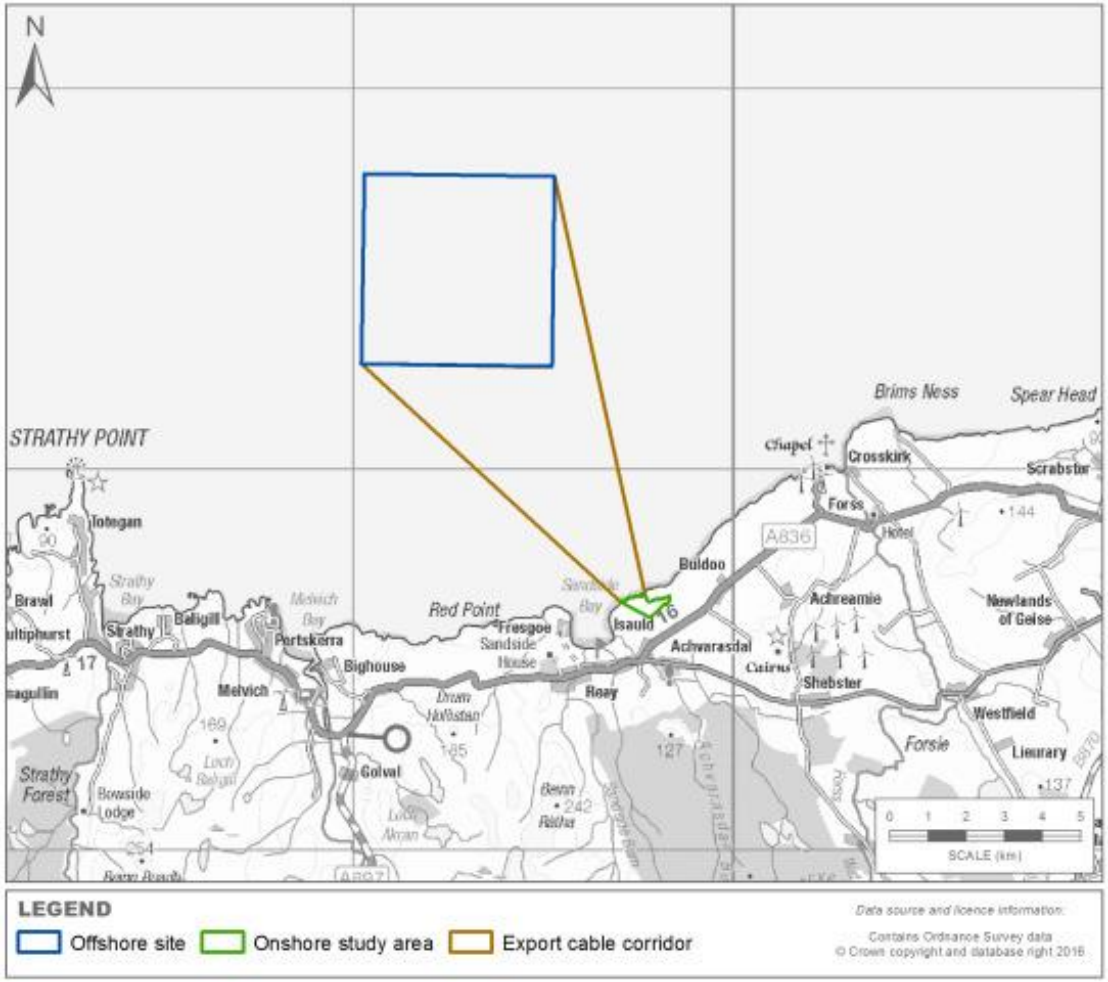


Figure 2: Dounreay Trì Floating Wind Demonstration Project - Onshore Project Boundary, export cable corridor, and onshore cable corridor option 1 and option 2.

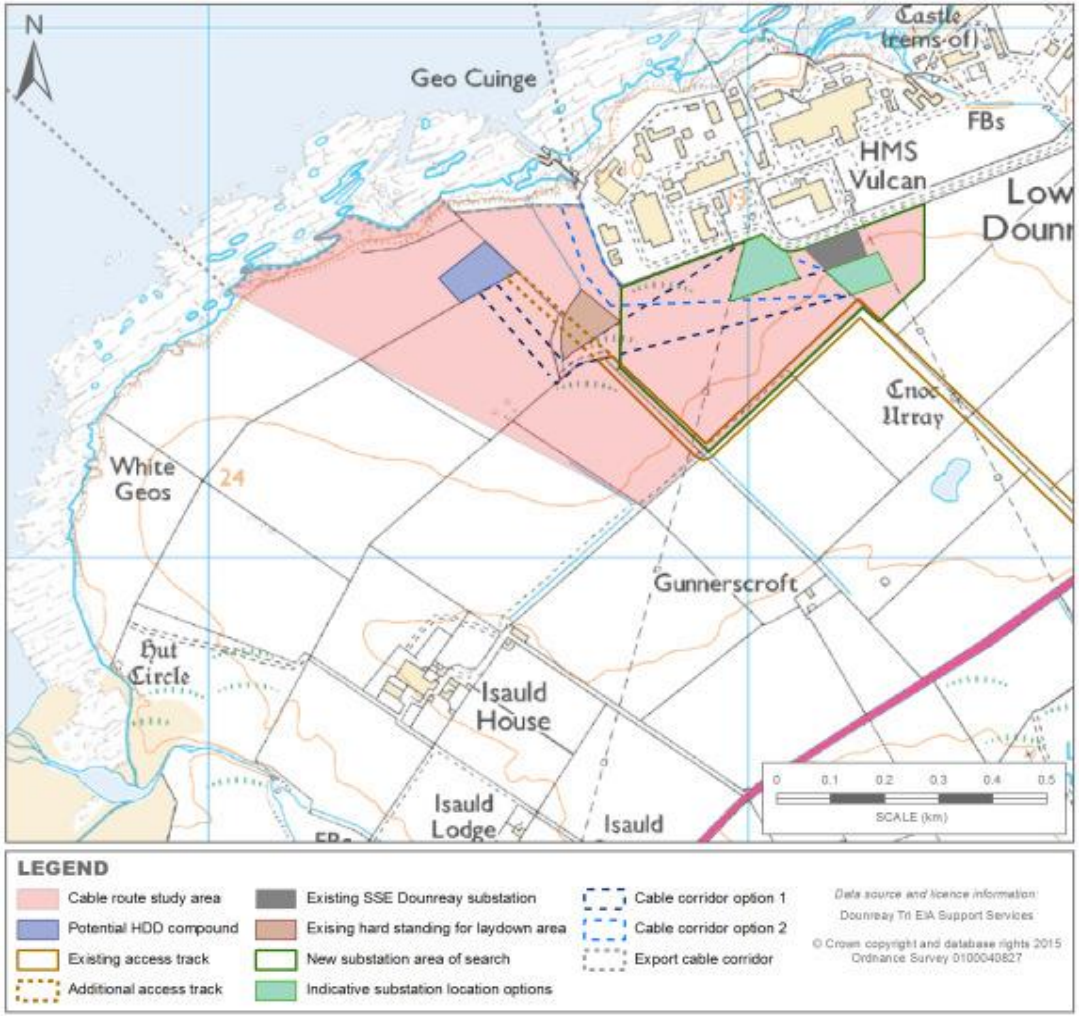
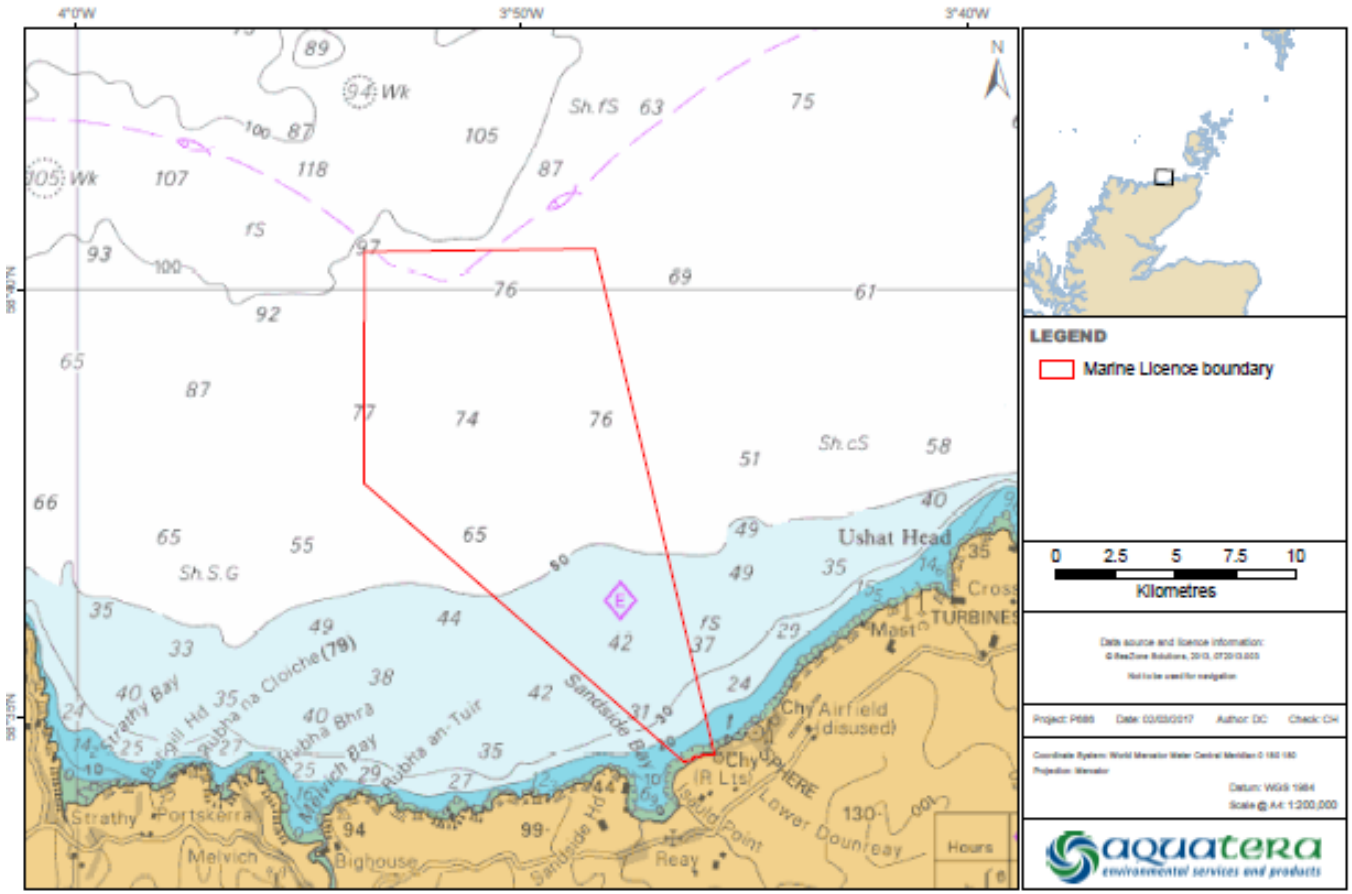

N
Geo Cuinge
Castle
Irems of
FBs
HMS
Vulcan
Low
Dounr
Cnoc
Urray
White
Geos
24
Gunnerscroft
Hut
Circle
Isauld
House
Isauld
Lodge
Isauld
0 0.1 0.2 0.3 0.4 0.5
SCALE (km)
LEGEND
Cable route study area
Potential HDD compound
Existing access track
Additional access track
Existing SSE Dounreay substation
Exising hard standing for laydown area
New substation area of search
Indicative substation location options
Cable corridor option 1
Cable corridor option 2
Export cable corridor
Data source and licence information
Dounreay Tri EIA Support Services
© Crown copyright and database rights 2015
Ordnance Survey 0100040827

Figure 3: Dounreay Trì Floating Wind Demonstration Project Offshore export cable corridor.



Annex 2

CONDITIONS

The consent granted under Section 36 of the Electricity Act 1989 and direction that planning permission be deemed to be granted under section 57 of the Town and Country Planning (Scotland) Act 1997 are subject to the following conditions:

The Company must submit the requested plans as detailed in the conditions prior to the Commencement of the Works/Development, in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with any such advisors or organisations as detailed in the conditions or as may be required at the discretion of the Scottish Ministers.

The Development must, at all times, be constructed and operated in accordance with the approved plans, as updated or amended.

Any updates or amendments made to the approved plans must be submitted, in writing, to the Scottish Ministers for their prior written approval.

The Company must satisfy themselves that all contractors or sub-contractors are aware of the extent of the Development for which this consent has been granted, the activity which is consented and the terms of the conditions attached to this consent. All contractors and sub-contractors permitted to engage in the Development must abide by the conditions set out in this consent.

The Company must ensure that all personnel adhere to the Scottish Marine Wildlife Watching Code, where appropriate, during all installation, operation and maintenance activities.

1. Duration of the Consent

The consent is for a period of 25 years from the date of the Final Commissioning of the first Wind Turbine Generator ("WTG").

Written confirmation of the date of the Final Commissioning of the first WTG must be provided by the Company to the Scottish Ministers, THC and SNH no later than one calendar month after the Final Commissioning of the first WTG.

Reason: *To define the duration of the consent.*

2. Commencement of Development

The Commencement of the Development must be no later than five years from the date of this consent, or in substitution such other period as the Scottish Ministers may hereafter agree and confirm in writing. Written confirmation of the intended date of Commencement of Development must be provided to THC, OIC and Scottish Ministers no later than one calendar month before that date or at such as time as agreed with Scottish Ministers.

Reason: *To ensure that the Commencement of the Development is undertaken within a reasonable timescale after consent is granted.*

3. **Assignation**

This consent may not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignation of the consent or refuse assignation as they may see fit. The consent is not capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure. The Company must notify the THC in writing of the name of the assignee, the principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignation having been granted.

Reason: *To safeguard the obligations of the consent if transferred to another company.*

4. **Redundant turbines**

In the event that for a continuous period of 6 months or more any WTG installed and commissioned and forming part of the Development fails to produce electricity on a commercial basis to the National Grid then, unless otherwise agreed in writing by the Scottish Ministers and after consultation with the Company and any advisors as required at the discretion of the Scottish Ministers, any such WTG may be deemed by the Scottish Ministers to cease to be required. If so deemed, the WTG (together with any related infrastructure) must, within the period of 12 months from the date of the deeming decision by the Scottish Ministers, be decommissioned and the area of the Site upon which the WTG is located must be reinstated by the Company in accordance with the procedures laid out within the Company's Decommissioning Plan.

Reason: *To ensure that any redundant wind turbine generators are removed from the Site, in the interests of safety, amenity and environmental protection.*

5. **Incident Reporting**

In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent, the Company must provide written notification of the nature and timing of the incident to the Scottish Ministers, including confirmation of remedial measures taken and/ or to be taken to rectify the breach, within 24 hours of the incident occurring.

Reason: *To keep the Scottish Ministers informed of any such incidents which may be in the public interest.*

6. **Implementation in accordance with approved plans and requirements of this consent**

Except as otherwise required by the terms of this consent and its associated deemed planning permission, the Development must be constructed and operated in

accordance with the Application and the Environmental Statement submitted by the Company on 19th October 2016 and any other documentation lodged in support of the Application.

Reason: *To ensure that the Development is carried out in accordance with the approved details.*

7. **Transportation for site inspections**

As far as reasonably practicable, the Company must, on being given reasonable notice by the Scottish Ministers (of at least 72 hours), provide transportation to and from the Site for any persons authorised by the Scottish Ministers to inspect the Site.

Reason: *To ensure access to the Site for the purpose of inspecting compliance with this Consent.*

8. **Construction Programme**

The Company must, no later than 6 months prior to the Commencement of the Development, or at such a time as agreed with the Scottish Ministers, submit a Construction Programme ("CoP"), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with the SNH, MCA, NLB, SEPA, THC and OIC and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

The CoP must set out, but not be limited to, the following:

a) the proposed date for Commencement of Development;
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 Development infrastructure;
d) contingency planning for poor weather or other unforeseen delays; and
e) the scheduled date for Final Commissioning of the Development.

The Company must, prior to the Commencement of the Development, provide a copy of the final CoP, and any subsequent revisions as agreed by the Scottish Ministers, to the Defence Geographic Centre ("DGC").

Reason: *To confirm the timing and programming of construction.*

9. **Offshore Construction Method Statement**

The Company must, no later than 6 months prior to the Commencement of the Development, or at such a time as agreed with the Scottish Ministers, submit an Offshore Construction Method Statement ("OffCMS"), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with SNH, SEPA, THC, OIC, Dounreay Site

Restoration Limited ("DSRL") and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

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

a) the construction procedures and good working practices for installing the Development;
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 Development;
c) details of how the construction related mitigation steps proposed in the ES are to be delivered;
d) a waste management plan for the construction phase of the Development; and
e) continuous monitoring of radioactive particles.

The OffCMS must adhere to the construction methods assessed in the Application and ES. The OffCMS must also, so far as is reasonably practicable, be consistent with the Design Statement ("DS"), the Offshore Environmental Management Plan ("OffEMP"), the Vessel Management Plan ("VMP"), the Navigational Safety Plan ("NSP"), and conditions contained within Marine Licences 06178/17/0 and 06174/17/0.

Reason: *To ensure the appropriate construction management of the Development, taking into account mitigation measures to protect the environment and other users of the marine area.*

10. **Development Specification and Layout Plan**

The Company must, no later than 6 months prior to the Commencement of the Development, or at such a time as agreed with the Scottish Ministers, submit a Design Specification and Layout Plan ("DSLP"), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with SNH, SEPA, MoD, CAA, MCA, NLB, NATS, MCC, THC and OIC and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

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

a) a plan showing the location of the floating platform (subject to any required micro-siting), including WTG identification/numbering, seabed conditions, bathymetry, confirmed anchor and mooring system for the platform and any key constraints recorded on the Site;
b) a list of latitude and longitude coordinates accurate to three decimal places of minutes of arc for each anchor point. This should also be provided as a Geographic Information System ("GIS") shapefile using the World Geodetic System 1984 ("WGS84") format;
c) a table or diagram of each WTG dimensions including – height to blade tip (measured above Lowest Astronomical Tide ("LAT")) to the highest point,

height to hub (measured above LAT to the centreline of the generator shaft), rotor diameter and maximum rotation speed;
d) the generating capacity of each WTG used on the Site, and a confirmed generating capacity for the Site overall;
e) the finishes for each WTG (and in accordance with conditions contained within Marine Licences 06178/17/0 and 06174/17/0); and
f) the length and proposed arrangements on the seabed of the anchor and mooring system.

Reason: *To confirm the final Development specification and layout.*

11. **Design Statement**

The Company must, no later than 6 months prior to the Commencement of the Development, or at such a time as agreed with the Scottish Ministers, submit a Design Statement ("DS"), in writing, to the Scottish Ministers. The DS, which must be signed off by at least one qualified landscape architect as instructed by the Company prior to submission to the Scottish Ministers, must include representative wind farm visualisations from key viewpoints as agreed with the Scottish Ministers, based upon the final DSLP as approved by the Scottish Ministers as updated or amended. The Company must provide the DS, for information only, to SNH, THC, OIC, HES, MCC and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

Reason: *To ensure that the Development is carried out in accordance with the approved details, and to inform interested parties of the final wind farm scheme proposed to be built.*

12. **Offshore Environmental Management Plan**

The Company must, no later than 6 months prior to the Commencement of the Development, or at such a time as agreed with the Scottish Ministers, submit an Offshore Environmental Management Plan ("OffEMP"), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with SNH, SEPA, and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

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

a) all construction as required to be undertaken before the Final Commissioning of the Development; and
b) the operational lifespan of the Development from the Final Commissioning of the Development until the cessation of electricity generation. (in accordance with conditions contained within Marine Licences 06178/17/0 and 06174/17/0).

The OffEMP must be in accordance with the ES insofar as it relates to environmental management measures. The OffEMP 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 Development. It must address, but not be limited to, the following over-arching requirements for environmental management during construction:

a) mitigation measures to prevent significant adverse impacts to environmental interests, as identified in the ES and pre-consent and pre-construction monitoring or data collection, and include the relevant parts of the Offshore and Onshore CMS;
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, re-use and recycle should be encouraged;
e) the reporting mechanisms that will be used to provide the Scottish Ministers and relevant stakeholders (including, but not limited to, SNH and SEPA) with regular updates on construction activity, including any environmental issues that have been encountered and how these have been addressed.

The Company must, no later than 3 months prior to the Final Commissioning of the Development, or at such a time as agreed with the Scottish Ministers, submit an updated OffEMP to cover the operation and maintenance activities for the Development, in writing to the Scottish Ministers for their written approval. Such approval may be given only following consultation with SNH, SEPA and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers. The OffEMP must be regularly reviewed by the Company and the Scottish Ministers, at intervals agreed by the Scottish Ministers. Reviews must include, but not be limited to, the reviews of updated information on construction methods and operations of the Development and updated working practices.

The OffEMP must be informed, so far as is reasonably practicable, by the baseline monitoring or data collection undertaken as part of the Application and the Project Environmental Monitoring Programme ("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 ES, or as otherwise agreed, are fully implemented.*

13. **Vessel Management Plan**

The Company must, no later than 6 months prior to the Commencement of the Development, or at such a time as agreed with the Scottish Ministers, submit a Vessel Management Plan ("VMP"), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with SNH, WDC and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

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

a) the number, types and specification of vessels required;
b) how vessel management will be co-ordinated, particularly during construction but also during operation; and
c) location of working port(s), how often vessels will be required to transit between port(s) and the Site and indicative vessel transit corridors proposed to be used during construction and operation of the Development;

The confirmed individual vessel details must be notified to the Scottish Ministers, in writing, no later than 14 days prior to the Commencement of the Development, or at such a time as agreed with the Scottish Ministers, and thereafter, any changes to the details supplied must be notified to the Scottish Ministers, as soon as practicable, prior to any such change being implemented in the construction or operation of the Development.

The VMP must, so far as is reasonably practicable, be consistent with the OffCMS, the OffEMP, the PEMP, the NSP and conditions contained within Marine Licences 06178/17/0 and 06174/17/0.

Reason: *To mitigate disturbance or impact to marine mammals and birds.*

14. **Offshore Operation and Maintenance Programme**

The Company must, no later than 6 months prior to the Commissioning of the first WTG or at such a time as agreed with the Scottish Ministers, submit an Offshore Operation and Maintenance Programme ("OffOMP"), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with SNH, THC, OIC, SEPA, and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

The OffOMP must set out the procedures and good working practices for operations and the maintenance of the WTGs and substructures of the Development.

The OffOMP must, so far as is reasonably practicable, be consistent with the OffEMP, the PEMP, the VMP, the NSP,) and conditions contained within Marine Licences 06178/17/0 and 06174/17/0.

Reason: *To safeguard environmental interests during operation and maintenance of the offshore generating station.*

15. **Navigational Safety Plan**

The Company must, no later than 6 months prior to the Commencement of the Development or at such a time as agreed with the Scottish Ministers, submit a Navigational Safety Plan ("NSP"), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish

Ministers with MCA, NLB, RYA Scotland and any other navigational advisors or organisations as may be required at the discretion of the Scottish Ministers.

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

a) navigational safety measures;
b) construction exclusion zones;
c) notice(s) to Mariners and Radio Navigation Warnings;
d) anchoring areas;
e) temporary construction lighting and marking;
f) emergency response and coordination arrangements (ERCoP) for the construction, operation and decommissioning phases of the Development and to be in accordance conditioned in Marine Licences 06178/17/0 and 06174/17/0; and
g) buoyage.

The Company 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 543 ("MGN 543"), and its annexes that may be appropriate to the Development, or any other relevant document which may supersede said guidance prior to approval of the NSP.

Reason: *To mitigate the navigational risk to other legitimate users of the sea.*

16. **Project Environmental Monitoring Programme**

The Company must, no later than 6 months prior to the Commencement of the Development or at such a time as agreed with the Scottish Ministers, submit a Project Environmental Monitoring Programme ("PEMP"), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with SNH, RSPB Scotland, WDC and any other ecological advisors or organisations as required at the discretion of the Scottish Ministers. The PEMP must be in accordance with the Application and the ES as it relates to environmental monitoring.

The PEMP must set out measures by which the Company must monitor the environmental impacts of the whole Development, including offshore and onshore works. Monitoring is required throughout the lifespan of the Development where this is deemed necessary by the Scottish Ministers. Lifespan in this context includes pre-construction, construction, operational and decommissioning phases.

The Scottish Ministers must approve all initial methodologies for the above monitoring, in writing.

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 Development. Monitoring may also serve the purpose of verifying key predictions in the Application and the ES. In the event that further potential adverse environmental effects are identified, for which no predictions were made in the Application or the

ES, the Scottish Ministers may require the Company to undertake additional monitoring.

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

a) pre-construction, construction (if considered appropriate by the Scottish Ministers) and post-construction monitoring or data collection as relevant in terms of the ES and any subsequent monitoring or data collection for:

    i) birds. This should include, but not be limited to, a detailed entanglement monitoring and reporting schedule, as well as a post-consent monitoring plan for bird strike;
    ii) marine mammals. This should include, but not be limited to, a detailed entanglement monitoring and reporting schedule, particularly of load on the moorings from derelict fishing gear; and
    iii) onshore impacts of the development; and

b) the participation and contribution to be made by the Company to data collection or monitoring of wider strategic relevance, identified and agreed by the Scottish Ministers, and may include but not necessarily be limited to:

    i) the density and distribution of seabirds within the site-specific survey area; and
    ii) the behaviour and interaction of marine mammals and seabirds around the platform and turbine structures.

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

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

The Company must submit written reports and associated raw data of such monitoring or data collection to the Scottish Ministers at timescales to be determined by them. Subject to any legal restrictions regarding the treatment of the information, the results will be made publicly available by the Scottish Ministers or by such other party appointed at their discretion.

***Reason**: To ensure that appropriate and effective monitoring of the impacts of the Development is undertaken.*

17. **Fisheries Management and Mitigation Strategy**

The Company must, no later than 6 months prior to the Commencement of the Development or at such a time as agreed with the Scottish Ministers, submit a Fisheries Management and Mitigation Strategy ("FMMS"), in writing, to the Scottish Ministers for their written approval.

In order to inform the production of the FMMS, the Company must monitor or collect data as relevant and agreed with Scottish Ministers in terms of the ES and any subsequent monitoring or data collection for:

a) the impacts on the adjacent coastline;
b) the effects on local fishermen; and
c) the effects on other users of the sea.

As part of any finalised FMMS, the Company must produce and implement a mitigation strategy for each commercial fishery that can prove to the Scottish Ministers that they would be adversely affected by the Development. The Company must implement all mitigation measures committed to be carried out by the Company within the FMMS. Any contractors, or sub-contractors working for the Company, must co-operate with the fishing industry to ensure the effective implementation of the FMMS.

Reason: *To mitigate the impact on commercial fishermen.*

18. **Environmental Clerk of Works**

Prior to the Commencement of the Development, the Company must at its own expense, and with the approval of the Scottish Ministers in consultation with SNH and SEPA, appoint an independent Onshore and Offshore Environmental Clerk of Works ("ECoW"). The ECoW must be appointed in time to review and approve the draft version of the first plan or programme submitted under this consent to the Scottish Ministers, and remain in post until agreed by the Scottish Ministers. The terms of appointment must be approved by Scottish Ministers, in consultation with SNH, SEPA and THC.

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

a) quality assurance of final draft versions of all plans and programmes required under this consent;
b) responsibility for the monitoring and compliance of the consent conditions and the environmental mitigation measures;
c) provision of on-going advice and guidance to the Company in relation to achieving compliance with consent conditions, including but not limited to the conditions relating to the Offshore and Onshore CMS, the Offshore and Onshore EMP, the CaP, the PEMP, and the VMP;
d) provision of reports on point c) above to the Scottish Ministers at timescales to be determined by the Scottish Ministers;

e) inducting and toolbox talks to onsite construction teams on environmental policy and procedures and keeping a record of these;
f) monitoring that the Development is being constructed according to the plans and this consent, the Application and ES and compliance with all relevant 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 Scottish Ministers.

Reason: *To ensure effective monitoring of, and compliance with, the environmental mitigation and management measures associated with the Development.*

19. **Fisheries Liaison Officer**

Prior to the Commencement of the Development, a Fisheries Liaison Officer ("FLO") must be appointed by the Company and approved, in writing, by the Scottish Ministers following consultation with SFF, the East Coast and Northern Inshore Fisheries Group and any other advisors or organisations as may be required at the discretion of Scottish Ministers. The FLO must be appointed by the Company for the period from Commencement of the Development until the Final Commissioning of the Development. The identity and credentials of the FLO must be included in the OffEMP. The FLO must establish and maintain effective communications between the Company, any contractors or sub-contractors, fishermen and other users of the sea during the construction of the Development, and ensure compliance with best practice guidelines whilst doing so.

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

a) establishing and maintaining effective communications between the Company, any contractors or sub-contractors, fishermen and other users of the sea concerning the overall project and any amendments to the OffCMS and site environmental procedures;
b) the provision of information relating to the safe operation of fishing activity at the site of the Development; 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.*

20. **SpORRAn (Scottish Offshore Renewables Research Framework)**

The Company must, to the satisfaction of the Scottish Ministers, participate in the monitoring requirements as laid out in the Scottish Offshore Renewables Research Framework (SpORRAn), in particular for diadromous fish. The extent and nature of the Company's participation must be agreed by the Scottish Ministers.

Reason: *To ensure effective monitoring of the effects on migratory fish at a local level.*

21. **Fisheries Working Group**

The Company must participate in a Fisheries Working Group ("FWG"), or any successor group, formed to facilitate commercial fisheries dialogue, for the purposes of defining and finalising a Fishing Management and Mitigation Strategy ("FMMS"). The FWG must adhere to the working group protocol.

Reason: *To mitigate the impacts on commercial fishermen*

22. **Scottish Strategic Marine Environment Group**

The Company must participate in any Scottish Strategic Marine Environment Group (SSMEG) established by the Scottish Ministers for the purposes of advising the Scottish Ministers on research, monitoring and mitigation programmes for, but not limited to, ornithology, diadromous fish, marine mammals and commercial fish.

Reason: *To ensure effective environmental monitoring and mitigation is undertaken at a National scale.*

PART 2 – CONDITIONS OF THE DIRECTION FOR THE GRANT OF DEEMED PLANNING PERMISSION

The Direction given in accordance with section 57(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) is subject to the following conditions:

23. **Commencement of Development**

The Commencement of the Development must be no later than 5 years from the date of this consent, or in substitution such other period as the Scottish Ministers may hereafter direct in writing. Written confirmation of the intended date of Commencement of Development must be provided to the Local Authority and Scottish Ministers no later than one calendar month before that date.

Reason: *In accordance with s.58 of the Town and Country Planning (Scotland) Act 1997. To avoid uncertainty and ensure that the consent is implemented within a reasonable period.*

24. **Implementation in accordance with approved plans and requirements of this consent**

Except as otherwise required under this consent and deemed planning permission, the Development must be undertaken in accordance with the Application, the ES, and other documentation lodged in support of the application.

Reason*: To ensure that the Development is carried out in accordance with the approved details.*

25. **Design of sub-station and ancillary development**

There must be no Commencement of Development before final details of the external appearance, dimensions, and surface materials of the onshore substation building, associated compounds, any construction compound, welfare facilities, any areas of hard standing, turning areas, access tracks, material stockpiles, oil storage, boundary fencing, walls external lighting, parking areas landscaping, screening, bunding paths and any other ancillary elements of the development, have been submitted to, and approved in writing by, the Scottish Ministers. Such approval may only be granted following consultation by the Scottish Ministers with the THC and HES and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers. All onshore Development must be constructed in accordance with the approved details.

Reason*: To ensure that the environmental impacts of the sub-station forming part of the Development conform to the impacts assessed in the environmental statement and in the interests of the visual amenity of the area.*

26. **Construction Hours**

Construction work which is audible from any noise-sensitive receptor must only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 16.00 on Saturdays, with no construction work permitted to take place on a Sunday or on national public holidays. Outwith these specified hours, only works relating to turbine erection, maintenance, emergency works, dust suppression, and the testing of plant and equipment, may take place without the need for prior approval to be given, in writing, by the planning authority (THC). Other works may take place outwith these specified hours, but only following prior approval being given, in writing, by the Local Planning Authority (THC).

HGV movements to, and from, the site (excluding abnormal loads) during construction of the wind farm is only permitted between 07.00 to 19.00 Monday to Friday, and 07.00 to 16.00 on Saturdays, with no HGV movements (other than abnormal loads) permitted to, or from, the site taking place on a Sunday or on national public holidays.

***Reason**: In the interests of local amenity.*

27. **Traffic and Transportation Plan**

The Company must, at least 6 months prior to the Commencement of the Development submit a Traffic and Transportation Plan ("TTP"), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with THC and any such other advisors as may be required at the discretion of the Scottish Ministers. The TTP must set out a mitigation strategy for the impact of road based traffic and transportation associated with the construction of the Development. The Development must be constructed and operated in accordance with the approved TTP.

***Reason**: To maintain the free flow and safety of the Trunk Road network*

28. **Noise**

The rating level of noise emissions from the wind farm, including the application of any tonal penalty when determined in accordance with best practice as set out in ETSU-R-97 and the Institute of Acoustics Good Practice Guide and Supplementary Guidance Notes, must not exceed 35dB LA90 10 minute at wind speeds up to and including 10m/s at the curtilage of any dwelling which is lawfully existing or has planning permission at the date of this permission. Noise limits expressed in dB LA90, 10 minute as a function of the standardised wind speed (mls) at 10 metre height as determined at the turbine location averaged over 10 minute periods.

Within 21 days from receipt of a written request from the Local Planning Authority (THC) following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator must, at its expense, employ a consultant approved by the Local Planning Authority to assess the level of noise

emissions from the wind farm at the complainant's property. The written request from the Local Planning Authority must set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Local Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.

The assessment of the rating level of noise emissions must be undertaken by an independent noise consultant in accordance with best practice as set out in ETSU-R-97 and the Institute of Acoustics Good Practice Guide and Supplementary Guidance Notes over the relevant range of conditions.

The wind farm operator must provide to the Local Planning Authority the independent consultant's assessment of the rating level of noise immissions within 2 months of the date of the written request of the Local Planning Authority. All data collected for the purposes of undertaking the compliance measurements must be made available to the Planning Authority on request.

Time periods above may only be extended following written agreement by the Local Planning Authority.

If the assessment concludes that noise from the wind farm is not complying with the limit stipulated in condition 1, the wind farm must cease operation immediately until a mitigation scheme, approved in writing by the Local Planning Authority, is implemented.

Noise arising from within the operational land of the sub-station when measured and/or calculated as an Leq, 5 min, in the 100Hz one third octave frequency band must not exceed 30 dB, at noise sensitive premises.

The Rating Level of noise arising from the use of plant, machinery or equipment installed or operated within the operational land of the sub-station, hereby permitted, must not exceed the current background noise levels at noise sensitive premises. The Rating Level must be calculated in accordance with BS 4142: 2014: Methods for rating and assessing industrial and commercial sound.

Reason: *To ensure that noise levels can be measured to assess whether or not agreed noise limits have been breached and where such noise limits have been breached, suitable mitigation is undertaken. To protect nearby residents from undue noise and disturbance. To ensure that noise limits are not exceeded and to enable prompt investigation of complaints.*

29. **Onshore Construction Method Statement**

The Company must, no later than 6 months prior to the Commencement of the Development, or at such a time as agreed with the Scottish Ministers, submit an Onshore Construction Method Statement (“OnCMS”), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with SNH, SEPA, THC and any such other

advisors or organisations as may be required at the discretion of the Scottish Ministers.

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

a) the construction procedures and good working practices for installing the Development;
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 Development;
c) details of how the construction related mitigation steps proposed in the ES are to be delivered; and
d) a waste management plan for the construction phase of the Development.

The OnCMS must adhere to the construction methods assessed in the Application and in the ES. The OnCMS must also, so far as is reasonably practicable, be consistent with the DS and all other onshore Plans.

***Reason**: To mitigate any potential impacts on the environmental interests during construction and operation.*

30. **Onshore Environmental Management Plan**

The Company must, no later than 6 months or at such a time as agreed with the Scottish Ministers, prior to the Commencement of the Onshore Works, submit an Onshore Construction Environmental Management Plan ("OnEMP"), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with THC, SEPA, SNH, DSRL and any such other advisors as may be required at the discretion of the Scottish Ministers.

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

a) 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;
b) continuous monitoring of radioactive particles;
c) acknowledgement that the Company have registered with SEPA to receive flood alerts for the Caithness area;
d) a Flood Risk Assessment;
e) environmental management - identification of mechanisms to ensure subcontractors are well controlled and are aware of relevant environmental issues. This must include details of on-going monitoring and emergency procedures / pollution response plans and the provision of spillage kits;
f) a pollution prevention and control method statement, including arrangements for the storage and management of oil, fuel and chemicals on the site which must comply with the Water Environment (Oil Storage) (Scotland) Regulations 2006;

g) a drainage management strategy, demonstrating the use of sustainable drainage systems (SUDs) in line with Scottish Planning Policy for all surface water runoff or details of the means whereby surface water will discharge directly to coastal waters;
h) sewage disposal and treatment in the event of permanent toilet facilities or kitchen which are connected to the public sewer;
i) temporary site illumination; and
j) timing of works.

***Reason**: To mitigate any potential impacts on the environmental interests during construction and operation.*

31. **Onshore Cable Plan**

The Company must, no later than 6 months prior to the Commencement of the Development, or at such a time as agreed with the Scottish Ministers submit an Onshore Cable Plan ("OnCaP"), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with SNH, SEPA, and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers. The OnCaP must be in accordance with the ES.

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

a) the location and cable laying techniques for the cables;
b) the results of monitoring or data collection work (including geophysical, geotechnical information) to help inform cable routing;
c) technical specification of cables;
d) a burial risk assessment to ascertain burial depths and, where necessary, alternative protection measures;
e) methodologies for surveys and monitoring of the cables through the operational life of the wind farm where protection of cables is deployed; and
f) methodologies for cable inspection with measures to address and report to the Scottish Ministers any exposure of cables.

Any consented cable protection works must ensure that safe navigation is not compromised.

***Reason:** To mitigate any potential impacts on the environmental interests during construction and operation.*

ANNEX 3

DEFINITIONS AND GLOSSARY OF TERMS

In this decision letter and in Annex 1 and 2:

"AA" means Appropriate Assessment;

"BDMPS" means Biologically Defined Minimum Population Size

"cSAC" means candidate Special Areas of Conservation

"Commencement of the Development" means the date on which the first vessel arrives on Site to begin construction;

"Commissioning of the first WTG" means the date on which electricity is first exported to the grid network on a commercial basis from the first WTG forming part of the Development;

"Date of Final Commissioning" means the earlier of (i) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the Development erected in accordance with this consent; or (ii) the date falling [eighteen] months from the date of First Commissioning.

"Date of First Commissioning" means the date on which electricity is first exported to the grid network on a commercial basis from any of the wind turbines forming part of the Development;

"dSPA" means Draft Special Protection Area;

"ECoW" means Environmental Clerk of Works;

"EIA" means Environmental Impact Assessment;

"EPS" means European Protected Species;

"ERCoP" means Emergency Response & Cooperation Plan, which is conditioned in the Marine Licences

"ES" means the Environmental Statement submitted to the Scottish Ministers by the Company on 19th October 2016 as part of the Application defined above;

"Final Commissioning of the Development" means the date on which all wind turbine generators forming the Development have supplied electricity on a commercial basis to the National Grid, or such earlier date as the Scottish Ministers deem the Development to be complete;

"Final Commissioning of the first Wind Turbine Generator" means the date on which electricity is first exported to the grid network on a commercial basis from any of the wind turbines forming part of the development, or such earlier date as the Scottish

Ministers deem the first WTG to be complete;

“FLO” means Fisheries Liaison Officer;

“GIS” means Geographic Information System;

“GWh” means gigawatt hour

“HRA” means Habitats Regulations Appraisal;

“IALA Recommendation O-139” means the International Association of Marine Aids to Navigation and Lighthouse Authorities Recommendation O-139 On the Marking of Man Made Offshore Structures;

“LCCAs” means Local Coastal Character Areas;

“LAT” means Lowest Astronomical Tide;

“LSE” means Likely Significant Effect;

“MGN 543” means the maritime and Coastguard Agency Marine Guidance Note 543 Offshore Renewable Energy Installations (OREI’s) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues;

“MHWS” means Mean High Water Spring tides;

“MLWS” means Mean Low Water Spring tides;

“MMO” means Marine Mammal Observer;

“MW” means megawatt;

“nm” means nautical miles;

“NSA” means National Scenic Area;

“Planning Authorities” means The Highland Council and Orkney Island Council;

“PMFs” means Priority Marine Features;

“PLI” means Public Local Inquiry;

“pSPA” means proposed Special Protection Area;

“SAC” means Special Area of Conservation;

“Scottish marine area” has the meaning given in Section 1(1) of the 2010 Act;

“SPA” means Special Protection Area;

"the Application" means the Application letters and Environmental Statement submitted to the Scottish Ministers, by the Company on 19th October 2016 for consent under section 36 of the Electricity Act for the construction and operation of The Dounreay Trì Floating Wind Demonstration Project Approximately 6 km Offshore From Dounreay, Caithness;

"the Company" means Dounreay Trì Ltd (Company Number SC515140) having its registered office at Ostgotagatan 100, SE-166 64, Stockholm, Sweden;

"the Development" means The Dounreay Trì Floating Wind Demonstration Project Approximately 6 km Offshore From Dounreay, Caithness., as described in **Annex 1** of this letter authorised by this consent and deemed planning permission;

"the Site" means the area outlined in red in the **Figures 1 - 3** attached to this consent;

"the Works" means all works relating to the Development below MLWS;

"WGS84" means the World Geodetic System 1984;

"WTG" means wind turbine generator;

Organisations and Companies

"CAA" means The Civil Aviation Authority;

"DECC" means Department for Energy and Climate Change;

"DGC" means Defence Geographic Centre;

"DSRL" means Dounreay Site Restoration Limited;

"HES" means Historic Environment Scotland;

"IHO" means International Hydrographic Organisation;

"MCA" means The Maritime and Coastguard Agency;

"MCC" means Melvich Community Council;

"MoD" means Ministry of Defence;

"MS-LOT" means Marine Scotland Licensing Operations Team;

"MSS" means Marine Scotland Science;

"NATS" means National Air Traffic Service (En Route) Plc;

"NLB" means The Northern Lighthouse Board;

“OIC” means Orkney Islands Council;

“PFYC” means Pentland Firth Yacht Club;

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

“RYA Scotland” means Royal Yachting Association Scotland;

“SEPA" means The Scottish Environment Protection Agency;

“SFF” means The Scottish Fishermen’s Federation;

“SM” means Scheduled Monument;

“SNH" means Scottish Natural Heritage;

“THC” means The Highland Council;

“TS” means Transport Scotland;

“UKHO” means United Kingdom Hydrographic Office;

“WDC” means Whale and Dolphin Conservation;

“WLAs” means Wild Land Areas;

Plans and Programmes

“CaP” means Offshore Cable Plan;

“CoP” means Construction Programme;

“DP” means Decommissioning Plan which is conditioned within the Marine Licences;

“DS” means Design Statement;

“DSLP” means Development Specification and Layout Plan;

“EMP” means Environmental Management Plan;

“FDIAS” means Flood Drainage Impact Assessment and Strategy;

“FLOWW” means Fishing Liaison with Offshore Wind and Wet Renewables Group;

“FMMS” means Fisheries Management and Mitigation Strategy;

“FMP” means Fisheries Management Plan;

"FRA" means Flood Risk Assessment;

"LMP" means Lighting and Marking Plan which is conditioned in the Wind Farm Marine Licence;

"NSP" means Navigational Safety Plan;

"OffCMS" means Offshore Construction Method Statement;

"OffEMP" means Offshore Environmental Management Plan;

"OffO&MP" means Offshore Operation and Maintenance Programme;

"OnCaP" means Onshore Cable Plan;

"OnCMS" means Onshore Construction Method Statement;

"OnEMP" means Environmental Management Plan and covers points raised with requests for a Construction Environmental Management Plan;

"OnEMP" means Onshore Environmental Management Plan;

"OnO&MP" means Onshore Operation and Maintenance Programme;

"PAD" means Protocol for archaeological discoveries;

"PEMP" means Project Environmental Monitoring Programme;

"PMS" means Particle Monitoring Strategy;

"TPV" means Third Party Verification;

"TTP" means Traffic and Transportation Plan;

"VMP" means Vessel Management Plan;

"WSI" means Written Scheme of Investigation;

Legislation and Statutory Documents

"Birds Directive" means Council Directive 79/409/EEC of 2nd April 1979 on the conservation of wild birds, as amended and as codified by Directive 2009/147/EC of the European Parliament and of the Council of 30th November 2009;

"Habitats Directive" means Council Directive 92/43/EEC of 21st May 1992 on the conservation of natural habitats and wild fauna and flora (as amended);

"HwLDP" means The Highland-wide Local Development Plan;

“NMP” means the National Marine Plan;

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

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

“SPP” means Scottish Planning Policy;

“the 1990 Regulations” means the Electricity (Applications for Consent) Regulations 1990 (as amended);

“the 1994 Regulations” means the Conservation (Natural Habitats, & c.) Regulations 1994 (as amended);

“the 1997 Act” means the Town and Country Planning (Scotland) Act 1997 (as amended);

“the 1999 Order” means The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999;

“the 2000 Regulations” means the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (as amended);

“the 2007 Regulations” means the ”The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended);

“the 2009 Act” means the Marine and Coastal Access Act 2009 (as amended);

“the 2010 Act” means Marine (Scotland) Act 2010 (as amended);

“the 2010 Regulations” means The Conservation of Habitats and Species Regulations 2010;

“the EIA Regulations” means Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000;

“the Electricity Act” means the Electricity Act 1989 (as amended);

“the Habitats Regulations” means the Conservation (Natural Habitats, & c.) Regulations 1994 (as amended) and the Offshore Marine Conservation (Natural Habitats, & c.) Regulations 2007 (as amended) and the Conservation of Habitats and Species Regulations 2010;

“the Statement“ means The UK Marine Policy Statement 2011.

marinescotland

Scottish Government
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APPLICATION FOR CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989, A DECLARATION UNDER SECTION 36A OF THE ELECTRICITY ACT 1989 AND APPLICATIONS FOR TWO MARINE LICENCES UNDER THE MARINE (SCOTLAND) ACT 2010 FOR THE CONSTRUCTION AND OPERATION OF THE DOUNREAY TRÌ FLOATING WIND DEMONSTRATION PROJECT.

MARINE SCOTLAND'S ASSESSMENT OF THE PROJECT'S IMPLICATIONS FOR DESIGNATED SPECIAL AREAS OF CONSERVATION ("SACs"), SPECIAL PROTECTION AREAS ("SPAs") AND PROPOSED SPECIAL PROTECTION AREAS ("pSPAs") IN VIEW OF THE SITES' CONSERVATION OBJECTIVES.

SITE DETAILS: DOUNREAY TRÌ LIMITED – A TWO TURBINE FLOATING WIND DEMONSTRATION PROJECT APPROXIMATELY 6 KM OFF DOUNREAY, CAITHNESS

FILE REF: 028/OW/HDTP

Name	Assessor or Approver	Date
Tracy McCollin	Assessor	6 March 2017
Gayle Holland	Approver	7 March 2017

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FILE REF: 028/OW/HDTP

SECTION 1: BACKGROUND

1 Appropriate Assessment ("AA") Conclusion

MS-LOT concludes that, based on the content of the following assessment, the proposed Dounreay Trì Floating Wind Demonstration Project will not on its own, or in combination with other projects, adversely affect the integrity of the SPAs listed in section 9.2.

2 Introduction

2.1 This is a record of the appropriate assessment ("AA") undertaken in regards to the Dounreay Trì floating wind demonstration project ("the Development") to develop a two turbine floating windfarm 6 km off the coast of Dounreay in Caithness. This assessment is required to be undertaken under Council Directive 92/43/EEC on the conservation of natural habitats of wild fauna and flora ("the Habitats Directive") under a process referred to as Habitats Regulations Appraisal ("HRA").

2.2 As the Development will be within 12 nautical miles ("nm") of the mainland this assessment is undertaken under the following regulations (referred to in this assessment as "the Regulations"):

- Regulation 61 of the Conservation of Habitats and Species Regulations 2010 ("the 2010 Regulations"), which applies to the Electricity Act 1989 section 36 consent regime; and
- Regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994 ("the 1994 Regulations"), which applies to the marine licensing regime.

2.3 The AA has been undertaken by the Marine Scotland Licensing Operations Team ("MS-LOT") on behalf of the Scottish Ministers.

3 Background to including assessment of new marine SPAs

3.1 Scottish Ministers, as the 'competent authority' under the Regulations, must be satisfied that the proposal will not adversely affect the integrity of any European site (special areas of conservation ("SACs") and special protection areas ("SPAs")) (known as Natura sites) either alone or in combination with other plans or projects before authorisations can be given for the proposal.

3.2 In Scotland, Scottish Ministers are currently in the process of identifying a suite of new marine SPAs. In 2014 advice was received from the statutory nature conservation bodies ("SNCBs") on the sites most suitable for designation and at this stage they became draft SPAs ("dSPAs"). Once Scottish Ministers have agreed the case for a dSPA to be the subject of a public consultation, the proposal is given the status of proposed SPA ("pSPA") and receives policy protection, which effectively puts such sites in the same position as designated sites, from that point forward until a decision on classification of the site is made. This policy protection for pSPAs is provided by Scottish Planning Policy (paragraph 210), the UK Marine Policy Statement (paragraph 3.1.3) and the National Marine Plan for Scotland (paragraph 4.45).

3.3 It is not a legal requirement under the Habitats Directive or relevant domestic regulations for this assessment to assess the implications of the proposal on the pSPAs. The assessment includes an assessment of implications upon those sites in accordance with domestic policy. Scottish Ministers are also required to consider article 4(4) of Council Directive 2009/147/EC on the conservation of wild birds ("the Birds Directive") in respect of the pSPAs. The considerations under article 4(4) of the Birds Directive are separate and distinct to the considerations which must be assessed under this Habitats Directive assessment but they are, nevertheless, set out within this assessment (see paragraph 11.3.1).

3.4 In accordance with regulation 50 of the 1994 Regulations and regulation 63 of the 2010 Regulations the Scottish Ministers will, as soon as reasonably practicable following the formal designation of the pSPAs, review their decisions if the proposal is authorised. This will include a supplementary AA being undertaken concerning the implications of the proposal on the sites as designated (as they are currently pSPAs their conservation objectives are currently in draft form, their conservation objectives are finalised at the point the sites are designated).

4 Details of proposed operation

4.1 The Development will consist of a demonstration floating offshore wind farm called Dounreay Trì which shall consist of:

- A two turbine offshore wind farm with an installed capacity of between 8 to 12 megawatts (MW), at least 6km off Dounreay, Caithness;
- A single, 33kV, export cable to bring the power to shore immediately to the west of the Dounreay Restoration Site fence line; and

- Subject to a Connection Offer from Scottish and Southern Energy Power Distribution (SSEPD), the associated onshore electrical infrastructure to connect the Project at, or near, the existing substation at Dounreay.

4.2 The main offshore components will include:

- Two offshore wind turbines;
- A floating foundation;
- Mooring clump weight;
- Mooring chain and/or steel lines;
- Drag embedment anchors;
- One cable to bring the renewable electricity ashore; and
- Scour protection for the anchors and the export cable, where necessary.

4.3 A full description of the project can be found in chapter 4 of the Environmental Statement ("ES") for the Development.

5 Consultation

5.1 The application for the Development, which included an ES and information to inform a HRA was submitted on 17 October 2016. MS-LOT accepted the application and sent the documents to the SNCBs and other relevant consultees on 19 October 2016 for a 42 day consultation period.

5.2 Detailed comments in relation to HRA were received from Scottish Natural Heritage ("SNH"), the Royal Society for the Protection of Birds ("RSPB"), and Whale and Dolphin Conservation ("WDC"). The Caithness District Salmon Fishery Board ("Caithness DSFB") and the Northern District Salmon Fishery Board ("Northern DSFB") responded and noted they had no specific comments and that the ES deals adequately with the potential issues. Marine Scotland Science ("MSS") provided scientific advice on specific aspects of the ES.

6 Main issues raised during consultation

6.1 The main points raised by each of the respondents that included HRA specific comments are summarised below:

SNH

6.1.1.1 Do not object to the Development and concluded that the Development is unlikely to have a significant effect on the qualifying interests of the following SACs:

- Faray and Holm of Faray SAC and North Rona SAC – grey seals
- Sanday SAC – harbour seals
- River Thurso SAC, River Borgie SAC and River Naver SAC – Atlantic salmon

- River Borgie SAC and River Naver SAC – Atlantic salmon and freshwater pearl mussel

6.1.1.2 For the SPAs SNH concluded that for some species there would be no likely significant effect ("LSE") but for others there would be a LSE. For those qualifying interests for which there was a LSE SNH provided further advice to inform an AA.

RSPB

6.1.1.3 Supported the Development subject to conditions in relation to implementing an environmental monitoring programme being part of any consents that may be granted. Noted that, while supporting the Development, they did have some concerns regarding the marine ornithological assessment and provided detailed comments that they felt should be addressed in any proposals for future projects or phases.

WDC

6.1.1.4 Agreed with the ES and that the level of impact on marine mammals in the area would be negligible as long as pile driving is not required. Noted they would like to be involved in developing a vessel management plan and would like to see marine mammal observers ("MMO") used at all times during the construction and deployment of the wind farm floating platform and cable laying. WDC agreed with the overall conclusion of the HRA that there will be no adverse effect on the SACs.

7 Advice received from Marine Scotland Science

MSS

7.1.1.1 Agreed with the list of impacts assessed and that the lack of pile driving presents a much reduced risk of acoustic injury or disturbance to marine mammals. Noted that the Inner Hebrides and the Minches candidate SAC ("cSAC") should have been included in the assessment although considered it unlikely that the Development will have an adverse effect on the cSAC. Agreed a vessel management plan should be used during construction and recommended that a similar plan is used during the operation of the wind farm.

7.1.1.2 Recommended that the number of vessels and their duration on site is reduced as much as reasonably possible and that the operation of the vessels is in line with the Scottish marine wildlife watching code.

7.1.1.3 MSS agreed that the risk of entanglement for marine mammals in the vertical clump lines (mooring lines attached to the floating turbine structure and the clump weights) is very small as is the risk of entanglement for seals and cetaceans in the catenary lines. Noted that it is difficult to quantify the risk of derelict fishing gear becoming entangled in the mooring lines and thereby having the potential to entangle marine mammals. MSS recommended a monitoring programme is put in place to inspect the mooring lines for such debris and, where possible, remove it and that

details of the frequency of inspections and their outcome are reported to MS-LOT.

7.1.1.4 For diadromous fish MSS agreed with the conclusion of no LSE. MSS noted there needed to be further discussion with the developer, MSS and MS-LOT on what level of engagement with the National Research and Monitoring Strategy for Diadromous Fish would be appropriate for this Development.

SECTION 2: INFORMATION ON NATURA SITES

8 Information about the Natura sites considered in this assessment

8.1 This section provides links to the SNH Interactive ("SNHi") website where the background information on the sites being considered in this assessment is available. The qualifying interests for each site are listed as are the conservation objectives for each. Maps are provided in Figure 1 and Figure 2 showing the location of the Development, the Natura sites listed in paragraph 8.2 and the other developments considered for the in-combination assessment.

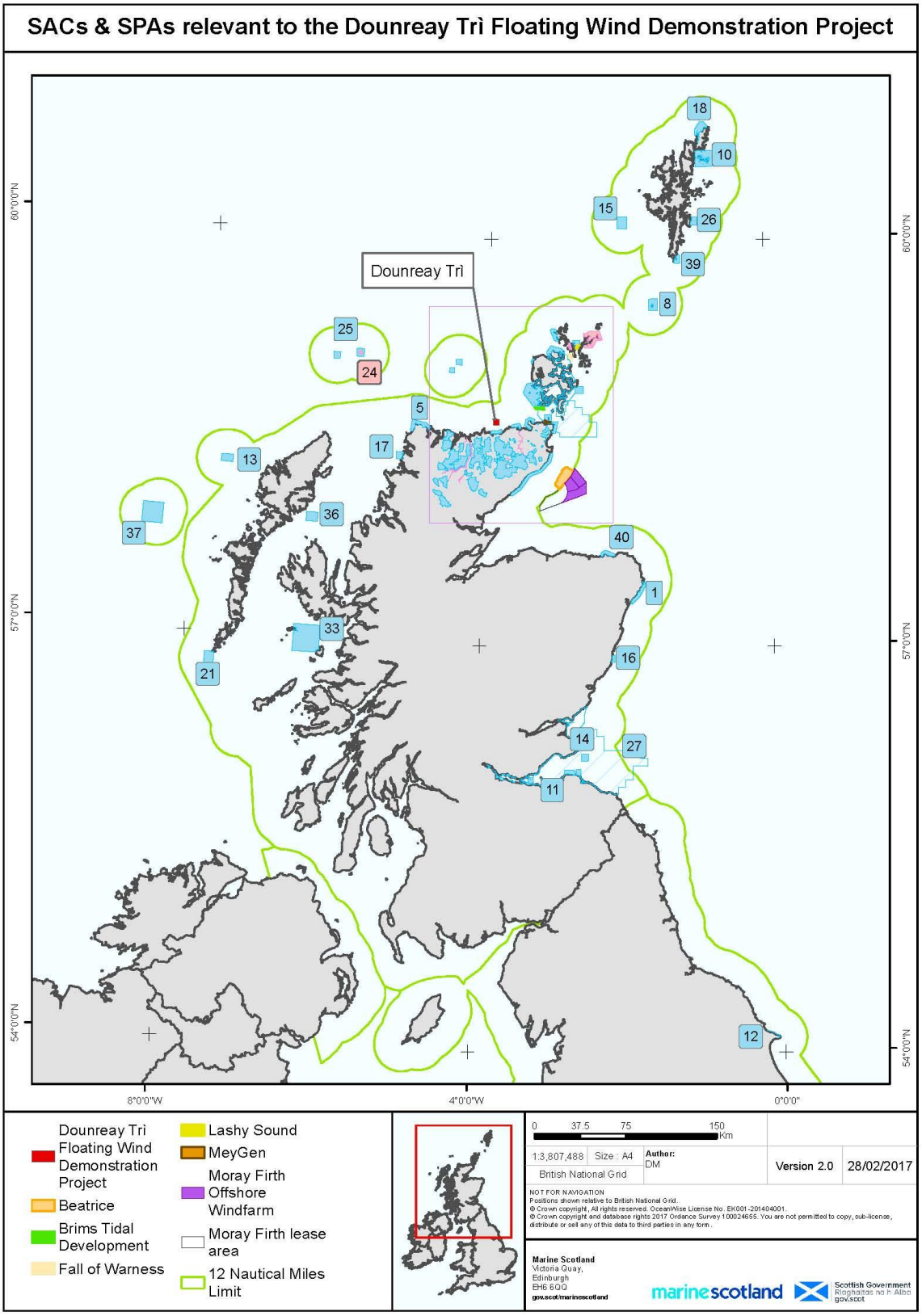


Figure 1 SACs and SPAs relevant to the Dounreay Trì Floating Wind Demonstration Project (see Figure 2 for detail in inset).

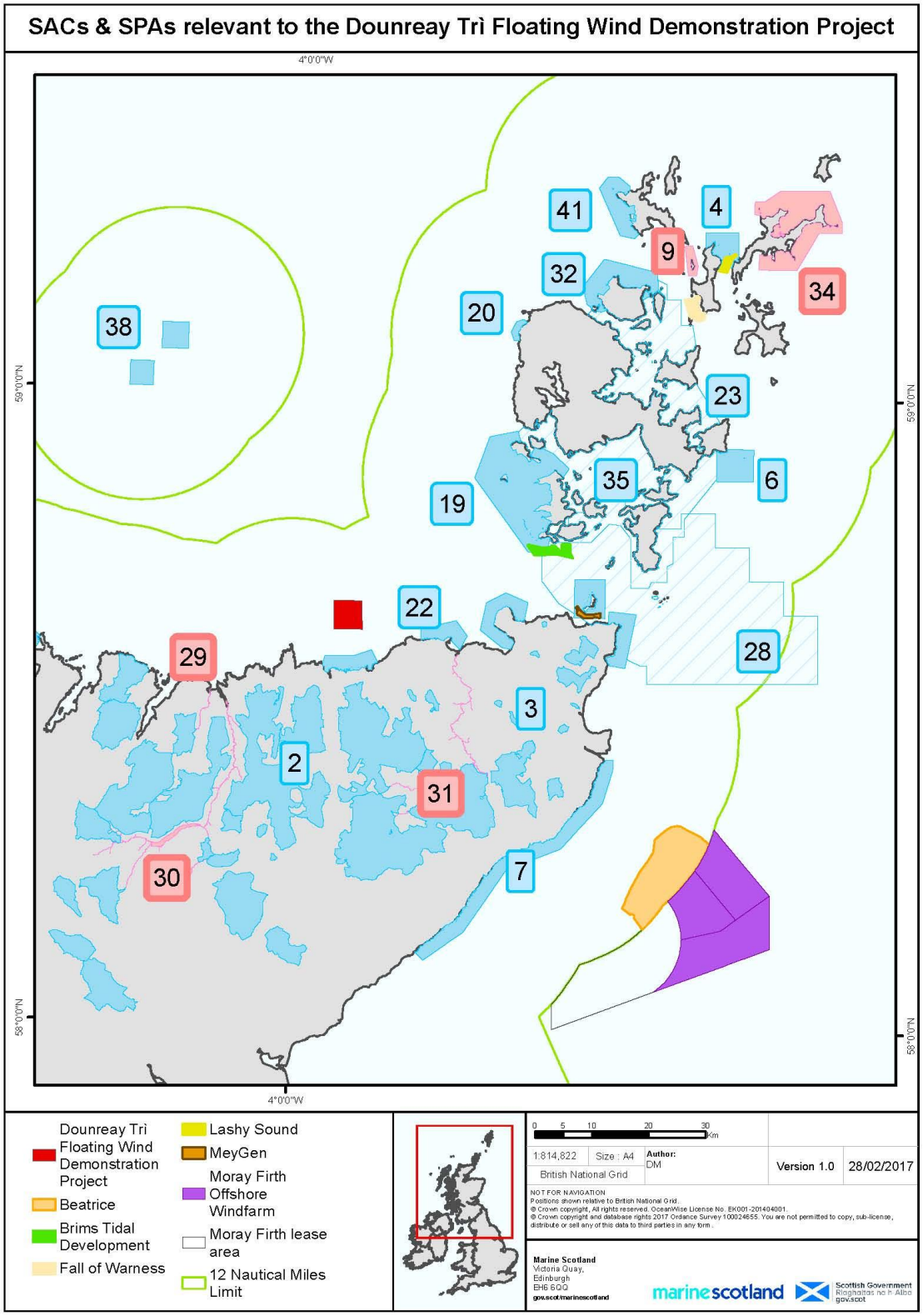


Figure 2 SACs and SPAs relevant to the Dounreay Trì Floating Wind Demonstration Project. Detail from inset in Figure 1.

8.2 Name of Natura sites and current status

1. Buchan Ness to Collieston Coast SPA
   http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8473
2. Caithness Lochs SPA
   http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8477
3. Caithness and Sutherland Peatlands SPA
   http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8476
4. Calf of Eday SPA
   http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8478
5. Cape Wrath SPA
   http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8481
6. Copinsay SPA
   http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8485
7. East Caithness Cliffs SPA
   http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8492
8. Fair Isle SPA
   http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8496
9. Faray and Holm of Faray SAC
   http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8254
10. Fetlar SPA
    http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8498
11. Firth of Forth SPA
    http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8499
12. Flamborough Head and Bempton Cliffs SPA
    http://jncc.defra.gov.uk/pdf/SPA/UK9006101.pdf
13. Flannan Isles SPA
    http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8502
14. Forth Islands SPA
    http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8500
15. Foula SPA
    http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8504
16. Fowlsheugh SPA
    http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8505
17. Handa SPA
    http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8511
18. Hermaness, Saxa Vord and Valla Field SPA
    http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8512
19. Hoy SPA
    http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8513
20. Marwick Head SPA
    http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8544
21. Mingulay and Berneray SPA
    http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8545
22. North Caithness Cliffs SPA
    http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8554
23. North Orkney pSPA
    http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=10481
24. North Rona SAC
    http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8340

25. North Rona and Sula Sgeir SPA
http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8558
26. Noss SPA
http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8561
27. Outer Firth of Forth and St Andrews Bay Complex pSPA
http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=10478
28. Pentland Firth pSPA
http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=10509
29. River Borgie SAC
http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8356
30. River Naver SAC
http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8362
31. River Thurso SAC
http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8368
32. Rousay SPA
http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8573
33. Rum SPA
http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8574
34. Sanday SAC
http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8372
35. Scapa Flow pSPA
http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=10510
36. Shiant Isles SPA
http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8575
37. St Kilda SPA
http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8580
38. Sule Skerry and Sule Stack SPA
http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8581
39. Sumburgh Head SPA
http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8582
40. Troup, Pennan and Lion's Heads SPA
http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8587
41. West Westray SPA
http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8589

8.3 European qualifying interests

Table 1 Qualifying interests for each site

1. Buchan Ness and Collieston SPA
- Fulmar (*Fulmarus glacialis*), breeding
- Guillemot (*Uria aalge*), breeding
- Herring gull (*Larus argentatus*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Seabird assemblage, breeding
- Shag (*Phalacrocorax aristotelis*), breeding

2. Caithness Lochs SPA
- Greenland white-fronted goose (*Anser albifrons flavirostris*), non-breeding

- Greylag goose (*Anser anser*), non-breeding
- Whooper swan (*Cygnus cygnus*), non-breeding

3. Caithness and Sutherland Peatlands SPA
- Black-throated diver (*Gavia arctica*), breeding
- Common scoter (*Melanitta nigra*), breeding
- Dunlin (*Calidris alpina schinzii*), breeding
- Golden eagle (*Aquila chrysaetos*), breeding
- Golden plover (*Pluvialis apricaria*), breeding
- Greenshank (*Tringa nebularia*), breeding
- Hen harrier (*Circus cyaneus*), breeding
- Merlin (*Falco columbarius*), breeding
- Red-throated diver (*Gavia stellata*), breeding
- Short-eared owl (*Asio flammeus*), breeding
- Wigeon (*Anas penelope*), breeding
- Wood sandpiper (*Tringa glareola*), breeding

4. Calf of Eday SPA
- Cormorant (*Phalacrocorax carbo*), breeding
- Fulmar (*Fulmarus glacialis*), breeding
- Great black-backed gull (*Larus marinus*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Seabird assemblage, breeding

5. Cape Wrath SPA
- Fulmar (*Fulmarus glacialis*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Puffin (*Fratercula arctica*), breeding
- Razorbill (*Alca torda*), breeding
- Seabird assemblage, breeding

6. Copinsay SPA
- Fulmar (*Fulmarus glacialis*), breeding
- Great black-backed gull (*Larus marinus*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Seabird assemblage, breeding

7. East Caithness Cliffs SPA
- Cormorant (*Phalacrocorax carbo*), breeding
- Fulmar (*Fulmarus glacialis*), breeding
- Great black-backed gull (*Larus marinus*), breeding
- Guillemot (*Uria aalge*), breeding
- Herring gull (*Larus argentatus*), breeding
- Kittiwake (*Rissa tridactyla*), breeding

- Peregrine (*Falco peregrinus*), breeding
- Puffin (*Fratercula arctica*), breeding
- Razorbill (*Alca torda*), breeding
- Seabird assemblage, breeding
- Shag (*Phalacrocorax aristotelis*), breeding

8. Fair Isle SPA

- Arctic skua (*Stercorarius parasiticus*), breeding
- Arctic tern (*Sterna paradisaea*), breeding
- Fair Isle wren (*Troglodytes troglodytes fridariensis*), breeding
- Fulmar (*Fulmarus glacialis*), breeding
- Gannet (*Morus bassanus*), breeding
- Great skua (*Stercorarius skua*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Puffin (*Fratercula arctica*), breeding
- Razorbill (*Alca torda*), breeding
- Seabird assemblage, breeding
- Shag (*Phalacrocorax aristotelis*), breeding

9. Faray and Holm of Faray SAC

- Grey seal (*Halichoerus grypus*)

10. Fetlar SPA

- Arctic skua (*Stercorarius parasiticus*), breeding
- Arctic tern (*Sterna paradisaea*), breeding
- Dunlin (*Calidris alpina schinzii*), breeding
- Fulmar (*Fulmarus glacialis*), breeding
- Great skua (*Stercorarius skua*), breeding
- Red-necked phalarope (*Phalaropus lobatus*), breeding
- Seabird assemblage, breeding
- Whimbrel (*Numenius phaeopus*), breeding

11. Firth of Forth SPA

- Bar-tailed godwit (*Limosa lapponica*), non-breeding
- Common scoter (*Melanitta nigra*), non-breeding
- Cormorant (*Phalacrocorax carbo*), non-breeding
- Curlew (*Numenius arquata*), non-breeding
- Dunlin (*Calidris alpina alpina*), non-breeding
- Eider (*Somateria mollissima*), non-breeding
- Golden plover (*Pluvialis apricaria*), non-breeding
- Goldeneye (*Bucephala clangula*), non-breeding
- Great crested grebe (*Podiceps cristatus*), non-breeding
- Grey plover (*Pluvialis squatarola*), non-breeding
- Knot (*Calidris canutus*), non-breeding
- Lapwing (*Vanellus vanellus*), non-breeding
- Long-tailed duck (*Clangula hyemalis*), non-breeding

- Mallard (*Anas platyrhynchos*), non-breeding
- Oystercatcher (*Haematopus ostralegus*), non-breeding
- Pink-footed goose (*Anser brachyrhynchus*), non-breeding
- Red-breasted merganser (*Mergus serrator*), non-breeding
- Red-throated diver (*Gavia stellata*), non-breeding
- Redshank (*Tringa totanus*), non-breeding
- Ringed plover (*Charadrius hiaticula*), non-breeding
- Sandwich tern (*Sterna sandvicensis*), passage
- Scaup (*Aythya marila*), non-breeding
- Shelduck (*Tadorna tadorna*), non-breeding
- Slavonian grebe (*Podiceps auritus*), non-breeding
- Turnstone (*Arenaria interpres*), non-breeding
- Velvet scoter (*Melanitta fusca*), non-breeding
- Waterfowl assemblage, non-breeding
- Wigeon (*Anas penelope*), non-breeding

12. Flamborough Head and Bempton Cliffs SPA

- Gannet (*Morus bassanus*)
- Guillemot (*Uria aalge*), breeding
- Herring gull (*Larus argentatus*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Puffin (*Fratercula arctica*), breeding
- Razorbill (*Alca torda*), breeding

13. Flannan Isles SPA

- Fulmar (*Fulmarus glacialis*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Leach's petrel (*Oceanodroma leucorhoa*), breeding
- Puffin (*Fratercula arctica*), breeding
- Razorbill (*Alca torda*), breeding
- Seabird assemblage, breeding

14. Forth Islands SPA

- Arctic tern (*Sterna paradisaea*), breeding
- Common tern (*Sterna hirundo*), breeding
- Cormorant (*Phalacrocorax carbo*), breeding
- Fulmar (*Fulmarus glacialis*), breeding
- Gannet (*Morus bassanus*), breeding
- Guillemot (*Uria aalge*), breeding
- Herring gull (*Larus argentatus*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Lesser black-backed gull (*Larus fuscus*), breeding
- Puffin (*Fratercula arctica*), breeding
- Razorbill (*Alca torda*), breeding
- Roseate tern (*Sterna dougallii*), breeding
- Sandwich tern (*Sterna sandvicensis*), breeding

- Seabird assemblage, breeding
- Shag (*Phalacrocorax aristotelis*), breeding

15. Foula SPA
- Arctic skua (*Stercorarius parasiticus*), breeding
- Arctic tern (*Sterna paradisaea*), breeding
- Fulmar (*Fulmarus glacialis*), breeding
- Great skua (*Stercorarius skua*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Leach's petrel (*Oceanodroma leucorhoa*), breeding
- Puffin (*Fratercula arctica*), breeding
- Razorbill (*Alca torda*), breeding
- Red-throated diver (*Gavia stellata*), breeding
- Seabird assemblage, breeding
- Shag (*Phalacrocorax aristotelis*), breeding

16. Fowlsheugh SPA
- Fulmar (*Fulmarus glacialis*), breeding
- Guillemot (*Uria aalge*), breeding
- Herring gull (*Larus argentatus*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Razorbill (*Alca torda*), breeding
- Seabird assemblage, breeding

17. Handa SPA
- Fulmar (*Fulmarus glacialis*), breeding
- Great skua (*Stercorarius skua*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Razorbill (*Alca torda*), breeding
- Seabird assemblage, breeding

18. Hermaness, Saxa Vord and Valla Field SPA
- Fulmar (*Fulmarus glacialis*), breeding
- Gannet (*Morus bassanus*), breeding
- Great skua (*Stercorarius skua*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Puffin (*Fratercula arctica*), breeding
- Red-throated diver (*Gavia stellata*), breeding
- Seabird assemblage, breeding
- Shag (*Phalacrocorax aristotelis*), breeding

19. Hoy SPA
- Arctic skua (*Stercorarius parasiticus*), breeding
- Fulmar (*Fulmarus glacialis),* breeding

- Great black-backed gull (*Larus marinus*), breeding
- Great skua (*Stercorarius skua*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Peregrine (*Falco peregrinus*), breeding
- Puffin (*Fratercula arctica*), breeding
- Red-throated diver (*Gavia stellata*), breeding
- Seabird assemblage, breeding

20. Marwick Head SPA
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Seabird assemblage, breeding

21. Mingulay and Berneray SPA
- Fulmar (*Fulmarus glacialis*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Puffin (*Fratercula arctica*), breeding
- Razorbill (*Alca torda*), breeding
- Seabird assemblage, breeding
- Shag (*Phalacrocorax aristotelis*), breeding

22. North Caithness Cliffs SPA
- Fulmar (*Fulmarus glacialis*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Peregrine (*Falco peregrinus*), breeding
- Puffin (*Fratercula arctica*), breeding
- Razorbill (*Alca torda*), breeding
- Seabird assemblage, breeding

23. North Orkney pSPA
- Red-throated diver (*Gavia stellata*), breeding
- Eider (*Somateria mollissima*), non-breeding
- Great northern diver (*Gavia immer*), non-breeding
- Long-tailed duck (*Clangula hyemalis*), non-breeding
- Red-breasted merganser (*Mergus serrator)*, non-breeding
- Shag (*Phalacrocorax aristotelis*), non-breeding
- Slavonian grebe (*Podiceps auritus*), non-breeding
- Velvet scoter (*Melanitta fusca*), non-breeding

24. North Rona SAC
- Grey seal (*Halichoerus grypus*)
- Reefs
- Sea caves
- Vegetated sea cliffs

25. North Rona and Sula Sgeir SPA

- Fulmar (*Fulmarus glacialis*), breeding
- Gannet (*Morus bassanus*), breeding
- Great black-backed gull (*Larus marinus*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Leach's petrel (*Oceanodroma leucorhoa*), breeding
- Puffin (*Fratercula arctica*), breeding
- Razorbill (*Alca torda*), breeding
- Seabird assemblage, breeding
- Storm petrel (*Hydrobates pelagicus*), breeding

26. Noss SPA

- Fulmar (*Fulmarus glacialis*), breeding
- Gannet (*Morus bassanus*), breeding
- Great skua (*Stercorarius skua*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Puffin (*Fratercula arctica*), breeding
- Seabird assemblage, breeding

27. Outer Firth of Forth and St Andrews Bay Complex pSPA

- Arctic tern (*Sterna paradisaea*), breeding
- Common tern (*Sterna hirundo*), breeding
- Gannet (*Morus bassanus*), breeding
- Guillemot (*Uria aalge*), breeding
- Herring gull (*Larus argentatus*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Manx shearwater (*Puffinus puffinus*), breeding
- Puffin (*Fratercula arctica*), breeding
- Seabird assemblage, breeding
- Shag (*Phalacrocorax aristotelis*), breeding
- Black-headed gull (*Chroicocephalus ridibundus*), non-breeding
- Common gull (*Larus canus*), non-breeding
- Common scoter (*Melanitta nigra*), non-breeding
- Eider (*Somateria mollissima*), non-breeding
- Goldeneye (*Bucephala clangula*), non-breeding
- Guillemot (*Uria aalge*), non-breeding
- Herring gull (*Larus argentatus*), non-breeding
- Kittiwake (*Rissa tridactyla*), non-breeding
- Little gull (*Hydrocoloeus minutus*), non-breeding
- Long-tailed duck (*Clangula hyemalis*), non-breeding
- Razorbill (*Alca torda*), non-breeding
- Red-breasted merganser (*Mergus serrator*), non-breeding
- Red-throated diver (*Gavia stellata*), non-breeding
- Seabird assemblage, non-breeding

- Shag (*Phalacrocorax aristotelis*), non-breeding
- Slavonian grebe (*Podiceps auritus*), non-breeding
- Velvet scoter (*Melanitta fusca*), non-breeding
- Waterfowl assemblage, non-breeding

28. Pentland Firth pSPA
- Arctic skua (*Stercorarius parasiticus*), breeding
- Arctic tern (*Sterna paradisaea*), breeding
- Guillemot (*Uria aalge*), breeding
- Seabird assemblage, breeding

29. River Borgie SAC
- Atlantic salmon (*Salmo salar*)
- Freshwater pearl mussel (*Margaritifera margaritifera*)
- Otter (*Lutra lutra*)

30. River Naver SAC
- Atlantic salmon (*Salmo salar*)
- Freshwater pearl mussel (*Margaritifera margaritifera*)

31. River Thurso SAC
- Atlantic salmon (*Salmo salar*)

32. Rousay SPA
- Arctic skua (*Stercorarius parasiticus*), breeding
- Arctic tern (*Sterna paradisaea*), breeding
- Fulmar (*Fulmarus glacialis*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Seabird assemblage, breeding

33. Rum SPA
- Golden eagle (*Aquila chrysaetos*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Manx shearwater (*Puffinus puffinus*), breeding
- Red-throated diver (*Gavia stellata*), breeding
- Seabird assemblage, breeding

34. Sanday SAC
- Harbour seal (*Phoca vitulina*)
- Intertidal mudflats and sandflats
- Reefs
- Subtidal sandbanks

35. Scapa Flow pSPA
- Red-throated diver (*Gavia stellata*), breeding
- Black-throated diver (*Gavia arctica*), non-breeding

- Eider (*Somateria mollissima*), non-breeding
- Goldeneye (*Bucephala clangula*), non-breeding
- Great northern diver (*Gavia immer*), non-breeding
- Long-tailed duck (*Clangula hyemalis*), non-breeding
- Red-breasted merganser (*Mergus serrator*), non-breeding
- Shag (*Phalacrocorax aristotelis*), non-breeding
- Slavonian grebe (*Podiceps auritus*), non-breeding

36. St Kilda SPA

- Fulmar (*Fulmarus glacialis*), breeding
- Gannet (*Morus bassanus*), breeding
- Great skua (*Stercorarius skua*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Leach's petrel (*Oceanodroma leucorhoa*), breeding
- Manx shearwater (*Puffinus puffinus*), breeding
- Puffin (*Fratercula arctica*), breeding
- Razorbill (*Alca torda*), breeding
- Seabird assemblage, breeding
- Storm petrel (*Hydrobates pelagicus*), breeding

37. Sule Skerry and Sule Stack SPA

- Gannet (*Morus bassanus*), breeding
- Guillemot (*Uria aalge*), breeding
- Leach's petrel (*Oceanodroma leucorhoa*), breeding
- Puffin (*Fratercula arctica*), breeding
- Seabird assemblage, breeding
- Shag (*Phalacrocorax aristotelis*), breeding
- Storm petrel (*Hydrobates pelagicus*), breeding

38. Sumburgh Head SPA

- Arctic tern (*Sterna paradisaea*), breeding
- Fulmar (*Fulmarus glacialis*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Seabird assemblage, breeding

39. Shiant Isles SPA

- Fulmar (*Fulmarus glacialis*), breeding
- Greenland Barnacle goose (*Branta leucopsis*), non-breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Puffin (*Fratercula arctica*), breeding
- Razorbill (*Alca torda*), breeding
- Seabird assemblage, breeding
- Shag (*Phalacrocorax aristotelis*), breeding

40. Troup, Pennan and Lion's Heads SPA

- Fulmar (*Fulmarus glacialis*), breeding
- Guillemot (*Uria aalge*), breeding
- Herring gull (*Larus argentatus*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Razorbill (*Alca torda*), breeding
- Seabird assemblage, breeding

41. West Westray SPA

- Arctic skua (*Stercorarius parasiticus*), breeding
- Arctic tern (*Sterna paradisaea*), breeding
- Fulmar (*Fulmarus glacialis*), breeding
- Guillemot (*Uria aalge*), breeding
- Kittiwake (*Rissa tridactyla*), breeding
- Razorbill (*Alca torda*), breeding
- Seabird assemblage, breeding

8.4 The HRA report also considered two Ramsar sites (Caithness Lochs, and Caithness and Sutherland Peatlands). The species designated at these sites are also designated at the SPA sites with one exception. Greylag goose is listed as a Ramsar species at the Caithness and Sutherland Peatlands site for the breeding season but not as an SPA species for this site. However, the HRA report includes an assessment of this species.

8.5 Conservation objectives for qualifying interests

Table 2 Conservation objectives for grey seals and harbour seals

To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and

To ensure for the qualifying species that the following are maintained in the long term:

- Population of the species as a viable component of the site
- Distribution of the species within site
- Distribution and extent of habitats supporting the species
- Structure, function and supporting processes of habitats supporting the species
- No significant disturbance of the species

Table 3 Conservation objectives for Atlantic salmon, freshwater pearl mussel and otter

To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to

achieving favourable conservation status for each of the qualifying features; and

To ensure for the qualifying species that the following are maintained in the long term:

- Population of the species, including range of genetic types for salmon, as a viable component of the site
- Distribution of the species within site
- Distribution and extent of habitats supporting the species
- Structure, function and supporting processes of habitats supporting the species
- No significant disturbance of the species
- Distribution and viability of freshwater pearl mussel host species
- Structure, function and supporting processes of habitats supporting freshwater pearl mussel host species

Table 4 Conservation objectives for SPA species

To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and

To ensure for the qualifying species that the following are maintained in the long term:

- Population of the species as a viable component of the site
- Distribution of the species within site
- Distribution and extent of habitats supporting the species
- Structure, function and supporting processes of habitats supporting the species
- No significant disturbance of the species

Table 5 Draft conservation objectives for pSPAs

To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, subject to natural change, thus ensuring that the integrity of the site is maintained in the long-term and it continues to make an appropriate contribution to achieving the aims of the Birds Directive for each of the qualifying species.

This contribution will be achieved through delivering the following objectives for each of the site's qualifying features:
a) Avoid significant mortality, injury and disturbance of the qualifying features, so that the distribution of the species and ability to use the site are maintained in the long-term;
b) To maintain the habitats and food resources of the qualifying features in favourable condition.

SECTION 3: ASSESSMENT IN RELATION TO REGULATION 48 OF THE CONSERVATION (NATURAL HABITATS, &C.) REGULATIONS 1994 AND REGULATION 61 OF THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010

9 Habitats Regulations Appraisal

9.1 Is the operation directly connected with or necessary to conservation management of the site?

The operation is not connected with or necessary to conservation management of the site.

9.2 Is the operation likely to have a significant effect on the qualifying interest?

SNH provided advice on 16 December 2016 regarding whether there was likely to be a LSE on the qualifying interests of the SPAs and SACs identified in Table 1 above. A LSE was identified for the following qualifying interests/sites. The reason for this was that the Project area is within foraging range, the species were recorded during site surveys and are sensitive to potential impacts, notably collision risk or displacement.

In assessing whether the Development is likely to have a significant effect on the qualifying features, SNH considered the following:

- Whether the project area overlaps with the species foraging range during the breeding season or wintering period
- Whether the project lies within an identified migratory path
- Whether a species was observed in the project area during the site characterisation and other relevant surveys
- Whether a species is sensitive to any of the potential impacts identified
- Whether or not there is potential for any of the conservation objectives to be undermined

Common guillemot (breeding)

North Caithness Cliffs SPA
Hoy SPA
East Caithness Cliffs SPA
Sule Skerry and Sule Stack SPA
Cape Wrath SPA
Marwick Head SPA
Rousay SPA
Copinsay SPA
Handa SPA
West Westray SPA
Calf of Eday SPA
North Rona and Sula Sgeir SPA
Troup, Pennan and Lion`s Heads SPA

Razorbill (breeding)

North Caithness Cliffs SPA
East Caithness Cliffs SPA
West Westray SPA
Cape Wrath SPA
Handa SPA

Puffin (breeding)

North Caithness Cliffs SPA
Hoy SPA
East Caithness Cliffs SPA
Sule Skerry and Sule Stack SPA
Cape Wrath SPA
West Westray SPA
North Rona and Sula Sgeir SPA

Northern fulmar (breeding)

North Caithness Cliffs SPA
Hoy SPA
East Caithness Cliffs SPA
Cape Wrath SPA
Rousay SPA
Copinsay SPA
Handa SPA
West Westray SPA
Calf of Eday SPA
North Rona and Sula Sgeir SPA
Troup, Pennan and Lion`s Heads SPA
Fair Isle SPA
Shiant Isles SPA
Buchan Ness to Collieston Coast SPA
Foula SPA
Sumburgh Head SPA
Fowlsheugh SPA
Flannan Isles SPA
Noss SPA
Fetlar SPA
Firth of Forth SPA
St Kilda SPA
Forth Islands SPA
Hermaness, Saxa Vord and Valla Field SPA
Mingulay and Berneray SPA
Flamborough Head and Bempton Cliffs SPA

Northern gannet (breeding)

Sule Skerry and Sule Stack SPA

North Rona and Sula Sgeir SPA
Fair Isle SPA
Noss SPA
St Kilda SPA
Forth Islands SPA
Hermaness, Saxa Vord and Valla Field SPA

Great skua (breeding)

Hoy SPA
Handa SPA

Kittiwake (breeding)

North Caithness Cliffs SPA
Hoy SPA
East Caithness Cliffs SPA
Marwick Head SPA
Copinsay SPA
Handa SPA
West Westray SPA
Calf of Eday SPA

Great black-backed gull (breeding)

Hoy SPA
East Caithness Cliffs SPA

Herring gull (breeding)

East Caithness Cliffs SPA

9.3 As the Development is likely to have a significant effect on the above seabird qualifying interests Marine Scotland is required to carry out an AA in view of the conservation objectives for the qualifying features. For all the other SPA qualifying interests listed in Table 1 SNH advised there was no LSE due to low numbers recorded or low proportion recorded flying at collision risk height or collision risk mortality is not significant; displacement is not a significant impact or project area is not considered important for these species.

9.4 For the one Ramsar species that is not also designated as a SPA qualifying interest (greylag goose) the HRA report concluded there was no LSE.

9.5 MS-LOT agree with the SNH advice provided in relation to the SPAs and Ramsar sites and have carried out an AA for the relevant qualifying interests where a LSE was identified (See section 10).

9.6 SNH advised no LSE on the Atlantic salmon qualifying interest for the River Thurso, River Naver and River Borgie SACs. SNH also advise that there is no LSE on the freshwater pearl mussel qualifying interest of the River Naver SAC and River Borgie SAC.

9.7 MS-LOT agree with the SNH advice provided in relation to Atlantic salmon and freshwater pearl mussel, therefore none of the SACs detailed in Table 1 are considered further in this assessment.

9.8 MSS note that consideration had not been given to the proximity of the development site to the Inner Hebrides and the Minches cSAC for harbour porpoise and this should have been included in the HRA report. However, SNH confirmed to MS-LOT (email dated 28 February 2017) that they did not consider there was any connectivity between this site and the Development.

10 Appropriate Assessment of the implications for the site in view of the site's conservation objectives.

10.1 The following assessment is based upon the information in the HRA report provided by the developer and the advice received from SNH. This assessment includes the seabird qualifying features that are listed above where a LSE of the Development has been identified.

10.2 Of the conservation objectives ("COs") relevant to the SPAs in Table 4, MS-LOT consider that the CO relating to the population of the species as a viable component of the site is the key objective. As the potential effects of the Development occur outside of the SPAs being considered any disturbance to the qualifying interests is only considered to be significant if it could undermine the conservation objectives relating to population viability. The Development will not affect the distribution of species within the SPAs, the distribution and extent of habitats supporting the species or the structure, function and supporting processes of habitats supporting the species.

10.3 The HRA report listed the following developments that were considered for in-combination effects. Since the report was submitted some of the projects are no longer going ahead and this is noted below:

- The Orkney-Caithness interconnector cable – did not go ahead as planned, ongoing discussions regarding route
- Dounreay Floating Wind Deployment Centre – not going ahead
- Brims Tidal Array – consultation responses received on ES in 2016
- MeyGen – marine licence and s36 consent authorised, AA carried out for MeyGen taken into consideration in the HRA report for Dounreay Trì
- Lashy Sound Tidal Array – still in pre application phase
- EMEC Fall of Warness tidal test site – a s36 consent is in place and the site is used for ongoing testing of tidal devices, AA carried out for Fall of Warness taken into consideration in the HRA report for Dounreay Trì

SNH's advice on in-combination effects was provided in relation to all the projects listed above.

10.4 The HRA report listed other plans or projects with Crown Estate Agreements for Lease in the Pentland Firth and Orkney Waters that have a theoretical risk of causing an in-combination effect. Since the report was written all but one of these sites, Westray South Tidal Energy project, have relinquished their Agreement for Lease. The HRA report noted that, based on the available information at the time, none of these projects were likely to cause an in-combination effect. MS-LOT agree that the one remaining project with a lease (Westray South Tidal Energy) is unlikely to have an in-combination effect and this has not been considered as part of this AA.

10.5 For some species (Common guillemot, razorbill, puffin and kittiwake) the HRA report considered the potential for in-combination effects with the Beatrice Offshore Windfarm (BOWL), and three Moray Offshore Wind farms (MORL -Telford, Stevenson and McColl), all in the outer Moray Firth.

10.6 BOWL have consent for up to 140 wind turbine generators ("WTGs"), although the design statement recently approved is for 84 WTGs. MORL have consent for a total of 186 WTGs.

10.7 The AAs for these projects (BOWL AA and MORL AA), considered the following European sites and interests:

East Caithness Cliffs SPA
Greater black-backed gull
Herring gull
Atlantic puffin
Common guillemot
Razorbill
Kittiwake
Northern fulmar

North Caithness Cliffs SPA
Atlantic puffin
Common guillemot
Razorbill
Kittiwake
Northern fulmar

Hoy SPA
Atlantic puffin
Great skua

The AAs completed concluded no adverse effect on the integrity of the SPAs. Information on the potential for an in-combination impact of the Development with BOWL and MORL is included below for common guillemot, razorbill, puffin and kittiwake.

10.8 For each of the 9 seabird species for which a LSE was identified for the Dounreay Trì Floating Wind Demonstration Project SNH provided the following information:

10.8.1 **Common guillemot (breeding)**

- North Caithness Cliffs SPA
- Hoy SPA
- East Caithness Cliffs SPA
- Sule Skerry and Sule Stack SPA
- Cape Wrath SPA
- Marwick Head SPA
- Rousay SPA
- Copinsay SPA
- Handa SPA
- West Westray SPA
- Calf of Eday SPA
- North Rona and Sula Sgeir SPA
- Troup, Pennan and Lion`s Heads SPA

10.8.2 During construction, any potential disturbance caused by installation operations or vessels movements will be localised and temporary.

10.8.3 The majority of common guillemots fly below the rotor height. Therefore, it is considered to be at very low risk of any collisions.

10.8.4 Displacement during operation of the wind farm is the key impact for common guillemot. With a 60% displacement level and 100% mortality, it is predicted that 26 common guillemot will be lost from within the development footprint and a 1km radius. All 26 are apportioned to the North Caithness Cliffs SPA. With a population count of 47,000 individuals (Seabird 2000[1]), 0.05% of the population might be affected. Considering the small numbers potentially affected, and the current 'favourable maintained' condition of common guillemot at North Caithness Cliffs SPA, SNH concluded that the conservation objectives of all SPAs with common guillemot will be maintained and there is no adverse impact on site integrity for individual SPAs.

Cumulative / in combination impacts

10.8.5 The HRA report noted the potential for an in-combination impact with BOWL and MORL. The AAs for these projects provided the results of population modelling that indicated that North Caithness Cliffs guillemot population could sustain the additional loss of between 248 and 745 breeding adults and that the in-combination impact of the two wind farms would result in a displacement of 322 birds. MS-LOT concluded no adverse effect on site integrity.

[1] Seabird 2000 in Mitchell, P.I., Ratcliffe, N., Newton, S. and Dunn, T.E. (Eds) (2004) Seabird Populations of Britain and Ireland: Results of the "Seabird 2000" Census 1999-2002. T&AD Poyser (A&C Black). ISBN 0-7136-6901-2

10.8.6 Although these results are from modelling carried out for larger offshore wind farms and may not be directly comparable for this Development the results provide an indication of the level of impact displacement effects may have on guillemots from the North Caithness Cliffs. The potential displacement of 26 birds from the Development is a relatively small proportion of potential in-combination effects.

10.8.7 Overall although there are potential cumulative / in-combination impacts with other marine developments, SNH agree with the HRA report, that there will be no adverse effect on site integrity.

Conclusion

10.8.8 **MS-LOT concludes that the proposal will not adversely affect the site integrity of the above SPAs with respect to common guillemot alone or in combination with other projects.**

10.8.9 **Razorbill (breeding)**

- North Caithness Cliffs SPA
- East Caithness Cliffs SPA
- West Westray SPA
- Cape Wrath SPA
- Handa SPA

10.8.10 During construction, any potential disturbance caused by installation operations or vessels movements will be localised and temporary.

10.8.11 The majority of razorbills fly below the rotor height. Therefore, it is considered to be at very low risk of any collisions.

10.8.12 Displacement during operation of the wind farm is the key impact for razorbill. With a 60% displacement level and 100% mortality, it is predicted that only 2 razorbills will be lost from within the development footprint and a 1km radius. Considering the small numbers potentially affected, SNH concluded that the conservation objectives of all SPAs with razorbill will be maintained and there is no adverse impact on site integrity for individual SPAs.

Cumulative / in combination impacts

10.8.13 The HRA report noted the potential for an in-combination impact with BOWL and MORL. The population modelling undertaken for MORL and BOWL indicated that the North Caithness Cliffs razorbill population could sustain the additional loss of between 15 to 46 breeding adults per year. The in-combination impact of the two wind farms indicated a displacement of 22 birds and MS-LOT concluded no adverse effect on site integrity.

10.8.14 If all two razorbills predicted to be displaced by the Development are breeding adults originating from the North Caithness Cliffs SPA then the number of birds displaced will be very small compared to the breeding population of 1,700 breeding pairs and within the range of the population

modelling and therefore not predicted to cause and adverse effect on site integrity.

10.8.15 Overall although there are potential cumulative / in-combination impacts with other marine developments, SNH agree with the HRA report, that there will be no adverse effect on site integrity.

Conclusion

10.8.16 **MS-LOT concludes that the proposal will not adversely affect the site integrity of the above SPAs with respect to razorbill alone or in combination with other projects.**

10.8.17 **Puffin (breeding)**

- North Caithness Cliffs SPA
- Hoy SPA
- East Caithness Cliffs SPA
- Sule Skerry and Sule Stack SPA
- Cape Wrath SPA
- West Westray SPA
- North Rona and Sula Sgeir SPA

10.8.18 During construction, any potential disturbance caused by installation operations or vessels movements will be localised and temporary.

10.8.19 The majority of puffins fly below the rotor height. Therefore, it is considered to be at very low risk of any collisions.

10.8.20 Displacement during operation of the wind farm is the key impact for puffin. The assessment is based on the peak density of 60.14 birds/km^2 in June. With a 60% displacement level and 100% mortality, it is predicted that 113 will be lost from within the development footprint and a 1km radius. From the 113, 107 are apportioned to the North Caithness Cliffs SPA and 6 apportioned to Sule Skerry and Sule Stack SPA. In the HRA report, it is estimated that from these 107 the number of breeding adults is 64. With a population count of 7,045 breeding pairs (Seabird 2000) for North Caithness Cliffs SPA, this means that 0.45% of the population might be affected. Considering the small numbers that might be affected (even when using the peak June count), the assumed 100% mortality of displaced birds, and the current favourable maintained condition of puffin at North Caithness Cliffs SPA and Sule Skerry and Sule Stack SPA, SNH concluded that the conservation objectives of all SPAs with puffin will be maintained and there is no adverse impact on site integrity for individual SPAs.

Cumulative / in combination impacts

10.8.21 The HRA report noted the potential for an in-combination impact with BOWL and MORL.

10.8.22 Population modelling undertaken for these wind farms indicated that the North Caithness Cliffs SPA adult puffin population could sustain an increase in adult mortality of between 205 and 341 individuals per year and the in-combination impact on adult puffins was estimated to be 137 individuals.

10.8.23 Should all 64 adult puffins predicted to be displaced by the Development not survive then an in-combination effect of 201 adult breeding puffins could occur. This is marginally below the lower level identified as causing a population level effect. However, this is also highly precautionary, as not all displaced puffins will cause an increase in adult mortality. The modelling undertaken for MORL and BOWL indicates that the displacement of 64 puffins could cause an additional 18 breeding adult mortalities per year. For this Development this is approximately equivalent to a mortality of 17% from displacement effects. The potential mortality of 18 puffins in-combination with MORL and BOWL will be below a level predicted to cause a population level effect.

10.8.24 The HRA report notes that the modelling for BOWL and MORL predicts a significantly greater displacement effect than from the Development but that the results provide an indication of the potential impact displacement of puffins from the Development. However, it is recognised that the level of displacement is based on a single peak density, considerably higher than all other counts undertaken at the site during the breeding period. Consequently, this level of displacement is not predicted to occur throughout the breeding period and possible impacts will be significantly lower. Even based on the results from a very high peak density, modelling suggests that the in-combination impact will be below that at which a population level effect will occur.

10.8.25 SNH advised that although there are potential cumulative / in-combination impacts with other marine developments, even with the peak June count used in the assessment, the HRA report indicates that any impacts will be below that at which a population level effect will occur for the North Caithness Cliffs SPA.

Conclusion

10.8.26 **MS-LOT concludes that the proposal will not adversely affect the site integrity of the above SPAs with respect to puffin alone or in combination with other projects.**

10.8.27 **Northern fulmar (breeding)**

- North Caithness Cliffs SPA
- Hoy SPA
- East Caithness Cliffs SPA
- Cape Wrath SPA
- Rousay SPA
- Copinsay SPA
- Handa SPA

- West Westray SPA
- Calf of Eday SPA
- North Rona and Sula Sgeir SPA
- Troup, Pennan and Lion`s Heads SPA
- Fair Isle SPA
- Shiant Isles SPA
- Buchan Ness to Collieston Coast SPA
- Foula SPA
- Sumburgh Head SPA
- Fowlsheugh SPA
- Flannan Isles SPA
- Noss SPA
- Fetlar SPA
- Firth of Forth SPA
- St Kilda SPA
- Forth Islands SPA
- Hermaness, Saxa Vord and Valla Field SPA
- Mingulay and Berneray SPA
- Flamborough Head and Bempton Cliffs SPA

10.8.28 During construction, any potential disturbance caused by installation operations or vessels movements will be localised and temporary.

10.8.29 The majority of northern fulmar fly below the rotor height. Therefore, it is considered to be at low risk of any collisions.

10.8.30 Considering the very extensive foraging range of fulmars, it is unlikely that the loss of such a small area will have a population level effect. SNH concluded that the conservation objectives of all SPAs with fulmar will be maintained and there is no adverse impact on site integrity for individual SPAs.

Cumulative / in combination impacts

Although there are potential cumulative / in-combination impacts with other marine developments, due to the extensive foraging range, any impacts are unlikely to have a population level effect. SNH agree with the HRA report, that there will be no adverse effect on site integrity.

Conclusion

MS-LOT concludes that the proposal will not adversely affect the site integrity of the above SPAs with respect to northern fulmar alone or in combination with other projects.

10.8.31 **Northern gannet (breeding)**

- Sule Skerry and Sule Stack SPA
- North Rona and Sula Sgeir SPA
- Fair Isle SPA

- Noss SPA
- St Kilda SPA
- Forth Islands SPA
- Hermaness, Saxa Vord and Valla Field SPA

10.8.32 Key impacts considered for this qualifying interest are collision risk and displacement. Collision risk modelling predicts no collisions during the breeding or non-breeding seasons.

10.8.33 Northern gannet foraging ranges are extensive and any displacement impacts for this species are considered to be insignificant.

Cumulative / in combination impacts

10.8.34 SNH advised that for northern gannet qualifying interests of relevant SPAs that there will be no adverse effects on integrity as a result of the proposal's effects in combination with other developments.

Conclusion

10.8.35 **MS-LOT concludes that the proposal will not adversely affect the site integrity of the above SPAs with respect to northern gannet alone or in combination with other projects.**

10.8.36 **Great skua (breeding)**

- Hoy SPA
- Handa SPA

10.8.37 Key impacts considered for this qualifying interest are collision risk and displacement. Collision risk modelling predicts no collisions during the breeding or non-breeding seasons.

10.8.38 Great skua foraging ranges are extensive and any displacement impacts for this species are considered to be insignificant.

Cumulative / in combination impacts

SNH advised that for great skua qualifying interests of relevant SPAs that there will be no adverse effects on integrity as a result of the proposal's effects in combination with other developments.

Conclusion

MS-LOT concludes that the proposal will not adversely affect the site integrity of the above SPAs with respect to great skua alone or in combination with other projects.

10.8.39 **Kittiwake (breeding)**

- North Caithness Cliffs SPA
- Hoy SPA
- East Caithness Cliffs SPA
- Marwick Head SPA
- Copinsay SPA
- Handa SPA
- West Westray SPA
- Calf of Eday SPA

10.8.40 Collision risk modelling predicts that 9 kittiwakes will collide with the proposed development during the breeding season. If all 9 mortalities are apportioned to the closest SPA – North Caithness SPA – this is 0.04% of a population of 10,150 breeding pairs (Seabird 2000). Although the condition of kittiwakes at North Caithness Cliffs SPA is unfavourable, it is considered unlikely that the removal of 9 individuals will have a population level effect. This is a worst case scenario, and it is likely that kittiwakes foraging in the proposed development area are not just from North Caithness Cliffs SPA. During the non-breeding season, 6 collisions are predicted. Again, it is considered unlikely that the removal of 6 individuals will have a population level effect even in a worst case scenario that all of these birds were from the North Caithness Cliffs SPA.

10.8.41 For displacement of 40% of kittiwakes, then it is estimated that between zero and ten birds could be at risk should displacement cause mortality. Given the extensive foraging range of kittiwakes, and the loss of such a small area, it is considered unlikely that the mortality level will be high and birds will be able to forage in other suitable areas.

Cumulative / in combination impacts

10.8.42 The HRA report noted the potential for an in-combination impact with BOWL and MORL. The population modelling undertaken for MORL and BOWL indicated that the North Caithness Cliffs kittiwake population could sustain the additional loss of between 117 and 352 breeding adult kittiwakes per year. The in-combination effect of the two wind farms indicated an impact of approximately two birds per year from the North Caithness Cliffs SPA and MS-LOT concluded no adverse effect on site integrity. If all 12 kittiwakes predicted to collide each year with the Development are breeding adults originating from the North Caithness Cliffs SPA, then the number of birds predicted to collide will be significantly below the range the population modelling predict will cause a population level effect.

10.8.43 The HRA report notes that the modelling undertaken for the much larger MORL and BOWL projects may not be directly comparable but the results do provide an indication of the level of impact collision risk impacts may have on the kittiwakes from the North Caithness Cliffs SPA. The predicted number of collisions is significantly below that predicted could cause an

effect by the population model. If the kittiwakes are from other SPAs or from non-SPA colonies then the impacts on the North Caithness Cliffs SPA will be lower.

10.8.44 The breeding population of kittiwakes a the North Caithness Cliffs is 10,150 pairs (20,300 individuals). The loss of 14 kittiwakes in-combination with other developments is not predicted to cause an adverse effect on site integrity.

10.8.45 SNH advised that although there are potential cumulative / in-combination impacts with other marine developments, namely the Beatrice and Moray Firth offshore wind farms, the assessment shows that any impacts are unlikely to have a population level effect. SNH agree with the HRA report, that there will be no adverse effect on site integrity.

Conclusion

10.8.46 **MS-LOT concludes that the proposal will not adversely affect the site integrity of the above SPAs with respect to kittiwake alone or in combination with other projects.**

10.8.47 **Great black-backed gull (breeding)**

- Hoy SPA
- East Caithness Cliffs SPA

10.8.48 The key impact for this qualifying interest is collision with the rotors. Collision risk modelling predicts that no great black-backed gulls will collide with the turbines during the breeding season and that one bird will collide during the non-breeding season. Although this species is considered at risk of collision, the low numbers recorded during the surveys result in very low predicted collisions.

Cumulative / in combination impacts

SNH advised that there will be no adverse effects on integrity as a result of the proposal's effects in combination with other developments.

Conclusion

MS-LOT concludes that the proposal will not adversely affect the site integrity of the above SPAs with respect to great black-backed gull alone or in combination with other projects.

10.8.49 **Herring gull (breeding)**

- East Caithness Cliffs SPA

10.8.50 The site-specific surveys recorded only 3 herring gulls during the non-breeding season. Collision risk modelling predicts no collisions during the non-breeding season.

Cumulative / in combination impacts

SNH advised that there will be no adverse effects on integrity as a result of the proposal's effects in combination with other developments.

Conclusion

10.8.51 **MS-LOT concludes that the proposal will not adversely affect the site integrity of the above SPAs with respect to herring gull alone or in combination with other projects.**

11 Proposed SPAs

11.1 SNH also provided advice on the proposed suite of marine SPAs. Although these sites have policy protection as pSPAs there is not yet a final defined set of conservation objectives for these sites. The draft conservation objectives are provided in Table 5. SNH provided advice as to whether any species or sites needed to be considered further or whether at this stage likely significant effect can be ruled out.

11.2 The advice from SNH was that for the following seabird qualifying interests within the pSPAs there would be no likely significant effect:

Arctic skua (breeding)

- Pentland Firth pSPA

Black-throated diver (breeding and non-breeding)

- Scapa Flow pSPA

Common eider (non-breeding)

- Scapa Flow pSPA
- North Orkney pSPA

Common guillemot (breeding)

- Pentland Firth pSPA

Goldeneye (non-breeding)

- Scapa Flow pSPA

Great northern diver (non-breeding)

- Scapa Flow pSPA
- North Orkney pSPA

Long-tailed duck (non-breeding)

- Scapa Flow pSPA
- North Orkney pSPA

Manx shearwater (breeding)

- Outer Firth of Forth and St Andrews Bay Complex pSPA

Northern gannet (breeding)

- Outer Firth of Forth and St Andrews Bay Complex pSPA

Red-breasted merganser (non-breeding)

- Scapa Flow pSPA
- North Orkney pSPA

Shag (non-breeding)

- Scapa Flow pSPA
- North Orkney pSPA

Slavonian grebe (non-breeding)

- Scapa Flow pSPA
- North Orkney pSPA

Velvet scoter (non-breeding)

- North Orkney pSPA

11.3 SNH concluded no LSE owing to the following:

- The rationale for site selection, and/or
- Low numbers recorded during site specific surveys, or
- Low proportion recorded flying at collision risk height, or
- Collision risk mortality is not significant, and
- Displacement is not a significant impact.

11.3.1 No LSE was identified on these pSPAs (North Orkney pSPA, Scapa Flow pSPA, Pentland Firth pSPA and Outer Firth of Forth and St Andrews Bay Complex pSPA). However, as detailed at paragraph 3.3, as the sites are not yet designated, they also fall within the regime governed by the first sentence of Article 4(4) of the Birds Directive as follows:

"In respect of the protection areas referred to in paragraphs 1 and 2, Member States shall take appropriate steps to avoid pollution or

deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. Outside these protection areas, Member States shall also strive to avoid pollution or deterioration of habitats."

Conclusion

MS-LOT consider that all the pSPAs listed above are sufficiently far from the area of proposed works that there will be no risk of pollution, deterioration of habitats or disturbance of the qualifying interests from the Development.

12 MS-LOT conclusion

In the assessment above MS-LOT have considered the conservation objective of "maintaining the population of the species as a viable component of the site" on the individual qualifying features of the SPAs. As the effects of the Dounreay Trì Floating Wind Demonstration Project, alone and in combination with other developments, on the populations were found to be acceptable for all the species being considered in this assessment MS-LOT conclude that the Development will not adversely affect the integrity of the SPAs with respect to the individual qualifying features.

SECTION 4: CONDITIONS PROPOSED

No conditions are relied upon in reaching this conclusion of no adverse effect on site integrity. Conditions will be included in any section 36 consent / marine licence, if granted, which serve to mitigate further any impacts.

ANNEX F – PUBLIC REPRESENTATIONS

APPLICATIONS FOR CONSENT UNDER SECTION 36 AND FOR A DECLARATION UNDER SECTION 36A OF THE ELECTRICITY ACT 1989 FOR THE CONSTRUCTION AND OPERATION OF AN OFFSHORE GENERATING STATION, THE DOUNREAY TRÌ FLOATING WIND DEMONSTRATION PROJECT 6 km OFFSHORE FROM DOUNREAY, CAITHNESS

A DIRECTION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) THAT PLANNING PERMISSION FOR THE ANCILLARY ONSHORE DEVELOPMENT BE DEEMED TO BE GRANTED

Summary

A total of seven (7) valid public representations were received by Marine Scotland from members of the public during the course of both of the public consultation exercises. Of these, five representations objected to the Development and one supported the Development.

The five (5) representations received raising objections included, but were not limited to, the visual impacts, impacts on tourism, impacts on house prices which would have a negative effect upon the area and loss of amenities, the number of actual jobs which would be created.

Other issues details within the objections raised were related to the impacts on the migration of whales passing, ornithological concerns, the impact of onshore and offshore wind farms and that the Development would set a precedent of wind farms being built throughout the area without consideration of the impact this would have on the local residents.

The five objections raised were from residents of the area.

Two (2) representations were received in support of the Development. The representations detailed that the proposal would bring skilled employment to the local economy, opportunities for young people to be trained and involved in the project and could see the growth of a new industry making use of an abundant natural resource. In addition the representations supported using offshore wind as a less contentious than onshore wind with the advantage of much greater efficiency and reliability.

ANNEX G: DEVELOPMENT LOCATION

APPLICATIONS FOR CONSENT UNDER SECTION 36 AND FOR A DECLARATION UNDER SECTION 36A OF THE ELECTRICITY ACT 1989 FOR THE CONSTRUCTION AND OPERATION OF AN OFFSHORE GENERATING STATION, THE DOUNREAY TRÌ FLOATING WIND DEMONSTRATION PROJECT, APPROXIMATELY 6 km OFFSHORE FROM DOUNREAY, CAITHNESS.

A DIRECTION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) THAT PLANNING PERMISSION FOR THE ANCILLARY ONSHORE DEVELOPMENT BE DEEMED TO BE GRANTED.

Figure 1: Dounreay Trì Floating Wind Demonstration Project Onshore and Offshore Project Boundary.

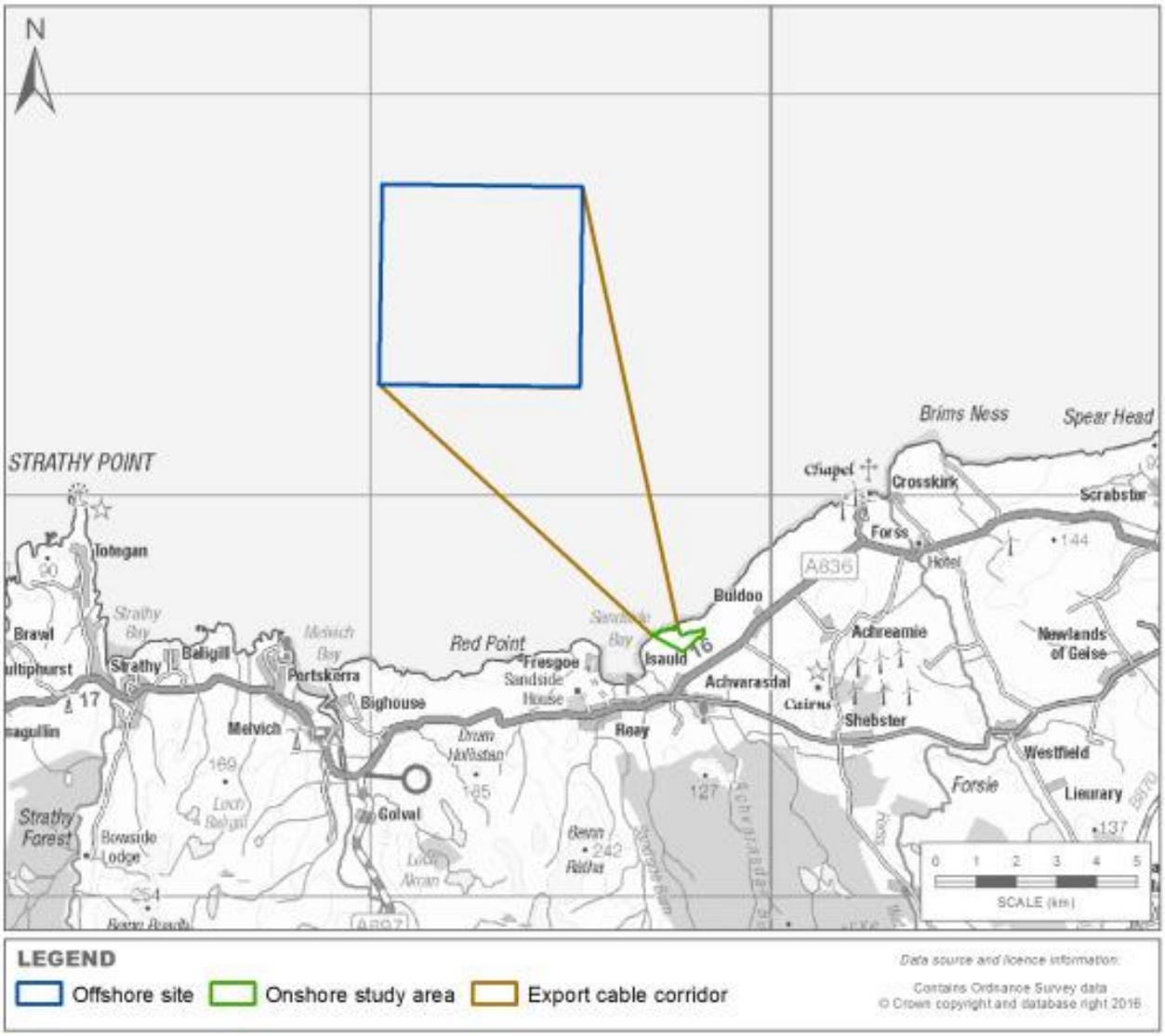


Figure 2: Dounreay Trì Floating Wind Demonstration Project - Onshore Project Boundary, export cable corridor to shore, and onshore cable corridor option 1 and option 2

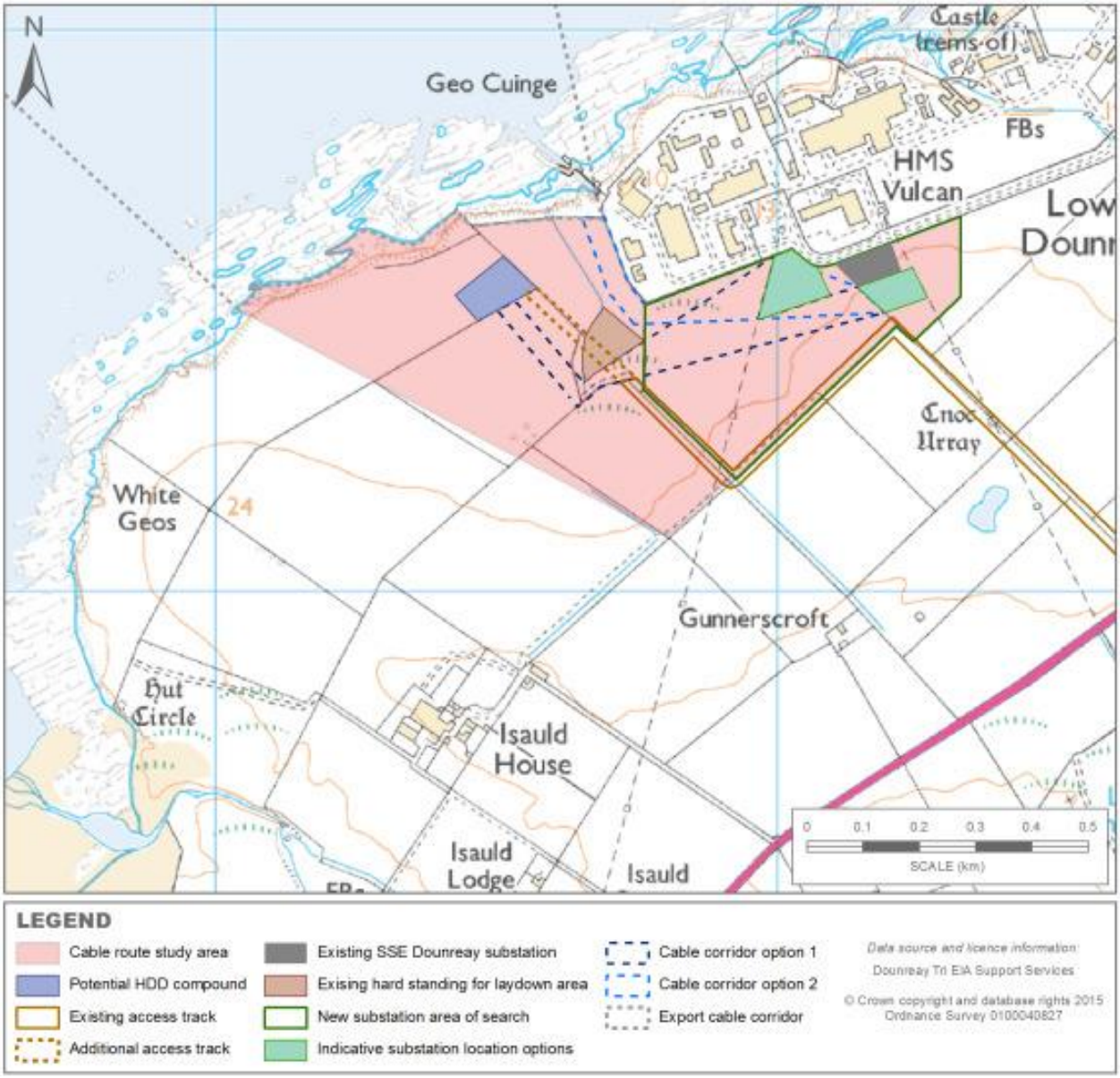
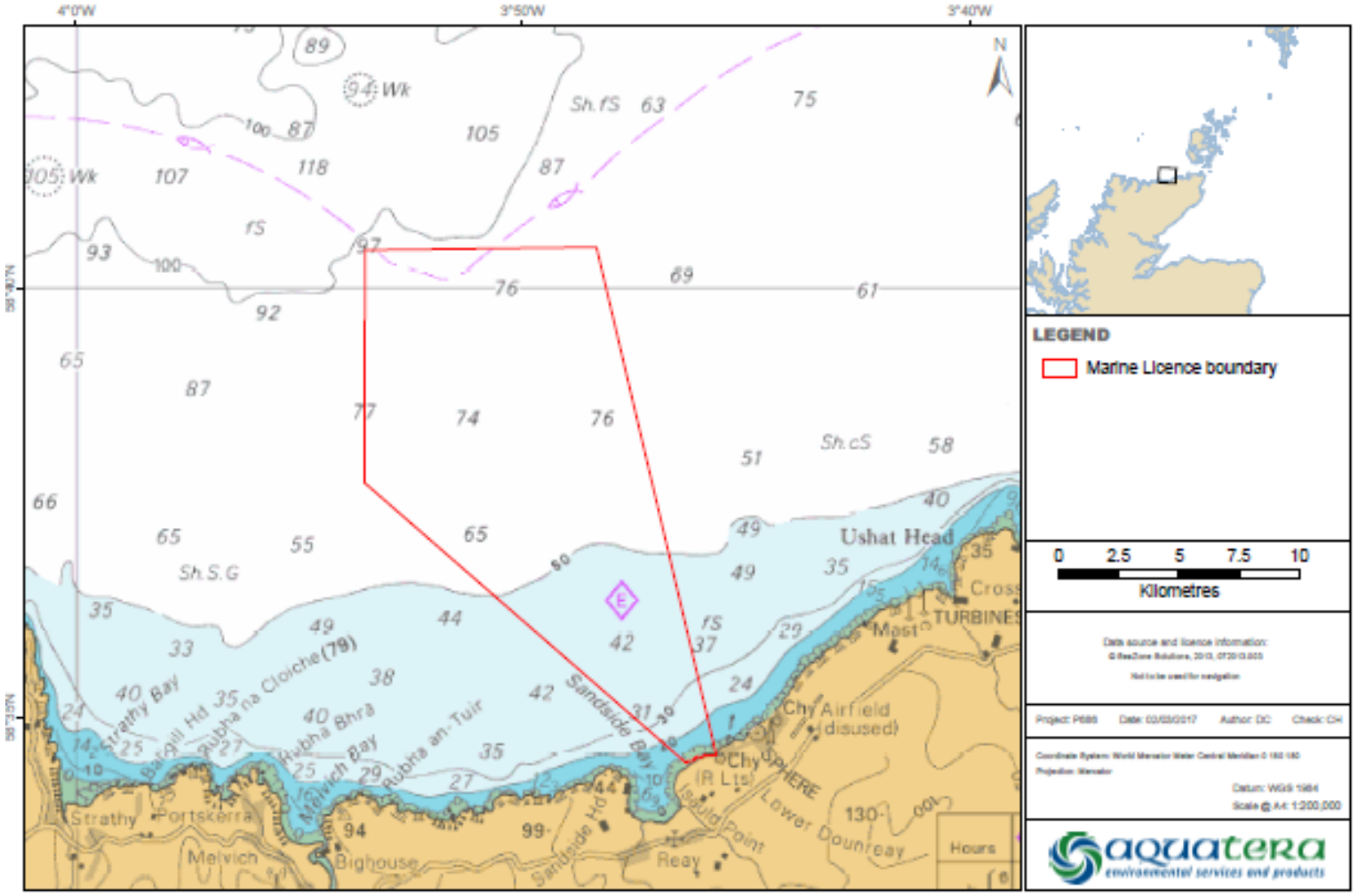


Figure 3: Dounreay Trì Floating Wind Demonstration Project Offshore export cable corridor



Export Cable Corridor Coordinates

Point	Latitude	Longitude
NW	58°37’44.0	3°53’31.9
NE	58°40’27.7	3°48’24.7
SE	58°37’46.0	3°45’34.3
SW	58°34’28.9	3°46’14.2

Offshore coordinates

Point	Latitude	Longitude
NW	58°40’25.6	3°53’36.0
NE	58°40’27.7	3°48’25.7
SE	58°37’46.0	3°48’22.0
SW	58°37’44.0	3°53’31.9