Jack Farnham
Offshore Wind Power Limited
Clava House, Cradlehall Business Park
Inverness
United Kingdom
IV2 5GH

27 June 2025

MARINE AND COASTAL ACCESS ACT 2009
MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2007

THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) 2017 REGULATIONS

DECISION NOTICE PROVIDING EIA CONSENT, AND REGULATORY APPROVAL BY WAY OF MARINE LICENCES TO CONSTRUCT, ALTER OR IMPROVE ANY WORKS IN THE UK MARINE LICENSING AREA FOR WEST OF ORKNEY OFFSHORE WIND FARM, APPROXIMATELY 28 KILOMETRES WEST OF HOY, ORKNEY AND 23 KILOMETRES FROM THE NORTH COAST OF SCOTLAND.

1 Application and description of the works

1.1 On 18 September 2023, Offshore Wind Power Ltd ("the Applicant") having its registered office at Clava House, Cradlehall Business Park, Inverness, United Kingdom, IV2 5GH submitted to the Scottish Ministers an application ("the Application") under Part 4 of the Marine and Coastal Access Act 2009 ("the 2009 Act") and the Marine (Scotland) Act 2010 ("the 2010 Act") for a marine licence ("the GS Marine Licence") to construct and operate the West of Orkney Offshore Wind Farm (hereinafter collectively referred to as "the Works") associated with the West of Orkney Windfarm.

1.2 The applications were accompanied by an Environmental Impact Assessment Report ("EIA Report") in accordance with the Marine Works (Environmental Impact Assessment) Regulations 2007 ("the 2007 MW Regulations") and the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the 2017 MW Regulations"). In addition, the Applicant submitted a without prejudice derogation case with the Application.

1.3 Additional information was submitted by the Applicant to the Scottish Ministers on 04 October 2024, ("Additional Information") and related to Benthic Subtidal and Intertidal Ecology, Fish and Shellfish Ecology, Marine Mammals and

Megafauna, Seascape, Landscape and Visual Impact Assessment ("SLVIA"), Marine Archaeology and Cultural Heritage, Traffic and Transport, Commercial Fisheries, and Shipping and Navigation covered by additional information. With the additional information, the Applicant also submitted an addendum to the EIA Report (ornithology), an addendum to the Report to inform the Appropriate Assessment ("RIAA") (ornithology), an addendum to the RIAA excluding ornithology, an addendum to the derogation case, an addendum to the compensatory measures plan, an addendum to the compensation implementation and monitoring plan and an additional information covering letter.

1.4 The Works comprise of an offshore energy generating station which shall comprise of:

1. Up to 125 wind turbine generators ("WTG") (each comprising of a tower section, nacelle, and three rotor blades), each with

    a) Maximum rotor blade tip height of 359.52 metres ("m) (measured from Lowest Astronomical Tide ("LAT"));
    b) Maximum rotor blade diameter of 330m;
    c) Minimum rotor blade tip to sea clearance of 29.52m (measured from LAT);
    d) Maximum hub height of 194.52m (measured from LAT);
    e) Minimum WTF spacing of 944m

2. Wind turbine foundations including monopiles, piled jackets, or suction bucket jackets;

3. Up to 140 inter-array cables with a total length of up to 500 kilometres ("km"); and

4. Scour protection and inter-array cable protection

1.5 All as described in the Application and by the conditions imposed by the Licensing Authority.

1.6 The location and boundary of the Work are shown in Figure 1 of Annex 1.

1.7 In addition to the Application, the Applicant has also applied for a marine licence under the 2010 Act, and the 2009 Act in respect of construction and operation of the Offshore Transmission Infrastructure associated with the Works. The Applicant has also applied for consent under section 36 of the Electricity Act 1989 (as amended) ("s.36 Consent") to construct and operate an offshore generating station. Separate decision notices will be issued in respect of these applications.

1.8 This decision notice contains the Scottish Ministers' EIA Consent Decision under the 2007 MW Regulations for the Works. It further contains the Scottish Ministers'

decision to grant regulatory approval for the Works in accordance with the 2007 MW Regulations and 2017 MW Regulations by issuing Marine Licences under Part 4 of the 2009 Act and the 2010 Act.

2 Summary of environmental information

2.1 The environmental information provided was:

- An EIA Report that provided an assessment of the impact of the Works on a range of receptors;
- Information to inform the Habitats Regulations Appraisal ("HRA") including; a Report to Inform Appropriate Assessment ("RIAA") and an Addendum to the RIAA;
- Additional Information pertaining to key points covered by additional information;
- A without prejudice HRA shadow derogation case and an addendum to the derogation case;
- A compensatory measures plan;
- An addendum to the compensatory measures plan;
- A compensation implementation and monitoring plan; and,
- An addendum to the compensation implementation and monitoring plan.

2.2 A summary of the environmental information provided in the EIA Report and Additional Information is given below.

2.3 <u>Marine, Physical and Coastal Processes</u>

2.3.1 The EIA Report considered the assessment of the Likely Significant Effect ("LSE") of the Works during the construction, operation and maintenance ("O&M") and decommissioning phases on marine, physical and coastal processes. The impacts assessed within the EIA Report relating to the construction and decommissioning phases were identified as changes to seabed levels, sediment properties and suspended sediment concentrations; impact on qualifying features on European sites due to export cable construction; and changes to coastal landfall morphology.

2.3.2 The assessment concluded that due to the absence of designated features within the Option Agreement Area ("OAA") and the seabed environment having already varied sediment properties, the sensitivity of the seabed to impacts from the Works is negligible.

2.3.3 Regarding impacts to features within designated sites due to Export Cable Corridor ("ECC") construction, a number of sites were assessed and grouped by geological features, maritime and vegetated sea cliffs and other coastal

habitat features. Due to the assessed designated sites being largely affected by terrestrial pressures and the construction phase of the Works not occurring on such a scale that erosion is enhanced, the EIA Report concluded negligible impacts not significant in EIA terms.

2.3.4 The assessment concluded a medium impact from construction activities in the ECC on changes to coastal landfall morphology, not significant in EIA terms. This was due to the erosion resistant properties of the coast and the properties of seabed features similar to the proposed excavation pits. The assessment considered the excavation of pits and associated sediment berm had the ability to cause changes in the wave regime in the locality of the cable landfall which may have consequences on local sediment transport and as a result, morphological features in the area. Due to the time period that the excavated pits may be exposed for and potential for changes to ocean conditions over that period, the magnitude of impact is considered medium. Due to the low sensitivity of the receptor, the EIA Report concluded no significant effects in EIA terms to coastal landfall morphology within the construction phase of the Works.

2.3.5 The impacts assessed within the EIA Report relating to the O&M phases were identified as changes to the tidal, wave and sediment transport regimes resulting in impacts on morphology and coast receptors; introduction of scour, changes to water column structure with impact to stratification; and, re-exposure of buried cables and changes to coastal processes and landfall morphology from remedial protection measures.

2.3.6 The EIA Report concluded negligible adverse effects within the OAA and Offshore ECC for changes to tidal, wave and sediment transport resulting in impacts on morphology and coast receptors. This was due to the stability of the bedforms and the erosion resistance of the coast in the locality of the Works.

2.3.7 The assessment concluded that due to the seabed having negligible sensitivity, and the presence of embedded mitigation measures along with the placement of rock protection at the construction phase, negligible effects, not significant in EIA terms were concluded for the introduction of scour.

2.3.8 Negligible effects, not significant in EIA terms, were concluded for changes to water column structure with impact to stratification due to stratification occurring at a regional scale and the influence of infrastructure in the marine environment only being likely to affect stratification within the immediate wake of a structure.

2.3.9 The assessment concluded that the presence of remedial protection within the ECC would not be expected to impact sediment transport processes, therefore

impacts to coastal processes and landfall morphology would be considered negligible, and not significant in EIA terms.

2.3.10 The EIA Report concluded that no cumulative impacts in relation to marine, physical and coastal processes were identified during the pre-construction, construction, O&M and decommissioning phases of the Works due to the smaller scale of other projects within the vicinity, and the distance of the other projects away from the Works.

2.4 Water and Sediment Quality

2.4.1 The EIA Report considered the assessment of the LSE of the Works during the construction and decommissioning phases on water and sediment quality. These were identified as disturbance and release of contaminated sediments or radioactive particles, impacts on water quality status of designated waterbodies due to increased suspended sediment and potential release of contaminants or radioactive particles.

2.4.2 The assessment concluded that due to the low occurrence of contaminants above guidance threshold levels within the OAA, and the OAA and ECC not being located within the Food and Environment Protection Act Order Zone where radioactive particles may be present, it was not considered likely that the Works would result in disturbance of radioactive particles. The EIA Report stated there would be a low chance of vessels or equipment releasing pollution during the construction phase of the Works, therefore the effects would be minor and not significant in EIA terms.

2.4.3 Impacts on water quality status of designated waterbodies during the construction phase were identified as minor and not significant in EIA terms for Sule Skerry and Sule Stack and Strathy Point to Dunnet Head waterbodies. This was due to the temporary and short-lived nature of the mechanisms for the release of contaminants along with the low likelihood of contaminants and radioactive particles being present in these areas.

2.4.4 The EIA Report concluded that impacts to the water quality status of Cape Wrath to Strathy Point Coastal Waterbody and Thurso designated bathing water would be negligible and not significant in EIA terms due to the Works not overlapping with the waterbodies.

2.4.5 Any potential impacts during the decommissioning phase of the Works were identified in the EIA Report as the same as or less than those of the construction phase, and concluded that the magnitude of impacts relating to water and sediment quality receptors during the construction phase would be applicable to the decommissioning phase.

2.4.6 The EIA Report concluded that any cumulative effects in relation to water and sediment quality were not significant in EIA terms due to the temporary nature of contaminated sediment and radioactive particle disturbance of the cumulative developments. No transboundary impacts in relation to water and sediment quality were identified due to the localised nature of the Works.

2.5 Benthic Subtidal and Intertidal Ecology.

2.5.1 The EIA Report considered the assessment of the LSE of the Works on benthic subtidal and intertidal ecology during the construction and decommissioning phases of the Works. The assessment was characterised through a combination of site-specific survey data and desk-based studies.

2.5.2 The EIA Report noted that the effects on Annex I habitat receptors identified as a qualifying interest of Special Area of Conservation ("SAC") had been considered by the HRA process. The HRA screening process concluded that there would be no LSE on any SACs with Annex I habitat qualifying interests, therefore no further assessment would be required under Stage 2 of the HRA process within the RIAA.

2.5.3 Several LSE on benthic subtidal and intertidal ecology associated with all phases of the Works were identified within the EIA report. These were identified as temporary habitat loss and disturbance; increased suspended sediment concentrations and sediment depositions; increased risk of introduction and spread of Invasive Non-native Species ("INNS") and removal of hard substrate during decommissioning.

2.5.4 LSE on the benthic subtidal and intertidal ecology associated with the O&M phase of the Works were identified as temporary habitat loss and disturbance; long-term loss or damage to benthic habitats and species; colonisation of hard structures; increased suspended sediment concentrations and associated deposition; changes in physical processes, introduction and spread of INNS; and impact to benthic communities from any thermal load or electromagnetic field ("EMF") from the cable during operation.

2.5.5 The Applicant committed to embedded mitigation measures including micro-siting to avoid sensitive habitats where possible and reduce long-term habitat loss as well as implementation of an INNS management plan and removal of marine growth.

2.5.6 The EIA Report concluded that due to the temporary and localised nature of the impacts during the construction phase of the Works, and the embedded mitigation measures, impacts across all phases of the Works were of minor significance.

2.5.7 The EIA Report also concluded that potential cumulative impacts would not be significant due to the highly localised potential colonisation of hard substructures, the Applicant's embedded mitigation measures relating to vessels and the low likelihood of maintenance occurring concurrently with other developments within 20km of the Works.

2.6 Fish and Shellfish Ecology

2.6.1 The EIA Report considered the assessment of the LSE of the Works on fish and shellfish ecology during the construction, O&M phases. The EIA Report noted a range of fish species utilise the area of the Works for spawning, foraging, migration or as a nursery habitat. The EIA Report noted that a number of these species are commercially important, and some species are also important as prey for other fish.

2.6.2 The EIA Report identified several impacts as requiring assessment, including: temporary habitat disturbance and loss, indirect effects related to changes in availability or distribution of prey species, habitat loss and disturbance, EMF effects, potential fish or predator aggregation, barrier effects to diadromous fish, and indirect effects related to changes in availability or distribution of prey species.

2.6.3 The EIA Report highlighted that the introduction of EMF in the marine environment has the potential to alter the behaviour of some fish and shellfish species, and the migratory behaviours of salmonids. Modelling was undertaken for EMF effects and the EIA Report concluded that the overall effect during the O&M phase of the Works is minor due to the low magnitude of the EMF being emitted during the lifespan of the Works. Additionally, marine finfish and shellfish were noted as having a low vulnerability to EMF effects with negligible impacts. Diadromous fish and elasmobranchs were noted as having a medium sensitivity to EMF effects but with embedded mitigation measures the impacts were concluded as minor.

2.6.4 The introduction of hard substrate through the installation of infrastructure in the Works was considered in the EIA Report with regards to potential habitat loss and disturbance, including brown crab, lobster and scallops due to their limited mobility. The EIA Report highlighted that the long-term habitat loss and disturbance during the O&M phase is highly localised and would only affect a small area of the habitat for shellfish, therefore the impacts were concluded as minor or negligible. The EIA Report concluded that the effects of long-term habitat loss and disturbance due to the introduction of hard substrate were not significant in EIA terms.

2.6.5 The EIA Report highlighted that the offshore area of the Works overlaps with

low intensity spawning grounds for sandeel which have a high sensitivity to sub-surface abrasion and a medium sensitivity to surface abrasion. The EIA Report highlighted that there are likely to be areas of spawning habitat for sandeel within the OAA and the offshore ECC. Orkney Nature Conservation Marine Protected Area ("ncMPA") is approximately 11km from the offshore area of the Works and the EIA Report noted that it is possible for adults or juveniles disturbed during construction to recolonise areas in the ncMPA. However, it was also noted that a degree of spatial mixing between the two areas would already occur therefore the overall impact to sandeel was found to be minor and not significant in EIA terms.

2.6.6 The EIA Report concluded that minor adverse effects were identified for fish and shellfish ecology receptors. These effects were considered not significant in EIA terms, therefore additional mitigation measures were not found to be necessary in addition to the embedded mitigation measures proposed by the Applicant.

2.7 Marine Mammals and Megafauna

2.7.1 The EIA Report considered the assessment of the LSE of the Works on marine mammals and megafauna.

2.7.2 The species considered in the assessment were harbour porpoise; white-beaked dolphin; common dolphin; Risso's dolphin; minke whale; white-sided dolphin; killer whale; humpback whale; harbour seal and grey seal.

2.7.3 The EIA Report concluded that the risk of physical injury for all species is not significant, due to mitigation measures being in place for geophysical surveys, Unexploded Ordnance ("UXO") clearance, and piling. The EIA Report also concluded that there would be no significant disturbance of marine mammal populations, and that separate EPS ("European Protected Species") Licence applications and risk assessments would be undertaken, once all appropriate information is collated to inform the Piling Strategy ("PS").

2.7.4 The EIA Report concluded that cumulative impacts are not significant due to project alone impacts for other local developments, including Pentland Floating Offshore Wind Farm ("PFOWF"), being highly localised and of negligible significance. The EIA Report also concluded that there would be no significant inter-related effects due to impacts from UXO clearance and underwater noise being highly intermittent, and the magnitude of both impacts being negligible.

2.7.5 The Applicant considered proposed mitigation measures to reduce effects from underwater noise, injury and disturbance during construction, operation and decommissioning activities.

2.7.6 The EIA Report concluded that any transboundary effects on marine mammals and megafauna would be localised and not expected to affect other European Economic Area states other than insignificantly.

2.8 Offshore and Intertidal Ornithology

2.8.1 The EIA Report considered the assessment of the LSE of the Works on offshore and intertidal ornithology.

2.8.2 Potential impacts during the construction and decommissioning phase identified in the EIA Report as requiring assessment were direct distributional responses, displacement and barrier effects, and indirect effects due to disturbance and displacement of prey species. The EIA Report concluded that due to any impacts resulting from disturbance and displacement during construction being short-term, temporary and reversible, the effects would be negligible and not significant in EIA terms.

2.8.3 Potential impacts during the O&M phase identified in the EIA Report as requiring assessment were direct distributional responses, displacement and barrier effects, indirect effects due to habitat loss/change for key prey species, direct collision risk, and combined operational displacement and collision risk. For direct distributional responses, displacement and barrier effects, impacts were concluded as negligible as for each species of bird, the magnitude of increase in mortality would not materially alter the background mortality of the population.

2.8.4 Impacts relating to direct collision risk during the operational and maintenance phase of the Works were concluded as low due to the magnitude of the impact being negligible.

2.8.5 The EIA Report concluded that all cumulative impacts were minor or negligible and not significant once the embedded mitigation measures proposed by the Applicant were taken into account.

2.8.6 The Applicant committed to embedded mitigation measures to reduce impacts on ornithology receptors. This included the site selection distance from designated sites for birds and excess lighting above levels set by regulatory requirements being avoided where possible.

2.8.7 The EIA Report also identified no significant transboundary effects in relation to offshore and intertidal ornithology receptors, due to the location of the Works and connectivity being highly unlikely to occur during the breeding season.

2.8.8 In addition to the effects identified within the EIA Report, the addendum to the RIAA submitted as part of the HRA, concluded Adverse Effect on Site Integrity

("AEOSI") (or unable to conclude no AEOSI) from the Works both alone and in-combination on several Special Protection Areas ("SPA") for ornithological qualifying features. The impacts of the Works on protected sites in view of their conservation objectives are considered within the Scottish Ministers' Appropriate Assessment ("AA") in Annex B.

2.9 Commercial Fisheries

2.9.1 The EIA Report considered the assessment of the LSE of the Works on commercial fisheries. The impacts considered in the assessment for the construction, O&M, and decommissioning phases were identified as displacement of fishing effort, loss or restricted access to fishing grounds, interference with fishing activity as a result of increased vessel traffic, increased steaming times, safety issues for fishing vessels, and socioeconomic impacts to commercial fisheries.

2.9.2 The Applicant has committed to monitoring fisheries related issues throughout the phases of the Works. This will involve regular communication with the Fisheries Working Group, Fishing Industry Representative and Fisheries Liaison Officers ("FLO"). All mitigation measures will be outlined within a Fisheries Management and Mitigation Strategy ("FMMS").

2.9.3 During the O&M phase of the Works, the worst-case scenario presented in the EIA Report assumed that the maximum physical presence of infrastructure would have the largest impact on displacement of fishing effort, loss of access to fishing grounds, and increased steaming times.

2.9.4 Regarding the construction phase of the Works, creeling vessels were of medium sensitivity to displacement. This is due to creeling taking place in the areas surrounding the OAA and offshore ECC, the majority of which will be displaced during the construction phase. As a result of this, the overall impact to creeling vessels within the OAA was concluded as moderate and significant in EIA terms.

2.9.5 Loss or restricted access to fishing grounds during the construction phase was concluded as having a high impact, moderate in EIA terms within the OAA of the Works. Additional mitigation measures were proposed by the Applicant to reduce this significance from moderate to minor.

2.9.6 Small local commercial fishing vessels were considered to have a medium sensitivity to socioeconomic impacts due to the lower capacity of these vessels having less flexibility in accessing alternative fishing grounds. The EIA report concluded that the effects of the Works would only impact a small number of vessels, and that small local vessels are expected to be able to resume fishing in the OAA and ECC to some degree. Coupled with embedded mitigation

measures, such as the implementation of an FMMS, the EIA report concludes that impacts could be mitigated, resulting in minor impacts not significant in EIA terms.

2.9.7 The socioeconomic impacts to commercial fisheries for both local and non-local larger vessels were concluded to be negligible and not significant in EIA terms due to the wider availability of fishing grounds, and the larger earnings typically associated with these vessels. The EIA report also concluded that the Works of and adherence to an FMMS would provide embedded mitigation.

2.9.8 The EIA Report considered that impacts of decommissioning are comparable to or less than the impacts of the construction phase. Therefore, the magnitude of impacts on commercial fisheries during the construction phase would also be applicable to the decommissioning phase.

2.10 Shipping and Navigation

2.10.1 The EIA Report considered the assessment of the LSE of the Works on shipping and navigation. The potential impacts during each phase were based on a 10 nautical miles ("nm") buffer around the OAA which was informed by the Navigational Risk Assessment ("NRA").

2.10.2 The impacts that were assessed within the construction and decommissioning phases of the Works were: vessel displacement and increased third-party vessel to vessel collision risk, increased third-party to Development vessel collision risk, adverse weather routeing, creation of vessel to structure allision risk, and reduced access to local ports and harbours.

2.10.3 For the O&M phase, in addition to the above impacts, impacts assessed for the construction phase were: changes to under keel clearance, increased interaction with subsea cables, and reduction of emergency response provisions.

2.10.4 Regarding vessel displacement, third party vessel to vessel collision risk and third-party to project vessel collision risk, adverse routeing and creation of vessel to structure allision risk in the construction phase, the overall significance of risk was concluded as tolerable provided that additional post consent consultation with the Maritime and Coastguard Agency ("MCA") takes place in advance of the Works Specification and Layout Plan ("DSLP") process. The overall significance of risk impact from reduced access to local ports and harbours in the construction phase was concluded as tolerable and not significant in EIA terms due to the proposed embedded mitigation measures proposed by the Applicant reducing the risk.

2.10.5 Following the submission of the original NRA one unacceptable risk concerning the displacement of vessels in adverse weather during construction was identified. The summary of potential effects in Chapter 15 of the EIA report recognised this risk as tolerable, As Low As Reasonably Practical ("ALARP") and not significant. After engagement with the MCA and UK Chamber of Shipping ("UKCoS"), the addendum to Chapter 15 of the EIA Report included a condition agreed upon with stakeholders to restrict the building of structures that could cause a navigational obstacle and force vessels to divert around Sule Skerry and Sule Stack.

2.10.6 Regarding changes in under-keel clearance, reduction of emergency response provision, and increased interaction with subsea cables in the O&M phase, the risks were identified as broadly acceptable and not significant in EIA terms due to proposed embedded mitigation measures. The other impacts within the O&M phase were identified as tolerable with additional mitigation.

2.10.7 The mitigation measures proposed by the Applicant included compliance with international regulations such as the Convention of the International Regulations for Preventing Collisions at Sea and the International Convention for the Safety of Life at Sea, development and adherence to a FMMS, and the implementation of additional mitigation including additional consultation with the MCA in advance of drafting the DSLP post-consent.

2.10.8 The cumulative impact assessment considered other relevant projects within 50 nm of the Works. The EIA Report concluded that all cumulative impacts were broadly acceptable and not significant in EIA terms.

2.11 Marine Archaeology and Cultural Heritage

2.11.1 The EIA Report considered the assessment of the LSE of the Works on marine archaeology and cultural heritage. The study area was defined as the offshore infrastructure and wind farm site including associated foundations and substructures, the Offshore Substation Platforms (“OSPs”) including associated foundations and inter-connector cables, the inter-array cables and the offshore export cables. A separate study area up to 60km from the OAA to identify potential impacts on designated historic environment assets was also defined in the EIA Report.

2.11.2 The cumulative impact assessment outlined that medium or long-term cumulative impacts may occur within the construction and decommissioning, and O&M phases, including loss of, or damage, to unknown marine historic environment assets, loss of, or damage, to submerged prehistoric landscapes, and long-term changes to the setting of designated onshore historic environment assets that reduces their value.

2.11.3 The EIA report concluded that where mitigation is implemented to reduce or offset any direct impacts, the effects will be reduced to minor adverse significance at a project level.

2.11.4 The EIA report highlighted the potential impacts on undiscovered historic environment assets during construction, decommissioning, O&M phases of the Works, and concluded that with the implementation of embedded mitigation measures, including adherence to a Written Scheme of Investigation ("WSI") and Protocol for Archaeological Discoveries ("PAD"), impacts would be of a minor significance.

2.12 Military and Aviation

2.12.1 The EIA Report considered the assessment of the LSE of the Works on military and aviation.

2.12.2 The impacts which were assessed within the EIA Report were potential impact on military low flying, and United Kingdom ("UK") Search and Rescue ("SAR") helicopter operations due to presence of WTGs in construction and potential impact on military low lying, and UK SAR helicopter operations due to the presence of WTGs in operation.

2.12.3 The Applicant committed to embedded mitigation measures including notifying the National Air Traffic Service ("NATS") and helicopter operators via Notice to Air Missions to mitigate any temporary obstacles to helicopter main routes.

2.12.4 Additionally, the Applicant committed to notifying the Civil Aviation Authority of heights, locations, and lighting status of the WTGs, including maximum heights of any construction equipment being used, as well as an Emergency Response Co-operation Plan ("ERCoP") being implemented for the duration of the Works to manage UK SAR helicopter risks.

2.12.5 The EIA Report concluded negligible adverse effects in both impacts with no additional mitigation requirements, due to the embedded mitigation measures proposed by the Applicant which would reduce the impact of effects.

2.12.6 No cumulative impacts were identified during the construction, decommissioning, O&M phases of the Works. This was due to there being no potential for the predicted impacts to interact with other developments and activities in the study area.

2.13 Seascape, Landscape and Visual Assessment

2.13.1 The EIA Report considered the assessment of the LSE of the Works on SLIVA receptors.

2.13.2 The SLVIA identified and assessed the significance of changes resulting from the construction, operation, and decommissioning phases of the Works.

2.13.3 The impacts which were assessed within the EIA Report included seascape character, landscape character, designated landscapes as environmental resources in their own right, and on people's views and visual amenity.

2.13.4 Regarding effects on seascape and landscape character, the EIA Report noted that Crosskirk and Forss would be directly affected during the construction phase with residual effects being short-term and localised. The EIA Report concluded that effects on view and visual amenity would occur as a result of the construction activities, with residual effects being temporary and localised occurring for the length of the construction phase.

2.13.5 During the O&M phase of the Works, the EIA Report identified impacts that were potentially significant in EIA terms. These included effects on coastal character to locations in Sutherland, such as major/moderate impacts to the Kyle of Tongue, and Torrisdale and Melvich Bay. Impacts to Rora Head and St John's Head were concluded as moderate and significant in EIA terms and potential visual effects on settlements in Sutherland and Caithness including Durness, Bettyhill, Kirtomy, Portskerra, Midfield to Midtown in the Kyle of Tongue, and Skullomie and Coldbackie in the Kyle of Tongue were concluded as major/moderate and significant in EIA terms.

2.13.6 Impacts to the North Coast 500 route and Sustrans National Cycle Route 1: Inverness to John O' Groats were concluded as varying between major/moderate and significant in EIA terms, to negligible and not significant in EIA terms depending on: vehicle speed, mode of transport and purpose of travel. Impacts to the visual effects of the Works on the ferry route between Scrabster and Stromness were concluded as ranging between major/moderate and significant in EIA terms, to negligible and not significant in EIA terms. The EIA Report concluded that these impacts would vary depending on which section of the route the ferry was on. Regarding visual impacts to recreational routes and core paths, the EIA Report concluded that the Works would have major/moderate impacts, which were significant in EIA terms, to the Old Man of Hoy core path H2 and moderate impacts, which were significant in EIA terms, to Rackwick Beach core path H3.

2.13.7 For impacts which were concluded as significant in EIA terms, the EIA Report noted that the Applicant had proposed secondary mitigation measures which included mitigation in the iterative design process during the post-consent development of the DSLP.

2.13.8 For cumulative effects on views and visual amenity in Caithness, the Works had the potential to contribute to moderate effects which are potentially significant in EIA terms on Crosskirk, the North Coast 500 route, and the ferry route between Scrabster and Stromness.

2.13.9 The EIA report concluded that there was no potential for transboundary impacts upon SLVIA receptors due to construction, O&M and decommissioning phases of the Works.

2.14 Socioeconomics

2.14.1 The EIA Report considered the assessment of the LSE of the Works on socioeconomics within the spatial areas of the UK, Scotland, Highland, Caithness, Sutherland, and Orkney.

2.14.2 The impacts identified as requiring assessment during all phases of the Works were: effects on employment and economic output Gross Value Added ("GVA") receptors, effects on the demand for housing and local services receptors, effects on tourism industry receptors, effects on onshore businesses associated with the processing of commercial fish and/or the commercial fishing industry supply chain receptors, effects on socio-cultural receptors, and effects on distributional receptors.

2.14.3 The EIA Report noted several coastal recreational activities popular in the Caithness, Sutherland and Orkney areas including scuba diving, surfing, canoeing, kayaking, coastal climbing, coasteering, and wildlife watching as being impacted by the Works during the construction phase. The EIA Report noted that other projects within 60km of the Works had the potential to influence and displace Caithness, Sutherland and Orkney as destinations for these recreational marine-based activities. The EIA Report concluded that the impact on tourism and recreational other sea users is negligible and of minor significance, and that there were alternative locations available to participate in these activities during the construction phase of the Works, where their experience will not be affected by the views of the offshore Development.

2.14.4 The EIA Report concluded that there would be no significant impacts on local accommodation availability. The EIA Report noted that this was due to embedded mitigation measures to restrict displacement of tourists including: agreements prepared with local accommodation providers to accommodate visiting workers outside of the main tourist season, and measures implemented at other times of year to ensure accommodation needs of the majority of visiting workers would be met by other means. Additionally, the EIA Report stated that there would be significant cumulative beneficial impact on change in employment levels during the construction phase and the O&M phase.

2.14.5 The EIA Report identified no significant adverse effects on socioeconomic receptors due to the embedded mitigation measures proposed by the Applicant which included a community benefits programme, a local accommodation strategy, a North of Scotland Workforce Strategy and a supply chain investment fund. Significant beneficial effects were identified during both the construction and O&M phases with respect to local employment and GVA.

2.14.6 The EIA Report summarised that several of the cumulative effects with other projects were minor and not significant in EIA terms due to sufficient embedded mitigation measures proposed by the Applicant. Some uncertainties relating to cumulative impacts were identified in the EIA Report, due to this the Applicant has calculated worst-case scenarios for these effects which are predicted to be beneficial or not significant in EIA terms. The EIA Report also noted that several of the cumulative effects with other projects were major and beneficial (significant) in EIA terms due to a positive increase in employment levels and GVA levels.

2.14.7 No significant inter-related effects or transboundary effects were identified in the EIA Report for socioeconomic receptors.

2.15 Other Sea Users

2.15.1 The EIA Report considered the assessment of the LSE of the Works on other sea users during the construction, O&M, and decommissioning phases of the Works.

2.15.2 The impacts identified as requiring assessment during all phases of the Works were: obstruction to the PFOWF, obstruction to subsea cables, obstruction of recreational and tourism activities, obstruction to Dounreay Nuclear Power Development Establishment and Vulcan Naval Reactor Test Establishment seabed decommissioning activities, and obstruction to the Space Hub Sutherland.

2.15.3 The Applicant committed to embedded mitigation measures to reduce the impacts on other sea users. These mitigation measures include continuing to consult with Space Hub Sutherland, creating a database of known sea users to act as a mailing list for direct issue of Notice to Mariners, crossing and proximity agreements with existing cable operators, and notification to Dounreay Site Restoration Limited and the Ministry of Defence ("MOD") regarding plans for offshore activity.

2.15.4 The EIA Report concluded negligible adverse effects in all impacts, not significant in EIA terms with no additional mitigation measures required due to the temporary and localised nature of the impacts, and the embedded mitigation measures proposed by the Applicant. Embedded mitigation measures

proposed by the Applicant in the EIA Report included the application for and implementation of safety zones, the communication of the final layout of the Works to confirm effects on telecommunication links, community television and radio and the implementation of an ERCoP.

2.15.5 The EIA Report concluded no transboundary effects upon other sea users due to potential impacts being localised and manageable through consultation and coordination with the relevant stakeholders.

2.15.6 The EIA Report also concluded that the cumulative effects with other projects were not significant in EIA terms due to the temporary and localised nature of any impacts.

3 Publication and Consultation

3.1 In accordance with the 2007 MW Regulations, a notice publicising the application and EIA Report and any subsequent Additional Information must be published in such newspapers or other publications as the Scottish Ministers deem fit for two successive weeks and in such other manner (if any) as the Scottish Ministers consider appropriate, which must include electronic publication in a means accessible to the public.

3.2 Under the 2017 MW Regulations a notice publicising the application and EIA Report and subsequent Additional Information must be published in the Edinburgh Gazette, in a newspaper circulated in the locality in which the Works to which the EIA Report relates are situated (or, in relation to proposed works in, on, over or under the sea, in such newspapers as are likely to come to the attention of those likely to be affected by the proposed works) and on the Applicant's website.

3.3 As such, the Applicant, in agreement with the Scottish Ministers, published the applications, together with the EIA Report as follows:

- The Orcadian - Thursday 12 October 2023 and Thursday 19 October 2023
- John O'Groats Journal - Friday 13 October 2023 and Friday 20 October 2023
- Caithness Courier - Wednesday 11 October 2023 and Wednesday 18 October 2023
- The Press & Journal - Monday 9 October 2023
- Fishing News - Thursday 12 October 2023
- Lloyds List - Monday 9 October 2023
- The Herald - Monday 9 October 2023
- Edinburgh Gazette - Tuesday 10 October and Friday 13 October 2023
- On the application website: West of Orkney Windfarm – Offshore Application Document Downloads

3.4 Notices publicising the submission of Additional Information were published as follows:

- The Orcadian - Thursday 24 October 2024 and Thursday 31 October 2024
- John O'Groats Journal - Friday 25 October 2024 and Friday 1 November 2024
- Caithness Courier - Wednesday 23 October 2024 and Wednesday 30 October
- The Press and Journal - Tuesday 22 October 2024
- Fishing News - Thursday 24 October 2024
- Lloyds List - Tuesday 22 October 2024
- The Herald - Tuesday 22 October 2024
- Edinburgh Gazette - Friday 25 October 2024
- On the Applicant's website - and West of Orkney Offshore Application – Additional Information :: Wow

3.5 The Application, EIA Report and Additional Information were made available for physical inspection at the following locations:

- Thurso Library, Davidson's Lane, Thurso, KW14 7AF
- Bettyhill Library, Naver Teleservice Centre, Bettyhill, KW14 7SS
- Bettyhill Hotel, A836, Bettyhill, KW14 7SP
- The Highland Council Headquarters, Glenurquhart Road, Inverness, IV3 5NX
- Orkney Library & Archive, 44 Junction Road, Kirkwall, Orkney, KW15 1AG
- The Stromness Library, 2-12 Victoria Street, Stromness, Orkney, KW16 3AA
- Xodus Group, 8 Garson Place, Stromness, Orkney, KW16 3EE
- West of Orkney Windfarm, 32 Charlotte Square, Edinburgh, EH2 4ET

3.6 The Scottish Ministers made the Application publicly available on its external facing website: https://marine.gov.scot/node/24486.

3.7 In addition, a consultation exercise on the application and EIA Report was undertaken in accordance with the 2007 MW Regulations and 2017 MW Regulations for a period for a period from 2 October 2023 until 20 November 2023, and for a period from 2 October 2023 until 2 February 2024 for the planning authorities ("the Original Consultation"). A further consultation exercise in respect of the subsequent Additional Information was undertaken for a period from 18 October 2024 until 3 December 2024, and for a period from 18 October 2024 until 3 December 2024 for the planning authorities ("the Additional Information Consultation"). The regulatory requirements regarding consultation and public engagement have been met and the representations received taken

into consideration. Where matters have not been fully resolved, conditions have been included to ensure appropriate action is taken.

3.8 A summary of the representations is set out at sections 4, 5, 6 and 7. The representations for the Original Consultation are available to view in full here. The representations for the Additional Information Consultation are available here.

4 Summary of representations from statutory consultees

4.1 Department of Agriculture, Environment and Rural Affairs ("DAERA")

4.1.1 DAERA were not consulted on The Original Application.

4.1.2 With regard to the Additional Information Consultation, DAERA had no objection to the Works. DAERA noted that they did not believe there would be any LSE to Rathlin SPA and East Coast Marine proposed SPA as a result of the Works. However, DAERA suggested that the RIAA submitted by the Applicant should show consideration to these sites, particularly East Coast Marine proposed SPA which was missing from the RIAA, although due to the location of the Works the site could be screened out.

4.1.3 The DAERA response has been considered by Marine Directorate – Licensing Operations Team ("MD-LOT") (previously known as Marine Scotland – Licensing Operations Team) in the AA at Annex B.

4.2 The Highland Council ("THC")

4.2.1 THC provided a response to the Original Consultation raising concerns regarding the impact of the Works on SLVIA receptors from several viewpoints and the wider experience of the North Coast land and seascape, THC elected to wait until a re-assessment of the SLVIA responses was complete before delivering a formal response.

4.2.2 In response to the Additional Information Consultation, THC recommended in its representation to raise no objection to the application subject to the inclusion of a suite of conditions within the marine licence. Irrespective of the application of such conditions, the Scottish Ministers do not consider this representation to be an objection to the Works.

4.2.3 The Scottish Ministers note the request from THC to include a condition requiring a Community Liaison Plan. While Scottish Ministers have not adopted the precise condition proposed by THC, a condition requiring the Applicant to produce a Community Liaison Plan has been included in the GS Marine Licence to address the key points raised by THC. The Community Liaison Plan will set

out the arrangements for establishing a community liaison group, in consultation with THC.

4.2.4 THC requested the inclusion of a condition requiring a scheme for aviation lighting. The Scottish Ministers acknowledge THC's request for a condition requiring a scheme for aviation lighting. While certain elements of the requested scheme have been incorporated into the conditioned Lighting and Marking Plan ("LMP") - for which THC is a named consultee - some aspects were not included. Specifically, the request for a regular review of the scheme for aviation lighting following the commissioning of the Works, and an assessment aimed at reducing the number of visible lights installed on turbines, were not included as part of the conditions attached to the GS Marine Licence. These requirements were not included following a determination that their inclusion could potentially introduce a conflict with existing obligations incumbent on the Applicant to comply with relevant guidance, as required by the LMP condition. The Scottish Ministers have reflected the request for consideration of the use of aircraft detection lighting as part of the LMP.

4.2.5 Finally, THC requested the marine licence be conditioned to require a Local Employment Scheme to maximise the local socio-economic benefits of the Works to the wider community and to make provision for publicity and details relating to any local employment opportunities. The Scottish Ministers have taken the decision not to apply a condition relating to a Local Employment Scheme. The Scottish Ministers are of the view that mandating local employment would not be in line with Planning Circular 4/1998[a]: the use of conditions in planning permissions specifically for reasons of necessity, reasonableness and enforceability.

4.2.6 Considering the effects of the Development on the wider policy context, THC noted that the Works would make a significant contribution to both UK and Scottish Government policy targets regarding climate change. THC also highlighted that the Applicant had given regard to the Pilot Pentland Firth and Orkney Waters Marine Spatial Plan's requirement that there be early communication and consultation with affected stakeholders.

4.2.7 THC noted that the Works could offer significant investment/opportunities to the local and national economies ranging across several sectors. Furthermore, THC highlighted the potential moderate/significant socio-economic benefits resulting from the Works with the creation of 453 jobs in the Highland area and 1562 in Scotland as a whole.

[a] 'Planning Circular 4/1998: The Use of Conditions in planning permissions' (27 February 1998) available at <https://www.gov.scot/publications/planning-circular-4-1998-use-of-conditions-in-planning-permissions/>.

4.2.8 In addressing the SLVIA submitted by the Applicant, THC noted that since The Original Application, the Applicant had introduced restricted build areas partially in order to address concerns stemming from the SLVIA. THC agreed that there was no significant effects on any Special Landscape Areas ("SLA") or Landscape character type ("LCT"). Nonetheless THC did express concern about cumulative landscape effects when this project is viewed with other energy developments.

4.2.9 THC noted several discrepancies between the Applicant's conclusions on Landscape and Visual Impact Assessment and THC's own judgement and disagreed that certain impacts had been fully eliminated. However, THC were confident that further compositional improvements to the layout of the Works achieved through a condition to this consent would result in a further reduction of visual clutter and improve the arrays cohesiveness.

4.2.10 Ultimately, THC acknowledged that the presence of significant visual effects were an unavoidable consequence of a project of this scale undertaken for a greater benefit.

4.2.11 THC noted its requirement that night time visual intrusion on coastal communities be reduced as much as possible. THC recommended possible avenues such as dimming and intelligent lighting be considered.

4.2.12 In order to mitigate the concerns raised regarding the SLVIA, the GS Marine Licence contains a Restricted Build Area condition that will limit the areas of the OAA where a wind farm array can be constructed. Furthermore, THC will be consulted on the DSLP which will be required by condition to be submitted and approved by the Scottish Ministers prior to the commencement of the Works.

4.3 Historic Environment Scotland ("HES")

4.3.1 With respect to the Original Consultation, HES concluded that the EIA Report did not contain sufficient information to make an informed decision on the application.

4.3.2 HES noted that the EIAR did not include consideration of impacts on the designated cultural heritage assets closest to the turbine array: the Category A listed Sule Skerry Lighthouse.

4.3.3 HES undertook a basic assessment of the impact of the Works on the Sule Skerry Lighthouse and concluded that while the Works was unlikely to result in an impact that would result in their objection, additional information was required.

4.3.4 In relation to the Additional Information Consultation, HES noted that the Applicant had now provided sufficient information in the EIA addendum and were content with its conclusions. HES withdrew their objection on the grounds that the Works did not raise historic environment issues of national significance but noted that this should not be taken as support for the Works.

4.3.5 HES provided an assessment of all cultural assets within their remit. For Sule Skerry Lighthouse, HES noted that although the wireline illustrations demonstrate that the Works would be a readily visible change to the setting of the lighthouse, it would not significantly affect the understanding, appreciation or experience of the lighthouse's cultural significance.

4.3.6 Regarding the Heart of Neolithic Orkney World Heritage Site and Skara Brae, settlement, mounds and other remains, HES noted that the turbine array would be visible from Skara Brae and that this would have an impact on Skara Brae's setting and Outstanding Universal Value. However, HES concluded that the scale of this impact would not be sufficient to prevent the ability to appreciate, experience and understand its setting or Outstanding Universal Value, therefore this would not merit an objection.

4.3.7 With respect to other designated assets in the area, HES noted that the Works would be a significant visual feature particularly for scheduled monuments along the coastline of the north of Scotland and the west coast of Orkney. This impact would vary between sites but the most impacted assets would be those where the remoteness of their coastal setting would be altered by the introduction of modern infrastructure to outward maritime views. However, HES concluded that none of the assets would be impacted at such a scale to merit an objection.

4.3.8 HES highlighted the geophysical surveys undertaken thus far and were supportive that there will be a review of further geotechnical data by archaeological and geoarchaeological specialists. They noted that the geotechnical data must include information for geotechnical cores to ensure there is an adequate spread across the Works area, and a summary description should be provided of any new geotechnical core data. HES noted as positive the review of additional geo-survey data by a marine archaeologist and the embedded mitigation in table 16-12 of the EIAR. HES recommended further analysis of the potential impacts and mitigation once the new data became available.

4.4 <u>Maritime and Coastguard Agency</u>

4.4.1 In relation to the Original Consultation, MCA responded and provided a cautious acceptance of the Application subject to a number of requirements and conditions.

4.4.2 MCA confirmed that it was satisfied that the NRA has been undertaken in accordance with Marine Guidance Note ("MGN") 654, including appropriate traffic data, and NRA risk assessment methodology.

4.4.3 The NRA identified one unacceptable risk which is for the displacement of commercial vessels in adverse weather during the operational phase. The MCA noted that the sea space between Sule Skerry and the red line boundary is not a safe navigable route and that the assumption made by the Applicant that this displacement is "*tolerable and ALARP"*, and therefore not significant, is incorrect. The MCA note that the stated additional risk control of a DSLP that specifies the turbine layout will not impact displacement, as the displaced vessels will still divert around Sule Skerry. The MCA also noted that including the DSLP as an additional mitigation measure is not sufficient to reduce the risk, and concluded that the space between Sule Skerry and the red-line boundary was not a safe navigable route, causing vessels to divert to Skerry Bank in safer waters.

4.4.4 The MCA commented that they were content with the list of embedded risk controls in both the Shipping and Navigation chapter of the EIAR and the NRA.

4.4.5 MCA requested further consultation on final turbine layout design and marking and lighting arrangements. MCA made a number of recommendations regarding marking and lighting of turbines and requirements for hydrographic surveys.

4.4.6 MCA requested that a SAR checklist, which included the requirement for an approved ERCoP, be completed in accordance with the requirements of MGN 654 Annex 5 prior to the commencement of construction. MCA made a number of points to be considered during SAR discussions.

4.4.7 During the construction phase of the Works, MCA advised that there must be an approved construction plan in place before commencement and that the progression of the construction should be linear to avoid multiple sites at various stages of construction across the Works area. Additionally, MCA noted that construction buoy locations will be required to allow the safe transit of tankers.

4.4.8 MCA noted that cable burial protection indexes, cable protection, and export cable routes were yet to be developed and that these must be considered fully, particularly in near shore areas where impacts on navigable water depth may be significant. The MCA further noted that all cable works must not compromise

existing and future safe navigation. MCA concluded that the proposed use of High Voltage Alternate Current ("HVAC") for the export cable was not expected to have an impact on electro-magnetic fields or the magnetic compasses of ships.

4.4.9 MCA confirmed it will provide comment on the safety zone application once submitted.

4.4.10 In relation to the Additional Information Consultation, MCA were content that no surface infrastructure would be installed in the restricted build areas proposed by the Applicant. MCA noted that this would be positive due to reduced risks of allision and grounding on the western and eastern boundaries, where vessels will transit between the Works and the restricted build area around Sule Skerry. MCA were content with the calculations of widths of the additional sea space.

4.4.11 In consideration of the representation from MCA, conditions have been attached to the GS Marine Licence to require a Vessel Management Plan ("VMP"), DSLP, LMP, Environmental Management Plan ("EMP"), ERcOP and CaP to be submitted by the Applicant for the approval by the Scottish Ministers prior to the Commencement of the Works and thereafter adhered to.

4.5 Natural England

4.5.1 Natural England were not consulted on The Original Application. Natural England responded to the Additional Information Consultation and raised no objections to the Works.

4.5.2 Natural England concluded that, due to the location, the Works would be unlikely to significantly impact or have AEOSI on any species from English designated sites or waters.

4.5.3 The Natural England response has been considered by MD-LOT in the AA at Annex B.

4.6 Natural Resources Wales ("NRW")

4.6.1 NRW were not consulted on The Original Application.

4.6.2 In response to the Additional Information Consultation, NRW noted that it did not have the capacity to respond and therefore deferred to NatureScot's advice.

4.6.3 The NRW response has been considered by MD-LOT in the AA at Annex B.

4.7 NatureScot

4.7.1 In response to the Original Consultation, NatureScot advised that the primary ornithological impact assessment was not in line with pre-application advice or NatureScot guidance. Large elements of the assessment were incomplete or incorrect, resulting in a lack of confidence in the predicted impacts. Additionally, scenarios presented in SLVIA assessments resulted in predicted adverse impacts that were considered unrealistic and required reassessing.

4.7.2 NatureScot therefore objected to the Application until additional information was provided by the Applicant, including:

- A re-assessment of offshore ornithology interests
- A re-assessment of SLVIA interests
- Additional information regarding marine mammals, benthic habitats, and fish and shellfish.

4.7.3 Ornithology

4.7.3.1 With regard to the Original Consultation, NatureScot requested a re-assessment of the entire ornithological study due to fundamental issues with the assessments

4.7.3.2 With regard to the Additional Information Consultation, NatureScot noted that a full re-assessment of offshore ornithology had been undertaken as requested, which followed relevant NatureScot guidance and proposal-specific advice.

4.7.3.3 Additionally, NatureScot highlighted that the in-combination apportioning methodology did not rely on that of other project applications and instead recalculated this using apportioning weights calculated within the apportioning technical report. NatureScot highlighted that this had implications for the Population Viability Assessment ("PVA") results, most notably in relation to St Abb's Head to Fast Castle SPA, however concluded that it did not materially affect the conclusion of AEOSI on St Abb's Head to Fast Castle SPA or other SPAs.

4.7.3.4 NatureScot highlighted an error in the calculation in the regional population size for great black-backed gull ("GBBG"), which affected the assessment for this species. NatureScot provided updated figures which concluded that the overall cumulative effect on GBBG is considered to be major adverse, and therefore significant in EIA terms. NatureScot also highlighted that the regional population estimate was used as an input into the PVA modelling but was unable to assess the effect that the error would have had on the PVA results.

4.7.3.5 In the determination of AEOSI, NatureScot disagreed with the Applicant's use of counterfactual of Population Growth Rate as the basis for the assessment. NatureScot consider both counterfactual of Population Size and counterfactual of Population Growth Rate to provide a robust measure of population level impacts. NatureScot used this approach to consider whether a clear conclusion on AEOSI could be reached. In some instances this was not the case due to the range of predicted impacts, reflecting uncertainty in the Application.

4.7.3.6 NatureScot agreed with the conclusion of no significant adverse impact under EIA for the Works alone. However, NatureScot disagreed with the conclusion of no significant adverse impacts for cumulative effects under EIA. NatureScot advised that cumulative impacts are significant in EIA terms for the following:

- Gannet through collision and displacement
- Great black-backed gull through collision
- Kittiwake through collision and displacement
- Razorbill through displacement

4.7.3.7 NatureScot advised that mitigation should be identified where a significant adverse effect is identified, therefore mitigation measures for kittiwake, gannet and potentially razorbill should be secured if consent for the Works were to be granted. NatureScot advised that, should the AA determine AEOSI for these species, then compensatory measures secured as part of the derogations case would be sufficient to address impacts under EIA for these species.

4.7.3.8 Regarding the approach to the assessment, NatureScot highlighted that the RIAA addendum presented a substantial long list of European sites, which could have been refined further. However, NatureScot was content that all sites and qualifying species for which there could be LSE were taken forward for assessment. NatureScot agreed with the Applicant's conclusion of AEOSI for guillemot at Sule Skerry and Sule Stack SPA for the Works alone.

4.7.3.9 In its response, NatureScot noted that the proposal was assessed in-combination with other wind farms for two scenarios – other wind farm projects including the proposed Berwick Bank Wind Farm (which at the time of writing is awaiting determination), and other wind farm projects excluding the proposed Berwick Bank Wind Farm.

4.7.3.10 NatureScot concluded AEOSI in combination with other developments on the following qualifying species and sites:

- Guillemot at East Caithness Cliffs SPA
- Guillemot at Sule Skerry and Sule Stack SPA Kittiwake at East Caithness Cliffs SPA
- Gannet at Forth Islands SPA
- Kittiwake at Forth Islands SPA
- Kittiwake at Fowlsheugh SPA
- Kittiwake at North Caithness Cliffs SPA
- Kittiwake at Rousay SPA
- Kittiwake at West Westray SPA
- Kittiwake at St Abb's Head to Fast Castle SPA (with Berwick Bank – no AEOSI excluding Berwick Bank).
- Kittiwake at Troup, Pennan & Lion's Heads SPA (with Berwick Bank – no AEOSI excluding Berwick Bank).
- Kittiwake at Buchan Ness to Collieston Coast SPA (with Berwick Bank – unable to conclude no AEOSI without Berwick Bank).
- Kittiwake at Hoy SPA (with Berwick Bank – unable to conclude no AEOSI without Berwick Bank).

4.7.3.11 NatureScot was unable to conclude no AEOSI in combination with other projects on the following qualifying species and sites:

- Razorbill at East Caithness Cliffs SPA
- Gannet at Fair Isle SPA
- Puffin at Forth Islands SPA
- Gannet at Hermaness, Saxa Vord and Valla Field SPA
- Guillemot at Copinsay SPA
- Guillemot at North Caithness Cliffs SPA.

4.7.3.12 NatureScot concluded no AEOSI from the Works alone on the following qualifying species of the Outer Firth of Forth and St Andrews Bay Complex ("OFFSAB") SPA: Common scoter, velvet scoter, common eider, long-tailed duck, goldeneye, red-breasted merganser, red-throated diver, Slavonian grebe and European shag.

4.7.3.13 NatureScot advised that if the Works is to be constructed during the same time frame as Berwick Bank Windfarm, then NatureScot has concerns regarding in-combination impacts and that further consideration of mitigation measures may be required in such a scenario to conclude no AEOSI.

4.7.3.14 With regard to the without prejudice HRA derogation case, NatureScot were unable to conclude that the proposed compensatory measures would be sufficient to compensate for the predicted impacts of the Works due to limitations in the information provided. NatureScot provided detailed comments in response to the Additional Information Consultation, including further points on uncertainty surrounding the sufficiency of the proposed compensatory measures to compensate for the predicted impacts of the Works.

4.7.3.15 The Scottish Ministers have considered the concerns raised by NatureScot and have further considered the proposals put forward by the Applicant as part of its HRA derogation case. In consideration of the representation from NatureScot, a condition requiring a Seabird Compensation Plan to be submitted has been attached to the GS Marine Licence. In addition, the Scottish Ministers have further considered the matters raised by NatureScot in section 9. Further information on this can also be found I the Appropriate Assessment (Annex B) and Derogation Case (Annex G).

4.7.4 Seascape, Landscape and Visual Interests Assessment

4.7.4.1 Responding to the initial consultation NatureScot objected to the proposal, advising that there would be a significant adverse impact on the Kyle of Tongue National Scenic Area ("NSA"), and advised that there could be significant adverse effects on the distinctive coastal character type of the North Coast.

4.7.4.2 NatureScot advised that the proposed design would significantly affect Special Landscape Quality ("SLQ") three (Scale, from domestic to monumental), and five (Rich variety of coastal scenery) of the Kyle of Tongue NSA. NatureScot noted that this would impact on the perceptual experience of the transition from the inner sheltered Kyle to the outer exposed Kyle along the coastal margin of the NSA.

4.7.4.3 NatureScot also advised further work is required to be undertaken to understand the effect that could result from the proposed development on the distinctive coastal character of the North Coast and west Orkney coast, given the extensive pattern of visibility over both coasts.

4.7.4.4 NatureScot noted that the SLVIA assessment presented was a worst-case scenario that was unlikely to be constructed. NatureScot highlighted that likely layouts were included in figures, but not assessed in the SLVIA and noted that the Applicant had indicated that they intended to address significant effects of the SLVIA would be addressed post-consent. NatureScot did not agree with this approach.

4.7.4.5 NatureScot advised that, in order to address their concerns, the SLVIA was re-assessed to include additional specific viewpoints. NatureScot advised that specific wirelines would be required to provide conclusions on impacts to the Kyle of Tongue NSA, and 360 degree wirelines would also be required from additional locations to enable an assessment on impacts to the North Coast. NatureScot also advised the SLVIA should be based on a realistic worst-case scenario, and that significant effects that require mitigation should be addressed during the application process, and not post-consent.

4.7.4.6 With regard to the Additional Information Consultation, NatureScot advised that the revised layout presented in the additional information did not change their previous conclusions, and maintained the objection on SLVIA. NatureScot concluded that significant adverse impacts to the Kyle of Tongue NSA, and significant adverse effects on the distinctive coastal character type of the North Coast remained.

4.7.4.7 With regard to Kyle of Tongue NSA, NatureScot advised that effects on SLQ 5 would be more extensive than just Torrisdale Bay, as the perceptual experience of the transition from the inner sheltered Kyle to the outer exposed Kyle along the entire north and north-east facing coastline of the NSA would be affected. NatureScot considered viewpoints 4 and 5 to be representative of the experience of the Works when journeying from the settled inner Kyle to the outer exposed coast, throughout the NSA. NatureScot advised that from viewpoint 17 the Works would not significantly affect SLQ5, but that this experience from the causeway could be further overcome through a reduction in turbine height and / or development at a greater distance from the NSA. NatureScot concluded that the Works would significantly affect both SLQ3 and SLQ5 of the Kyle of Tongue NSA.

4.7.4.8 NatureScot highlighted that the design retains turbines along the eastern and southern boundary extents of the OAA at distances of <40km. NatureScot advised that this, in combination with worst case 359.52m high turbines, does not demonstrate a design process which seeks to reduce effects on the nationally recognised, highly valued, sensitive coastal landscapes of the North Coast and Kyle of Tongue NSA.

4.7.4.9 NatureScot noted in its response that the Applicant provided a revised layout, informed by a number of additional design principles. NatureScot advised that whilst the Applicant demonstrated additional design principles, these key objectives did not transfer over to the revised layout design, particularly in relation to horizontal extent, vertical height and layout.

4.7.4.10 NatureScot advised that whilst the Works would not have any direct effects on key characteristics of the North Coast coastal landscapes, it considered that the Works would have the potential to affect experiential and perceptual qualities of these coasts. NatureScot advised that the Works would affect the more enclosed, intimate visual character of the small-scale seascape afforded by the indented bays along the North Coast, and the perceptual responses of tranquillity and seclusion from these bays would also be affected.

4.7.4.11 NatureScot advised that there would be significant visual effects from bays assessed along the North Coast. NatureScot also highlighted that effects on the perceptual qualities of indented bays and low-lying coastline at Melvich would be further compounded by cumulative effects resulting from the application stage Melvich Wind Farm. NatureScot added that the extent of cumulative effects with onshore wind energy proposals has however reduced in extent, due to Armadale Wind Farm proposal having been withdrawn.

4.7.4.12 NatureScot highlighted that the Sandy Beaches and Dunes, High Cliffs and Sheltered Bays and Coastal Croft and Small Farms LCT's are interwoven with each other along this stretch of coastline and highlighted that the proposal would affect the strong sense of seclusion and interrupt the experience of the framed views of the simple horizon afforded by the sea from these small-scale intimate bays. NatureScot also advised that the proposal would impose substantially on the highly scenic indented bays along the coastal edge of the North Coast.

4.7.4.13 NatureScot highlighted that the Works would introduce man-made elements of considerable scale into the experience of the popular North Coast 500 (“NC500”) tourist route. NatureScot advised that the proposal would significantly impact the experience of the distinctive North Coast landscape from the NC500 route; impacting on framed views directed out over the sea. These effects would be further compounded by cumulative effects with the at application stage onshore Melvich Wind Farm.

4.7.4.14 With regard to Hoy and West Mainland NSA, NatureScot concluded no significant effects on the SLQs of the Hoy and West Mainland NSA.

4.7.4.15 The Scottish Ministers have considered the concerns raised by NatureScot. In consideration of the representation from NatureScot, the GS Marine Licence contains a condition for a Restricted Build Area that will limit the areas of the OAA where a wind farm array can be constructed. Furthermore, NatureScot will be consulted on the DSLP, and DS which will be required by condition to be submitted and approved by the Scottish Ministers prior to the commencement of the Works. However, despite the inclusion of these conditions and post-consent plans to mitigate significant visual impacts, the Scottish Ministers note the maintained objection from NatureScot on visual impacts.

4.7.5 Marine Mammals

4.7.5.1 With regards to the Original Consultation, NatureScot advised it was unable to reach a final view on the significance of predicted impacts to marine mammals due to concerns about the assessment approach undertaken by the Applicant.

4.7.5.2 NatureScot highlighted concerns regarding the approach to embedded mitigation, noting insufficient detail and uncertainty in the assessment outputs. Additionally in relation to conclusions reached in the impact assessment which underplayed likely impacts surrounding EPS with mitigation measures being deferred to the EPS licensing process.

4.7.5.3 NatureScot advised that it required further information regarding potential impacts from the offshore works to otters in the nearshore area which should be considered under HRA and the EPS licensing process. It also required further consideration to be given to the cumulative assessment including, but not limited to, predicted mortality from collision with tidal stream developments and also further consideration to be given to mitigation of impacts. Additionally, NatureScot required numerous revisions to the sensitivity and magnitude scoring of species and impacts resulting in a revision of the significance conclusions to take account of these revisions.

4.7.5.4 While discussing the underwater noise modelling detailed in Supporting Study 11, NatureScot acknowledged that due to the pile hammer size and water depth, the model is extrapolated beyond the boundaries of the current dataset and as such has an inherent degree of uncertainty. Due to this, NatureScot requested noise level monitoring of pile driving activities be undertaken in order to validate the model. Similarly, NatureScot requested an updated PS once the parameters have been refined so as to address concerns around predicted Permanent Threshold Shift ranges.

4.7.5.5 NatureScot noted discrepancies between the outline Marine Mammal Mitigation Protocol ("MMMP") and the underwater noise modelling report in Supporting Study 11. NatureScot required clarification of the discrepancies between them to ensure accuracy in the values presented for piling duration and hammer blows. Additionally, NatureScot required further consideration be given to mitigation within the MMMP.

4.7.5.6 NatureScot noted that it was content that, as no SACs with marine mammals had been screened in for LSE, no further consideration under HRA was required.

4.7.5.7 With regard to the Additional Information Consultation, NatureScot advised that they supported the Applicant's conclusion, reached in the additional information, of no significant impacts, both alone and cumulatively for marine mammals under EIA. NatureScot highlighted that the revised assessment for underwater noise effects on marine mammals provided greater explanation and justification, and the results represented a more realistic assessment.

4.7.5.8 For harbour seal, NatureScot highlighted concerns about the outcome of the interim population consequences of disturbance modelling, where predicted collision from the MeyGen tidal development were included. However, NatureScot highlighted that the collision risk value used (69) did not consider any avoidance rate, the consent arrangements for MeyGen are such that only phase 1A of their project is operational and so any further phases will require further assessment, and the predicted West of Orkney Windfarm contribution to this decline is likely to be negligible. NatureScot advised that more realistic representative mortality values should have been used, including any implications in relation to the Potential Biological Removal Rate for North Coast and Orkney which is extremely low.

4.7.5.9 NatureScot was satisfied with the inclusion of underwater noise impacts to cetaceans within an EPS context, noting that it facilitates earlier insight and discussion on how the risk of injury and/or disturbance at an individual animal and/or population level, can be mitigated. NatureScot noted that a PS, together with updated noise modelling, EPS risk assessment and updated MMMP would be submitted post consent.

4.7.5.10 NatureScot was content that the revised outline MMMP provided greater clarity and commitment, including commentary outlining the process and to consider and include additional mitigation requirements once further site investigation survey information and foundations are chosen.

4.7.5.11 NatureScot also agreed with the conclusion of no AEOSI for otter as a qualifying species of Caithness and Sutherland Peatlands SAC from nearshore and landfall activities, providing mitigation as detailed within the onshore EIA Report, and adherence to the Scottish Marine Wildlife Watching Code is secured. The VMP attached to the s36 consent as a condition will be required to refer to the Scottish Marine Wildlife Watching Code.

4.7.6 Fish and Shellfish Ecology

4.7.6.1 With regards to the Original Consultation, NatureScot noted that it did not agree that sufficient assessment had been undertaken specifically in relation to key Priority Marine Features (“PMF”) and disagreed with the conclusion reached in the EIA that no further mitigation was required. NatureScot outlined that some potential impacts had been missed and others were unable to be fully quantified unless analyses with finer resolution were undertaken and original survey datasets were integrated.

4.7.6.2 Regarding PMFs, NatureScot requested that the Applicant re-examine all drop down video footage for the presence of common skate, their eggs and any historical evidence of eggs wedged between cobles and boulders and compliment this with results from the eDNA tests undertaken. NatureScot highlighted that further surveys might be required and, depending on the results of the analysis, further consideration of mitigation and/or monitoring requirements may be necessary.

4.7.6.3 NatureScot further noted that, given their importance to the wider ecosystem, the presence of sandeels within the OAA and ECC should be contextualised to inform the assessment process. Furthermore, temporary increases in suspended sediment concentrations and associated sediment deposition and temporary habitat disturbance and loss must be included in the assessment. Additionally, the assessment should consider the potential for impacts to sandeel eggs and larvae from underwater noise. Finally, NatureScot noted that an assessment against the national status of sandeel may be required to determine if there is any impact pathway to the North-West Orkney ncMPA.

4.7.6.4 NatureScot noted that cable burial should only be considered as mitigation of EMF impacts if significant depth can be achieved.

4.7.6.5 With regard to the Additional Information Consultation, NatureScot agreed that the Additional Information supported the conclusion of no significant impacts, both alone and cumulatively for fish and shellfish interests, including diadromous fish subject to confirmation of embedded mitigation for migratory fish, including Atlantic salmon, in line with the onshore EIA Report.

4.7.6.6 For common skate, NatureScot noted that the re-analysis of the drop-down video footage did not identify any common skate egg cases but highlighted that the sampling coverage across the OAA and ECC was modest, with some areas of suitable habitat not sampled. Despite this, NatureScot advised that further survey work is not required to inform the assessment of the proposal.

4.7.6.7 With regard to the national status of common skate as a PMF, NatureScot agreed there would be no significant effect on the national status of common skate as a PMF based on the Additional Information provided.

4.7.6.8 NatureScot noted that individual WTGs would be micro-sited to consider positioning accuracy and any technical and environmental constraints at the time of installation. To reduce residual impacts, NatureScot advised that any new drop-down video footage associated with detailed engineering of WTGs should be checked for common skate presence including egg cases. Additionally, all common skate egg cases should be avoided as far as is reasonably practicable, and further advice should be sought from NatureScot in the event that records of egg cases suggest an egg nursery.

4.7.6.9 For sandeel, NatureScot advised that the use of additional data sources and further analysis provided a more complete understanding of likely sandeel distribution and extent in the region and agreed with the conclusions from the assessment that sensitivity is medium, magnitude (in the context of wider suitable habitat) is low, and overall the impact is not significant.

4.7.6.10 With regard to the national status of sandeel as a PMF, NatureScot advised there will be no significant effect on the national status of sandeel as a PMF, based on the assessment of sandeels in the wider context of suitable habitat.

4.7.6.11 NatureScot noted that underwater noise modelling confirms that for North-West Orkney ncMPA, which includes sandeel as one of its protected features, there is potential for disturbance to sandeels within the boundary of the ncMPA from piling activities. NatureScot highlighted this is a temporary effect, and that there is considerable uncertainty as to what the consequences of this might be for sandeels, which are not particularly sensitive to underwater noise. NatureScot advised that the Works is capable of affecting, other than insignificantly, the sandeel protected feature of North-West Orkney ncMPA, but agreed with the assessment which indicated there is no significant risk of hindering the achievement of the Conservation Objectives. A Marine Protected Area assessment of the sandeel protected feature of North-West Orkney ncMPA can be found in Annex D.

4.7.6.12 For sandeel, NatureScot noted that no monitoring was proposed in the EIA report or Additional Information, both of which defer to the Project Environmental Monitoring Programme ("PEMP"). NatureScot advised that pre and post-construction monitoring is carried out to validate EIA predictions and to build on the survey work undertaken at the Horns Rev and Beatrice offshore wind farms in relation to sandeel monitoring.

4.7.6.13 In relation to diadromous fish, NatureScot highlighted that Atlantic salmon is an Annex II species under the Habitats Directive 92/42/EEC, on the OSPAR list of threatened and / or declining species, was recently reclassified to Near Threatened on the International Union for Conservation of Nature ("IUCN") Red List and a PMF in Scotland. However, NatureScot agreed with the conclusions of the assessment that the impact is not significant for all non-noise related impact pathways with respect to diadromous fish.

4.7.6.14 In relation to the underwater noise modelling report (Supporting Study 11), NatureScot advised that while there may be potential for disturbance effects from piling activities based on predictive modelling, it agrees that the magnitude of effect should be low, given the relatively short-term duration of piling, precautionary nature of the SELcum modelling, likely greater sensitivity to particle motion rather than sound pressure and limited knowledge of spatial distribution. NatureScot agreed with the conclusion of not significant in EIA terms for piling, as well as UXO clearance.

4.7.6.15 NatureScot highlighted that there will be an impact to smolt migration as a result of underwater noise associated with landfall construction activities, specifically at Crosskirk Bay. NatureScot recommended that activity associated with landfall construction at Crosskirk Bay is avoided during April to November to protect salmonid river entry and smolt migration. NatureScot highlighted that this would also provide some protection for other migratory fish species utilising the Forss water including European eel and lamprey species. NatureScot agreed with the conclusion of no significant effect to Atlantic salmon, providing this mitigation is secured.

4.7.6.16 In relation to monitoring for Atlantic salmon, NatureScot highlighted that the West Coast Salmon Tagging Project detected potentially new (unique) smolt behaviour which is perhaps representative of feeding and a less directed migration. NatureScot advised that further acoustic and/or additional monitoring is carried out as part of the PEMP to help validate EIA predictions and contribute to the emerging evidence relating to Atlantic salmon.

4.7.6.17 With regard to EMF modelling, NatureScot noted that the recalculated EMF modelling shows only a marginal difference between these outputs and those provided in the original EIA Report and accepted the assessment conclusions as not significant.

4.7.6.18 NatureScot advised that the Works should contribute to strategic research that helps to improve collective understanding of potential EMF impact pathways which could help to validate the underlying assumptions of the assessment. NatureScot highlighted that Scottish Marine Energy Research are preparing such a project and requested that potential synergies with the PEMP are considered.

4.7.7 Benthic Interests

4.7.7.1 With regards to the Original Consultation, NatureScot noted concerns surrounding the approach to assessment and were unable to reach a final view as to the significance of the predicted impacts without further clarification and information being provided. NatureScot highlighted that there were errors and inconsistencies across the assessment, with missing appendices and the consideration of mitigation was limited.

4.7.7.2 NatureScot required confirmation of the values and references used to establish the impacts to Annex I reef in a national and UK context and as well as revisions to the assessment. Additionally, NatureScot advised that, justification regarding impacts to Annex I stony reef habitat and offshore subtidal gravels PMF was required or a commitment to the mitigation as proposed.

4.7.7.3 NatureScot noted that 30.4km^2 will be required to undergo boulder clearance which is a greater extent than experienced to date at any other Scottish wind farm. Similarly a large area (25.72km2) will require bedform clearance and thus NatureScot noted they required a revision of the assessment and magnitude scoring to better reflect the scale of these clearances. NatureScot noted that this aspect of the assessment could be subject to monitoring as part of a benthic mitigation plan.

4.7.7.4 With regard to cable burial, NatureScot agreed that the target depth of 1-3m for cables is in line with its advice but noted that the recent experience of other wind farms showed that this was often not met. Therefore, it required further consideration of contingency plans due to the greater proportion of hard substrate in the Works area which may hamper efforts to meet the target depth.

4.7.7.5 NatureScot highlighted the lack of quantification of impacts on ocean quahog, which is a PMF in Scottish waters. NatureScot advised that its assessment concluded that there is likely to be an impact on the ocean quahog PMF, albeit without significant impact on national status. Thus, it required confirmation on the numbers of juveniles, adults and empty ocean quahog shells found during the benthic survey campaign and the parameters used to distinguish juveniles.

4.7.7.6 Burrowing bivalves within tide-swept coarse sands were not, as NatureScot noted, included within the EIAR, despite being recorded in the survey data. Thus NatureScot required that an assessment of the potential impacts on tide-swept coarse sands with burrowing bivalves PMF be undertaken.

4.7.7.7 NatureScot noted that as no SACs with benthic features were screened in for LSE, NatureScot was content that no further consideration under HRA was necessary.

4.7.7.8 With regard to the Additional Information Consultation, NatureScot confirmed that the Additional Information provided in relation to benthic ecology clarified the points raised in response to the Original Consultation, and agreed that there are no significant impacts either alone or cumulatively.

4.7.7.9 NatureScot noted the commitment to produce a benthic monitoring plan post-consent.

4.7.7.10 NatureScot advised that the EMF effects covered under the fish and shellfish advice are also applicable to benthic interests.

4.7.8 Physical Processes

4.7.8.1 NatureScot did not provide a response to the Original Consultation with regards to physical processes due to not having a specialist at the time.

4.7.8.2 In response to the Additional Information Consultation, NatureScot was content all relevant impacts to physical processes were identified and assessed and agreed that that the overall impact is not significant in EIA terms, both alone and cumulatively.

4.7.8.3 In response to the Additional Information Consultation and with regard to the shadow derogation case provided alongside the application, NatureScot considered there to be too little information provided to advise with any confidence on the efficacy or feasibility of the proposed measures.

4.7.8.4 In consideration of the representations from NatureScot, conditions have been attached to the GS Marine Licence to require an Operation and Maintenance Programme ("OMP"), PEMP, PS, DSLP, Design Statement ("DS"), Construction Method Statement ("CMS"), Construction Programme ("CoP"), EMP, VMP, LMP, OFFSAB SPA Monitoring Plan, Scapa Flow SPA Monitoring Plan, Environmental Clerk of Works ("ECoW") and CaP to be submitted by the Applicant for the approval by the Scottish Ministers prior to the Commencement of the Works and thereafter adhered to.

4.8 <u>Northern Lighthouse Board ("NLB")</u>

4.8.1 The NLB responded to the Original Consultation and the Additional Information Consultation and concluded they had no objection to the Works.

4.8.2 In response to the Original Consultation, the NLB commented on the outline Aid to Navigation Management Plan ("ANMP"), LMP and Navigational Safety

Vessel Management Plan ("NSVMP") that the establishment and disestablishment of Aids to Navigation across the construction and O&M phases of the Works would be subject to the Statutory Sanction of the Commissioners of the Northern Lighthouses. NLB requested in their response that this process is referenced in future iterations of the ANMP and LMP.

4.8.3 Regarding the outline ANMP, the NLB noted that Construction Phase Temporary Lighting is not required to be installed; however, the NLB would not object to this installation and use for the purpose of internal navigation within the array area of the Works. The NLB noted that notification of the installation and removal of these temporary lights would not be required and they would not be subject to the Statutory Sanction of the NLB. However, the NLB noted that notification of the presence of this temporary lighting should be made within Notices to Mariners and other notifications issued by the Applicant.

4.8.4 The NLB noted that the Applicant has engaged with the NLB in its role as the operator of the Aids to Navigation on both Sule Skerry and Sule Stack. The NLB agreed that the impact on NLB operations at this site was considered to be negligible.

4.8.5 The NLB concluded that they would continue to engage with the Applicant regarding navigational safety matters.

4.8.6 The NLB noted the Applicants commitment to developing a LMP, ANMP, NSVMP and DSLP.

4.8.7 In response to the Additional Information Consultation, the NLB noted that previous safety concerns which were raised by the MCA in relation to the proximity of the Works to Sule Skerry had been resolved.

4.8.8 In consideration of the representation from NLB, a condition has been attached to the GS Marine Licence to require a LMP, ANMP and NSVMP to be submitted by the Applicant for the approval by the Scottish Ministers prior to the Commencement of the Works and thereafter adhered to.

4.9 Orkney Islands Council ("OIC")

4.9.1 OIC responded to the Original Consultation and the Additional Information Consultation and had no objections to the Works.

4.9.2 In responding to the Original Consultation, OIC broadly supported the socio-economic initiatives, embedded mitigation strategies and agreed that many of the predicted environmental effects were either minor or not significant.

4.9.3 OIC recommended continued engagement with the Socio-economic Working Group and noted the Applicant's commitment to a Local Accommodation Strategy. OIC also recommended that unspecified measures are put in place to avoid pressure on tourist accommodation during the construction phase specifically.

4.9.4 OIC highlighted continued engagement with Orkney fishing interests to mitigate the impacts of the Works on the fishing industry. Specifically, OIC noted its encouragement of the identification of research and monitoring priorities in collaboration with Orkney fishing interests.

4.9.5 OIC highlighted its support for a bespoke Community Benefit Fund that was in line with the NMP Renewables Policy 10 regarding community benefits from offshore wind and marine renewable energy development. OIC noted that it expected this be secured by an appropriate binding agreement.

4.9.6 In regard to the SLVIA, OIC noted that the SLQ of the Hoy and West Mainland NSA had been excluded and that this should not have been the case. OIC noted acceptance that the SLVIA was assessing the worst case scenario and highlighted secondary mitigation outlined in the EIAR. OIC noted its agreement with design objectives and highlighted that they should be implemented.

4.9.7 Despite noting the nature positive design of the Works, OIC noted its preference for a more ambitious marine biodiversity enhancement service to be delivered

4.9.8 OIC noted that the embedded mitigation measures including a WSI and PAD must be adhered to. OIC made a general note that it considered the setting assessment to underestimate the contribution of open seascape. OIC highlighted that this had led to an underestimation of the magnitude of impact. Nonetheless OIC concluded that addressing the issues outlined in their response would enable a conclusion of no significant impacts to be more robust.

4.9.9 In relation to Benthic, Subtidal and Intertidal Ecology, OIC noted that INNS protocols such as The Great Britain Invasive Non-Native Species Strategy should be adhered to in order to minimise the introduction or spread of non-native species.

4.9.10 OIC noted that the migratory behaviour of brown crab be researched and monitored and any impacts from cable protection structures assessed more fully due to their importance to the Orkney fishing industry. Similarly, OIC highlighted that Barrier and Electro-Magnetic Field effects be monitored in order to inform potential effects and any appropriate mitigation measures.

4.9.11 With regard to OIC's stance on the community benefit fund, the socio-economic working group and the biodiversity enhancement service, the Scottish Ministers have not attached conditions to the consent requiring provision of such plans.

4.9.12 The Applicant is bound by the Outline Biodiversity Enhancement Plan submitted with the application, however as the additions to the plan requested by OIC were not considered mitigation against adverse impacts by OIC under HRA or EIA, the Scottish Ministers have not included additions to this plan as conditions of the consent.

4.9.13 With regard to the condition proposed by Orkney Island Council concerning a community benefit fund, in the absence of specific statutory authority the Scottish Ministers cannot include conditions within a marine licence requiring the payment of financial consideration in return for the grant of consent. Any arrangements made by the Applicant in respect of a community benefit fund would be undertaken on a voluntary basis. Furthermore, the Scottish Ministers note the requirement of the Planning Circular (4/1998: the use of conditions in planning permission) that conditions imposed on a grant of planning permission must be enforceable. The Scottish Ministers do not consider a condition requiring the creation of a community benefit fund to be enforceable. SLVIA concerns raised by OIC are addressed through the inclusion of OIC as a consultee on the condition requiring the Applicant to submit for approval a DSLP prior to commencement of the Development.

4.9.14 This consent contains a condition requiring the Applicant to submit for approval prior to the commencement of the Works a WSI and PAD in order to address concerns raised by OIC. Furthermore, this consent contains OIC as a consultee on the condition requiring the Applicant to submit a PEMP in order to address concerns raised by OIC in regard to the migratory behaviour of brown crab and the effects of barrier protection and EMFs on diadromous fish.

4.10 SEPA

4.10.1 SEPA responded to the Original Consultation and the Additional Information Consultation and had no objections to the Works.

4.10.2 In relation to the Original Consultation, SEPA had no site-specific comments to make on the Application but referred to its standing advice.

4.10.3 SEPA had no comments to make with respect to the offshore elements of the Works in response to the Additional Information Consultation.

5 Summary of representations from non-statutory consultees

5.1 ABL Group ("ABL")

5.1.1 ABL Group responded to the Original Consultation and had no objections to the Works.

5.1.2 ABL were strongly supportive of the Works given the significant projected positive impacts on Scotland for economic and environmental reasons.

5.1.3 ABL Group did not provide a response to the Additional Information Consultation.

5.2 Caithness Chamber of Commerce ("CCoC")

5.2.1 In response to the Original Consultation, CCoC were fully supportive of the Works.

5.2.2 CCoC noted that the Works would offer benefits nationally, regionally and locally and stated that the location of the Works was suitable.

5.2.3 The CCoC highlighted the economic benefits of the Works including the substantial private and public sector investment into infrastructure and the creation of 140 full-time permanent jobs at Scrabster. Additionally, CCoC noted the Applicant's strong commitment to education and skills development in the North Highlands.

5.2.4 Finally, the CCoC stated that the Works is key in contributing towards Scotland's net zero targets. The CCoC noted that the Works will enhance energy security in Scotland by generating over 2GW of renewable energy by 2030 and has the ability to provide electricity to 2 million households each year.

5.2.5 CCoC did not provide a response to the Additional Information Consultation.

5.3 Caledonia Offshore Windfarm

5.3.1 Caledonia Offshore Windfarm responded to the Original Consultation with no objections to the Works.

5.3.2 Caledonia disagreed with a statement in the derogation case which highlighted that other ScotWind projects would not be likely to operate until after 2030, therefore not contributing to the 2030 targets. Caledonia highlighted that Caledonia Offshore Windfarm, which is a ScotWind project, will be operating and providing electricity to the grid by 2030.

5.3.3 Caledonia Offshore Windfarm did not provide a response to the Additional Information Consultation.

5.4 Dounreay Nuclear Restoration Services ("NRS")

5.4.1 Dounreay NRS responded to the Original Consultation with no objections to the Works.

5.4.2 Dounreay NRS was supportive of the proposed Development due to its socioeconomic benefits, its contribution towards sustainable development in the local area, the significant positive impact it will have on Scotland's net zero targets and the investment into port infrastructure at Scrabster Harbour.

5.4.3 Dounreay NRS highlighted the economic benefits of the Works and noted that the Works could result in significant economic growth as a result of private sector investment.

5.4.4 Dounreay NRS also noted the benefits to Dounreay NRS aims, including reduced scope 2 business emissions through the purchase of electricity. Due to Highlands and Islands Enterprise funding to Scrabster Harbour to reconstruct one of the piers, Dounreay NRS noted that the Works will encourage further investment due to the positive impacts on the economy and environment.

5.4.5 Dounreay NRS did not respond to the Additional Information Consultation.

5.5 The European Marine Energy Centre Ltd ("EMEC")

5.5.1 In relation to the Original Consultation, EMEC highlighted their full support for the Works and raised no objections.

5.5.2 EMEC noted that the Works would contribute towards Scotland's net zero targets whilst positively impacting the economy, the Scottish supply chain and socioeconomics. EMEC emphasised that the Works would allow similar organisations to improve and expand the current supply chain in the North of Scotland. EMEC also highlighted the benefit of the Works being 30km west of EMEC's Billia Croo test site.

5.5.3 EMEC noted that it was working on a new Offshore Wind Research and Innovation Programme ("R&I") with the Applicant. EMEC highlighted that the Offshore Wind R&I Programme will be able to access private and public sector investment into infrastructure in the North of Scotland, which will have a positive impact on the region and de-risk future offshore wind projects. Furthermore, EMEC noted that prior Economic Assessment on EMEC's work in the North of Scotland confirmed that EMEC and the marine energy supply chain has benefitted the local community as well as the UK, and that EMEC's partnership

with the Works will allow increased supply chain and employment opportunities in the region.

5.5.4 EMEC noted the two full-time Science Technology Engineering and Mathematics ("STEM") coordinator positions which will be funded in Caithness, Sutherland and Orkney as part of the outreach programme. EMEC stated the importance of the Works towards the energy transition from jobs in fossil fuels to sustainable jobs.

5.5.5 EMEC did not provide a response to the Additional Information Consultation.

5.6 Fisheries Management Scotland ("FMS")

5.6.1 FMS did not provide a response to the Original Consultation.

5.6.2 FMS responded to the Additional Information Consultation and had no objections to the Works.

5.6.3 In its response to the Additional Information Consultation, FMS expressed concerns around the impacts of the Works on diadromous fish, specifically the wild Atlantic salmon populations in Scotland.

5.6.4 FMS noted that it fully supported the concerns raised by the Northern District Salmon Fishery Board ("NDSFB") and Caithness District Salmon Fishery Board ("CDSFB") that NatureScot had not commented on diadromous fish in the Original Consultation.

5.6.5 FMS highlighted that wild salmon populations across Scotland are in crisis and have rapidly deteriorated, making Atlantic salmon 'Endangered' in the latest species reassessment by the IUCN Red List of Threatened Species in Great Britain. FMS referred to the acoustic tracking work on wild salmon that Marine Directorate – Science Evidence Date and Digital ("MD-SEDD") have undertaken, and noted that this work should be fully considered as part of the consenting process and that there is still a need for equivalent work to be done on north coast rivers in Scotland.

5.6.6 In consideration of the representation from FMS, a condition has been attached to the GS Marine Licence to require a PEMP, for which the FMS must be consulted on, to be submitted by the Applicant for the approval by the Scottish Ministers prior to the Commencement of the Works and thereafter adhered to.

5.7 Focus North

5.7.1 In reference to the Original Consultation, Focus North were fully supportive of the Works.

5.7.2 Focus North stated its commitment to net zero and economic growth in the North of Scotland, and highlighted that progressing the Works in a timely manner was key to this aim. Focus North noted that the Works would attract investment into local infrastructure and create permanent jobs in the region.

5.7.3 Focus North were supportive of the Works and noted the importance multiple projects will have on economic growth in the area. Focus North stated that growing the renewable energy projects in the area will give young people the opportunity to work in the sector, meaning that more working age people will stay in the region.

5.7.4 Focus North also noted the importance of the Works in reducing costs of future renewable energy projects and the positive effect it will have on renewable energy production.

5.7.5 Focus North did not respond to the Additional Information Consultation.

5.8 Graemsay, Hoy and Walls Community Councils

5.8.1 Graemsay, Hoy and Walls Community Councils responded to the Original Consultation and had no objection to the Works.

5.8.2 In responding to the Original Consultation, Graemsay, Hoy and Walls Community Council requested that there be further consultation concerning the cabling proposed by the Works. Specifically, Graemsay, Hoy and Walls Community Council were concerned about any potential damage to roads and disruption or impacts to the landscape of the council area.

5.8.3 Graemsay, Hoy and Walls Community Councils did not provide a response to the Additional Information Consultation.

5.9 Green Marine

5.9.1 Green Marine responded to the Original Consultation and had no objections to the Works.

5.9.2 Green Marine were supportive of the Works highlighting that it would contribute towards the economy and energy infrastructure within the region.

5.9.3 Green Marine noted the opportunities which will arise for the Green Marine business as a result of the Works, including the ability to grow and broaden its services. Green Marine also stated that the Works will allow it to recruit staff, invest in new assets and expand the skills of employees in Orkney and the surrounding areas.

5.9.4 Green Marine did not respond to the Additional Information Consultation.

5.10 Harland and Wolff

5.10.1 Responding to the Original Consultation, Harland and Wolff noted its full support for the Works.

5.10.2 Harland and Wolff highlighted the commitment of the Applicant to the Scottish supply chain and noted several key areas where the Works would benefit the supply chain.

5.10.3 From an economic perspective, Harland and Wolff noted that the Works would result in substantial investment in the North of Scotland and ensure maximum Scottish Fabrication Content. Additionally, Harland and Wolff noted that the Works would enable significant investment into infrastructure in the North of Scotland that would subsequently de-risk the delivery of future offshore wind projects.

5.10.4 Harland and Wolff did not respond to the Additional Information Consultation.

5.11 Heriot Watt University

5.11.1 Heriot Watt University responded to the Original Consultation and did not have any objections to The Works.

5.11.2 Heriot Watt University noted the contribution that the Works will make towards the energy transition in Scotland. Heriot Watt University highlighted that the Applicant had been effective at consulting with local communities in Orkney and Caithness at each stage of the project.

5.11.3 Furthermore, Heriot Watt University noted the socioeconomic benefits associated with the Works, including that the Applicant appeared to have committed to working with the local supply chain which will have a positive impact on strengthening the existing renewable energy cluster in Orkney.

5.11.4 Finally, Heriot Watt University recognised that the Works would improve employment in the local area through its investment in local schools' STEM activities.

5.11.5 Heriot Watt University did not respond to the Additional Information Consultation.

5.12 Hareema Marine Contractors

5.12.1 In response to the Original Consultation, Hareema Marine Contractors were supportive of the Works due to the environmental and economic benefits it would bring to the North of Scotland, Scotland and the UK.

5.12.2 Hareema Marine Contractors did not provide a response to the Additional Information Consultation.

5.13 HiDef Aerial Surveying Limited ("HiDef")

5.13.1 HiDef responded to the Original Consultation and had no objections to the Works.

5.13.2 HiDef noted that the location of the Works was optimal due to the weather conditions, such as consistent high winds and water depths which are suitable for fixed foundations.

5.13.3 Additionally, HiDef highlighted the economic benefits the Works could bring to the North of Scotland including investment into infrastructure in the area and meeting the electricity needs of over 2 million households per year.

5.13.4 HiDef did not respond to the Additional Information Consultation.

5.14 Highlands and Islands Airports Limited ("HIAL")

5.14.1 HIAL did not provide a response to the Original Consultations.

5.14.2 In its response to the Additional Information Consultation, Highlands and Islands Airports Limited confirmed that the project will not impact on the safeguarding criteria of any Highlands and Islands airport.

5.15 Howco Group

5.15.1 Howco Group responded to the Original Consultation and had no objections to the Works.

5.15.2 Howco Group were supportive of the Works noting the economic impacts the Works would bring to the North of Scotland and beyond. Howco Group also highlighted the positive impact it would have on employment and increased apprenticeships within the local communities and pointed to the positive effect the Works would have on the supply chain. Howco Group also emphasised the importance of the Works in encouraging long term investment in Scottish manufacturing.

5.15.3 Howco Group did not respond to the Additional Information Consultation.

5.16 The Joint Radio Company ("JRC")

5.16.1 The JRC did not provide a response to the Original Consultation.

5.16.2 The JRC responded to the Additional Information Consultation and had no objection to the Works.

5.16.3 The JRC noted in its response that the proposal is cleared with respect to radio link infrastructure operated by local energy networks.

5.17 Leask Marine Ltd

5.17.1 Leask Marine Ltd responded to the Original Consultation and had no objections to the Works.

5.17.2 Leask Marine Ltd stated that the Applicant was committed to the local supply chain and would have a positive impact on local communities. Leask Marine Ltd noted that the Works had the potential to result in significant contributions and add significant value to the marine renewables sector within Scotland and that the Applicant is committed to forming long term relationships with local communities.

5.17.3 Leask Marine Ltd did not provide a response to the Additional Information Consultation.

5.18 The Ministry of Defence

5.18.1 The MOD responded to the Original Consultation with no objections to the Works.

5.18.2 The MOD stated that the Works would not physically impact upon the MOD offshore Danger and Exercise Areas or have an adverse effect on defence maritime navigational interests. However, the MOD highlighted that the Works does fall within the Low Flying Area 14 in which aircraft may conduct low level flight training. The MOD raised concerns that the Works could create a potential physical obstruction to low flying air traffic movements within this zone. The MOD proposed conditions to be added to the consent in order to mitigate against the MOD's concerns. These conditions have been included in the consent.

5.18.3 The MOD advised that conditions are required to ensure the Works is fitted with sufficient aviation safety lighting in accordance with the Air Navigation Order 2016, requesting that the Works is lit with no less than 25cd visible or infra-red lighting on perimeter turbines.

5.18.4 The MOD noted in its response to the Additional Information Consultation that its response dated the 02 February 2024 for the Original Consultation still applied, as the array area and wind turbine dimensions have not been amended.

5.18.5 In consideration of the representation from the MOD, a condition has been attached to the GS Marine Licence to require a LMP; and a CaP to be submitted by the Applicant for the approval by the Scottish Ministers prior to the Commencement of the Works and thereafter adhered to.

5.19 National Air Traffic Services

5.19.1 With regard to the Original Consultation, NATS stated that the Works would not interfere with the NATS safeguarding criteria and therefore had no objections.

5.19.2 NATS stated in its response to the Additional Information Consultation that the Works does not conflict with the NATS safeguarding criteria, therefore NATS has no safeguarding objection to the Works.

5.20 The Northern District Salmon Fishery Board and Caithness District Salmon Fishery Board

5.20.1 THE NDSFB and CDSFB responded to the Original Consultation and objected to the Works.

5.20.2 The NDSFB and the CDSFB provided a joint response to the Original Consultation. Neither board considered the Original Consultation process to have been satisfactory with regard to either the NDSFB or the CDSFB, both boards highlighted strong disagreement with the EIA Report submitted by the Applicant. Both the CDSFB and the NDSFB considered the size of the Works, its location and the nature of its construction as well as the cable export routes to present a risk of adverse effects on the River Kinloch SAC, the River Borgie SAC and the River Naver SAC.

5.20.3 Both the NDSFB and the CDSFB considered the Applicant's assessment of risk regarding diadromous fish to be inadequate as it assesses the effect of the Works on these receptors as 'not significant' and thus would not require any secondary mitigation. Both the NDSFB and the CDSFB objected to the application.

5.20.4 With regard to the Additional Information Consultation, the NDSFB highlighted that the documents contained no new information relating to the risks posed by the Works to diadromous fish in the five rivers of the NDSFB's area. The NDSFB noted that the Works is located on the likely route that out-going juvenile salmon and incoming adult fish take when moving between rivers and the ocean, and that this could result in interaction between fish and the proposed turbine array.

5.20.5 The NDSFB concluded that the risks to diadromous fish had still not been properly addressed in the additional information and that the Applicant should

address these issues before proceeding any further. The NDSFB noted that they would object to the Works if the interests of diadromous fish are not addressed.

5.20.6 In consideration of the representation from the NDSFB and the CDSFB, a condition has been attached to the GS Marine Licence to require a PEMP, for which the FMS must be consulted on, to be submitted by the Applicant for the approval by the Scottish Ministers prior to the Commencement of the Works and thereafter adhered to.

5.21 North Star

5.21.1 With regard to the Original Consultation, North Star expressed support for the Works.

5.21.2 Highlighting the importance of the Works in achieving Scotland's net zero targets, North Star noted that the Works had been planned out well and would be a significant opportunity for Scotland to get GWs onto Scotland's grid.

5.21.3 North Star noted that there should be a priority to stabilise the price of energy in Scotland and that offshore windfarms will be paramount in delivering this. Furthermore, North Star noted that projects, including this Development, should be sped up to avoid a supply chain bottleneck occurring from 2030. Moreover, North Star highlighted that allowing implementation of the Works before other areas in Europe would secure reasonable rates for major windfarm infrastructure.

5.21.4 North Star referred to the partners of the Works, Total Energies and Corio, noting that these organisations would be key in delivering economic benefits to Scotland. North Star noted that these partners would also help to secure Scottish supply chains alongside their associated strike price, allowing a balance between the wider economic benefits of the Works and a deliverable cost of energy.

5.21.5 Finally, North Star referred to the cyclical economy benefits the Works could provide to Orkney and the surrounding areas, including possible future STEM engagement and local community focus. North Star highlighted the potential ability of offshore windfarms in Scotland to support other renewable energy technologies including hydrogen production and export of GW production.

5.21.6 North Star did not respond to the Additional Information Consultation.

5.22 Offshore Solutions Group

5.22.1 Offshore Solutions Group responded to the Original Consultation and had no objections to the Works.

5.22.2 Offshore Solutions Group noted some of the potential economic, community and environmental benefits and highlighted the efforts the Applicant had made to progress with the Works.

5.22.3 Offshore Solutions Group highlighted the significant economic benefits of the Works during the construction phase through to its operational phase highlighting how the Works could have a positive impact on local communities in Orkney and the North of Scotland. Offshore Solutions Group noted that the Works would create jobs in the region and due to being one of the first offshore windfarms in the area, it would fast track investment into infrastructure, facilities and supporting services. Furthermore, Offshore Solutions Group stated that the Works would create opportunities for local businesses to grow and diversify their services.

5.22.4 Finally, Offshore Solutions Group noted the ability for the Works to generate 2GW of energy which could supply over 2 million homes in the UK with green electricity.

5.23 Orkney Harbours

5.23.1 Orkney Harbours responded to the Original Consultation and had no objections to the Works.

5.23.2 Orkney Harbours was supportive of the Works and highlighted that this would be the first ScotWind development to reach this planning milestone which would have long term benefits to Orkney's maritime industry and energy sector.

5.23.3 Orkney Harbours noted the economic benefits that the Works would bring to the region alongside the benefits including the Applicant's support for a three year £900,000 STEM programme of activities. Orkney Harbours noted that this would be positive for local young people in the region along with the energy transition within Scotland.

5.23.4 Orkney Harbours highlighted that Orkney Harbours' relationship with the Applicant has benefitted the development of the Scapa Deep Water Quay project, which was designed to support ScotWind sites.

5.23.5 Orkney Harbours stated that the application from the Applicant was backed up with evidence and had effectively justified the reason for placing the Works to the west of Orkney due to its consistent high wind speeds and deep water to support fixed foundations.

5.23.6 Orkney Harbours referred to Scotland's Fourth National Planning Framework ("NPF4") in which a new quay in Scapa Flow which supports the renewable, marine energy and shipping sectors are included. Orkney Harbours highlighted the collaboration between themselves and the Applicant, noting that Orkney Harbours aims to maximise the opportunities presented by the Works and other ScotWind developments.

5.23.7 Orkney Harbour submitted a nil response to the Additional Information Consultation.

5.24 Orkney Renewable Energy Forum ("OREF")

5.24.1 OREF responded to the Original Consultation and had no objections to the Works.

5.24.2 OREF highlighted that the location for the Works was suitable with consistent wind speeds and having no impact on shipping routes. Additionally, OREF highlighted the economic benefits as a result of the Works including benefits to the local communities, supply chain and the creation of jobs and apprenticeships, along with indirect service support jobs in the area.

5.24.3 OREF noted the significant contribution the Works would make to Scotland's net zero targets by generating 2GW of renewable energy supporting nearly 2 million households in Scotland with electricity.

5.24.4 Finally, OREF stated that the Works had the potential to support other projects in the area including Scapa Mega Hub, Flotta Dep Water Port and the Scapa Deep Water Quay proposals. OREF highlighted that local projects aiming to produce hydrogen and e-fuels from electricity in Orkney will be bolstered by the energy produced from the Works in close proximity.

5.24.5 OREF did not respond to the Additional Information Consultation.

5.25 Port of Cromarty Firth

5.25.1 Port of Cromarty Firth responded to the Original Consultation and had no objections to the Works.

5.25.2 Port of Cromarty Firth also noted economic benefits including private and public sector investment into infrastructure in the North of Scotland. Port of Cromarty Firth highlighted that the Works would de-risk the delivery of future offshore wind developments and provide wider benefits to the North of Scotland.

5.25.3 Port of Cromarty Firth did not respond to the Additional Information Consultation.

5.26 Proserv

5.26.1 Proserv responded to the Original Consultation and had no objections to the Works.

5.26.2 Proserv noted that the Works represented a good opportunity to utilise Scotland's natural resources and have the benefit of being key for global climate change targets and energy security. Furthermore, Proserv noted that the 2GW of clean energy provided by the Works would power millions of households in Scotland and increase improvements in infrastructure having a positive effect on local communities. Finally, Proserv noted the opportunities the Works would provide for oil and gas workers transitioning to the industry.

5.26.3 Proserv did not respond to the Additional Information Consultation.

5.27 River Naver Fisheries

5.27.1 River Naver Fisheries responded to the Original Consultation and objected to the Works.

5.27.2 River Naver Fisheries raised concern that the EIA did not offer sufficient consideration of the potential effect of the Works on smolts migrating from the River Naver or adult salmon returning to it. River Naver Fisheries requested further consideration and research of any effects the Works might have on River Naver salmon. Specifically, River Naver Fisheries requested that smolt tracking be undertaken to better understand their migratory route, and further research into the potential effects of turbine shadow flicker on salmon. River Naver Fisheries objected to the Works until the research specified had been undertaken and considered.

5.27.3 River Naver Fisheries did not respond to the Additional Information Consultation.

5.27.4 In consideration of the representation from River Naver Fisheries, a condition has been attached to the GS Marine Licence to require a PEMP, for which the FMS must be consulted on, to be submitted by the Applicant for the approval by the Scottish Ministers prior to the Commencement of the Works and thereafter adhered to.

5.28 Royal Society for the Protection of Birds Scotland ("RSPB Scotland")

5.28.1 RSPB Scotland responded to the Original Consultation and the Additional Information Consultation and objected to the Works.

5.28.2 With regard to the Original Consultation, RSPB Scotland highlighted several concerns with the EIAR.

5.28.3 RPSB Scotland commented that due to the missing steps in the modelling, impact prediction assessments are not provided and, as such, could not come to any conclusions as a result.

5.28.4 RSPB Scotland commented on the 'De minimis' approach the Applicant had taken within the RIAA when assessing predicted impacts on species, stating that this was the incorrect approach to take and requested this not be taken forward in revised assessments.

5.28.5 In response to the Additional Information Consultation, RSPB Scotland maintained its objection on the basis that the location is inappropriate for the Works.

5.28.6 RSPB Scotland commented that the revised assessments, requested as additional information had resolved several of their concerns regarding the methodology undertaken, with the exception of collision risk modelling for gannet. RSPB Scotland advised that for collision risk modelling undertaken for gannet, they preferred that an additional breeding season avoidance rate is presented to reflect inherent uncertainty in the assessment.

5.28.7 RSPB Scotland advised that they disagreed with the Applicant's conclusion that impacts on Manx shearwater, European storm petrel, and Leach's storm petrel will not be significant for a number of SPAs. They highlighted that these species are nocturnally active, and may be attracted to illuminations required for turbines and vessels, which could lead to an increase in collision risk. RSPB Scotland noted that they were therefore unable to rely on the densities provided for these nocturnally active species, and were unable to reach conclusions on the significance of adverse impacts.

5.28.8 RSPB Scotland advised that they were content that the Applicant had acknowledged NatureScot's pre and post application project specific advice and online guidance notes throughout the additional ornithology information.

5.28.9 RSPB Scotland acknowledged that overall, they are supportive of offshore wind development and that renewable electricity generation has strong policy support. However, RSPB highlighted that they do not believe the location of the Works to be suitable and therefore objected to the application.

5.28.10 RSPB Scotland also highlighted the recent outbreak of Highly Pathogenic Avian Influenza and the need to consider the impact of this in any assessments undertaken.

5.28.11 RSPB Scotland agreed with the Applicant that it was not possible to conclude no AEOSI for the Works alone for the following sites and species:

- Sule Skerry and Sule Stack SPA, guilliemot

5.28.12 Furthermore, RSPB Scotland agreed with the conclusion that it was not possible to conclude no AEOSI for the Works in-combination with other North Sea wind farms for the following sites and species:

- North Caithness Cliffs SPA, kittiwake
- East Caithness Cliffs SPA, kittiwake

5.28.13 RSPB Scotland concluded that AOESI could not be excluded in-combination with other offshore windfarms, in relation to the following sites and species::

- Buchan Ness to Collieston Coast SPA, Farne Islands SPA, Flamborough and Filey Coast SPA, Forth Islands SPA, Fowlsheugh SPA, Hoy SPA, Rousay SPA, St. Abbs Head to Fast Castle SPA, Troup, Pennan and Lion's Head SPA and West Westray SPA, kittiwake.
- Flamborough and Filey Coast SPA and Forth Islands SPA, gannet.
- East Caithness Cliffs SPA, North Caithness Cliffs SPA and Sule Skerry and Sule Stack SPA, guillemot.
- East Caithness Cliffs SPA, razorbill.
- Forth Islands SPA and Foula SPA, puffin.

5.28.14 RSPB Scotland noted in their response that due to an incomplete assessment of potential impacts, it was not possible to conclude no AEOSI from the project alone and in combination with other projects for the following sites and species:

- Auskerry SPA, Mousa SPA, North Rona and Sula Sgeir SPA, Priest Islands (Summer Isles) SPA, Seas off St. Kilda SPA, St. Kilda SPA, Sule Skerry and Sule Stack SPA and Treshnish Isles SPA, European storm petrel.
- Flannan Isles SPA, Foula SPA, North Rona and Sula Sgeir SPA, St. Kilda SPA and Sule Skerry and Sule Stack SPA, Leach's storm petrel.
- Copeland Islands SPA, Glannau Aberdaron ac Ynys Enlli/Aberdaron Coast and Bardsey Island SPA, Irish Sea Front SPA, OFFSAB SPA, Rum SPA, Skomer, Skokholm and the Seas off Pembrokeshire SPA and St. Kilda SPA, Manx shearwater

5.28.15 RSPB Scotland provided detailed assessment and commentary on the proposed compensatory measures provided by the Applicant. RSPB Scotland considered that the proposed compensatory measures are not sufficiently developed. RSPB Scotland commented that there is no sound methodology

and research basis at this time that would allow a conclusion to be reached on whether the measures are appropriate in terms of compensation or practicable.

5.28.16 In consideration of the RSPB Scotland representation, the Scottish Ministers are satisfied that the assessment undertaken allows for the consideration of the effects of the Works and to enable Statutory Nature Conservation Body ("SNCB") to make conclusions on environmental impacts. The Scottish Ministers have further considered the proposal put forward by the Applicant as part of its HRA derogation case and a condition has been attached to the s.36 consent to require a Detailed Seabird Compensation Plan to be submitted by the Applicant for approval by the Scottish Ministers prior to the Commencement of the Works and thereafter adhered to. In addition, the Scottish Ministers have further considered the matters raised by RSPB Scotland in section 9.

5.28.17 The RSPB Scotland response has been considered by MD-LOT in the AA at Annex B.

5.29 Royal Yachting Association ("RYA")

5.29.1 In its response to the Original Consultation, the RYA had no objections to the application.

5.29.2 The RYA had no comment to make on the Additional Information Consultation.

5.30 Scottish and Southern Electricity Networks Transmission ("SSEN Transmission")

5.30.1 SSEN Transmission responded to the Original Consultation and the Additional Information Consultation and had no objections to the Works.

5.30.2 With regard to the Original Consultation, SSEN Transmission requested that present and future cables, both power and telecommunications, are given due consideration and that provision is maintained for these to cross export cable corridors and the generation site in order to maintain freedom of the seas. Additionally, SSEN Transmission requested that ongoing discussion and consultation is maintained with the Applicant, and, where necessary, that proximity and crossing agreements are developed.

5.30.3 SSEN Transmission had no specific comments to make on the Additional Information Consultation, noting that engagement with the Applicant is ongoing concerning the programme of works, any potential simultaneous operations, Crossing Agreements in relation to the crossing of the Orkney HVAC cable and details of construction and maintenance ports.

5.31 Scottish Canoe Association ("SCA")

5.31.1 The SCA responded to the Original Consultation and did not have any objections to the Works.

5.31.2 The SCA noted that the Works would be a significant distance away from the shore and would be very unlikely to have an effect on paddlesports activities. However, the SCA encouraged the Applicant to take public access into consideration during construction.

5.31.3 The SCA did not respond to the Additional Information Consultation.

5.32 Scottish Fishermen's Federation ("SFF")

5.32.1 The SFF responded to the Original Consultation and the Additional Information Consultation. In responding to the Original Consultation, the SFF did not object to the Works. When responding to the Additional Information Consultation, the SFF noted that the response to the Original Consultation remained valid however, the SFF went on to note its objection to the application.

5.32.2 Responding to the Original Consultation, the SFF disagreed with the Applicant's conclusion that the effect of the Works on commercial fisheries would be negligible/minor. SFF advised that this should be high/moderate due to Orkney based vessels being highly reliant on the area. The SFF noted that it would be challenging for these vessels to relocate their fishing activities elsewhere due to the location of the Works and encouraged the impact of the Works on commercial fisheries to be based on the number of vessels which rely on that value of fishing in the area of the Works.

5.32.3 With reference to the layout of the wind turbines and the export cable route, the SFF commented that the turbines cross the four degree line which would have an impact on fishing for SFF members. The SFF suggested this area is avoided when considering where to place the turbines. The SFF also noted that the export cable route should only be selected where minimal or no fishing activities are taking place. With reference to the cable protection measures, the SFF requested that the Applicant make efforts to undertake the required depth of cable burial and avoid using cable protection methods as far as possible. The SFF noted that the proposed cable protection methods would disrupt the marine habitat and create snagging hazards for fishing vessels within the array area, interconnector and export cable routes. Furthermore the SFF noted its opposition to using concrete masses and rock bags in open water for cable protection measures due to snagging hazards for bottom trawl fishing vessels and static gears. The SFF approved of the proposed cable protection system if required safety measures for fishing vessels had been considered.

5.32.4 The SFF noted that there will be cable crossing which creates obstacles and snagging hazards for fishing vessels. The SFF suggested that cable crossings

be avoided as much as possible, alternatively the cable and pipeline crossing points should be consulted on with the fishing industry to ensure any impacts are mitigated.

5.32.5 The SFF noted that a maximum of five OSPs would be required for the Works commenting that the OSPs would have a significant footprint and requested that the SFF are consulted on the platform site selections to ensure prime fishing ground is avoided.

5.32.6 The SFF requested that a VMP be devised in consultation with the fishing industry due to the number of vessels that could be present during construction.

5.32.7 The SFF noted the EMF and heat effects that may arise during the Works and have a negative impact on marine habitats. The SFF requested that all precautionary measures are taken when proceeding with the Works to avoid this.

5.32.8 The SFF noted that the array area and cable corridor is located on some fishing grounds, spawning and nursery areas for species including herring, cod, mackerel, nephrops and sandeel. The SFF recommended that the construction works be carried out with the fishing seasons and spawning/nursey periods to prevent loss of juvenile fish and disruptions to fishermen.

5.32.9 Finally, the SFF agreed with the development of a FMMS. The SFF suggested that the FMMS is approved pre consent.

5.32.10 With regards to the Additional Information Consultation, the SFF objected to the proposed Development.

5.32.11 The SFF disagreed with the Applicant's statement that mobile fishing would be able to return to the area of the Works post-construction The SFF highlighted that references in the Additional Information to Westermost Rough offshore windfarm which is focused on lobster fishing is not relevant as the area of the proposed Development for the West of Orkney Windfarm is not a lobster fishing area. The SFF highlighted the differences in seabed, water depth, vessels and the distance between sites, which means that this reference should not be used as a comparison.

5.32.12 The SFF noted that there is no reference in the Additional Information to cases where fishing has not resumed or has been significantly impacted within locations where there are fixed foundation offshore windfarms

5.32.13 In relation to benthic ecology, the SFF recommended consideration, at the determination stage, of the 2024 International Council for the Exploration of

the Seas ("ICES") advice with regard to banning disruptive activities on herring grounds..

5.32.14 The SFF opposed, in relation to compensatory measures considered as part of the HRA derogation, any compensation measure to offset environmental damage that imposes restrictions on commercial fisheries. Finally, the SFF reiterated that it is their primary concern to protect the rights of fishermen to safely, effectively and efficiently undertake their trade. They highlighted that fishing activities should continue unaffected and unharmed post development and if this is not the case then the SFF will not support any proposals of windfarm developments.

5.32.15 In consideration of the representation from the SFF, conditions have been attached to the GS Marine Licence to require a FMMS to be submitted by the Applicant for the approval by the Scottish Ministers prior to the Commencement of the Works and thereafter adhered to. A condition for the Applicant to appoint a FLO to mitigate the SFF's concerns has also been attached to the GS Marine Licence for approval by Scottish Ministers. Furthermore, the SFF have been added as a consultee on the Inter-Array Cable Plan, the DSLP, the VMP, the CoP and the PEMP in order to mitigate for the concerns raised in those areas that these post-consent plans relate to.

5.33 Scrabster Harbour Trust

5.33.1 Scrabster Harbour Trust responded to the Original Consultation and had no objections to the Works.

5.33.2 Scrabster Harbour Trust was supportive of the Works, noting the potential environmental, economic and energy benefits that the project could bring to Scotland and the UK.

5.33.3 Scrabster Harbour Trust did not respond to the Additional Information Consultation.

5.34 Sport Scotland

5.34.1 In its response to the Original Consultation, Sport Scotland confirmed its awareness of the Works and had no objections.

5.34.2 Sport Scotland had no comments to make regarding the Additional Information Consultation.

5.35 UK Chamber of Shipping

5.35.1 In responding to the Original Consultation, the UKCoS raised several concerns surrounding different aspects of the Works but did not raise any objections to the Works.

5.35.2 The UKCoS raised navigational safety concerns relating to two areas of the Offshore Array Area, the proximity of the north westerly and westerly boundary to Sule Skerry where the UKCoS strongly recommended boundary changes. Moreover, the UKCoS did not agree with the Applicant's position that any mitigation of these issues should be considered post-consent and recommended that mitigation be required as a condition of consent. Furthermore, the UKCoS noted concerns that the eastern boundary created a navigational risk through creating a chokepoint between the Works and the Area to be Avoided. Referencing the NRA, the UKCoS did not consider the 2.4nm channel proposed by the Applicant to be sufficient to mitigate risk posed to the environment from additional navigational risk. The UKCoS highlighted that adverse weather might make vessels less likely to transit through the channel and thus lead to significant deviation for vessels which could lead to increased environmental impact through fuel consumption and cost. The UKCoS advised that a viable channel be maintained for vessel weather routing in adverse weather conditions and proposed that a greater area of sea-room be maintained.

5.35.3 The UKCoS noted their concerns associated with Section 20 Risk Control Log within the Hazard Log. The UKCoS referred to table B.1 recording "displacement (adverse weather routing)" during the operational phase as being unacceptable and noted that in table 20.1 the risk is referred to as "tolerable with mitigation". They commented that this was downplaying of the significance of the risk. They strongly recommended that the Applicant submits firm mitigation measures for approval pre-consent and commented that solely carrying out post consent consultation on the issue is not satisfactory.

5.35.4 The UKCoS noted their concerns with the low generating density area compared to offshore windfarms in English waters. The UKCoS commented that the minimum requirement of generating density in English waters currently sits at 5MW/km^2, however the calculated density of this Development would be 3.04MW/km$^{2.}$ The UKCoS commented that this was an unnecessary use of the seabed and suggested that the Scottish Government request the Applicant to commit to a 5MW/km^2 generating density, resulting in an area of 400km^2 being used instead of an area of 657km^2 and argued this would not impact the generating capacity that the Applicant was proposing. The UKCoS noted that this would make more seabed area available for other users of the sea and would like to see firm commitments for additional mitigation in this area.

5.35.5 In its response to the Additional Information Consultation, the UKCoS noted its acceptance of the information within the document L-100632-S15-A-REPT-005 and was content with the actions carried out and committed to by the Applicant.

5.36 University of Highlands and Islands ("UHI")

5.36.1 In its response to the Original Consultation, UHI did not have any objections to the Works.

5.36.2 UHI noted that the Applicant had been working with the UHI from the early stages of application in a coordinated and strategic way and has been sharing their insights by hosting multiple community and stakeholder events.

5.36.3 UHI noted that the Applicant has helped to create a collaborative partnership between UHI and Scotwind developers which has led to significant additional funds beyond the contribution of the Applicant in supporting work by UHI. Furthermore, UHI noted that the Applicant had signed a Memorandum of Understanding to work with UHI over a sustained period and agreed to meet a short-term funding gap allowing UHI to continue to provide STEM activities.

5.36.4 UHI noted the importance of the STEM outreach programme as a result of partnership with the Applicant, who are providing funding to support the three year programme.

5.36.5 UHI stated that the Applicant is committed to creating a diverse workforce for the future development of offshore wind in Scotland. UHI further highlighted the significant commitment to the region and the championing of UHI work.

6 Summary of third party advice

6.1 MD-LOT sought advice from MD-SEDD, Marine Directorate – Analytical Unit ("MAU") and Transport Scotland ("TS") on the Application.

6.2 Marine Analytical Unit ("MAU")

6.2.1 MAU responded to the Original Consultation regarding socioeconomics and noted that all socioeconomic impacts which were identified during the scoping process were assessed, including socio-cultural impacts and distributional effects which had originally been scoped out. MAU noted that the wide range of data sources used was useful within the baseline section of the EIAR.

6.2.2 MAU highlighted that there was more recent data available for a number of the datasets but that the justification provided for using data from the selected timeframe was sufficient. MAU noted that the GVA analysis was presented in 2018 prices and recommended that this be updated to the 2023 figures.

6.2.3 MAU agreed overall with the methodologies used for the assessment of social and economic impacts and highlighted that the results of the assessment were robust. MAU noted that in terms of beneficial impacts, the assessment anticipated major significant effects relating to increased employment and GVA for the areas of Caithness and Sutherland during the construction phase of the Works and the O&M phase.

6.2.4 Within the non- technical summary, MAU noted that the modelling had predicted up to an 8.3% increase in jobs and a 5.6% increase in GVA in Caithness and Sutherland and a 17.1% increase in jobs and 6.4% increase in GVA in Orkney. MAU also noted that with regards to housing and local services, Orkney was anticipated to experience moderate (significant, beneficial) effects during the construction and O&M stages of the Works.

6.2.5 MAU commented that there were a number of embedded mitigations which had been identified to increase the economic and social benefits as a result of the Works which included supply chain development statement initiatives, agreements with harbours and collaboration with other developers to deliver a Local Workforce Strategy and a Local Accommodation Strategy.

6.2.6 MAU identified several areas where potential adverse effects were identified concerning tourism, fish processing, the commercial fishing industry, socio-cultural receptors and distributional receptors. However, MAU highlighted that the Applicant had developed measures to directly address potential adverse effects such as the Local Workforce Strategy which is intended to increase the proportion of local area recruitment. Furthermore, MAU noted that embedded mitigation has also been developed to make the most of potential benefits of the Works including visitor information shops, public open days and the community benefit programme.

6.2.7 MAU noted moderate significant adverse effect was identified due to lost grounds for creeling and displacement of fishing grounds and that the effectiveness of mitigation for this issue depended on the quality of the cooperation agreement. Due to this being agreed post consent, MAU could not currently comment on this issue. MAU advised including the knock-on socioeconomic effects where future monitoring of commercial fisheries is needed.

6.2.8 MAU noted that the monitoring arrangements within the EIA Report could have been described in more detail, however noted it was encouraging to see that the Socio-Economic Working Group would continue to work post consent.

6.2.9 Finally, MAU stated that the overall assessment of the social and economic impacts were carried out to a high-quality meaning MAU were content that the

results presented were robust and that the embedded mitigations were designed as a result of collaboration with the Socio-Economic Working Group, meaning they would be as effective as possible. However, MAU highlighted that monitoring arrangements could have been described in fuller detail.

6.2.10 In its response to the Additional Information Consultation, MAU provided a nil response as there was no additional information to the socioeconomic section of the application.

6.3 MD-SEDD Commercial Fisheries

6.3.1 In responding to the Original Consultation, MD-SEDD noted that it was content with the data sources used within the EIAR. However, MD-SEDD advised that the gridded fisheries data within Scottish waters for Scottish fishing vessels under 12m overall length – annual averages 2017 to 2021 should be used to provide spatial data on inshore, small vessel activities which would help inform the baseline of activity in the surrounding area. MD-SEDD noted that using this data in combination with consultation with industry will create a fuller picture. Furthermore, MD-SEDD noted that the Scotmap outputs are relevant but the additional data source should be used to complement the Scotmap data. MD-SEDD also agreed on the approach to use the European Marine Observation and Data Network Automatic Identification System data as a complementary dataset to the Vessel Monitoring System data to further identify fishing activity.

6.3.2 MD-SEDD noted that creelers are active within the area of the Works and have smaller operating ranges, lower availability and lower flexibility on where they can carry out fishing in comparison to other fishing activities. This means that creelers are more likely to be affected by the Works, with outcomes possible such as fisheries displacement and loss of access to fishing grounds. MD-SEDD advised that any cable protection in the area must be designed to minimise fishing equipment snagging.

6.3.3 MD-SEDD noted that the only mitigation mentioned for proposed impacts to fishers, and specifically creelers, was cooperation agreements with fishers to relocate static gear and advised careful consideration of the efficacy of this as the Scottish Government have no remit in cooperation agreements or compensation.

6.3.4 Furthermore, MD-SEDD noted that the term ‘guard vessel offset’ was not recognised. Acting on the assumption that it meant that vessels impacted by the Works may be given the option to act as guard vessels during construction, MD-SEDD advised that MD-LOT take into account the difficulty that some vessels have in gaining all of the relevant certification to do this.

6.3.5 MD-SEDD noted that during scoping, MD-SEDD had recommended commercial fisheries monitoring yet in the application, the Applicant had commented it would be more meaningful to place resources into research projects that examine commercially important fish and shellfish species. MD-SEDD advised that MD-LOT seek evidence as to whether this view reflects that of the fishers affected. Moreover, MD-SEDD noted that securing resources into research projects is difficult to secure in a consent condition.

6.3.6 Additionally, MD-SEDD advised that the Applicant undertake pre-, during and post-construction commercial fisheries monitoring due to the moderate and significant effect the Works would have on the displacement of fishing effort and the loss, or restricted access to, fishing grounds. MD-SEDD highlighted crab and lobster creelers as those who would be most affected by the Works and therefore would require monitoring. MD-SEDD noted that this monitoring would be to help understand the effect of the construction and operation of the Works on commercial fisheries. MD-SEDD made a number of recommendations about how to undertake the monitoring of commercial fisheries indicating that it could be desk based and should include collating landings data by ICES rectangle on the local creel fishery and by port on a monthly basis, using other relevant sources and monitoring data to gain a better understanding of variations and patterns in creel fishing activity that could be as a result of the construction and operation of the wind farm. MD-SEDD re-emphasised their advice that the monitoring should focus on creelers and loss of access to fishing grounds as well as any secondary displacement and socio-economic impacts. MD-SEDD advised that a good practice guide to monitoring commercial fisheries published by MD-SEDD be used to inform monitoring methods and approaches.

6.3.7 Finally, MD-SEDD noted that the Applicant's assertion that creel fishing may be possible within the OAA and, as such, displacement during the O&M stage is likely to be limited should be backed up with justification as to how this will happen.

6.3.8 In response to the Additional Information Consultation, MD-SEDD agreed with no changes in the baseline information for commercial fisheries following the inclusion of the <12nm gridded data, and were also content with the evidence in the Additional Information supporting the assumption that creel fishing would be able to resume within the location of the Works post-construction.

6.3.9 MD-SEDD referenced the suggestion by the Applicant for a consent condition to conduct research into commercially important species and highlighted that it would be challenging to obtain this condition as it is still unknown what the proposed contribution to research would be. MD-SEDD advised that if this were to be a condition on the consent it would need to involve undertaking or

providing direct funding to a research project and include details on how the research would be undertaken.

6.3.10 MS-SEDD advised monitoring as a consent condition and have detailed what the monitoring should entail in their advice to the Original Consultation. MD-SEDD noted that the moderate (significant) impact to creel fishery in the EIAR was reduced to minor (not significant) with the addition of secondary mitigation, however MD-SEDD highlighted previous concerns with the mitigation only consisting of cooperation agreements as well as the difficulty of some vessels in securing guard vessel certifications. In light of this, MD-SEDD advise monitoring of the creel fishery to determine any impact to the fishery as well as providing validation of the assumption that fishing will return to the area.

6.4 MD-SEDD Physical Processes

6.4.1 In response to the Original Consultation, MD-SEDD noted that the EIAR was generally well written and concise. MD-SEDD was content with the modelling approach for physical processes, with use of different analytical and simple assessments. MD-SEDD also agreed with the time periods chosen by the Applicant in the assessments, and noted that the data sources were comprehensive.

6.4.2 MD-SEDD noted that it would have been useful for data to be collected from the wind farm area, with water levels and current speeds being compared with the hydrodynamic models. However, they agreed with the validation using the Costa Head survey.

6.4.3 MD-SEDD noted that the hydrodynamic model did not appear to include non-tidal open boundary forcing, and ideally this would have been included. However, they were content with the baseline description and noted that the model appeared to validate well against the measured water levels.

6.4.4 MD-SEDD were content with the Applicant's decision to only model monopiles rather than jackets, but noted that it would have been useful for a sensitivity analysis on how blockage density effects flow to be performed. However, MD-SED noted that as the predicted impacts are low, the methodology was appropriate and proportionate.

6.4.5 MD-SEDD highlighted that the EIAR included a comprehensive discussion on stratification, which provided sufficient evidence from previous studies to suggest that additional turbulent mixing would have a low impact on stratification in the region.

6.5 MD-SEDD Diadromous Fish

6.5.1 MD-SEDD noted that the Applicant correctly identified that the Pentland Firth and nearby waters would likely be used by salmon migrating to and from their natal rivers and marine feeding grounds. MD-SEDD noted that the Applicant was aware of the potential for connectivity for salmon populations from the 17 SACs listed in the EIAR.

6.5.2 MD-SEDD was content that the diadromous fish had been considered correctly and the relevant potential impact pathways had been considered. MD-SEDD advised that the emigration times of salmon smolts for Scotland and salmonoid diurnal patterns should be considered relative to all potential sources of underwater noise. This is due to the Forss Water which drains into Crosskirk Bay holding populations of salmon and trout, and juvenile salmon populations declining due to summer droughts.

6.5.3 MD-SEDD highlighted the uncertainty surrounding the potential impacts of offshore windfarms on Atlantic salmon. MD-SEDD highlighted that despite this, the EIAR contained statements which suggested that there would be limited impact on Atlantic salmon. MD-SEDD noted that there is increasing evidence that Atlantic salmon populations are declining, and that a precautionary approach to assessments may need to be taken.

6.5.4 Finally, MD-SEDD advised that a strategic approach to addressing key issues relating to diadromous fish distribution and migration through the marine environment and potential impact mechanisms would be needed to widen the evidence base for planning and consenting.

6.5.5 MD-SEDD provided a nil response in relation to the Additional Information.

6.6 Transport Scotland

6.6.1 In responding to the Original Consultation, TS noted that there was insufficient information in the EIAR and other supporting documents to allow assessment of the potential significance of traffic and transport effects of the proposed developments. TS noted that any transport impacts associated with the construction, O&M and decommissioning of the offshore elements of the proposed development should be appropriately considered.

6.6.2 TS noted that any assessment of the onshore effects of the offshore works should be scoped with the relevant road authorities and undertaken in accordance with the 2023 Institute of Environmental Management and Assessment Guidelines: Environmental Assessment of Traffic and Movement.

6.6.3 TS commented that if there is a requirement to transport abnormal loads on the trunk road network, that a supporting Abnormal Loads Assessment (“ALA”)

should be carried out. TS outlined a number of points that must be included in the ALA.

6.6.4 TS were unable to assess the potential significance of the traffic and transport effects of the Works, and require the supporting information to be provided or confirmation that were will be no onshore traffic and transport impacts from the offshore works. TS noted that if this was not provided then TS would recommend that the application is refused.

6.6.5 In response to the Additional Information Consultation, TS referred to their previous written response dated 1 July 2024 which noted that they would have no objection to the application, subject to a condition for the Applicant to submit a Construction Traffic Management Plan prior to the commencement of the Works. The reason for this condition is to mitigate the adverse impact of construction traffic on the safe and efficient operation of the trunk road network.

7 Summary of representations from other organisations and members of the public

7.1 Eight representations were received from members of the public. Seven objected to the Works and one was supportive of the Works. The topics of concern raised in public representations are summarised in Table 1. These concerns have been considered by the Scottish Ministers as part of their determination.

Table 1

Topic of Concern	**Number of Representations**
Impacts on wildlife/sea life	3
Size of WTGs	1
Scale of Works	2
Location of Works	6
Visual impacts on seascape / landscape	4
Impacts on marine mammals	3
No coasts free of offshore wind Workss	3
Disturbance of radioactive substances	1
Cumulative impacts	4
Noise impacts	4
Question of need	3

Topic of Concern	Number of Representations
Legislative concerns	2
Environmental concerns	4
Sustainability concerns	2
Mitigation concerns	2
Impacts to the seabed	1
Impacts to fishermen	1
Accommodation concerns	1
Light pollution concerns	1
Impacts on homes and businesses	3
Damage to WTGs in rough seas	1
Coastal impacts	1
Excessive energy generation concerns	3
Number of sites with AEoSI	1
Diadromous fish concerns	1
Impacts on NSAs	2
Impacts on seabirds	4
Impacts on cultural heritage sites	1
Negative impact on tourism	2

8 Public Inquiry ("PI")

8.1 The Scottish Ministers, having considered the objections, together with all other material considerations, did not require a PI to be held.

9 The Scottish Ministers' Considerations and Main Determinative Issues

9.1 Determination of Marine Licence Applications

9.1.1 In determining the applications for marine licences (including the terms on which they are granted and what conditions, if any, are to be attached to them) the Scottish Ministers have had regard to:

- the need to protect the environment, protect human health, prevent interference with legitimate uses of the sea and such other matters as the Scottish Ministers consider relevant;
- the effects of any use intended to be made of the works when constructed; and
- representations received from persons with an interest in the outcome of the applications.

9.2 Environmental Matters

9.2.1 The Scottish Ministers are satisfied that an EIA has been carried out. Environmental information including the EIA Report, information to inform the HRA, and Additional Information has been produced and the applicable procedures regarding publicity and consultation laid down in the 2007 MW Regulations and the 2017 MW Regulations have been followed. The environmental impacts of the Works have been assessed and the Scottish Ministers have taken the environmental information into account when reaching their EIA Consent Decision under the 2007 MW Regulations and regulatory decision.

9.2.2 The Scottish Ministers have considered fully and carefully the Application, the EIA Report, the Additional Information, the Report to Inform Appropriate Assessment ("RIAA") and Addendum to the RIAA; A without prejudice HRA shadow derogation case and addendum to the derogation case; A compensatory measures plan; An addendum to the compensatory measures plan; A compensation implementation and monitoring plan; An addendum to the compensation and implementation and monitoring plan, and all relevant representations from consultees, other organisations, members of the public and third party advice.

9.2.3 Assessment of impacts of the Works on the environment are in accordance with Regulation 21A(2) of the 2007 MW Regulations

9.2.4 Under Section 126 of the 2009 Act and section 83 of the 2010 Act the Scottish Ministers as the "public authority" must consider how the Works is capable of affecting the protected features of an NC MPA before any consents can be granted..

9.2.5 In line with the view of NatureScot that the Works are capable of affecting, other than insignificantly, the qualifying interests of North West Orkney NC MPA, the Scottish Ministers carried out an MPA assessment.

9.2.6 Having had regard to the representations made by NatureScot, it can be ascertained that the Works will not result in a significant risk of hindering the

achievement of the conservation objectives of the North West Orkney MPA providing the Applicant adheres to the conditions set out in the MPA assessment and the marine licences.

9.2.7 A full explanation of the issues and justification for decisions regarding achievement of the conservation objectives is provided in the MPA assessment in Annex D.

9.2.8 The Scottish Ministers consider that, having taken into account the information provided by the Applicant, the representations of the consultation bodies, and having regard to the conditions attached, there are no outstanding concerns (other than those addressed through the Derogation Case) in relation to the impact of the Works on ornithology, marine mammals and diadromous fish receptors covered by assessments or European sites or MPAs which would require an EIA Consent Decision under the 2007 MW Regulations and a marine licence to be withheld. On this basis, the Scottish Ministers consider that an up to date conclusion of the likely significant effects of the Works on biodiversity has been reached in accordance with Regulation 21A(2)(b) of the 2007 MW Regulations.

9.2.9 In reaching its EIA Consent Decision, the Scottish Ministers have had further regard to the likely significant effect of the Works on the remaining environmental factors listed at Regulation 21A(2) of the 2007 MW Regulations that were scoped in for assessment. They have concluded, taking into account the information provided by the Applicant, the representations of the consultation bodies, and having regard to the conditions attached, that there are no outstanding concerns in relation to the impact of the Works on population, human health, soil, water, air, climate, material assets, cultural heritage, landscape, and the interaction between them. On this basis, the Scottish Ministers consider that an up to date conclusion of the likely significant effect of the Works has been reached in accordance with Regulation 21A(2) of the 2007 MW Regulations.

9.3 Main Determinative Issues

9.4 The Scottish Ministers, having taken account of all relevant information and regulatory requirements, consider that the main determining issues are:

- the extent to which the Works accord with and are supported by Scottish Government policy and the terms of the Scotland's National Marine Plan ("NMP") and relevant local development plans;
- Economic benefits
- Renewable energy generation and associated policy benefits;

- the main effects of the Works on the environmental factors listed under regulation 21A of the 2007 MW Regulations considered in reaching its EIA Consent Decision, which are in summary:
- the main effects of the Works on protecting the environment and human health and preventing interference with the legitimate use of the sea which are in summary, impacts on:
    - Impacts on Seabirds including impacts on European sites, and European offshore marine sites;
    - Impacts on Commercial fisheries; and
    - Impacts on seascape, landscape and visual amenity.

9.5 Scottish and UK Government Policy Context

9.5.1 The NMP, formally adopted in 2015 and reviewed in Spring 2018, provides a comprehensive statutory planning framework for all activities out to 200nm. The Scottish Ministers must take authorisation and enforcement decisions which affect the marine environment in accordance with the NMP. The NMP policies 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 and 5';
- Chapter 8 Wild Salmon and Diadromous fish, policy 'WILD FISH 1';
- Chapter 11 Offshore Wind and Marine Renewable Energy, policies 'RENEWABLES 1, 4-10';
- Chapter 12 Recreation and Tourism, policies 'REC & TOURISM 2 and 6';
- Chapter 13 Shipping, Ports, Harbours and Ferries, policies 'TRANSPORT 1 and 6';
- Chapter 14 Submarine Cables, policies 'CABLES 1-4';
- Chapter 15 Defence, policy 'DEFENCE 1'.

9.5.2 The Scottish Government is in the process of developing NMP 2 however given the stage of development, the Scottish Ministers have considered the existing NMP in making this decision.

9.5.3 The Sectoral Marine Plan ("SMP") for Offshore Wind Energy, adopted by the Scottish Government in 2020, provides a strategic framework to guide the sustainable development of offshore wind projects in Scottish waters. The SMP is currently undergoing an Iterative Plan Review to build upon the original plan and ensure that future developments appropriately balance the needs of communities, the natural environment, and other marine users. Draft assessments for the updated plan are open for public consultation until 22

August 2025, aiming to identify key constraints and opportunities for offshore wind deployment. The Works are situated within the ScotWind N1 Plan Option Area, as designated in the SMP.

9.5.4 The Climate Change (Scotland) Act 2019 commits Scotland to reach net zero emissions of all greenhouse gasses by 2045, ahead of the UK target of 2050. These targets are consistent with an ambitious Scottish contribution to the goals of the 2015 United Nations Paris Agreement on climate change, to limit global average temperature increases to 1.5 degrees Celsius.

9.5.5 The 2017 Scottish Energy Strategy set a target for the equivalent of 50% of the energy for Scotland's heat, transport and electricity to come from renewable sources by 2030. Continued support for renewable energy, including offshore wind, was reiterated in the Scottish Government Climate Change Plan: The 3rd Report on Proposals and Policies 2018 – 2032, including an ambition for Scotland's electricity system to be largely decarbonised by 2032.

9.5.6 Offshore wind is considered to be an integral element in Scotland's contribution towards action on climate change. Our Offshore Wind Policy Statement sets out the Scottish Government's ambitions for offshore wind in Scotland, including an ambition (but not a limit) to achieve 8-11 GW of offshore wind in Scotland by 2030, reaffirmed in both Scotland's Energy Strategy Position Statement (2021) and the Scottish Government Update to the Climate Change Plan 2018 – 2032 (2020). Following publication of a draft Energy Strategy and Just Transition Plan ("ESJTP") last year the Scottish Ministers have consulted on setting further offshore wind deployment ambitions out to 2045 (by which point the Government is committed to achieving net zero). The draft ESJTP sets out how its vision of affordable, resilient and clean energy supplies for Scotland will be delivered, maximising home-grown clean energy provision and significantly increasing domestic production of renewable electricity by 2030, helping to address climate change by substantially reducing the emissions of our energy sector.

9.5.7 On 18 June 2025, Scottish Government launched a consultation to update the Offshore Wind Policy Statement acknowledging that since 2020 there had been considerable change in the policy and planning landscape for offshore renewable energy generation in Scotland and the wider UK, referencing the Clean Power 2030 Action Plan (see paragraph 8.4.8) as a considerable driver for change. The updated Policy Statement, sets out the Scottish Government commitment to maximise the deployment of offshore wind in Scotland, by resetting its ambition and aiming for the development of up to 40GW by 2035-2040.

9.5.8 The Works will contribute to the direct reduction of emissions from energy generation in Scotland and further advance the technological understanding of the offshore energy industry. Accordingly, the Works is consistent with the emissions reduction requirements of the Climate Change (Scotland) Act 2009 and Scottish energy and climate change policy.

9.5.9 The Scottish Ministers have also had due regard to the UK Government's Overarching National Policy Statement for energy (EN-1), published in January 2024, and its National Policy Statement for renewable energy infrastructure (EN-3), published in November 2023. These policies provide a framework for delivering the UK's international commitments on climate change. The Scottish Ministers have taken particular account of EN-1's identification of nationally significant low carbon infrastructure (which includes offshore wind) as a critical national priority and the overarching need for energy security and decarbonising the power sector to combat climate change.

9.5.10 The UK Government's Clean Power 2030 Action Plan sets a pathway to deliver 43-50GW of offshore wind capacity across Great Britain in order to achieve a 95% clean energy system by 2030. The Scottish Government is committed to working closely with the UK government on shared ambitions to decarbonise energy generation and drive progress towards net zero in line with these objectives. To meet the Clean Power 2030 target, the action plan recognises the important role projects in Scotland will play and emphasises the need capitalise on projects that are already in the planning system and able to commence construction before 2030.

9.5.11 The Scottish Ministers have also considered the UK Government's British Energy Security Strategy (2022), alongside the UK Government's Ten Point Plan for a Green Industrial Revolution (2020), Energy White Paper: Powering our Net Zero Future (2020) and Net Zero Strategy: Build Back Greener (2021), and the contribution which Scotland can make to the target of up to 50 GW of offshore wind by 2030 across the UK.

9.5.12 Scotland's National Planning Framework ("NPF") 4 was adopted on 13 February 2023. It sets out a long-term spatial plan including regional priorities and 18 national developments, as well as a full suite of 33 national planning policies. NPF4 replaces NPF3 and Scottish Planning Policy.

9.5.13 NPF4 was adopted on 13 February 2023. It sets out a long-term spatial plan including regional priorities and 18 national developments, as well as a full suite of 33 national planning policies. NPF4 replaces National Planning Framework 3 and Scottish Planning Policy.

9.5.14 On adoption of NPF4, the provisions in the Planning (Scotland) Act 2019 commenced making NPF4 part of the statutory development plan. NPF4 sets out the Scottish Government proposals for future consideration of planning matters and as such it may be taken into account by planning authorities on a case-by-case basis.

9.5.15 NPF4 signals a turning point for planning, placing climate and nature at the centre of the planning system and making clear Scottish Government support for all forms of renewable, low-carbon and zero emission technologies, including transmission and distribution infrastructure. This includes onshore infrastructure that supports offshore renewable development. Potential impacts on communities, nature and other receptors remain important considerations in the decision-making process. All applications are already, and will continue to be, subject to full site-specific assessments.

9.5.16 The Scottish Ministers have had regard to NPF4 when assessing the Application. The Scottish Ministers consider that the Works accords with NPF4 as it supports the delivery of renewable electricity generation and transmission, providing employment and helping to reduce emissions and improve security of supply. Furthermore, the Works is supported by Policy 1 which sets out that significant weight will be given to the global climate and nature crises when considering development, and supports policy 11 by contributing to the expansion of renewable energy generation.

9.5.17 There are no site-specific policies covering the Works, therefore, the application requires to be assessed against the general policies of the Highland-wide Local Development Plan (“HWLDP”). The relevant policies to this application are Policy 67 Renewable Energy Developments, and Policy 69 Electricity Transmission Infrastructure.

9.5.18 Policy 67 sets out that renewable energy developments should be well related to the source of the primary renewable energy resource needed for its operation, and Policy 69 supports transmission of renewable energy from an offshore windfarm to the transmission network, subject to site selection, design, and overcoming any unacceptable significant environmental effects. These policies support this application, having considered levels of strategic significance in transmitting electricity from areas of generation to areas of consumption.

9.5.19 The Caithness and Sutherland Local Development Plan 2018 ("CaSPlan") does not contain any specific land allocations related to the Works. However, the Scottish Ministers highlight that the CaSPlan identifies SLA within the Works. Paragraph 74 of the CaSPlan sets out that the SLA boundaries have been revised to ensure 'key designated landscape features are not severed and that

distinct landscapes are preserved'. The CaSPlan recognises the potential for marine renewable energy generation, particularly in the north-east of the Plan area which is identified in the Spatial Strategy for energy business expansion produced by THC .

9.5.20 The Pilot Pentland Firth and Orkney Waters Marine Spatial Plan ("PFOWMSP") sets out an integrated planning policy framework to guide marine development, activities and management decisions whilst ensuring the quality of the marine environment is protected. The purpose of the PFOWMSP is to implement a planning policy framework in advance of statutory regional marine planning which will support sustainable decision making on marine use and management in the Pentland Firth and Orkney Waters. THC and OIC l have adopted the PFOWMSP as non-statutory planning guidance, acknowledging the status of the Plan as a material consideration in the determination of relevant planning applications.

9.5.21 MD-LOT has had regard to the PFOWMSP when assessing the Application. MD-LOT considers that the Works accords with the PFOWMSP as it supports a number of the general policies including general policy 1A, 1B and 7. The Works also supports sectoral policy 4 within the Plan.

9.5.22 The Marine Strategy Regulations 2010 provide a comprehensive framework and obligation for the four UK administrations to take a coordinated approach to assess, monitor and take action to achieve or maintain Good Environmental Status (GES) in UK waters. The UK Marine Strategy consists of a three part framework for achieving GES in our seas, the most recent iteration of which comprises: Marine Strategy Part One: UK updated assessment and Good Environmental Status (2019); Marine Strategy Part Two: UK updated monitoring programmes; and Marine Strategy Part Three: 2025 UK programme of measures. The UK Marine Strategy recognises that offshore wind will play a pivotal role in the UK’s clean energy mission and the UK government and devolved governments are considering or have under development programmes to explore and develop mechanisms to enable delivery of the government’s offshore wind ambition while still protecting the marine environment.

9.5.23 The Scottish Ministers have had regard to the UK Marine Strategy when assessing the Application. Environmental impacts, including impacts to protected sites, have been assessed through Environmental Impact Assessment and Habitats Regulations Appraisal. Significant impacts have been identified to and addressed as discussed in paragraphs 9.7.1-9.7.6, including mitigation and compensation through consent and licence conditions, and the decision taken in accordance with the NMP. Relevant aspects of the

programme of measures have been carried forward and taken into consideration in the decision-making process.

9.6 Economic Benefits

9.6.1 National policy and strategies, such as NPF4, the Draft ESJTP, and the Scottish Energy Strategy: The Future of Energy in Scotland (2017), support the role of renewable energy development in achieving socioeconomic benefits and supporting the growth of the low carbon economy. The proposed Development is considered to be of national importance for the delivery of NPF4. NPF4 policies 1, 2 and 3 apply to all development proposals in Scotland, which means that significant weight should be given to the global climate and nature crises when considering development proposals in accordance with these policies. Policy 11 of NPF4 is applicable to the Works as it supports all proposals relating to renewable, low-carbon and zero emission technologies with the exception of wind farm proposals in National Parks or NSAs.

9.6.2 Project specific economic benefits include major significant benefits to employment and GVA for Caithness and Sutherland during the construction and O&M stages of the Works. Within the Highland and Orkney localities, these positive effects are anticipated to be at a moderate level, with the exception of Highland during the construction phase of the Works which was assessed in the EIA Report as minor and not significant in EIA terms.

9.6.3 The MAU noted that the non-technical summary submitted by the Applicant stated that modelling predicted up to an 8.3% increase in jobs and 5.6% increase in GVA in Caithness and Sutherland. The non-technical summary also stated that there would be a 17.1% increase in jobs and 6.4% increase in GVA in Orkney.

9.6.4 Regarding housing and local services in Orkney, the Works will likely result in moderate and significant beneficial effects during the construction, O&M phases. The Applicant has proposed several embedded mitigation measures to maximise the economic and social benefits of the Works. These include Supply Chain Development Statement initiatives, agreements with harbours to develop suitable facilities, and collaboration with other developers to deliver a Local Workforce Strategy and a Local Accommodation Strategy.

9.6.5 The Scottish Ministers have taken this information on socioeconomics into account in their decision making.

9.7 Impacts on European sites and Seabird Impacts

9.7.1 The Conservation (Natural Habitats, &c.) Regulations 1994, the Conservation of Offshore Marine Habitats and Species Regulations 2017 and the

Conservation of Habitats and Species Regulations 2017 (collectively, "the Habitats Regulations") require the Scottish Ministers to consider whether the Works would be likely to have a significant effect on a European site (either alone or in combination with other plans or projects), as defined in the Habitats Regulations.

9.7.2 In line with the view of NatureScot, that the Development is likely to have a significant effect on one of more features of 234 designated sites, the Scottish Minister were required to carry out an AA (further detail available in Annex B). Having had regard to the representations made by NatureScot, it can be ascertained that the Development will not adversely affect the integrity of 218 designated sites, providing the Applicant adheres to the conditions set out in the AA, the s.36 consent and the relevant associated marine licences. Further considering the reasons for which the sites were designated and the associated conservation objectives, the Scottish Ministers are content that the Development will not on its own or in combination with other projects, adversely affect the integrity of the 218 designated sites (further detail available in Annex B).

9.7.3 The Scottish Ministers concluded that the Works alone or in combinations with other plans or projects would have an AEOSI on:

Alone:

- Guillemot for Sule Skerry and Sule Stack SPA
- Seabird Assemblage for Sule Skerry and Sule Stack SPA

In-combination:

- Gannet for Forth Islands SPA, OFFSAB SPA
- Guillemot for East Caithness Cliffs SPA,
- Kittiwake for East Caithness Cliffs SPA, Forth Islands SPA, Fowlsheugh SPA, Hoy SPA, North Caithness Cliffs SPA, OFFSAB SPA, Rousay SPA, West Westray SPA.
- Seabird Assemblage for East Caithness Cliffs SPA, Forth Islands SPA, Fowlsheugh SPA, Hoy SPA, North Caithness Cliffs SPA, OFFSAB SPA, Rousay SPA, West Westray SPA.

9.7.4 Further, the Scottish Ministers were unable to conclude beyond reasonable scientific doubt that there will be no AEOSI from the Works alone or in combination with other plans or projects for the following:

- Gannet for Fair Isle SPA, Hermaness, Saxa Vord and Valla Field SPA.
- Guillemot for Copinsay SPA, North Caithness Cliffs SPA.

- Kittiwake for Buchan Ness to Collieston Coast SPA.
- Razorbill for East Caithness Cliffs SPA.
- Puffin for Forth Islands SPA and OFFSAB SPA.
- Seabird Assemblage for Copinsay SPA, Fair Isle SPA, Buchan Ness to Collieston Coast SPA, Hermaness, Saxa Vord and Valla Field SPA.

9.7.5 A full explanation of the issues and justification for the conclusions regarding site integrity is provided in the AA (Annex B).

9.7.6 Given that the AA for the Works concluded AEOSI for the sites and species above, both alone and in combination with other projects, and was unable to conclude no AEOSI for the sites/species listed above, the Scottish Ministers proceeded to consider the derogations provisions in the Habitats Regulations. The Scottish Ministers are satisfied that there are no alternative solutions to the Works in order to meet its objectives and that the Works must be carried out for imperative reasons of overriding public interest, notwithstanding a negative assessment of the implications for European sites. The Scottish Minsters consider that the compensatory measures are likely to deliver the level of compensation required, however further information is required to reduce uncertainty in respect of predator eradication / exclusion and gannet disturbance reduction. The Scottish Ministers find that the Applicant has provided insufficient evidence to conclude with certainty that the compensatory measures will deliver the level of compensation required to address the precisely identified damage identified in the AA. This further information will be secured through the use of a suspensive condition, which will require a Seabird Compensation Plan to be submitted by the Applicant for approval by the Scottish Ministers prior to the Commencement of the Works and thereafter adhered to. This will ensure that compensatory measures are secured as required by the Habitats Regulations before the Works can be lawfully built and operated. Full details of the Scottish Ministers' considerations and the proposed compensatory measures can be found in the Derogation Case (Annex E).

9.7.7 RSPB Scotland objected to the Works on the basis that the location of the Works was not appropriate for an offshore windfarm, and disagreed with the Applicant's conclusion that impacts on Manx shearwater, European storm petrel, and Leach's storm petrel will not be significant for a number of SPAs. RSPB Scotland noted that they were unable to rely on the densities provided for these nocturnally active species, and were unable to reach conclusions on the significance of adverse impacts.

9.7.8 RSPB Scotland also highlighted the recent outbreak of HPAI and the need to consider the impact of this in any assessments undertaken.

9.7.9 In consideration of the representation from RSPB Scotland conditions have been attached to the GS Marine Licence requiring a Detailed Seabird Compensation Plan to be submitted by the Applicant for approval by the Scottish Ministers prior to the Commencement of the Works and thereafter adhered to. In undertaking the AA, Scottish Ministers concluded no AEOSI for features of any sites arising from artificial lighting on project infrastructure, vessels, and navigational lighting on turbines and vessels; full details of this conclusion can be found in the AA (Annex B). Additionally, Scottish Ministers consider that the contribution of the Works to policies detailed in section 9.4 demonstrate that the Works's location is suitable.

9.7.10 The Scottish Ministers consider that, having taken into account the information provided by the Applicant, the representations of the consultation bodies, and having regard to the conditions attached, there are no outstanding concerns (other than those addressed through the Derogation Case) in relation to the impact of the Works on Seabirds, and/or European sites, and European offshore marine sites which would require a GS Marine Licence to be withheld.

9.8 Other significant determining issues

9.8.1 Great black-backed gull

9.8.2 In response to the Additional Information Consultation, NatureScot concluded that the overall cumulative effect on GBBG with and without Berwick Bank was major adverse and significant in EIA terms. NatureScot noted that mitigation would be required for GBBG through the EIA process. NatureScot were further consulted on this issue and agreed that a suspensive condition requiring further mitigation to be implemented before the commencement of the Works was sufficient. As such, a condition has been attached to this consent to that effect.

9.8.3 Impacts on Commercial Fisheries

9.8.4 The EIA Report concluded that for all phases of the Works, the significance of effects to commercial fisheries were minor or negligible and not significant in EIA terms.

9.8.5 The SFF objected to the Works due to the impact on commercial fisheries and raised concerns regarding mobile fishing being able to return to the area of the Works post construction. The SFF also highlighted concerns that in the Additional Information, the Applicant had not referenced any cases where fishing has not resumed or been significantly impacted within locations where there are fixed foundation offshore windfarms.

9.8.6 The SFF opposed nature compensatory measures that may impose any restrictions on commercial fisheries, and highlighted that if fishing activities are

affected post construction then the SFF would not support any proposals for windfarm developments.

9.8.7 The Scottish Ministers have taken into account the terms of the NMP in relation to the SFF's concerns, alongside advice from MD-SEDD. In consideration of the representation received, a number of conditions have been attached to the GS Marine Licence to require an FMMS, CaP, DSLP and VMP to be submitted by the Applicant for approval by the Scottish Ministers prior to the Commencement of the Works and thereafter adhered to. In particular, the FMMS, must should include a strategy for communicating with fishers, assessment of socioeconomic and environmental impacts on affected commercial fisheries, a strategy for mitigation and a strategy for monitoring. Additionally, another condition attached to the GS Marine Licence will require the Applicant to appoint a FLO. A FLO will establish and maintain effective communications between the Applicant, its contractors and sub-contractors as well as fishermen and other sea users during the construction phase of the Works. The CaP must include a Cable Burial Risk Assessment to ascertain burial depths and where necessary alternative protection measures; methodologies and timetable for post-construction and operational surveys of the cables and the cable protection through its operational life; and measures to address and report to the Scottish Ministers any exposure of cables or risk to users of the sea from cables.

9.8.8 The Scottish Ministers consider that, having taken into account the information provided by the Applicant, the responses of the consultation bodies, and having regard to the conditions attached to the GS Marine Licence, there are no outstanding concerns in relation to the impact of the Works on commercial fisheries which would require a consent to be withheld.

9.8.9 <u>Impacts on Seascape, Landscape and Visuals</u>

9.8.10 The EIA Report concluded that for SLVIA, significance of impacts ranged from moderate / minor and not significant in EIA terms, to major / moderate and significant in EIA terms. Many of the major / moderate impacts were to settlements along the coast of Sutherland and Caithness

9.8.11 In response to the Original Consultation, NatureScot objected to the Works, advising that there would be a significant adverse impact on the Kyle of Tongue NSA, due to the Works significantly impacting on two SLQs (SLQ 3 & 5) that the NSA is designated for. NatureScot also advised that there could be a significant adverse impact on the distinctive coastal character type of the North Coast Landscape.

9.8.12 In response to the Additional Information Consultation, NatureScot maintained its objection, concluding that there would be a significant adverse impact on the Kyle of Tongue NSA. Additionally, NatureScot concluded that there would be a significant impact to the North Coast Landscape caused by impacts to the visual character of highly-scenic indented bays along the North Coast, impacts to perceptual responses of tranquillity and seclusion, and impacts on framed views directed over the sea from the North Coast 500 route compounded by cumulative impacts with the application stage onshore Melvich Wind Farm. NatureScot also noted that, based on experience, consented developments generally obtain additional survey information post-consent and work to finalise component contracts, which means there are likely to be further design iterations from this assessed worst-case scenario. NatureScot advised that further reductions in adverse impacts could be achieved.

9.8.13 In response to the updated SLVIA provided in the Additional Information submitted by the Applicant, THC did not object to the Works, but raised concerns regarding the scale and spread of the array area. Particular concern was raised as to the effect of the Works on Kyle of Tongue NSA and the Oldshoremore, Cape Wrath and Durness, Eriboll East and Whiten Head and Farr Bay, Strathy and Portskerra SLAs. Additionally, THC raised concerns about the impacts on the North Coast 500/A836 scenic route. However, THC also noted that they supported amendments provided in the Additional Information submitted by the Applicant, which resulted in a contraction of the horizontal extent, and an increase in the cohesion of the array area. THC also note that, despite a significant setback from the coast, SLVIA impacts are to be expected for a proposal of this scale and that impacts should be balanced against the economic and energy benefits of the scheme for the area.

9.8.14 The Applicant proposed secondary mitigation measures regarding the major / moderate impacts that are significant in EIA terms. The Applicant acknowledged that mitigation measures such as screen planting are ineffective for offshore windfarm developments and noted that the secondary mitigation will be implemented within the iterative design process during the post-consent development of the Design Statement and DSLP.

9.8.15 Additionally, the Applicant proposed additional post-consent and pre-construction surveys and site investigations, which will be shared with MD-LOT, the relevant SNCBs, and the local planning authorities.

9.8.16 THC noted that the proposed array area represents a 44% reduction from the N1 Plan OAA identified in the Sectoral Marine Plan for Offshore Wind Energy 2020 (“SMP-OWE”) . THC highlighted that the Applicant, by proposing the restricted build areas, could further reduce the array area by 13%. Restricted Area B is specifically designed to reduce the impact of the Works on the zone

identified by NatureScot as being a constraint area with sensitivities from Cape Wrath and the Kyle of Tongue.

9.8.17 The Applicant noted that the mitigation of SLVIA impacts would continue during the post-consent design process, which is anticipated to reduce the significance of the identified impacts.

9.8.18 The Sectoral Marine Plan for Offshore Wind Energy identified that plan option areas within the North region were identified as having medium-high to high sensitivity to seascape, landscape, and visual impacts. Consequently, potential adverse visual impacts and landscape/seascape character impacts were identified as key risk factors for developments in this region. These plan option areas were approved by Scottish Ministers on the understanding that significant visual impacts could arise from windfarms constructed in the plan option areas.

9.8.19 However, the worst-case scenario identified in *the Applicant*'s EIA, and Additional Information, has been concluded to have a significant adverse impact on the Kyle of Tongue NSA and on the distinctive coastal character type of the North Coast Landscape. NatureScot advises that this impact has not been sufficiently mitigated through the EIA and Additional Information and may not be possible to mitigate post-consent.

9.8.20 In consideration of the representations received regarding seascape, landscape and visuals, conditions have been attached to the GS Marine Licence to require a Design Statement, DSLP and LMP to be submitted by the Applicant for the approval by the Scottish Ministers prior to the Commencement of the Works and thereafter adhered to. The DSLP will confirm the final Development specification and layout and the DS must include representative wind farm visualisations from key viewpoints, based upon the final DSLP, and signed off by at least one qualified landscape architect.

9.8.21 The Scottish Ministers have taken into account the information provided by the Applicant, the responses of the consultation bodies, and had regard to the conditions attached to the GS Marine Licence. The Scottish Ministers do not consider that the objection from NatureScot in relation to the impact of the Works on seascape, landscape and visuals, would require a consent to be withheld. The significant benefits the Works in achieving the ambition set out in the Offshore Wind Policy Statement and the contributions the Works will make to reducing the emissions of energy production in Scotland outweigh the impacts on seascape, landscape and visuals.

10 The Scottish Ministers' Determination and Reasoned Conclusion

10.1 The Scottish Ministers are satisfied that an EIA has been carried out, and that the applicable procedures regarding publicity and consultation in respect of the applications have been followed. The Scottish Ministers are also satisfied, having regard to current knowledge and methods of assessment, that their EIA Consent Decision is based on an up to date conclusion about the likely significant effects of the Works on relevant environmental factors, as required under the 2007 MW Regulations.

10.2 The Scottish Ministers have weighed the impacts of the Works, and the degree to which these can be mitigated, against the renewable energy benefits which would be realised. The Ministers have undertaken this exercise in the context of national and local policies.

10.3 The Scottish Ministers have considered the extent to which the Works accords with and is supported by Scottish government policy, the terms of the NMP, the NPF4, the Offshore Wind Policy Statement, the draft ESJTP, the UK Government's National Policy Statements for energy infrastructure and British Energy Security Strategy, Clean Power 2030, local development plans, and the environmental impacts of the Works. In particular, the Scottish Ministers have considered the impacts on seabirds (including impacts on European sites and European offshore marine sites), commercial fisheries and SLVIA.

10.4 The Scottish Ministers are satisfied that the environmental issues associated with the Works have been appropriately addressed by way of the design of the Works and mitigation measures. In particular the Scottish Ministers are satisfied that the Works will not adversely affect the integrity of designated sites from the AA assessment, which can be found in Annex B or hinder the achievement of the conservation objectives of the North West Orkney MPA.

10.5 In their consideration of the environmental impacts of the Works, the Scottish Ministers have identified conditions to be attached to the GS Marine Licence to reduce and monitor environmental impacts (these conditions are outlined in Annex 2). These include development and adherence to the mitigation measures outlined in the Schedule of Mitigation in the Applicant's EIA Report and a CMS, PEMP, EMP, OMP, CoP, Navigational Safety Plan, PS, LMP, FMMS, VMP, WSI, PAD, DSLP, Aviation Charting and Safety Management Plan, CaP, ECoW, FLO, Scapa Flow SPA Monitoring Plan, OFFSAB SPA Monitoring Plan, and a Decommissioning Plan, as well as a requirement to submit a Detailed Seabird Compensation Plan in writing for approval by the Scottish Ministers.

10.6 The Scottish Ministers are satisfied, having regard to current knowledge and methods of assessment, that this reasoned conclusion, as required under the 2017 MW Regulations, is valid.

10.7 The Scottish Ministers are satisfied that regard has been given to protecting the environment, protecting human health, and preventing interference with legitimate uses of the sea, as well as other factors considered to be relevant, as required by section 69 of the 2009 Act and section 27 of the 2010 Act.

10.8 The Scottish Ministers **grant marine licences subject to conditions** under the 2009 Act and the 2010 Act to construct, alter or improve any works in the UK marine licensing area associated with the West of Orkney Windfarm, APPROXIMATELY 28 KILOMETRES WEST OF HOY, ORKNEY AND 23 KILOMETRES FROM THE NORTH COAST OF SCOTLAND. The marine licence is available at Appendix 1

10.9 The embedded mitigation and any additional mitigation identified in the EIA Report has been incorporated into the conditions of the marine licences. The conditions also capture monitoring measures required under Regulation 22 of the 2007 MW Regulations and Regulation 24 of the 2017 MW Regulations.

10.10 In accordance with the 2007 MW Regulations and the 2017 MW Regulations, the Applicant must publicise notice of the Scottish Minister's EIA Consent Decision and its regulatory decision(s) by ensuring that a copy of this decision letter is published on the Applicant's website, and within the same publications listed at paragraph [3.3] of this decision letter; namely the Edinburgh Gazette, John O' Groats Journal, The Orcadian, The Caithness Courier and The Herald. The Applicant must provide copies of the public notices to the Scottish Ministers.

10.11 Copies of this decision notice have been sent to the bodies consulted on the application, including the local planning authority, NatureScot, SEPA and HES. This decision notice has also been published on the Marine Scotland Information website.

Yours sincerely,

Jessica Malcolm

Section Head (Consenting), Marine Directorate - Licensing Operations Team

A member of the staff of the Scottish Ministers

27 June 2025

Annex 1 – Description of the Works

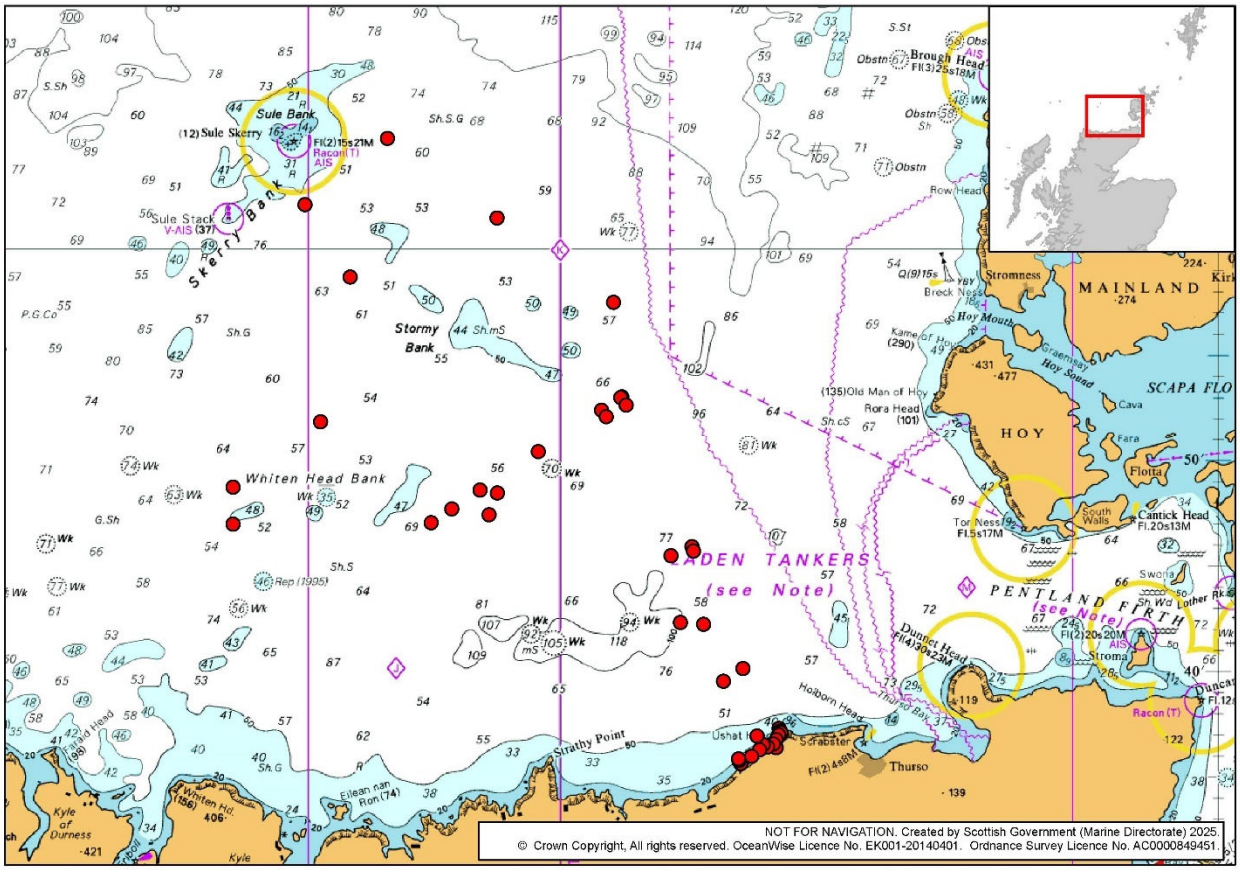
1. The Works comprise of an offshore energy generating station which shall comprise of:

1. Up to 125 wind turbine generators ("WTG") (each comprising of a tower section, nacelle, and three rotor blades) each with:

   a) Maximum rotor blade tip height of 359.52m (measured from Lowest Astronomical Tide (LAT));
   b) Maximum rotor blade diameter of 330m;
   c) Minimum rotor blade tip to sea clearance of 29.52m (measured from LAT);
   d) Maximum hub height of 194.52m (measured from LAT);
   e) Minimum WTG spacing of 944m
2. Wind turbine foundations including monopiles, piled jackets or suction bucket jackets;
3. Up to 140 inter-array cables with a total length of up to 500km; and
4. Scour protection and inter-array cable protection

and, except to the extent modified by the foregoing, all as described in the Application and by the conditions imposed by the Scottish Ministers. References to "the Works" in this consent shall be construed accordingly.

Figure 1: Works Location



Scottish Government
Riaghaltas na h-Alba

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING
MARINE AND COASTAL ACCESS ACT 2009, PART 4 MARINE LICENSING

LICENCE TO CONSTRUCT, ALTER OR IMPROVE WORKS IN THE SCOTTISH MARINE AREA

Licence Number: **MS-00010559**

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

Offshore Wind Power Limited
Clava House, Cradehall
Business Park Inverness
IV2 5GH

to construct, alter or improve works as described in Part 2. The licence is subject to the conditions set out, or referred to, in Part 3.

The licence is valid 27 June 2025 until 27 June 2060 or until the Works have been decommissioned in accordance with an approved Decommissioning Programme for which a separate marine licence is required.

Signed: ……..
Jessica Malcolm

For and on behalf of the Licensing Authority

Date of issue: 27 June 2025

1. PART 1 - GENERAL

1.1 Interpretation

In the licence, terms are Sections 1,64 and 157 of the Marine (Scotland) Act 2010 and Section 115 of the Marine and Coast Access Act 2009 unless otherwise stated.

"the 2010 Act" means the Marine (Scotland) Act 2010;
"the 2009 Act" means the Marine and Coastal Access Act 2009;
"Addendum of Additional Information" means the additional information requested from the Applicant, submitted 4 October 2024;
"AEOSI" means Adverse Effect on Site Integrity;
"Application" means the Environmental Impact Assessment Report, Report to inform Appropriate Assessment and supporting documents submitted by the Licensee on 16 September 2023 to construct an offshore generating station and transmission works, it also includes the Addendum of Additional Information submitted on 4 October 2024;
"Appropriate Assessment" means the Appropriate Assessment conducted by the Scottish Ministers on 18 March 2025;
"Commencement of the Licensed Activity" means the date on which the first vehicle or vessel arrives on the site to begin carrying out any activities in connection with the Licensed Activity;
"Completion of the Licensed Activity" means the date on which the Works have been installed in full or the Licensed Activity has been deemed complete by the Licensing Authority, whichever occurs first;
"CAA" means the Civil Aviation Authority;
"CaP" means the Cable Plan;
"CMS" means Construction Method Statement;
"CoP" means Construction Programme;
"CTMP" means Construction Traffic Management Plan;
"District Salmon Fishery Boards" means those District Salmon Fishery Boards directly adjacent to the Works;
"DS" means Design Statement;
"DSLP" means Design Specification and Layout Plan;
"DP" means Decommissioning Programme;
"ECC" means Export Cable Corridor;
"ECoW" means Environmental Clerk of Works;
"EMF" means Electromagnetic Fields;
"EMP" means Environmental Management Plan;
"Final Commissioning of the Works" means the date on which the last WTG constructed forming the Works has supplied electricity on a commercial basis to the National Grid, or such earlier date as the Licensing Authority deem the Works to be complete**;**
"First Commissioning of the Works" means the date on which the first WTG constructed forming the Works has supplied electricity on a commercial basis to the National Grid;
"FMS" means Fisheries Management Scotland;
"FLO" means Fisheries Liaison Officer;
"FMMS" means Fisheries Management and Mitigation Strategy;
"GIS" means Geographic Information System;
"HES" means Historic Environment Scotland;
"Licensed Activity" means any activity or activities listed in section 66 of the 2009 Act which is, or are authorised under the licence;
"Licensee" means Offshore Wind Power Limited (company number: SC605260) having its registered office at Clava House, Cradlehall Business Park, Inverness, IV2 5GH;
"LMP" means Lighting and Marking Plan;
"m^3" means cubic metres;
"m" means metres;
"WGS84" means World Geodetic System 1984;
"MCA" means Maritime and Coastguard Agency;
"Mean High Water Springs" means any area submerged at mean high water spring tide;

"MGN" means Marine Guidance Note;
"MMO" means Marine Mammal Observer;
"MOD" Ministry of Defence;
"NATS" means National Air Traffic Service Safeguarding;
"NLB" means Northern Lighthouse Board;
"Noise Registry" means the marine noise registry developed by the Department for Environment, Food and Rural Affairs and the Joint Nature Conservation Committee to record human activities in UK seas that produce loud low to medium frequency (10Hz-10kHz) Impulsive noise;
"NSP" means Navigational Safety Plan;
"Ofcom" means Office of Communications;
"OFFSAB" means Outer Firth of Forth and St Andrew's Bay Complex;
"OMP" means Operation and Maintenance Programme;
"PAD" means Protocol for Archaeological Discoveries;
"PAM" means passive acoustic monitoring;
"PEMP" means Project Environmental Monitoring Programme;
"RSPB" means the Royal Society for the Protection of Birds Scotland;
"SAR" means Search and Rescue;
"ScotMER" means Scottish Marine Energy Research Programme;
"Section 105 notice" means a notice issued under Section 105 of the Energy Act 2004 requiring the submission of a decommissioning programme served by the Licensing Authority on behalf of the Scottish Ministers;
"SFF" means the Scottish Fishermen's Federation;
"SLVIA" means Seascape, Landscape and Visual Impact Assessment;
"SPA" means Special Protection Area;
"PS" means Piling Strategy;
"the Reports" means the contractor and vessel reports;
"TAR" means Transport Audit Report;
"TPV and TPC" means Third Party Verification and Third Party Certification;
"UKCoS" means United Kingdom Chamber of Shipping;
"UKHO" means United Kingdom Hydrographic Office;
"VMP" means Vessel Management Plan;
"Works" means the offshore energy generating station, as described in Part 2 of the Licence;
"**WSI**" means Written Scheme of Investigation; and
"**WTG**" means Wind Turbine Generator.

All geographical co-ordinates contained within the licence are in WGS84 format (latitude and longitude degrees and minutes to three decimal places) unless otherwise stated.

1.2 Contacts

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

Marine Directorate - Licensing Operations Team
375 Victoria Road
Aberdeen
AB11 9DB
Email: MD.MarineRenewables@gov.scot

1.3 Other authorisations and consents

The Licensee is deemed to have satisfied itself that there are no barriers or restrictions, legal or otherwise, to the carrying on of the Licensed Activities in connection with the Licensed Activity. The issuing of the licence does not absolve the Licensee from obtaining such other authorisations and consents, which may be required under statute.

1.4 Variation, suspension, revocation and transfer

Under section 72(1) of the 2009 Act the Licensing Authority may by notice vary, suspend or revoke the licence, if it appears to the Licensing Authority that there has been a breach of any of its provisions or for any such other reason that appears to be relevant to the Licensing Authority under section 71(2) or (3) of the 2009 Act.

Under section 71(7) of the 2009 Act, on an application made by the Licensee, the Licensing Authority may transfer the licence from the Licensee to another person.

Under section 30 (1) of the 2010 Act the Licensing Authority may by notice vary, suspend or revoke the licence granted by them if it appears to the Licensing Authority that there has been a breach of any of its provisions. For any such other reason that appears to be relevant to the Licensing Authority under section 30(2) or (3) of the 2010 Act. Under the 2010 Act variations, suspensions, revocations and transfers of licences are subject to the procedures set out in section 31 of the Act.

Under section 30 (7) of the 2010 Act, on an application made by a Licensee, the Licensing Authority may vary a licence if satisfied that the variation being applied for is not material.
Under section 30 (8) of the 2010 Act, on an application made by the Licensee, the Licensing Authority may transfer the licence from the Licensee to another person.

1.5 Breach of requirement for, or conditions of, licence

Under section 85 of the 2009 Act, it is an offence to carry on a licensable marine activity without a marine licence and it is also an offence to fail to comply with any condition of a marine licence.

Under section 39 of the 2010 Act it is an offence to carry on a Licensable Marine Activity without a marine licence and it is also an offence to fail to comply with any condition of a marine licence.

1.6 Defences: actions taken in an emergency

Under section 86 of the 2009 Act, it is a defence for a person charged with an offence under section 85(1) of the 2009 Act in relation to any activity to prove that:
the activity was carried out for the purpose of saving life, or for the purpose of securing the safety of a vessel, aircraft or marine structure, and
that the person took steps within a reasonable time to inform the Licensing Authority of the matters set out in section 86(2) of the 2009 Act.
Under section 40 of the 2010 Act it is a defence for a person charged with an offence under section 39(1) of the 2010 Act in relation to any activity to prove that –
the activity was carried out for the purpose of saving life, or for the purpose of securing the safety of a vessel, aircraft or marine structure (‘force majeure'), and
that the person took steps within a reasonable time to inform the Licensing Authority as set out in section 40(2) of the 2010 Act.

1.7 Offences relating to information

Under section 85 of the 2009 Act, it is an offence for a person to make a statement which is false or misleading in a material way, knowing the statement to be false or misleading or being reckless as to whether the statement is false or misleading, or to intentionally fail to disclose any material information for the purpose of procuring the issue, variation or transfer of a marine licence or for the purpose of complying with, or purporting to comply with, any obligation imposed by either Part 4 of the 2009 Act or the provisions of the licence.

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

1.8 Appeals

Under Regulation 3(1) of the Marine Licensing Appeals (Scotland) Regulations 2011 a person who has applied for a marine licence may by summary application appeal to against a decision taken by the Licensing Authority under section 71(1)(b) or (c) or (5) of the Act.

2. PART 2 – PARTICULARS

2.1 Location of the Licensed Activity

West of Orkney Option Agreement Area, being the area bound by joining the following co-ordinates.

58° 46.974' N 004° 30.000' W
58° 48.721' N 004° 30.000' W
58° 51.852' N 004° 22.011' W
58° 58.685' N 004° 19.305' W
59° 02.098' N 004° 23.409' W
59° 05.222' N 004° 15.904' W
59° 01.473' N 004° 05.880' W
58° 57.491' N 003° 55.234' W
58° 53.036' N 003° 54.499' W
58° 50.412' N 004° 2.127' W
58° 47.054' N 004° 11.883' W

As shown in Annex One.

2.2 Description of the Licensed Activity

The Works comprise an offshore energy generating station which shall comprise of:

1. Up to 125 wind turbine generators (“WTGs”) (each comprising of a tower section, nacelle, and three rotor blades), each with:

    a. Maximum rotor blade tip height of 359.52 metres (“m”) (measured from Lowest Astronomical Tide (“LAT”);
    b. Maximum rotor blade diameter of 330 m;
    c. Minimum rotor blade tip to sea clearance of 29.52 m (measured from LAT);
    d. Maximum hub height of 194.52 m (measured from LAT); and
    e. Minimum WTG spacing of 944 m.

2. Wind turbine foundations including monopiles, piled jackets or suction bucket jackets;

3. Up to 140 inter-array cables with a total length of up to 500 kilometres (“km”); and

4. Scour protection and inter-array cable protection.

As described in the Application dated 18 September, 2023 and correspondence submitted in support of the Application.

2.3 Descriptions of the materials to be used during the Licensed Activity

The licence authorises the use of the undernoted construction materials required in connection with the Licensed Activity, subject to the indicative amounts as specified below:

Steel / Iron: 2,500,000 tonnes
Plastic / Synthetic: 20,000 tonnes
Concrete: 190,000 cubic metres ("m^3")
Stone / Rock / Gravel: 6,330,000 m^3
Concrete bags / Mattresses: 4,000,000 m^3
Cable: 500,000 m

2.4 Contractor and Vessel Details

To be confirmed

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 The Licensee must only construct the Works in accordance with this licence, the Application and any plans, programmes or schemes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

3.1.2 The Licensee must maintain the Works in accordance with the licence, the Application and any plans, programmes or schemes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

3.1.3 The Licensee must ensure that the Licensed Activity is only carried out at the location of the Licensed Activity specified in Part 2 of the licence.

3.1.4 Only the materials listed in Part 2 of the licence may be used during the execution of the Licensed Activity.

3.1.5 All conditions attached to the licence bind any person who for the time being owns, occupies or enjoys any use of the Works, whether or not the licence has been transferred to that person.

3.1.6 All materials used during the execution of the Works must be inert and must not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

3.1.7 The Licensee must ensure that the Works do not encroach on any recognised anchorage, either charted or noted in nautical publications, within the licensed area as described in Part 2 of the Licence.

3.1.8 The Licensee must provide written notification of any serious unforeseen incident of harm to the environment or human health, or any serious unforeseen incident of interference with legitimate uses of the sea during the lifetime of the Works, to the Licensing Authority within 24 hours of the incident occurring.

3.1.9 The Licensee must remove the materials from below the level of Mean High Water Springs, or make such alterations as directed by the Licensing Authority, at timescales to be determined by the Licensing Authority at any time it is considered necessary or advisable for the safety of navigation, and not replace those materials without further approval by the Licensing Authority. The Licensee shall be liable for any expense incurred.

3.1.10 If governmental assistance is required (including UK governmental assistance or the assistance of any UK devolved government) to deal with any emergency arising from:

a) the failure to mark and light the Works as required by the licence;
b) the maintenance of the Works;
c) or the drifting or wreck of the Works, to include broadcast of navigational warnings

then the Licensee is liable for any expenses incurred in securing such assistance.

3.1.11 The Licensee must notify the Licensing Authority in writing of any leakage of fluorinated greenhouse gasses within 24 hours.

3.1.12 The Licensee must seek prior written approval from the Licensing Authority for any chemicals in an open system which are to be utilised in the construction, operation and maintenance of the Works. Requests for approval must be submitted in writing to the Licensing Authority no later than one month prior to its intended use or such other period as agreed by the Licensing Authority.

The Licensee must ensure that no chemicals are used in an open system without the prior written approval of the Licensing Authority.

If the proposed chemical is on the Offshore Chemical Notification Scheme list, the approval request must include the chemical name, volume or quantity to be used, the Offshore Chemical Notification Scheme list grouping or rank and the proposed frequency of use. If the proposed chemical is not on the Offshore Chemical Notification Scheme list, the approval

request must include details of chemical to be used, including safety data sheet, depth and current at the location of the Licensed Activity, quantities or volumes and the proposed frequency of use.

The Licensee must notify the Licensing Authority of the types of chemicals to be used in a closed containment system prior to use. The Licensee should take all practicable steps to avoid leakages from a closed containment system into the UK marine licensing area. Any such leakages must be reported to the Licensing Authority as soon as practicable.

3.1.13 The Licensee must ensure suitable bunding with capacity of not less than 110% of the total volume of all reservoirs and storage facilities is employed to prevent the release of lubricating fluids, chemicals and other substances associated with the Licensed Activity and associated equipment into the marine environment.

3.1.14 The Licensee must submit all reports and notifications to the Licensing Authority, in writing, as are required under the licence within the time periods specified in the licence. Where there may be a delay in the submission of the reports or notifications to the Licensing Authority, the Licensee must advise the Licensing Authority of this fact as soon as is practicable and no later than the time by which those reports or notifications ought to have been submitted to the Licensing Authority under the terms of the licence.

The reports must include executive summaries, assessments and conclusions and any data will, subject to any rules permitting non-disclosure, be made publicly available by the Licensing Authority or by any such party appointed at its discretion.

Reports prepared pursuant to another consent or licence relating to the Works by the Licensee or by a third party may also be used to satisfy the requirements of the licence.

Such reports will include, but not be limited to a Transport Audit Report (“TAR”), the Noise Registry, Marine Mammal Observer (“MMO”) records and all appropriate reports stipulated within the Project Environmental Monitoring Plan (“PEMP”).

3.1.15 The Licensee must submit plans and the details and specifications of all studies and surveys that are required to be undertaken under the licence in relation to the Licensed Activity, in writing, to the Licensing Authority for its written approval. Commencement of the studies or surveys and implementation of plans must not occur until the Licensing Authority has given its written approval of the plans to the Licensee.

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

Any updates or amendments made to the approved plans must be submitted, in writing, to the Licensing Authority for its prior written approval. The Licensed Activity must be carried on in accordance with the approved plans.

3.1.16 The Licensee must operate and maintain the Works in accordance with an approved Operation and Maintenance Programme (“OMP”) (see condition 3.3.11). The Licensee must notify the Licensing Authority at least three calendar months, or such other period as agreed by the Licensing Authority in advance, of any maintenance of the Licensed Activity not included in the OMP and involving licensable marine activities not covered under the licence.

3.1.17 In the event of the Licensed Activity being discontinued the materials used under the authority of the licence shall be removed to the satisfaction of the Licensing Authority.

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

3.1.19 No activity authorised under the licence may take place until a Decommissioning Programme (“DP”), submitted in accordance with a section 105 notice served by the appropriate Licensing Authority, has been approved under section 106 of the Energy Act 2004 by the Licensing Authority.

3.1.20 The Licensee must ensure that any debris or waste materials arising during the course of the Licensed Activity are removed for disposal at an approved location above the tidal level of Mean High Water Springs.

3.1.21 The Licensee must ensure that copies of the licence are available for inspection by any authorised marine enforcement officer at:

a) the premises of the Licensee;
b) the premises of any agent acting on behalf of the Licensee; and
c) the site of the Licensed Activity.

3.1.22 Any person authorised by the Licensing Authority must be permitted to inspect the Works at any reasonable time. The Licensee must, on being given reasonable notice by the Licensing Authority (of at least 72 hours), provide transportation to and from the site for any persons authorised by the Licensing Authority to inspect the site of the Works. The Licensee shall be liable for any expense incurred.

3.1.23 Where any damage, destruction or decay is caused to the Works, the Licensee must notify the Licensing Authority, Maritime and Coastguard Agency ("MCA"), Northern Lighthouse Board ("NLB"), Kingfisher Information Services of Seafish and the UK Hydrographic Officer, in writing, of such damage, destruction or decay as soon as reasonably practicable but no later than 24 hours after becoming aware of any such damage, destruction or decay. The Licensee must carry out any remedial action as required by the Licensing Authority, following consultation with the MCA, NLB or any such advisors as required by the Licensing Authority.

3.1.24 In the event that any damage, destruction or decay of the Works causes an immediate risk of danger or hazard to navigation, immediate notification (as soon as reasonably possible, but no later than six hours after the event) must be made to the relevant HM Coastguard rescue coordination centre by telephone, and in writing to the UK Hydrographic Office ("UKHO")(navwarnings@ukho.gov.uk).

3.1.25 **Incident Reporting**

The Licensee must provide written notification of any serious unforeseen incident of harm to the environment or human health, or any serious unforeseen incident of interference with legitimate uses of the sea during the lifetime of the Works, to the Licensing Authority within 24 hours of the incident occurring.

3.1.26 **Submission and approval of plans, programmes and schemes**

The Licensee must submit the requested plans, programmes and schemes, as detailed in the conditions, in writing, to the Licensing Authority for its written approval. Such approval may only be granted following consultation by the Licensing Authority with any such advisors or organisations as detailed in these conditions or as may be required at the discretion of the Licensing Authority.

Any updates or amendments made to the approved plans, programmes and schemes must be submitted, in writing, to the Licensing Authority for its written approval.

The Works must, at all times, be constructed and operated in accordance with the approved plans, programmes and schemes.

3.1.27 **SLVIA and Navigation Restricted Build Area Condition.**

No WTG, offshore substation platform or met-ocean measuring equipment forming part of the Works shall be erected within the area hatched red on Figure 1 and marked "Restricted Build Area A", whose co-ordinates are specified below.

Restricted Build Area A:

A. 59° 04' 24.59082822" N 004° 13' 43.52418048" W
B. 59° 00' 05.04849926" N 004° 20' 59.12748809" W
C. 59° 02' 05.86101440" N 004° 23' 24.56072903" W
D. 59° 05' 13.35292920" N 004° 15' 54.25861596" W

Within the area hatched green on Figure 1 and marked "Restricted Build Area B1" and "Restricted Build Area B2", no WTG forming part of the Works shall be erected and, unless otherwise agreed in writing by the Licensing Authority following consultation with the MCA, no offshore substation platform or met-ocean measuring equipment forming part of the Works shall be erected.

Restricted Build Area B1

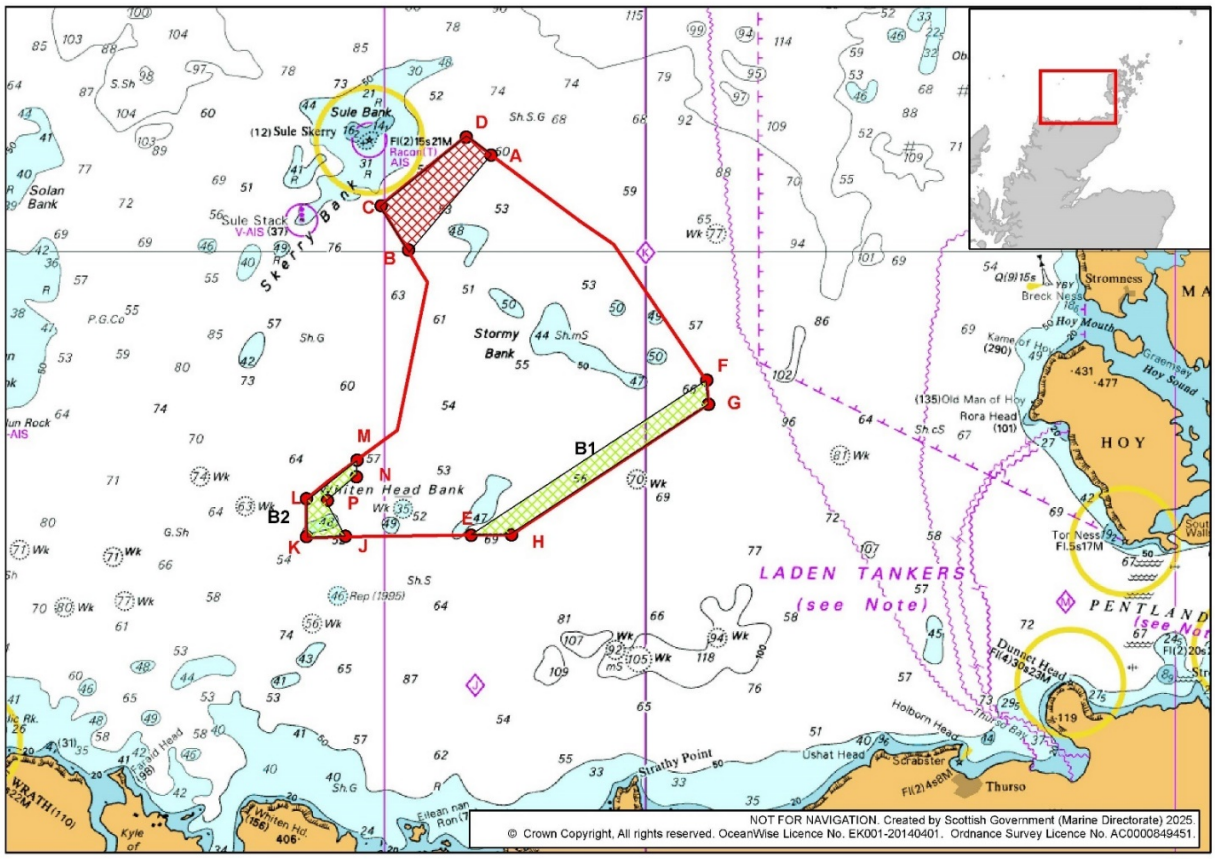
E. 58° 47' 02.51314712" N 004° 15' 27.79606032" W
F. 58° 54' 08.19339825" N 003° 54' 40.78498792" W

G. 58° 53' 02.18045271" N 003° 54' 29.91660019" W
H. 58° 47' 03.27338442" N 004° 11' 52.94810313" W

Restricted Build Area B2

J. 58° 46' 59.52521585"N 004° 26' 33.74321256"W
K. 58° 46' 58.40637145"N 004° 29' 59.95251540"W
L. 58° 48' 43.24077609"N 004° 29' 59.99072830"W
M. 58° 50' 28.64434901"N 004° 25' 31.45065963"W
N. 58° 49' 43.01765310"N 004° 25' 34.84814958"W
P. 58° 48' 37.96408790"N 004° 28' 10.19589919"W

Figure 1



3.2 Prior to the Commencement of the Licensed Activity

3.2.1 The Licensee must, prior to and no less than one calendar month before the Commencement of the Licensed Activity, notify the Licensing Authority, in writing, of the proposed date of the Commencement of the Licensed Activity authorised under the licence.

3.2.2 The Licensee must ensure that, at least five days prior to its engagement in the Licensed Activity, the name and function of any vessel (including the master's name, vessel type, vessel international maritime organisation number and vessel owner or operating company), agent, contractor or subcontractor appointed to engage in the Licensed Activity are fully detailed in the contractor and vessel reports ("the Reports") which the Licensee must make available on its website: West of Orkney Windfarm

Any changes to the supplied details must be uploaded to the Reports and the Licensing Authority must be notified, in writing, prior to any vessel, agent, contractor or sub-contractor which has not yet been notified to the Licensing Authority engaging in the Licensed Activity.

Only those vessels, agents, contractors or sub-contractors detailed in the Reports are permitted to carry out any part of the Licensed Activity. Any vessels involved in drilling and deposit of drilling arisings must be notified to the Licensing Authority.

The Licensee must satisfy itself that any masters of vessels or vehicle operators, agents, contractors or sub-contractors are aware of the extent of the Licensed Activities and the conditions of the licence.

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

The Licensee must give a copy of the licence, and any subsequent variations made to the licence in accordance with section 72 of the 2009 Act, to the masters of any vessels, vehicle operators, agents, contractors or sub-contractors permitted to engage in the Licensed Activity and must ensure that the licence and any such variations are read and understood by those persons.

3.2.3 The Licensee must, no later than 14 days prior to Commencement of the Licensed Activity, notify the UKHO at sdr@ukho.gov.uk, of the Licensed Activity. The notification must include the start and end date of the Licensed Activity, a description of the Works, positions of the area of the Works (WGS84), and details of any marking arrangements. A copy of the notification must be sent to the Licensing Authority within five working days of the notification being sent.

3.2.4 The Licensee must ensure that local mariners and fishermen's organisations are made fully aware of the Works through a local notification. This must be issued at least 14 days before the Commencement of the Licensed Activity. A copy of this notification must be sent to the Licensing Authority within 24 hours of issue.

3.2.5 The Licensee must, no later than seven days prior to the Commencement of the Licensed Activity, notify Zone4@hmcg.gov.uk and renewables@hmcg.gov.uk of the proposed Licensed Activity. A copy of the notification must be sent to the Licensing Authority within five working days of the notification being sent.

3.2.6 The Licensee must ensure that details of the Licensed Activities are promulgated in the Kingfisher Fortnightly Bulletin, no later than seven days prior to the Commencement of the Licensed Activity to inform the Sea Fish Industry of the vessel routes, the timings and location of the Licensed Activity and of the relevant operations.

3.2.7 The Licensee must notify the Ministry of Defence, at least 14 days prior to the Commencement of the Licensed Activity, in writing of the following information:

a) the earliest date of the Commencement of the Licensed Activity;
b) the maximum height of any construction equipment 50 metres or greater in height above mean sea level, to be used; and
c) the maximum heights of any offshore platforms or other, temporary or permanent, offshore structures 50 metres or greater in height, above mean sea level, to be deployed or constructed.

3.2.8 **Marine Mammal Observer**

Prior to the Commencement of the Licensed Activity, the Licensee must appoint a MMO. When appointed, the MMO must, as a minimum, maintain a record of any sightings of marine mammals and maintain a record of the action taken to avoid any disturbance being caused to marine mammals during noisy activities. The Licensee must provide the Licensing Authority with the MMO records no later than six months following Commencement of the Licensed Activity, and thereafter at six monthly intervals or such other periods as agreed with the Licensing Authority.

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

3.2.9 **Environmental Clerk of Works**

Prior to the Commencement of the Licensed Activity, the Licensee must at its own expense, and with the approval of the Licensing Authority in consultation with NatureScot, appoint an independent Environmental Clerk of Works ("ECoW"). The ECoW must be appointed in time to review and approve the draft version of the first plan or programme submitted under this licence to Licensing Authority, in sufficient time for any pre-construction monitoring requirements, and remain in post until a date agreed by the Licensing Authority. The terms of appointment must also be approved by the Licensing Authority in consultation with NatureScot.

The terms of the appointment must include, but not be limited to:

a) Quality assurance of final draft versions of all plans, programmes and schemes required under the licence;
b) Responsible for the monitoring and reporting of compliance with the licence conditions and the environmental mitigation measures for all wind farm infrastructure;
c) Provision of on-going advice and guidance to the Licensee in relation to achieving compliance with the Consent conditions, including but not limited to the conditions relating to and the implementation of the CMS, the EMP, the PEMP, the CaP and the VMP;
d) Provision of reports on point b & c above to the Licensing Authority at timescales to be determined by the Licensing Authority;
e) Induction and toolbox talks to onsite construction teams on environmental policy and procedures, including temporary stops and keeping a record of these;
f) Monitoring that the Works are being constructed in accordance with the plans and the licence, the Application and in compliance with all relevant regulations and legislation;
g) Reviewing and reporting incidents/near misses and reporting any changes in procedures as a result to the Licensing Authority; and
h) Agreement of a communication strategy with the Licensing Authority.

3.2.10 **Third Party Certification/Verification**

The Licensee must, no later than 3 calendar months prior to the Commencement of the Licensed Activity, provide the Licensing Authority with Third Party Certification or Verification ("TPC" or "TPV") (or a suitable alternative as agreed in

writing with the Licensing Authority) that covers the entirety of the Works for the lifespan of the Works.

In this condition, the term "lifespan" means the entire period that the licence remains in force.

The TPC or TPV should follow the guidance provided in the Offshore wind, wave and tidal energy applications: consenting and licensing manual https://www.gov.scot/publications/marine-licensing-applications-and-guidance/ or any other relevant document which may supersede this. There must be no Commencement of the Licensed Activity unless the TPC or TPV is provided as described above unless otherwise agreed with the Licensing Authority.

3.2.11 **Community Liaison Group**

There shall be no commencement of the Works until a Community Liaison Plan ("CLP") has been submitted by the Licensee and approved in writing by the Licensing Authority. The CLP must include arrangements for establishing a Community Liaison Group ("the Group") to act as a vehicle for the community to be kept informed of project progress by Licensee. The terms and conditions of these arrangements must include that the Group will have timely dialogue in advance and with regard to the provision of all transport-related mitigation measures. The approved CLP will be implemented in full by the Licensee. The Licensee must consult THC in respect of membership of the Group. Prior to the Group being established, agreement regarding membership of the Group must be sought from the Licensing Authority.

3.2.12 **Construction Programme**

The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a Construction Programme ("CoP"), in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by

the Licensing Authority with NatureScot, the MCA, NLB, Scottish Fishermans Federation ("SFF") and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The CoP must set out:

a) The proposed date for Commencement of the Licensed Activity;
b) The proposed timings for mobilisation of plant and delivery of materials, including details of onshore lay-down areas;
c) The proposed timings and sequencing of construction work for all elements of the Licensed Activity;
d) Contingency planning for poor weather or other unforeseen delays; and
e) The scheduled date for Final Commissioning of the Works.
f) A consideration of the timing of construction in relation to the spawning and nursery seasons of commercial fish species.

The final CoP must be sent to The Highland Council and Orkney Islands Council for information only.

3.2.13 **Construction Method Statement**

The Licensee must, no later than six months prior to the Commencement of the Licensed Activity submit a Construction Method Statement ("CMS"), in writing, to the Licensing Authority for its written approval. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, MCA, NLB, the SFF and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The CMS must include, but not be limited to:

a) The construction procedures and good working practices for construction of the Works;
b) Details of the roles and responsibilities, chain of command and contact details of Licensee personnel, any contractors or sub-contractors involved during the construction of the Works;
c) Details of how the construction related mitigation steps proposed in the Application are to be delivered;
d) Details of how the construction methods, including timing and duration, have considered key migration periods for diadromous fish; and
e) Details of how the construction methods have considered habitat disturbance and loss and sediment release.

The CMS must adhere to the construction methods assessed in the Application. The CMS also must, so far as is reasonably practicable, be consistent with the Design Statement ("DS"), the Environmental Management Plan ("EMP"), the Vessel Management Plan ("VMP"), the Navigational Safety Plan ("NSP"), the Piling Strategy ("PS"), the Inter-Array Cable Plan ("CaP") and the Lighting and Marking Plan ("LMP").

The final CMS must be sent to The Highland Council and Orkney Islands Council for information only.

3.2.14 **Construction Traffic Management Plan**

In the event that major offshore components require onshore abnormal load transport, the Licensee must, no later than six months prior to the Commencement of the Works, submit a Construction Traffic Management Plan ("CTMP"), in writing, to the Licensing Authority for their written approval. Commencement of the Works cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with Transport Scotland, THC, Orkney Islands Council and any such advisors as may be required at the discretion of the Licensing Authority.

The CTMP must include:

a) A transport assessment detailing all proposed trips with relevant swept path analysis to ensure the safe passage of abnormal loads;
b) A mitigation strategy for the abnormal loads on roads including any accommodation measures required. This may include the removal of street furniture, junction widening, or traffic management of road based traffic and transportation associated with the construction of the Works; and

c) Any additional signing or temporary traffic control measures deemed necessary due to the size or length of loads being delivered as a result of the Works.
d) Any traffic control measures to be used to manage any direct construction related traffic access onto the trunk road network.

All construction traffic associated with the Works must conform to the approved CTMP.

3.2.15 **Detailed Seabird Compensation Plan**

No later than six months prior to the implementation of proposed compensatory measures (or such alternative timeframe, as approved in writing by the Scottish Ministers), the Licensee must submit a Detailed Seabird Compensation Plan in writing to the Licensing Authority for its written approval. Such approval may only be granted following consultation by the Licensing Authority with NatureScot and any such other advisors or organisations as may be required at the discretion of the Licensing Authority, which may include a compensatory measures steering group.

The Detailed Seabird Compensation Plan must be in accordance with the Outline Seabird Compensation Plan dated 9 April 2025, unless otherwise agreed by the Licensing Authority, and demonstrate that the compensatory measures will compensate for any adverse effects on the Special Protection Areas ("SPAs") as identified and quantified in the Appropriate Assessment for the Licensed Activity where conclusions of adverse effect on site integrity ("AEOSI") or being unable to conclude no AEOSI have been drawn. The Detailed Seabird Compensation Plan must include, but not be limited to, the following:

a) a timetable of implementation and maintenance of the compensatory measures;
b) the location of the compensatory measures;
c) a description of the characteristics of the proposed compensatory measures;
d) the predicted outcomes of each compensation measure, including timescales of when those outcomes will be achieved;
e) details of monitoring and reporting of the effectiveness of the compensatory measures including:

    1. survey and monitoring methods;
    2. survey programmes;
    3. success criteria;
    4. timescales for monitoring reports to be submitted to the Licensing Authority;
    5. reporting of meeting success criteria, and
    6. measures to adapt, and where necessary increase, compensatory measures and the criteria used to trigger any adaptation of compensatory measures.

f) details on how the Licensee will comply with onshore permitting requirements, including Site of Specific Scientific Interest consent (if applicable);
g) copies of any necessary legal agreements associated with the implementation of the compensatory measures

The Licensee must implement the measures set out in the approved Detailed Seabird Compensation Plan in full.

The Commencement of the Works cannot take place without written approval of the Detailed Seabird Compensation Plan by the Licensing Authority. The Licensing Authority may also require that certain elements of the Detailed Seabird Compensation Plan must be fulfilled prior to Commencement of the Works. In this instance, the Licensing Authority will notify the Licensee, in writing, of what is required. The Licensee must not initiate Commencement of the Works until the Licensing Authority has confirmed, in writing, that they are content and any such elements have been fulfilled.

Any requests for amendments to the approved Detailed Seabird Compensation Plan must be submitted, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with NatureScot and any such other advisors or organisations as may be required at the discretion of the Licensing Authority, which may include a compensatory measures steering group.

The Licensee must make such alterations to the approved Detailed Seabird Compensation Plan as directed by the Licensing Authority and submit the updated Detailed Seabird Compensation Plan to the Licensing Authority for approval within such a period as directed in writing by the Scottish Ministers.

The Developer must notify the Scottish Ministers and NatureScot of the completion of any compensatory measures set out in the Detailed Seabird Compensation Plan.

3.2.16 **Development Specification and Layout Plan**

The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a Development Specification and Layout Plan ("DSLP"), in writing, to the Licensing Authority for its written approval. Such approval may only be granted following consultation by the Licensing Authority with the MCA, NLB, NatureScot, UK Chamber of Shipping ("UKCoS") the Ministry of Defence ("MOD"), National Air Traffic Service Safeguarding ("NATS"), SFF, Historic Environment Scotland ("HES"), Highland Islands Airports Limited, Joint Radio Company, Orkney Islands Council, The Highland Council and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The DSLP must include:

a) A plan showing the location of each individual WTG (subject to any required micro-siting), including information on WTG spacing, WTG identification/numbering, seabed conditions, bathymetry, confirmed foundation type for each WTG;
b) Details of any key environmental constraints recorded on the site for example designated sites, priority marine features, archaeological exclusion zones, areas of archaeological potential;
c) A list of latitude and longitude co-ordinates accurate to three decimal places of minutes of arc for the centre point of the proposed location for each WTG. This should also be provided as a GIS shape file using WGS84 format;
d) A table or diagram of each WTG dimensions including: height to blade tip (measured above LAT) to the highest point, height to hub (measured above LAT to the centreline of the generator shaft), rotor diameter and maximum rotation speed;
e) The generating output of each WTG used on the site (see Annex 1) and a confirmed generating output for the site overall;
f) The finishes for each WTG (see condition 3.2.30 on WTG lighting and marking);
g) The length and proposed arrangements on or above the seabed of all inter-array cables; and
h) Details of any cable and scour protection.

The DSLP must comply with the current Marine Guidance Note ("MGN") 654, and its annexes that may be appropriate to the Works, or any other relevant document which may supersede this guidance prior to the approval of the DSLP.

3.2.17 **Design Statement**

The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a Design Statement ("DS"), in writing, to the Licensing Authority. The DS, which must be signed off by at least one qualified landscape architect, as instructed by the Licensee prior to submission to the Licensing Authority, must include representative day and night wind farm visualisations from key viewpoints as agreed with the Licensing Authority, based upon the final DSLP as approved by the Licensing Authority as updated or amended. The Licensee must provide the DS, for information only, to The Highland Council, Orkney Islands Council, NatureScot, MCA and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

3.2.18 **Environmental Management Plan**

The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit an EMP, in writing, to the Licensing Authority for its written approval. Such approval may only be granted following consultation by the Licensing Authority with NatureScot and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The EMP must provide the overarching framework for on-site environmental management for the duration of this Licensed Activity.

The EMP must be in accordance with the Application insofar as it related to environmental management measures. The EMP must set out the roles, responsibilities and chain of command for the Licensee personnel, any contractors or sub-contractors in respect of environmental management for the protection of environmental interests during the construction of the Works. It must address, but not be limited to, the following overarching requirements for environmental management during construction:

a) Mitigation measures to prevent significant adverse impacts to environmental interests, as identified in the Application and pre-consent and pre-construction monitoring or data collection, and include reference to relevant parts of the CMS (refer to condition 3.2.18);
b) Marine Pollution Contingency Plan;
c) Species Protection Plan for Otter;
d) Species Protection Plan for Atlantic Salmon;
e) Management measures to prevent the introduction of invasive non-native marine species;
f) A site waste management plan (dealing with all aspects of waste produced during the construction period), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment. Wherever possible the waste hierarchy of reduce, reuse and recycle should be encouraged; and
g) The reporting mechanisms that will be used to provide the Licensing Authority and relevant stakeholders with regular updates on construction activity, including any environmental issues that have been encountered and how these have been addressed.

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

3.2.19 **Project Environmental Monitoring Plan**

The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a PEMP, in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, Royal Society for the Protection of Birds (“RSPB”) Scotland, the SFF, District Salmon Fishery Boards/Fisheries Management Scotland and any other environmental advisors or organisations as required at the discretion of the Licensing Authority. The PEMP must be in accordance with the Application as it relates to environmental monitoring.

The PEMP must set out measures by which the Licensee must monitor the environmental impacts of the Works. Monitoring is required throughout the lifespan of the Works where this is deemed necessary by the Licensing Authority.

Lifespan in this context includes pre-construction, construction and operationalphases.

The Licensing Authority must approve all initial methodologies for the monitoring, in writing and, where appropriate, in consultation with NatureScot and any other environmental advisors or organisations as required at the discretion of the Licensing Authority.

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 Works. Monitoring may also serve the purpose of verifying key predictions in the Application. In the event that further potential adverse environmental effects are identified, for which no predictions were made in the Application, the Licensing Authority may require the Licensee to undertake additional monitoring.

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

a) Pre-construction, construction (if considered appropriate by the Licensing Authority) and post-construction monitoring or data collection as relevant in terms of the Application, and any subsequent monitoring or data collection for:

1. Birds;
2. Marine Mammals;
3. Fish and Shellfish;
4. Diadromous fish;
5. Physical Processes; and
6. Benthic communities;

b) The Licensee's contribution to data collection or monitoring, as identified and agreed by the Licensing Authority.

In relation to Electromagnetic Fields ("EMF"), the Licensee must monitor and provide a report on the EMF produced by the Works to the Licensing Authority. The Licensee must agree the methodologies and timescales for monitoring with the Licensing Authority prior to the Commencement of the Licensed Activity. Any agreement must be adhered to unless otherwise agreed and approved by the Licensing Authority.

Due consideration must be given to the Scottish Marine Energy Research ("ScotMER") programme, or any successor programme formed to facilitate these research interests.

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

The Licensing Authority may require the Licensee to amend the PEMP and submit such an amended PEMP, in writing, to the Licensing Authority, for its written approval. Such approval may only be granted following consultation with NatureScot and any other environmental advisers, or such other advisors as may be required at the discretion of the Licensing Authority.

The Licensee must submit written reports and associated raw and processed data of such monitoring or data collection to the Licensing Authority at timescales to be determined by them. Consideration should be given to data storage, analysis and reporting and be to Marine Environmental Data and Information Network standards.

Subject to any legal restrictions regarding the treatment of the information, the Licensing Authority, or any such other party appointed at the Licensing Authority discretion, may make the results publicly available.

The Licensing Authority may agree, in writing, that monitoring may be reduced or ceased before the end of the lifespan of the Works.

Should any advisory groups be established for advice from stakeholders, the Licensee must participate as directed by the Licensing Authority.

3.2.20 **Vessel Management Plan**

The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a VMP, in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, MCA, SFF, and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

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

a) The number, types and specification of vessels required;

b) How vessel management will be coordinated, particularly during construction including any overlap with construction of Berwick Bank Wind Farm, and during operation;
c) Location of working port(s), the routes of passage, the frequency with which vessels will be required to transit between port(s) and the site and indicative vessel transit corridors proposed to be used during construction of the Works.

The confirmed individual vessel details must be notified to the Licensing Authority in writing no later than 14 days prior to the Commencement of the Licensed Activity, and thereafter, any changes to the details supplied must be notified to the Licensing Authority, as soon as practicable, prior to any such change being implemented in the construction and of the Works.

The VMP should refer to the Scottish Marine Wildlife Watching Code and Guide to Best Practice for Watching Marine Wildlife for guidance on how vessels should behave around otters and aggregations of birds on the water. If the Licensee intends to use the Scapa Deep Water Quay for the construction phase of the Works:

a) The VMP must be informed by the results of monitoring as set out in the approved Scapa Flow SPA Monitoring Plan and must use the southern exit to Scapa Flow including spatial and/or seasonal mitigation depending on selection of ports and vessel transit routes.
b) The Licensee must, in the first year of construction, undertake further monitoring of great northern diver disturbance by vessels, and utilise the results to inform, and update where necessary, vessel transit routes described in the VMP.

Vessel transit routes, and vessel speeds, must be revisited, and updated where deemed necessary by the Licensing Authority, following completion of disturbance monitoring of great northern divers undertaken in the first year of construction.

If the Licensee intends to use the port(s) of Dundee and/or Leith for the construction phase of the Works, and construction activities overlap with Berwick Bank Wind Farm:

a) The VMP must be informed by the results of monitoring as set out in the approved Outer Firth of Forth and St Andrews Bay Complex (“OFFSAB”) SPA Monitoring Plan (see condition 3.2.33) and must include spatial and/or seasonal mitigation depending on selection of ports and vessel transit routes.

If the Port(s) of Nigg and/or Ardersier are used for the construction phase of the Works:

a) The Licensee must, prior to the Commencement of the Licensed Activity liaise with NatureScot to agree relevant data to inform vessel transit routes which avoid anticipated high densities of great northern diver and red-throated diver. The proposed vessel route must be incorporated into and secured within the VMP.

The VMP must, so far as is reasonably practicable, be consistent with the CMS and EMP, the Fisheries Management and Mitigation Strategy (“FMMS”), the PEMP, the NSP, and the LMP.

3.2.21 **Inter-Array Cable Plan**

The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit an CaP, in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation the Licensing Authority with NatureScot, MCA, MOD, SFF and any such other advisors or organisations as may be required at the discretion of the Licensing Authority. The CaP must be in accordance with the Application.

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

a) The vessel types, location, duration and cable laying techniques for the inter-array cables;
b) The results of monitoring or data collection work (including geophysical, geotechnical and benthic surveys) which will help inform inter array cable routing;

c) Technical specification of the cables, including a desk based assessment of attenuation of electromagnetic field strengths and shielding;
d) Specifications of the substrate to be used to bury cables;
e) A cable burial risk assessment, to ascertain burial depths and where necessary alternative protection measures;
f) Identification of any cable crossings within the array area;
g) Methods to be used to mitigate the effects of EMF on diadromous fish and brown crab;
h) Methods and timetable for post-construction and operational surveys (including inspection, post-lay) of the cables and any cable protection through its operational life. This must include measures, to be undertaken by the Licensee, to survey for and identify risks to legitimate users of the sea including areas where physical cable protection is not within the parameters of those approved and where cable installation has created seabed obstructions. The findings of such surveys must be provided to the Licensing Authority in the Seabird Obstruction Mitigation Plan as required by condition 3.2.22 and;
i) Measures to address and report to the Licensing Authority any exposure of cables or risk to users of the sea from cables.

Any licensed cable protection works must ensure existing and future safe navigation is not compromised. The Licensing Authority will accept a maximum of 5% reduction in surrounding depth referenced to Chart Datum. Any greater reduction in depth must be agreed in writing by the Licensing Authority.

The CaP must, so far as is reasonably practicable, be consistent with the DSLP.

3.2.22 **Seabed Obstruction Mitigation Plan**

The Licensee must submit a Seabed Obstruction Mitigation Plan to the Licensing Authority for written approval. The Seabed Obstruction Mitigation Plan must demonstrate how any risks to legitimate users of the sea, identified from the post-lay surveys and operational surveys described in the Inter-Array Cable Plan, will be reduced. The Seabed Obstruction Mitigation Plan must include and address any areas where physical cable protection is not within the parameters of those approved or where cable installation has created seabed obstructions.

Such approval may only be granted following consultation by the Licensing Authority with any advisors or organisations as may be required at the discretion of the Licensing Authority.

The Seabed Obstruction Mitigation Plan must be submitted for approval no later than three months after cable laying has been completed and no later than one month after any operational phase survey where risks to legitimate users of the sea have been identified.

The Seabed Obstruction Mitigation Plan must include:

a) findings of each survey carried out at post-lay stage and following operational phase surveys where risks to legitimate users of the sea have been identified, including the locations of any areas that do not meet the approved design parameters or cause obstruction to legitimate users of the sea and any risks identified, and how the findings have informed mitigation measures.
b) measures that will be implemented to reduce any risks identified for each area where approved design parameters have not been met or where obstructions to legitimate users of the sea have been identified.
c) timescales for the implementation of the measures

Each seabed obstruction mitigation plan must be implemented within the timescales set out in each seabed obstruction mitigation plan.

Any updates to the Seabed Obstruction Mitigation Plan be submitted to the Licensing Authority, in writing for written approval. Such approval may only be granted following consultation by the Licensing Authority with any such other advisors or organisations as may be required at the discretion of the Scottish Ministers. Implementation of the updated Seabed Obstruction Mitigation Plan cannot take place until such approval is granted.

3.2.23 **Fisheries Mitigation and Monitoring Strategy**

The Licensee must submit a FMMS, in writing, to the Licensing Authority for its written approval no later than six months prior to the Commencement of the Licensed Activity. The Works cannot take place until such approval is granted. The FMMS must be defined and finalised in consultation with the SFF, Orkney Regional Inshore Fisheries Group and Orkney Fisheries Association.

The FMMS must include:

a) a strategy for communicating with fishers;
b) an assessment of the impact of the Works on the affected commercial fisheries, both in socio-economic terms and in terms of environmental sustainability;
c) a description of measures to mitigate adverse effects on commercial fisheries and fishers, and;
d) a description of the monitoring of the effect of the Works on commercial fisheries and of the effectiveness of mitigation.

The outcome of the monitoring of the effectiveness of the mitigation measures may be used to adapt the FMMS subject to the approval of the Licensing Authority.

The Licensee must implement the approved FMMS.

3.2.24 **Fisheries Liaison Officer**

Prior to the Commencement of the Licensed Activity, a Fisheries Liaison Officer ("FLO"), must be appointed by the Licensee and approved, in writing, by the Licensing Authority following consultation with the SFF and any other advisors or organisations as required at the discretion of the Licensing Authority. The FLO must be appointed by the Licensee for the period from Commencement of the Licensed Activity. The identity and credentials of the FLO must be included in the EMP (referred to in 3.2.23). The FLO must establish and maintain effective communications between the Licensee, any contractors or sub-contractors, fishermen and other users of the sea during the construction of the Works, and ensure compliance with best practice guidelines whilst doing so.

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

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

b) The provision of information relating to the safe operation of fishing activity on the site of the Works; and

c) Ensuring that information is made available and circulated in a timely manner to minimise interference with fishing operations and other users of the sea.

3.2.25 **Lighting and Marking Plan**

The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a LMP, in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, MCA, NLB, NATS, The Highland Council and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The LMP must provide that the Works be lit and marked in accordance with the current Civil Aviation Authority ("CAA") aviation lighting requirements, MOD aviation lighting requirements, NLB aids to navigation requirements and guidance and MCA navigation and Search and Rescue requirements that are in place as at the date of the Licensing Authority approval of the LMP, including the Air Navigation Order 2016, or any such other documents that may supersede this guidance prior to the approval of the LMP. The LMP must include lighting and marking requirements for the construction phase and operational phase of the Works.

The LMP must detail navigational and SAR lighting and marking requirements detailed in the International Association of Marine Aids to Navigation and Lighthouse Authorities 0-139 and G1162, and MCA MGN 654 Safety of Navigation: Offshore Renewable Energy Installations – Guidance on UK Navigational Practice, Safety and Emergency Response, or any other documents that may supersede this guidance prior to approval of the LMP.

The LMP must include:

a) Details of any construction equipment and temporary structures with a height of 50m or greater (above Mean Sea Level ("MSL")) that will be used during the construction, installation or deployment of the Works, and details of any aviation warning lighting that they will be fitted with, specifying the position of the lights, the type(s) of lights that will be fitted, and the performance specification(s) of those lights;
b) Details of any floating structures with a height of 50m or greater (above MSL) specifying the position of any lights, the type(s) of lights that will be fitted, and the performance specification(s) of those lights for all stages of marine transit or storage, or whilst moored prior to final installation;
c) Details of any permanent structures with a height of 50m or greater (above MSL), providing their locations and heights, and identifying those that will be fitted with aviation warning lighting, specifying the position of the lights, the type(s) of lights that will be fitted, and the performance specification(s) of those lights; and,
d) Consideration of the location of construction buoys to ensure tankers can safely transit the restricted build area.
e) Consideration of the installation of an Aircraft Detection Lighting System ("ADLS"), including a statement setting out the current and anticipated regulatory environment in relation to ADLS and an assessment of whether, in the Licensee's view, it is reasonable practicable to install an ADLS.

The Licensee must exhibit such lighting and marking and aids to navigation as detailed in the approved LMP. Where fitted to permanent structures, the approved lighting installed will remain operational for the lifetime of the Works.

The Licensee must update the LMP on the request of the Licensing Authority, in the timescales set out by the Licensing Authority. Any updates or amendments made to the LMP must be submitted, in writing, to the Licensing Authority for its written approval. Such approval may only be granted following consultation by the Licensing Authority with any such advisors or organisations as detailed in these conditions or as may be required at the discretion of the Licensing Authority.

3.2.26 **Navigational Safety Plan**

The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a NSP, in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with MCA, NLB, SFF, UKCoS, MOD and any other navigational advisors or organisations as may be required at the discretion of the Licensing Authority.

The NSP must IIe, but not be limited to, the following Issues:

a) Navigational safety measures;
b) safety zones;
c) Notice(s) to mariners and radio navigation warnings;
d) Anchoring areas;
e) Temporary construction lighting and marking;
f) Buoyage;
g) Post-construction monitoring;
h) surveys or monitoring required, including timing and reporting

The Licensee must confirm that they have taken into account and adequately addressed all of the recommendations of the MCA in the current Marine Guidance Note ("MGN") 654, and its annexes that may be appropriate to the Works, or any other relevant document which may supersede this guidance prior to approval of the NSP.

3.2.27 **OFFSAB SPA Monitoring Plan**

If the Ports of Dundee and/or Leith are used for the Licensed Activity and construction activities overlap with Berwick Bank Wind Farm (if the relevant application(s) for a s.36 consent is granted):

The Licensee must, prior to the Commencement of the Licensed Activity, undertake pre-construction monitoring within the Outer Firth of Forth St Andrews Bay Complex ("OFFSAB") Special Protected Area ("SPA") for common scoter, velvet scoter, common eider, long-tailed duck, goldeneye, red-breasted merganser, red-throated diver, Slavonian grebe, and European shag to understand species distributions, populations, and locations of moulting birds.

The Licensee must submit a monitoring plan for the OFFSAB ("OFFSAB Monitoring Plan") in writing to the Licensing Authority for its written approval. Monitoring cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The OFFSAB Monitoring Plan must include:

a) A detailed description of the monitoring to be undertaken;
b) Timescales for monitoring results to be submitted to the Licensing Authority;
c) Species distributions, populations, and locations of moulting birds; and
d) Details of how the monitoring results will be used to inform spatial and/or seasonal mitigation requirements to be set out in the VMP depending on selection of port(s) and vessel transit routes

The Licensee must ensure that the results of the OFFSAB monitoring are available no later than six months prior to the Commencement of the Licensed Activity to inform the mitigation measures set out in the VMP. The Licensed Activity shall only be commenced where the Licensing Authority has confirmed to the Licensee that the monitoring requirements have been met and that the mitigation measures to be taken are satisfactory.

3.2.28 **Scapa Flow SPA Monitoring Plan**

If Scapa Deep Water Quay is used as the port for the construction phase of the works :

The Licensee must, prior to the commencement of the Licensed Activity, undertake pre construction monitoring within the Scapa Flow SPA of disturbance of great northern diver by existing vessels to help inform potential spatial and/or seasonal mitigation for proposal vessels during construction.

The Licensee must, prior to the commencement of the Licensed Activity, submit a monitoring plan for the Scapa Flow SPA ("Scapa Flow SPA Monitoring Plan"), in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

The Scapa Flow SPA Monitoring Plan:

a) A detailed description of the monitoring to be undertaken;
b) Timescales for monitoring results to be submitted to the Licensing Authority; and
c) Details of how the monitoring results will be used to inform best available vessel routes and speeds to minimise impacts on great northern divers to be set out in the VMP depending on selection of port(s) and vessel transit routes.

The Licensee must ensure that the results of the Scapa Flow SPA Monitoring Plan are available no later than six months prior to the commencement of the Licensed activity to inform the mitigation measures set out in the VMP. The Licensed activity shall only be commenced where the Licensing Authority has confirmed to the Licensee that the monitoring requirements have been met and that the mitigation measures to be taken are satisfactory.

3.2.29 **Piling Strategy**

If piling is to be undertaken, the Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a PS, in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with NatureScot and any such other advisors as may be required at the discretion of the Licensing Authority.

The PS must be in accordance with the Application.

The PS must include, but not be limited to:

a) Details of expected noise levels from pile-drilling/driving in order to inform point d) below;
b) Full details of the proposed method and anticipated duration of piling to be carried out at all locations;
c) Details of soft-start piling procedures and anticipated maximum piling energy required at each pile location;
d) Details of any mitigation such as Passive Acoustic Monitoring ("PAM"), Marine Mammal Observers ("MMO"), use and duration of Acoustic Deterrent Devices ("ADD") and monitoring to be employed during pile-driving, as agreed by the Licensing Authority;
e) Details relating to necessary Marine Mammal Mitigation Protocols for pile-drilling/driving

The PS must be in accordance with the Application and must also reflect any relevant monitoring or data collection carried out after submission of the Application. The PS must demonstrate the means by which the exposure to and/or the effects of underwater noise have been mitigated in respect to harbour porpoise, bottlenose dolphin, white-beaked dolphin, minke whale, grey seal, harbour seal and diadromous fish. The PS must, so far as is reasonably practicable, be consistent with the EMP, PEMP and CMS.

3.2.30 **Written Scheme of Investigation and Protocol for Archaeological Discoveries**

The Licensee must, no later than six months prior to the Commencement of the Licensed Activity submit a Protocol for Archaeological Discoveries ("PAD") and Written Scheme of Investigation ("WSI") which sets out what the Licensee must do on discovering any marine archaeology during the construction, operation, maintenance and monitoring of the Works, in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted.

Such approval may only be given following consultation by the Licensing Authority with HES, Orkney Islands Council and any such advisors as may be required at the discretion of the Licensing Authority. The PAD and WSI must be implemented in full, at all times, by the Licensee.

The WSI and PAD must include:

a. Locational information for geotechnical cores.

3.3 During the Licensed Activity

3.3.1 Only those persons acting on behalf of, and authorised by, the agent or the Licensee shall undertake the Licensed Activity.

3.3.2 The Licensee must ensure the best method of practice is used to minimise re-suspension of sediment during the Licensed Activity.

3.3.3 The Licensee must ensure appropriate steps are taken to minimise damage to the seabed by the Licensed Activity.

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

The TAR must include the nature and quantity of all substances and objects deposited and materials used in construction (as described in Part 2/3) in that calendar month. Alterations and updates can be made in the following month's Transport Audit Report. Where appropriate, nil returns must be provided.

If the Licensee becomes aware of any materials on the TAR that are missing, or becomes aware that an accidental deposit has occurred, the Licensee must notify the Licensing Authority as soon as practicable. The Licensee must undertake such survey as directed by the Licensing Authority to locate the substances, objects and materials. If the Licensing Authority is of the view that any accidental deposits have occurred and should be removed, then the materials must be removed by the Licensee as soon as is practicable and at the Licensee's expense.

3.3.5 The Licensee must ensure that a copy of the licence is given to each contractor and sub-contractor employed to undertake the Licensed Activity.

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

3.3.7 The Licensee must ensure that progress of the Licensed Activity is promulgated regularly in the Kingfisher Fortnightly Bulletin.

3.3.8 In case of exposure of buried cables on or above the seabed, the Licensee must within three days following identification of a potential cable exposure, notify mariners and inform Kingfisher Information Service and local fishing representatives of the location and extent of exposure. Copies of all notices must be provided to the Licensing Authority, MCA, NLB, and the UKHO within five days.

3.3.9 **Operation and Maintenance Programme**

The Licensee must, no later than three months prior to the Completion of the Licensed Activity, submit an OMP, in writing, to the Licensing Authority for its written approval. Such approval may only be granted following consultation by the Licensing Authority with NatureScot and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The OMP must set out the procedures and good working practices for operations and the maintenance of the WTG's, substructures, and inter-array cable network of the Works. Environmental sensitivities which may affect the timing of the operation and maintenance activities must be considered in the OMP.

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

3.4 Upon Completion of the Licensed Activity

3.4.1 The Licensee must send notification to the Source Data Receipt team, UKHO, (email:sdr@ukho.gov.uk) no later than 10 working days after the Completion of the Licensed Activity. The information provided must include: latitude and longitude co-ordinates in WGS84 of the Works, as installed, on and/or above the seabed, any changes to engineering drawings, post dredge surveys, and details of new or changed aids to navigation where applicable. A copy of the notification must be sent to the Licensing Authority within five working days of the notification being sent.

The Licensee must, following installation, notify the Kingfisher Information Service Offshore Renewables and Cable Awareness and the International Cable Protection Committee of the 'as laid' cable corridor and a 500m zone either side of it as a hazardous area for anchoring.

The Licensee must ensure the seabed is returned to the original profile, or as close as reasonably practicable, following the Completion of the Licensed Activity. The Licensee must complete post-installation hydrographic surveys of the site of the Works or subsections thereof, and periodic hydrographic surveys thereafter, to the IHO Order 1a survey standard as per the MCA's MGN 654 and supplementary updates. The data and a corresponding report of the survey findings must be supplied to the UKHO on completion of these surveys, with notification to the MCA hydrography manager and the Licensing Authority.

The Licensee must ensure that local mariners, fishermen's organisations and HM Coastguard, in this case the National Maritime Coastguard Centre, are made fully aware of the Completion of the Licensed Activity.

The Licensee must ensure that the Completion of the Licensed Activity is promulgated in the soonest Kingfisher Fortnightly Bulletin following Completion of the Licensed Activity to inform the commercial fishing industry.

The Licensee must not exhibit, alter or discontinue navigational lighting of the Licensed Activity without the statutory sanction of the Commissioners of Northern Lighthouses.

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

3.4.3 The Licensee must take all reasonable, appropriate and practicable steps at the end of the operational life of the Licensed Activity to restore the site of the Works to its original pre-construction condition, or to as close to its original condition as is reasonably practicable, in accordance with the PEMP and the DP and to the satisfaction of the Licensing Authority.

Should the Licensed Activity be discontinued prior to expiry date of this marine licence, the Licensee must inform the Licensing Authority in writing of the discontinuation of the Licensed Activity.

A separate marine licence will be required for the removal of the Works.

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

3.4.5 The Licensee must, within one month of Completion of the Licensed Activity, provide the co-ordinates accurate to three decimal places of minutes of arc and the “as-built” positions and maximum heights of the WTGs along with any sub-sea infrastructue, to UKHO, Defence Geographic Centre, MOD, CAA and any other such advisers or organisations as may be required for nautical charting and aviation purposes.

3.4.6 The Licensee must within three months of the Completion of the Licensed Activity submit a close out report to the MCA and UKHO. The close out report must confirm the date of Completion of the Licensed Activity and include the final number of installed WTGs, as built plans, and latitude and longitude co-ordinates for each WTG provided as GIS data referenced to WGS84 datum.

3.4.7 The Licensee must, no later than one calendar month following the Completion of the Licensed Activity submit a report, in writing, to the Licensing Authority stating the date of completion, and all materials used in construction under the authority of the licence.

3.4.8 The Licensee must provide the Licensing Authority with the MMO records no later than two months following Completion of the Licensed Activity

Marine Directorate

T: +44 (0)300 244 5046
E: MD.MarineRenewables@gov.scot

Scottish Government
Riaghaltas na h-Alba

11 NOTES

1. You are deemed to have satisfied yourself that there are no barriers, legal or otherwise, to the carrying out of the Licensed Activity. The issue of the licence does not absolve the Licensee from obtaining such authorisations, consents etc which may be required under any other legislation.
2. In the event that the Licensee wishes any of the particulars set down in the Schedule to be altered, the Licensing Authority must be immediately notified of the alterations. It should be noted that changes can invalidate a licence, and that an application for a new licence may be necessary.