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Highland Wind Limited
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28 June 2023

Dear [Redacted]

THE ELECTRICITY ACT 1989

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

DECISION NOTICE FOR THE SECTION 36 CONSENT FOR THE CONSTRUCTION AND OPERATION OF THE PENTLAND FLOATING OFFSHORE WIND FARM, APPROXIMATELY 7.5 KILOMETRES FROM THE COAST OF DOUNREAY, CAITHNESS

1. Application and description of the Development

1.1 On 11 August 2022, Highland Wind Limited (Company Number: SC675148) having its registered office at 4th Floor 115 George Street, Edinburgh, Midlothian, Scotland, EH2 4JN ("HWL" or "the Company"), submitted to the Scottish Ministers applications under the Electricity Act 1989 ("the Electricity Act 1989") for:

- A consent under section 36 ("s.36") of the Electricity Act 1989 for the construction and operation of the Pentland Floating Offshore Wind Farm ("the Development"), approximately 7.5 kilometres ("km") from the coast of Dounreay, Caithness.
- A declaration under section 36A ("s.36A") of the Electricity Act 1989 to extinguish public rights of navigation so far as they pass through those places within the Scottish marine area (essentially the territorial sea adjacent to Scotland) where structures forming part of the Development are to be located.

1.2 These applications are collectively referred to as "the Application". The Application was accompanied by an Environmental Impact Assessment report ("EIA Report") as required under the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the 2017 EW

Regulations") (as well as the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the 2017 MW Regulations") concerning the separate applications for related marine licences) and information to inform the Habitats Regulations Appraisal ("HRA") as required under the Conservation (Natural Habitats, & c.) Regulations 1994 and the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations").

1.3 In addition to the Application, the Company has also applied for a marine licence (under the Marine (Scotland) Act 2010) to construct, alter or improve the marine renewable energy works and offshore transmission infrastructure. Separate decision notices will be issued in respect of any marine licence granted.

1.4 The Application is for the construction and operation of an offshore energy generating station, with a generating capacity of around 100 megawatts ("MW"). The offshore generating station shall comprise up to:

1. Seven floating offshore wind turbine generators ("WTGs") with:
    a. A maximum hub height of 190 metres ("m") above highest astronomical tide ("HAT");
    b. A maximum height to blade tip of 300m above HAT;
    c. A maximum rotor diameter of 260m;
    d. A minimum blade tip clearance from mean sea level of 35m;
2. Seven associated floating substructures;
3. Nine mooring lines for each floating substructure, 63 in total;
4. Nine anchors or piles for each floating substructure, 63 in total;
5. Seven inter-array cables (dynamic and static); and
6. Associated scour and cable protections.

All as described in the application.

1.5 The total area within the Development site boundary is 10 square kilometre ("km^2"). The location and boundary of the Development are shown in Figure 1 of Annex 1.

This decision notice contains the Scottish Ministers' decision to grant consent for the Development detailed above, under s.36 of the Electricity Act, in accordance with regulation 21 of the EW Regulations. The consent is granted for a 10 year operational period.

2. Summary of environmental information

2.1 The environmental information provided was an EIA Report which assessed impacts on a range of receptors, as well as information to inform the HRA Report.

2.2 On 16 December 2020, the Company submitted a scoping report and a request for a scoping opinion in respect of the Development to the Scottish Ministers, followed on 17 December 2021 by a scoping "addendum" report and request for a scoping "addendum" opinion. Following consultation with statutory and other consultees, a scoping opinion was issued by Scottish Ministers on 28 September 2021 and a scoping "addendum" opinion was issued by Scottish Ministers on 16 May 2022, advising on the scope of the

impacts to be addressed and the methods of assessment to be used within the EIA Report. The EIA Report assessed the impact pathways identified in the scoping opinion and scoping "addendum" opinion and was prepared in accordance with the terms of the 2017 EW Regulations.

2.3 On 10 January 2022, the Company submitted a method statement clarifying the proposed analytical approach to inform the EIA. Agreement to the points and approaches discussed within the method statement was received from Marine Scotland Science ("MSS") and NatureScot on 7 April 2022.

2.4 A summary of the environmental information provided in the EIA Report is given below.

2.5 Marine Physical Processes

2.5.1 The EIA Report considered the potential effects on Marine Physical Processes (including coastal processes) during the construction, operation and maintenance, and decommissioning phases of the Development. The receptors assessed included increases to suspended sediment, the loss/alteration of seabed type, changes to wave, tide, and sediment transport regime, the introduction of scour, and changes to stratification and fronts.

2.5.2 The EIA Report considered any potential impacts from increased suspended sediment during construction activities to be short term and localised. A sediment plume lasting up to six hours (but less than a full tidal cycle) could develop during the construction activities and travel a total distance of about 5.5km. Construction activities were not considered to result in a permanent loss/alteration of seabed properties as the Development infrastructure would largely be removed at the end of the operational phase. Therefore, operational impacts were assessed as not significant in terms of changes to the wave, tide, or sediment transport regime.

2.5.3 Further to the proposed management plans, the EIA Report confirms mitigation measures, such as the use of horizontal directional drilling as the landfall installation methodology for cable installation to be employed. This option negates the need to pin the export cable to the disused water intake. Additionally, scour protection around anchors has been incorporated into the project design which negates the introduction of scour during the operational phase.

2.5.4 Cumulative effects were considered where projects had the potential to interact with the Development throughout the same timeline. Due to the relatively limited spatial extent of effects from the Development, all cumulative effects were assessed as not significant.

2.6 Water Sediment Quality

2.6.1 The EIA Report considered disturbance and release of contaminated sediments or radioactive particles in sediment, and changes in water and sediment quality due to accidental release of contaminants to result in cumulative effects during the construction and decommissioning phases of the Development. Despite the detection of radioactive particles, the levels are low and considered negligible. Therefore, contamination of equipment used during construction activities does not present concerns.

2.6.2 Given the overlap with the SHE Transmission Orkney-Caithness Project there is potential during the operational phase for cumulative impacts concerning risks to the water environment from operational cleaning and painting to occur. However, given the short duration and localisation of each structure, the EIA Report has assessed the effect as negligible.

2.6.3 The Development has no designated bathing waters or shellfish waters that intersect the Development. The nearest identified are beyond the tidal excursion distance. As a result of the distance from bathing waters (Dunnet and Thurso) and shellfish waters (Kyle of Tongue), it is unlikely that any localised changes to water properties from the Development would negatively impact the water quality of the designated shellfish waters.

2.6.4 The EIA Report considered the potential effects of the Development during the construction, operation, and decommissioning phases on water and sediment quality. Mitigations to reduce potential impacts on Water and Sediment Quality receptors include, designing the nacelle, tower, and rotor to contain leaks (thereby reducing the risk of spillage into the marine environment), managing ballast water discharges from vessels under the Ballast Water management ("BWM") Convention to prevent the spread of harmful aquatic organisms, and inspecting substructures regularly to monitor marine growth and using water jetting tools if substantial accumulation is evidenced.

2.7 Benthic Ecology

2.7.1 The EIA Report considered that the Development has the potential to impact benthic ecological receptors at all phases. An assessment of the impact of the Development was undertaken using a realistic worst-case scenario.

2.7.2 The EIA Report assessed the effects of the Development and identifies cumulative effects that may occur from the installation of seabed infrastructure and the deposition of drill cuttings.

2.7.3 Further to this, the operational effects of the Development include hydrodynamic changes leading to scour around subsea infrastructure (including mooring lines as a result of movement with drill waves and tides), the introduction of marine invasive non-native species ("mINNS"), colonisation of subsea infrastructure, scour protection and support structures, colonisation of cutting mounds and impacts to benthic communities from any electromagnetic fields ("EMFs") or thermal load arising from the cable.

2.7.4 The EIA Report considered the disturbance of contaminated sediment; however, sediment sampling and chemical analysis demonstrate a low occurrence of contaminants and radioactive particles. Therefore, in EIA terms, it is unlikely that any significant chemical contamination or radioactive particles would be encountered by the Development.

2.7.5 The Company has committed to the implementation of a Cable Plan ("CaP"), a Development Specification and Layout Plan ("DSLP"), a Cable Burial Risk Assessment ("CBRA"), a Marine Pollution Contingency Plan, a Construction Method Statement ("CMS") and an Operational Management Plan ("OMP") to guide activities as a mitigation measure to reduce environmental effects.

2.7.6 In addition, the Company has several design mitigation measures including the nacelle, tower, and rotor will be designed and constructed to contain leaks to reduce the risk of spillage into the marine environment, the DSLP will include any micrositing of infrastructure to avoid sensitive habitats or features (including kelp beds), where possible static cables will be trenched and buried to a target depth of 0.6m to reduce effects of EMF, substructures will be designed to accommodate marine growth, substructures will be regularly inspected and should evidence of marine growth be visible removal will be undertaken, and scour protection will be installed around the anchor installations. The EIA Report concluded that the residual impact of the Development will not be significant, and no additional mitigation measures are required.

2.7.7 There are no Marine Protected Areas ("MPAs"), Special Areas of Conservation (“SACs”), or Potential Annex I habitats within the Development area. However, the EIA Report addresses the potential impacts on the nature conservation interests of all the designated sites in the vicinity of the Development. Best practices will be followed, ensuring potential habitat loss is minimal.

2.8 Fish and Shellfish Ecology

2.8.1 Although the Development has no MPAs or SACs for fish or shellfish within the immediate vicinity, several protected species are known to use the area, including but limited to: monkfish, blue whiting, cod, common skate, European hake, haddock, herring, ling, mackerel, plaice, saithe, sandeel, spotted ray, spurdog, thornback ray, tope shark, and whiting.

2.8.2 The EIA Report assessed the impacts of the Development on the above species, specifically, the impact of disturbance as a result of underwater noise generated during the construction phase, the impact of disturbance throughout several construction activities (cable installation, anchor placement, and mooring lines), effects of increased sedimentation / smothering on fish and shellfish during construction activities, the temporary burial of seabed from drilled cuttings, potential accidental release of pollutants, habitat loss of spawning and nursery grounds due to the presence of seabed infrastructure, effects of EMFs from cables on sensitive species, and fish aggregation around structures.

2.8.3 During the construction and decommissioning phases, impacts will be temporary and localised. Additionally, during the operation phase, any impacts are unlikely to affect the long-term functioning of the wider available spawning and nursery ground or migratory routes for fish. Therefore, The effects of all impacts assessed within the Development were deemed as not significant.

2.8.4 The Company will conduct a pre-construction survey to collect and analyse data to ascertain the presence(s) of any rare or important habitats. Should rare or important habitats be identified, the Company will consult with Marine Directorate to ensure the planned installation will not have a significant adverse effect.

2.8.5 The EIA Report considered cumulative impacts where projects had the potential to interact over the same area and/or on the same timeline as the Development; however, due to the relatively limited spatial extent of the effects of the Development and the above mitigation measures, these effects were assessed as not significant.

2.9 Marine Mammals and Other Megafauna

2.9.1 Potential impacts on basking sharks, and marine mammals (minke whales, bottlenose dolphins, white-beaked dolphins, Risso's dolphins, common dolphin, harbour porpoise, harbour seals, and grey seals) from the Development were assessed within the EIA Report.

2.9.2 The EIA Report identifies important impact pathways with the potential to contribute to cumulative effects with other projects, including: noise-related impacts on marine mammals and basking sharks; risk of injury from entanglement and collision; barrier and displacement effects; and long-term habitat change.

2.9.3 To mitigate the risk of entanglement between marine megafauna (including marine mammals and basking sharks) and project infrastructure, mooring lines and floating inter-array cables will be inspected using a risk-based adaptive management approach, and any inspected or detected debris on the floating lines and cables will be recovered. Additionally, the minimum spacing between each WTG will be 800m to reduce the likelihood of collision and entanglement.

2.9.4 To reduce the effects of EMF to basking sharks the Company will trench and bury static cables to a target depth of 0.6m, where possible.

2.9.5 All impacts on marine mammals, including cumulative impacts, were considered not significant in EIA terms.

2.10 Marine Ornithology

2.10.1 Impacts during the construction, operational, and decommissioning phases of the Development were assessed in the EIA Report. Direct impacts scoped into the EIA report include collision risk, displacement, barrier effects, entanglement, and an increase in suspended sediment which may affect visibility. Indirect impacts scoped into the EIA report include the loss or change of supporting habitat, and the disturbance of prey resulting in loss or change.

2.10.2 The EIA Report considered that ornithological receptors and their prey may be disturbed during the construction and decommissioning phases of the Development, given the increased presence of vessels and the generation of noise. It was concluded that the impact would be minor.

2.10.3 The EIA Report further considered the risk of collision, displacement, and barrier effects during the operational phase of the Development. The increase in the minimum air gap from the sea surface to the lowest sweep of the turbine blades to 35m is considered an important measure in minimising collision risks to seabird species. The reduction of the Development array area, as described in 2.14 Seascape, Landscape and Visual Amenity, helps minimise

displacement and barrier effects by presenting a smaller WTG area for marine birds to avoid and ultimately reducing the potential for interactions between flying seabirds and the rotating WTG blades.

2.10.4 The EIA Report concluded that ornithological receptors were considered to be negligible or minor in significance; therefore, no additional mitigation is considered necessary to reduce effects.

2.10.5 Cumulative impacts with other developments were also assessed. Impacts potentially arising from the Development, including estimated collision and displacement mortalities were not predicted to add significantly to any cumulative effects with the other developments assessed.

2.11 Commercial Fisheries

2.11.1 The EIA Report considered the effect of the Development on commercial fisheries. The main impact pathways were identified as, loss of access to fishing grounds, displacement of fishing effort, snagging and gear entanglement risks (concerning subsea infrastructure and mooring lines in the water column), and the obstruction of fishing transit routes.

2.11.2 During the operational phase, it is expected that vessels operating towed gear are unlikely to resume fishing within the Development array due to the potential safety risks associated with the presence of mooring lines in the water column. However, given that the area represents a small extent of the available fishing grounds, and it is anticipated that fishing along the offshore cable route will be able to resume, the effect of loss of access to fishing grounds and displacement has been assessed as not significant. Additionally, given the compact area of the Development, any obstruction of regular fishing transit routes is not likely to result in significant re-routing of transiting vessels and therefore has been assessed as not significant.

2.11.3 The Company will appoint a Fisheries Liaison Officer ("FLO") and a Fisheries Industry Representative ("FIR") to establish effective communications surrounding the Development with local fishermen and other sea users. The FLO will distribute information on the safe operations of fishing activities at the site and will be a contact for fishermen and other sea users during the life cycle of the Development. The FIR will communicate with the wider fishing industry. The specific roles and responsibilities will be defined within the Fisheries Management and Mitigation Strategy (“FMMS”).

2.11.4 The EIA Report commits to sourcing guard vessels locally and, at a minimum, sourcing Scottish vessels, where possible.

2.11.5 The EIA Report concludes that the impact of the Development is not significant; this includes the loss of access to fishing grounds and displacement of fishing efforts, in addition to all other impacts with the potential to give rise to socio-economic impacts on the sector.

2.11.6 Due to the localised extent of impacts from the Development, combined with embedded mitigation measures in place, all cumulative impacts on commercial fisheries were assessed as not significant in the EIA Report.

2.12 Shipping and Navigation

2.12.1 The impact pathways of the Development on shipping and navigation receptors during the construction, operation, and maintenance phases were considered in the EIA Report.

2.12.2 In 2021, the Company carried out an impact assessment across 28 days (14 days across July and August, and 14 days across November) to capture relevant passing traffic and activity close to the Development. During the summer survey, an average of 24 unique vessels per day were recorded within 10 nautical miles of the Development site, with the main vessel types being cargo (37%) and fishing (25%) vessels. During the winter survey, an average of 17 unique vessels per day were recorded, with the main vessel types being cargo (41%) and fishing (31%) vessels.

2.12.3 Further to the mitigation measures outlined in 2.11.13, following consultation with NLB, construction buoyage will be deployed to mark the Development array area. Construction buoyage will be secured through the Lighting and Marking Plan ("LMP"). All the risks/impacts were assessed to be broadly acceptable or tolerable with mitigation and were therefore assessed as not significant.

2.12.4 The EIA Report assessed all cumulative effects, including vessel displacement due to the presence of project vessels associated with the SHE Transmission Orkney-Caithness Project and the reduction in under keel clearance due to subsea cable(s) protection associated with the SHE Transmission Orkney-Caithness Project, as broadly acceptable and therefore assessed as not significant.

2.13 Aviation and Radar

2.13.1 The EIA Report considered the impact on aviation and radar within the Development array area (the location of the WTGs) and the Aviation and Radar cumulative study area (the area within 50km of the array area). Sensitive receptors noted during the construction and operation phase of the Development include the potential impact on Wick and Kirkwall Airport instrument flight procedures and the potential impact on military low flying and UK search and rescue (“SAR”) helicopter operations.

2.13.2 To mitigate potential impacts, the Company will adopt measures to ensure the potential risk of aircraft collision with the offshore works infrastructure by consulting with stakeholders before the agreement of the LMP and the DSLP. Relevant stakeholders will also be notified of the potential of temporary obstacles of more than 91.4m in advance.

2.13.3 The EIA Report concluded that the Development would not have a significant residual effect on important sensitive receptors. Cumulative effects were not considered to occur.

2.14 Seascape, Landscape, and Visual Amenity

2.14.1 The EIA Report considered the construction and operational effects of the Development to be significant. The decommissioning phase will be no greater than the effects assessed in respect of the operational phase.

2.14.2 It further considered the likely visual effects of different layout scenarios in the absence of mitigation measures as part of the worst-case scenario layout. The iterative design process for the Development has led to the array area being contained in a smaller area, now accounting for 10km^2, rather than 20km^2. While the minimum number of WTGs remains at five, the maximum number of WTGs has been reduced from ten to seven. The size of the Development array area has been reduced to allow further distance from shore at its closest point: a minimum of 7.5km from the north Caithness coast, instead of (approximately) 6km.

2.14.3 The residual effects of visual impacts remain significant in EIA terms since there is limited opportunity for further mitigation measures in the iterative design process.

2.14.4 The final design and layout will consider navigation, commercial fisheries, and SAR.

2.14.5 Significant cumulative effects were also identified for several seascape, landscape and visual amenity receptors. However, such localised effects from the Development ensure that the cumulative effects with other developments are also not far-reaching, and therefore, for the majority of the seascape, landscape and visual amenity receptors, cumulative effects are not significant.

2.15 Marine Archaeology and Cultural Heritage

2.15.1 The EIA Report considered the loss of or damage to known and/or unknown marine and intertidal historic environment assets (wreckages, aircraft, and other unknown assets), and submerged prehistoric landscapes (including prehistoric sites and paleoenvironmental deposits) throughout each phase of the Development. Furthermore, the long-term changes to the settling of onshore historic environment assets that reduce their value are considered during the construction phase.

2.15.2 The Company will conduct a historic environment desk-based assessment, to avoid any seabed heritage assets and anthropogenic geophysical anomalies when carrying out seabed preparation, device locations, cable routing, and installation activities.

2.15.3 Throughout the construction phase, the Company will develop a marine heritage Written Scheme of Investigation ("WSI") and a Protocol for Archaeological Discoveries ("PAD") to mitigate accidental impacts and manage accidental discoveries of archaeological interest.

2.15.4 Cumulative impacts on the setting of onshore historic receptors were assessed as moderately significant; however, the EIA Report concludes that in no case was an effect so significant as to reduce its heritage value and therefore, such effects were considered acceptable.

2.15.5 Any settling impacts resulting during the construction phase of the Development were seen as short term as the decommissioning phase would reverse any setting impacts.

2.16 Other Users of the Marine Environment

2.16.1 The impact of the Development on other marine users was assessed through desk-based studies using publicly available data sources and literature. The receptors included in the EIA were:

- Military Activities and Unexploded Ordnance ("UXO")
- Subsea cables and utilities;
- Dredge disposal sites and aggregate extraction sites;
- Aquaculture;
- Telecommunication;
- Dounreay Nuclear Facility and the Vulcan Naval Reactor Test Establishment ("NRTE");
- Space Hub Sutherland; and
- other offshore renewable activity

2.16.2 Disturbance or disruption to the SHE Transmission Orkney-Caithness Project and the Dounreay Site Restoration Ltd remedial and monitoring activities during the construction and operational phases were assessed as not significant as any disturbance would be temporary and highly localised.

2.17 Socio-economics, Recreation, and Tourism

2.17.1 A socio-economic, recreation, and tourism assessment was conducted to identify the potential impacts of the Development in local (Caithness), regional (THC local authority area), and (where applicable) national (Scotland and the UK). The following pathways were considered: employment, economic output, recreational and tourism activities, and demand for housing and services.

2.17.2 The EIA Report concludes that throughout each phase, the Development is expected to have a significant beneficial effect in supporting supply chain growth in local and regional areas by creating direct and indirect employment. Figures associated with the worst-case scenario suggest an increase of between six and 13 FTE (“Full Time Equivalent”) jobs during construction for Caithness and 401 FTE jobs across the Highland area.

2.17.3 To mitigate negative effects on tourism activity during the construction phase of the project, the Company has made early engagement with regional and local suppliers through 'Meet the buyer' events to provide would-be local suppliers to help develop competitive bids to supply content to the Development.

2.17.4 To ensure the local workforce is adequately skilled and trained the Company has taken initiatives to support education and training for students from local secondary schools (Thurso and Farr) to encourage school leavers to consider a career in the offshore renewables industry and will work with Foundation Scotland and local stakeholders to support local skills and training of the community benefits fund.

2.17.5 A memorandum of understanding has been signed with Scrabster Harbour covering the provision of support services during both construction and operational phases, ensuring that economic benefits associated with the Development are realised locally.

2.17.6 Cumulative effects were not expected to be significantly different to the effects of the Development alone.

2.18 Climate Change and Carbon

2.18.1 The EIA Report considered the contribution the Development would make to reducing climate emissions, how the Development would respond to climate change impacts, as well as any impacts the Development would have on the climate environment.

2.18.2 A climate change resilience review was carried out to assess the ability of the Development to withstand, respond to, and recover from climate changes. Additionally, an in-combination climate impact assessment was carried out to evaluate how any impacts predicted upon other topics could be exacerbated or reduced by climate change. Consideration of the predicted future environmental condition of physical, biological, and socio-economic factors informed both the review and the EIA. The climate change resilience review assessed that the climate change risk to the Development was not significant. The potential impact of the Development, in-combination with the impact of climate change, was also assessed as not significant.

2.18.3 A blue carbon assessment was carried out to assess the potential for direct loss of or disturbance to blue carbon habitats or sediments. The potential for blue carbon habitats at the Development was found to be low. The only blue carbon habitat likely to be present at the Offshore Export Cable Corridor are kelp beds, as outlined in 2.7.6 Benthic Ecology; therefore, the blue carbon assessment assessed the effect of the Development on habitat loss/disturbance to blue carbon habitats and sediments as not significant. Cumulative effects on blue carbon were also assessed as not significant.

2.18.4 A carbon assessment was carried out to consider the impact of the Development on the global climate, and to estimate the carbon emissions associated with the Development and the period it might take before the Development has saved more carbon emissions (through its production of less carbon-intensive forms of electricity emissions) than were produced by its construction and operation. The carbon assessment determined that over the life cycle of the Development, the emissions avoided from more carbon-intense energy sources will exceed those of the Development.

2.18.5 The EIA Report concludes that the Development will make a beneficial contribution to UK carbon budgets, a proxy for the global climate.

2.19 Risk of Major Accidents and/or Disasters

2.19.1 The EIA Report considered a comprehensive review of impacts on the potential risks of major accidents and disasters that could result from or be associated with the construction, operational, and decommissioning phases of the Development.

2.19.2 The Company identified no hazards with the potential to cause a major accident or disaster that would result in significant adverse effects on the environment, human health, or material assets. No risks were identified that

could result in a major accident and/or disaster or to which the Development would be vulnerable; therefore, all risks were assessed as not significant.

2.19.3 The Company has committed to implementing several management plans, including a CMS, DSLP, Piling Strategy ("PS"), and OMP, to safeguard as far as practicable against risks throughout the lifetime of the Development.

3. Consultation

3.1 In accordance with the 2017 EW Regulations and the 2017 MW Regulations), on 11 August 2022, the Company submitted an EIA Report describing the Development and providing an analysis of its environmental effects. On 19 December 2022, the Company submitted the Addendum Report to provide further information to support ornithology assessments, marine physical processes assessments, and assessments on water quality/radioactive material.

3.2 Advertisement of the Application was made in the local and national press and on the Company's website. The notices were placed in the public domain and the opportunity was given to those wishing to make representations.

3.3 The dates of the consultation exercise are given below. The regulatory requirements regarding consultation and public engagement have been met and the responses received have been taken into consideration. Where matters have not been fully resolved, conditions have been included to ensure appropriate action is taken.

Document	Date Received	Dates of consultation	Publication
EIA Report and Application	11 August 2022	24 August 2022 to 2 October 2022 24 August 2022 to 11 December 2022 (for planning authorities)	John O' Groats Journal (26 August and 2 September 2022) Edinburgh Gazette (25 August 2022) Fishing News (31 August 2022) The Scotsman (25 August 2022) Lloyds List (25 and 26 August 2022) Company's Website (24 August 2022)

Addendum of Additional Information	15 December 2022	19 December 2022 to 5 February 2023	Edinburgh Gazette and John O'Groats Journal (23 December 2022) Company's Website (23 December 2022)

4. **Summary of statutory consultee consultation**

4.1 Under the 2017 EW Regulations (and the 2017 MW Regulations), the statutory consultees are as follows:

- NatureScot (the operating name of Scottish Natural Heritage);
- Scottish Environment Protection Agency ("SEPA"); and
- Historic Environment Scotland ("HES"),

4.2 The planning authorities whom the Scottish Ministers considered appropriate to consult in respect of the Development are The Highland Council and Orkney Islands Council.

4.3 In addition, the Maritime and Coastguard Agency ("MCA") and Northern Lighthouse Board ("NLB") are statutory consultees in relation to marine licence applications under the Marine Licensing (Consultees)(Scotland) Order 2011.

4.4 HES

4.4.1 HES agreed that in no case were the impacts on the onshore nationally important heritage assets so significant as to affect the asset's understanding, experience, or appreciation to the extent that it would impact the integrity of its setting.

4.4.2 HES had no objections to the application as it did not consider the application to raise any historic environmental issues of national significance.

4.5 MCA

4.5.1 The MCA noted the requirement for third-party verification of the mooring arrangements for all floating devices before construction to assure loss of station.

4.5.2 They pointed out that any consented cable protection works must ensure existing and future safe navigation was not compromised. The MCA would accept a maximum of 5% reduction in surrounding depth referenced to Chart Datum.

4.5.3 The MCA also advised that the Company's contractors and subcontractors must have the required certification for all vessel operations, and early

engagement with the local Marine Office should be undertaken where necessary to ensure there are no issues concerning survey and inspections, towage, and safety requirements. Furthermore, they advised that a load line exemption for the turbine platforms would be required before any towage to the site, and that the Company must ensure any ballast water requirements are addressed.

4.5.4 Provided all maritime safety legislation is adhered to, the MCA had no objection to the Application; however, they recommended adding several conditions to the consent to maintain navigational safety throughout the lifecycle of the Development.

4.5.5 The MCA responded to the Additional Information Consultation and confirmed no concerns from the safety of navigation perspective.

4.6 NatureScot

4.6.1 Ornithology

4.6.1.1 NatureScot welcomed the inclusion of new methods, such as SeaBORD in the displacement assessment but raised concerns regarding inconsistencies in apportioning values and subsequent screening out of certain Special Protected Areas ("SPAs"), both within the EIA Report and the HRA Report, without a clear audit trail which is confusing and could be misleading. NatureScot requested clarification on which are the correct values for all species and SPAs to ensure the apportioned impacts estimated are accurate.

4.6.1.2 The Company noted the inconsistencies identified by NatureScot within the EIA Report .and corrected the relevant values.

4.6.1.3 Given the proximity to the North Caithness Cliffs puffin colony, NatureScot advised the puffin displacement assessment should be revised to include the 2km buffer as displacement can occur at a distance away from the Development footprint. Additionally, the SeaBORD outputs for puffin should be scaled using the same approach as was used for guillemot on the basis of their view that the number of individuals recorded may be overestimated.

4.6.1.4 NatureScot welcomed the inclusion of a summary of the ongoing Highly Pathogenic Avian Influenza ("HPAI") outbreak and a qualitative assessment of HPAI. NatureScot noted that the outbreak is an ongoing mortality event with continually emerging evidence; therefore, it was currently not possible to conclude that levels of mortality predicted from the Development would be unlikely to cause additional pressures to seabird colonies on top of the impacts caused by HPAI.

4.6.1.5 NatureScot disagreed that artificial lighting that potentially attracts species into the Development's array area should not increase their exposure to collision risk. NatureScot noted that storm petrels and shearwaters may be attracted to and disorientated by artificial lighting. They stated that the important lighting elements of potential concern in the operational phase are navigational and aviation lighting. The important lighting element of potential concern in the construction phase was lighting on vessels which they said may result in birds becoming stranded on vessels. NatureScot advised that the LMP was used to minimise such impacts.

4.6.1.6 NatureScot requested the Population Viability Assessments ("PVAs") for Atlantic puffin and kittiwake be amended. It advised that the population modelling outputs are provided for 25, 30, and 50 years to enable comparison of impacts with other offshore wind farms.

4.6.1.7 The Company has undertaken model re-runs and provided this in the Additional Information Addendum. The Company noted the maximum operational period of the Development is 30 years; therefore, the 50 years' output does not form part of the Application and was provided separately.

4.6.1.8 NatureScot responded to the Additional Information Consultation and submitted a formal objection and advised that should the Development be consented; consideration of derogation measures may be required.

4.6.1.9 NatureScot advised that the Development alone would not cause an adverse effect on site integrity to any SPA; however, in combination with the consented Moray Firth wind farms, the Development would have an adverse effect on site integrity for Atlantic puffin (through displacement) as a qualifying interest of the North Caithness Cliffs SPA. Furthermore, NatureScot advised in combination with North Sea wind farms, there could be an adverse effect on site integrity for kittiwake (through collision risk and displacement) as a feature of the North Caithness Cliffs SPA.

4.6.1.10 Following the submission of a formal objection, NatureScot provided predicted population level effects to the Atlantic puffin qualifying feature of the North Caithness Cliffs SPA from the Development in-combination with the consented Moray Firth wind farms and advised:

- A consent period of 10 years is not likely to result in an adverse effect on site integrity;
- A consent period of 15 years has an increasing likelihood that there will be an adverse effect on site integrity; and
- A consent period of 25 years would likely have an adverse effect on site integrity.

4.6.1.11 The Company provided NatureScot with predicted impact figures for kittiwake at North Caithness Cliffs SPA for a 10 year operational period, taken from the Application and Additional Information Addendum. NatureScot advised that there was the potential for adverse effect on site integrity of the North Caithness Cliffs SPA with respect to kittiwake for the Development in combination with other North Sea wind farms over a 10 year operational period.

4.6.1.12 Should consent be granted for a period of 10 years, NatureScot advised that it would work with the Company throughout post consent monitoring, which would enable validation of PVA predictions.

4.6.2 <u>Seascapes, Landscapes, and Visual Impacts</u>

4.6.2.1 NatureScot advised that the Development would introduce significant adverse effects on coastal receptors within the 'horseshoe' of the coast broadly between Strathy Point and Scrabster Hill and encouraged the Company to consider the location of the array area within the consented

Dounreay Tri area to mitigate effects with the option of moving the array area eastwards.

4.6.2.2 The Company acknowledged the significant adverse effects in the 'horseshoe' of the coast but considers such effects localised meaning the majority of the landscape receptors across the wider Seascape, Landscape and visual Impact Assessment ("SLVIA") study area will either undergo no significant effects or will not be affected.

4.6.2.3 The Company noted that depending on the final design of the project and the number of WTGs there may be scope to alter the locations of the offshore wind turbines within the array area, in which case the opportunities for reducing the effects on sensitive receptors by altering the arrangement of the turbines would be explored; however, it will not be possible to change the location of the Development.

4.6.2.4 NatureScot agreed with the National Scenic Areas ("NSAs") and the Wild Land Areas ("WLAs") conclusions in the EIA Report and commented that the Development was unlikely to have a significant effect individually or in-combination with existing Development.

4.6.2.5 NatureScot advised that the introduction of lighting would effectively increase the magnitude of change of significant effects by extending the period of effects from daytime into night-time. Should the Development be consented, it said that there were opportunities to explore different colouring of the turbines to reduce any likely effect.

4.6.2.6 The Company noted this suggestion and colour selection for the offshore turbines would be discussed with NatureScot and other relevant parties should consent be granted.

4.6.3 Marine Mammals and Other Megafauna

4.6.3.1 NatureScot agreed with the conclusions of the significance of effects from construction impacts, as detailed within the EIA Report for the Development alone and when considered cumulatively.

4.6.3.2 NatureScot reviewed the HRA Report with respect to bottlenose dolphins, harbour porpoises, harbour seals, and grey seals and agreed with the conclusions presented and confirmed there is no adverse effect on site integrity.

4.6.4 Marine Physical Processes

4.6.4.1 NatureScot agreed with the EIA Report in that there would be no significant effects in terms of physical processes given the location of the proposal area, the low sensitivity of the affected seabed, and the choice of landfall location and method.

4.6.4.2 NatureScot highlighted an error on the predicted reduction in near-seabed tidal flow downstream of cable protection within the EIA Report. It explained that this error caused an underestimation of hydrodynamic change, which may result in an underestimation of effects on receptors, both for physical processes and other receptors.

4.6.4.3 The Company acknowledged this error and commented that although this results in minor deviations from the figures within the EIA Report, there was no change to the flow speeds; therefore, the impact assessment completed and presented within the EIA Report is still applicable.

4.6.5 Benthic Ecology

4.6.5.1 The EIA Report concluded that there would be minor or negligible effects upon any benthic ecology receptors. NatureScot supported this conclusion and confirmed there are no relevant designated sites for benthic features within the likely range of impacts.

4.6.5.2 NatureScot acknowledged its understanding of EMF effects around subsea and dynamic cables associated with floating wind farms is poor and encouraged the Company to engage with Marine Directorate to better understand such impacts on benthic and fish species.

4.6.5.3 The Company stated that it would continue to engage with relevant stakeholders as research in these fields develops and is open to exploring the value and feasibility of potential monitoring opportunities.

4.6.6 Fish and Shellfish

4.6.6.1 The EIA Report concluded that there will be no significant impacts with respect to marine fish and shellfish species. NatureScot supported this conclusion based on the available evidence (in which they acknowledged there are gaps) and agreed that all relevant impacts to marine fish and shellfish species of conservation importance, including diadromous fish species, had been identified and assessed.

4.6.6.2 NatureScot reviewed the HRA Report with respect to Atlantic salmon and agreed, with the conclusions presented that there would be no adverse effect on site integrity for any SACs with respect to the Atlantic salmon qualifying feature.

4.6.7 Climate Change and Carbon

4.6.7.1 NatureScot agreed with the conclusions of the blue carbon assessment but advised the Company that released carbon may not be integrated into the sediment transport regime in the long term.

4.6.7.2 The Company considers that in time, should any peat clasts be deposited on the seabed these would be winnowed down and incorporated into the sediment transport regime across the Pentland Firth.

4.6.7.3 NatureScot noted that although the Development was unlikely to affect the carbon sequestration potential of the immediate seabed and associated habitats, there would be a loss of carbon from the disturbance of kelp beds and peat deposits which would affect the blue carbon assessment.

4.6.7.4 The Company noted that carbon lost through disturbance or loss of kelp beds would not be dispersed as part of the sediment regime but would also be re-distributed in time.

4.7 NLB

4.7.1 NLB had no objections to the Application.

4.8 Orkney Islands Council

4.8.1 The Orkney Islands Council had no comments to make on the Application.

4.9 SEPA

4.9.1 SEPA initially objected to the Application, with the request that more consideration be given to the onshore impacts of any disturbance of radioactive contamination offshore, particularly, how this would be assessed or demonstrated. SEPA raised concerns that the Development offshore may alter the current mechanism that determines the arrival rate and composition of fragments of irradiated nuclear fuel on the Dounreay foreshore and Sandside beaches.

4.9.2 SEPA requested further information surrounding the Company's testing on radioactivity and radio chemical analysis, as SEPA was not satisfied that the detail within the EIA Report was clear. Documentation and the underlying methodology of the noted Radiation Risk Assessment (NUVIA, 2021b) for the offshore site were also requested to allow SEPA to comment on the validity of the comments regarding the rise and spread of contamination.

4.9.3 Given the concerns about the clarity and validity of the Company's radiation sampling, SEPA requested the Company reconsidered scoping out changes in water and sediment quality and has suggested this receptor be scoped.

4.9.4 Further to these considerations, SEPA referred the Company to section 3 of the 'SEPA Standing Advice for the Department for Business Energy and Industrial Strategy and Marine Directorate on marine consultations.

4.9.5 SEPA requested Food Standards to be consulted specifically concerning the Food and Environment Protection Act ("FEPA") Order.

4.9.6 Given that the radioactive particles are existing contamination, SEPA has warned that if the Development is insufficiently mitigated and results in an increase in particles recovered onshore, the Company could be considered under the Radioactive Contaminated Land Regulations as a Polluter, known as an Appropriate Person with respect to Part IIA of the Environmental Protect Act 1990 Section 78F.

4.9.7 SEPA responded to the Additional Information Consultation and although expressed concerns regarding the impact the Development would have on the potential re-suspension and re-distribution of irradiated fuel particles in the offshore Dounreay environment and the subsequent risk to the public, it withdrew its objections to the Application, subject to condition.

4.9.8 A condition has been attached to the s.36 consent that a Particles Management Plan ("PMP") shall be submitted to the Scottish Ministers for its written approval in consultation with SEPA prior to the commencement of the Development.

4.10 The Highland Council

4.10.1 The Highland Council had no objections to the Application subject to several conditions included within the consent. These conditions are in relation to noise immissions, turbine layout, archaeological works and television and radio reception.

4.10.2 The Highland Council highlighted the key issue as the seascape, landscape, and visual impact of the Development. These turbines would be some of the closest offshore wind turbines to Scotland's coastline. They would, at this time, also be some of the largest turbines deployed offshore. The Highland Council advised that given the position and scale of the turbines, there would be significant adverse impacts on recreational users of the outdoors, residential receptors, and users of the local road network. There would also be some significant impacts on landscape and seascape character. The Highland Council acknowledged however that the impacts of the Development are in relative close proximity to the scheme and do not extend significant distances in shore. The applicant's mitigation by design to push the turbine array further offshore and reduce the horizontal spread of the turbine array area has helped to reduce the effects of the Development for these receptors. The Highland Council will be consulted on the DSLP.

4.10.3 The Highland Council concluded that while there are significant impacts in terms of landscape and visual impacts, these can be considered acceptable in the balance given the mitigation by design and the economic and energy benefits the proposal will bring.

4.10.4 The Highland Council requested a Noise Measurement and Mitigation Scheme be conditioned within the consent. Following discussion between the Company and the Environmental Health team of the Highland Council, this condition was amended from the Highland Council's original condition with agreed updated wording.

4.10.5 Conditions have been attached to the s.36 consent in line with those requested by the Highland Council.

5. **Summary of non-statutory consultee responses**

5.1 Aberdeen International Airport

5.1.1 Aberdeen International Airport had no comments to make on the Application.

5.2 British Telecommunications ("BT")

5.2.1 BT stated that the Development should not cause interference to BT's current and presently planned radio network.

5.3 Caithness West Community Council

5.3.1 Caithness West Community Council objected to the Application as the Development would increase cumulative visual impacts due to the proximity to neighbouring projects. Caithness West Community Council raised concerns that the Development would have detrimental impacts on the

natural landscape and seascape within North Caithness Cliffs SPA and the Sandside Bay Site of Special Scientific Interest ("SSSI").

5.3.2 The Company has highlighted the decision to refine the project design (a reduction of 50%) is to minimise as far as possible the impacts of the Development on environmental and visual receptors. This refinement provides a greater generating capacity and a greater contribution to the national grid, increasing domestic energy security of supply and supporting net-zero targets.

5.3.3 Caithness West Community Council was concerned the Development would impact the quality of Wildland Areas, particularly WLA 39.

5.3.4 The Company noted these concerns, and, stated that although there would be some significant effects on the qualities of the East Halladale Flow WLA 39, it wouldn't raise issues of national interest.

5.3.5 Caithness West Community Council also raised concerns about the risk of collision or displacement of seabirds. The Company responded that Collision risk modelling undertaken by the Company indicated a low number of collision mortalities. However, no significant effects were found from the potential displacement impact or the potential for a barrier effect due to the physical presence of the Development.

5.3.6 Regarding marine mammals, the Caithness West Community Council raised concerns about the disruption to marine mammals through echo-location and the destruction of hunting and/or transit areas.

5.3.7 A quantitative assessment, which modelled acoustic spread from sources that are audible to marine mammals, found that none of the planned activities during any stage of the project had the potential to injure any marine mammals, nor would the conservation status or integrity of any species.

5.3.8 Caithness West Community Council raised concerns about the impact on migratory Salmon as the Development is within a transit route and inland spawning areas.

5.3.9 The HRA Report submitted by the Company assessed the effects on River SACs designated for Atlantic Salmon and found no adverse effects on site integrity or conservation objectives. This was also concluded in the Scottish Minister's AA.

5.3.10 Caithness West Community Council responded to the Additional Information Consultation and raised several health and safety concerns regarding increased particle finds at Sandside Bay and suggested a link between radioactive particle finds in the Dounreay area and ongoing development of the Development.

5.3.11 The Company advised that it was unlikely that the survey activities associated with the Development had led to an increase in particle finds within the Dounreay Foreshore or in Sandside Bay. The Company said that it was committed to developing the Development in a safe and sustainable way and has agreed to not undertake any activities in or around the FEPA Zone if pre-

work risk assessments or analysis shows there to be an increased risk to the local community or environment.

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

5.4.1 DAERA had no objections to the Application.

5.5 District Salmon Fishery Board - Caithness ("Caithness DSFB") and District Salmon Fishery Board – Northern ("Northern DSFB")

5.5.1 Caithness and Northern DSFBs ("DSFB") submitted identical consultation responses and did not object to the Application, however raised several concerns. An initial concern was the potential for the Development to affect all of the rivers of the DSFB areas. This is due to the proximity and partly due to the wind farm's location on or near the main migratory routes taken by salmon to and from their ocean feeding grounds.

5.5.2 A principal concern of DSFB was the potential barrier effects posed by wind turbine arrays with the moving turbine blades being visible to fish over large areas around the array for epipelagic species (i.e., salmonids) along with the cumulative effects of sequential arrays being developed near the pinch point on the migration route represented by the Pentland Firth. The DSFB were concerned such barriers would delay or displace migratory fish. The DSFB considered the Company's position on scoping out barrier effects because of the lack of information unreasonable as, particularly throughout the construction phase, many or most of the risks to aquatic ecology cannot be quantified based on existing knowledge.

5.5.3 The Company noted the decision to scope out such barrier effects was based on no definitive evidence with the support of the literature-based study Centre of Expertise for Waters ("CREW"). At present, the Company stated that there are no sources found to contradict this CREW review, and there is no evidence to support any change to related policy guidance. The Company noted the DSFB' concerns.

5.5.4 In response to the Additional Information Consultation, the DSFB provided no further comment.

5.6 Food Standards Scotland

5.6.1 Food Standards Scotland responded to the Additional Information Consultation sharing concerns with SEPA about the risks to food safety regarding the potential for remobilisation of currently buried particles. Although Food Standards Scotland does not have the data or capability to assess this risk, they have stated it would be undesirable for a situation to arise from the Development which necessitates the extension of the current FEPA area.

5.6.2 The Company has committed to consult Food Standards Scotland post-consent on the development of the PMP and specific mitigation requirements to be adhered to in the FEPA zone.

5.7 Highlands and Islands Airports Limited ("HIAL")

5.7.1 HIAL examined the Development from an aerodrome safeguarding perspective at Wick Airport. Provided that the Company has an approved Construction Strategy Plan prior to the commencement of the Development, HIAL has no objection to the Application.

5.7.2 The Company acknowledged the request for the inclusion of a Construction Strategy Plan to ensure aerodrome safeguarding.

A condition has been attached to the s.36 consent that a CMS shall be submitted to the Scottish Ministers for its written approval prior to the commencement of the Development.

5.8 Ministry of Defence ("MOD")

5.8.1 The MOD assessed the location and layout of the Development and confirmed the Development would not physically impact MOD offshore Danger and Exercise Areas or adversely affect defence maritime navigational interests.

5.8.2 However, it said that the turbines would affect military low flying training activities that may be conducted within the Development area. To address the impact on low flying given the location and scale of the Development, the MOD requested that conditions were added to any consent(s) issued requiring that the Development is fitted with aviation safety lighting and that sufficient data is submitted to ensure that structures can be accurately charted to maintain air traffic safety.

5.8.3 As a minimum the MOD would require that the Development be fitted with MOD accredited aviation safety lighting.

5.8.4 Subject to the conditions detailed, which have been included on the corresponding marine licence, the MOD had no objection to the Application.

5.9 Natural England

5.9.1 Natural England stated that the Development is not located within or in close proximity to any English SAC.

5.10 Nuclear Decommissioning Authority ("NDA")

5.10.1 The NDA did not submit a response; therefore, a 'nil-return' was assumed.

5.11 Orkney Harbours

5.11.1 Orkney Harbours had no comments to make on the Application.

5.12 Orkney Islands Council – Marine Services

5.12.1 The Orkney Islands Council – Marine Services had no comments to make on the Application.

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

5.13.1 In response to the Original Consultation, RSPB Scotland submitted a holding objection to the Application. Similar to NatureScot, RSPB Scotland raised concerns over how the PVA model had been run and questioned the parameters used in the models.

5.13.2 RSPB Scotland raised concerns about the predicted outputs for the North Caithness Cliffs SPA kittiwake population and considered it not possible to rule out an adverse effect on the integrity of this SPA from the impacts of this project whether alone or in combination. RSPB Scotland had similar concerns for other species, including but not limited to puffin.

5.13.3 RSPB Scotland noted its disappointment with the deviation from the normal method of using two years' worth of site-specific data collected within the last five years to inform the EIA.

5.13.4 The Company noted this comment from RSPB Scotland and agreed to include historic data from the Dounreay Trì Floating Wind Demonstration Project in current data sets as all data was collected using the same method and provider. The Company provided revised data analysis to support this.

5.13.5 RSPB Scotland said that it was content with the Company's minimum air gap proposal and recommended the minimum air gap in the worst-case scenario be raised to 35m be secured through the consent process.

5.13.6 In response to the Additional Information Consultation, RSPB Scotland maintained its concerns over the validity of merging both the SeaBORD and matrix approaches on impacts on seabirds. It said that both approaches were very different and that combining them was misleading. The Company provided details of the matrix-only approach; however, with no full year in-combination with PVA output for kittiwake, RSPB Scotland used the mixed approach for conclusions on the kittiwake population. Using the information provided, RSPB Scotland considered the impacts on kittiwake and puffin (alone and in combination) to be unacceptable and, as such the Development would have an adverse impact on site integrity with regard to the North Caithness Cliffs SPA.

5.13.7 In response to the Additional Information Consultation, RSPB Scotland submitted a formal objection to the Development due to the unquantified in-combination barrier effect and displacement impact on seabirds. RSPB Scotland recommended a full in-combination assessment be carried out using SeaBORD for kittiwake, puffin (both of which are qualifying species of the North Caithness Cliffs SPA), and guillemot as the current assessment was found to be inadequate. RSPB Scotland would support this assessment being carried out through the emerging Cumulative Effects Framework.

5.13.8 RSPB Scotland advised that the Development cannot be permitted unless HRA derogation tests are met.

5.14 Royal Yachting Association ("RYA")

5.14.1 The RYA had no further comments to make on the Application.

5.15 Scottish Fishermen's Federation ("SFF")

5.15.1 The SFF raised concerns about sediment plumes and commented on the lack of evidence surrounding the effects of increased sedimentation and the associated smothering of fish and shellfish.

5.15.2 The SFF commented on the loss of fishing grounds and requested the Company demonstrate the mitigation measures for the loss of fishing grounds.

5.15.3 The Company noted the concerns and commented that it may be possible for some static fishing to resume within the Development array area. It is the Company's view that the location of the Development is not considered highly fished, and the wider region is considered of a higher value.

5.15.4 The SFF stressed the value of regular monitoring to ensure the least impact on fisheries. The SFF requested for post consent plans (including CaP, Vessel Management Plan ("VMP"), FMMS, and Decommissioning Plan) to be addressed within six months of consent being granted. These conditions have been attached to the s.36 consent, although the plans are required to be submitted six months prior to the commencement of the Development.

5.15.5 Should consent be granted, the Company has agreed to consult the SFF throughout the post consent process.

5.15.6 The SFF raised concerns about the data gaps and uncertainties regarding EMF effects and underwater noise.

5.15.7 The Company has noted such concerns and should consent to be granted, has agreed to continue to engage with Marine Directorate and other relevant stakeholders as research in both fields develops.

5.15.8 In response to the Additional Information Consultation, the SFF supported the addition of sediment monitoring noting the importance of ensuring the benthos remains capable of sustainable fisheries.

5.16 Scottish Surfing Federation

5.16.1 The Scottish Surfing Federation strongly opposed the Application but raised no formal objection. It raised concerns about the impact the Development would have on the local community, including tourism and fitness.

5.16.2 The Company commented that the design of the Development minimised potential adverse impacts on the wave or tidal regimes and tourism. The Development had been considered to provide a significant beneficial effect on employment in Caithness.

5.16.3 Whilst specific compensation was not identified in this regard, the Company highlighted that a community benefits fund is under deployment for the Development. This will be open to any local not-for-profit individuals or organisations.

5.17 Scottish Water

5.17.1 Scottish Water confirmed that the Development would not lie within any designated Drinking Water Protected Areas under the Water Framework Directive and had no objection to the Application.

5.18 Sport Scotland

5.18.1 Sport Scotland had no objections to the Application.

5.19 United Kingdom Chamber of Shipping ("UKCoS")

5.19.1 In addition to the mitigations proposed by the Company, UKCoS recommended the Company provide sufficient UKC for deep draught vessels to prevent snagging risks and to remove all sea-level and sea-bed infrastructure, again to prevent snagging risks, to allow the seabed to be returned for any potential future use. The Company noted this proposal and is committed to complying with Marine Guidance Note ("MGN") 654 post consent.

5.19.2 In response to the Additional Information Consultation, the UKCoS provided information omitted from the Original Consultation. The Company noted the comments with no further mitigation required.

6. Representations from other organisations and members of the public

6.1 One public representation was received raising concerns on various onshore elements of the Development and questioned the Highland Councils' consideration of the project. The objector noted several reasons to highlight their doubt about the Highland Councils' representation and suggested the Highlands Council's response should be set aside.

6.2 The objector considered the Development to insufficiently mitigate effects and noted that the Development is not in accordance with Scotland's National Planning Framework 4 ("NPF4") Policy 3(b), NPF4 Policy 11, and Policy 67 in the Highland-wide Local Development Plan on account of significant adverse landscape, visual, ornithological and amenity effects, which the objector considers not to be outweighed by the limited benefits. The objector requested that the Scottish Ministers hold a public inquiry or reject the Application.

6.3 The Company noted the comments raised in the public representation and highlighted that they largely referred to onshore elements of the Development which subject to a separate consent from The Highland Council, and was approved in January 2023.

7. Advice from third parties

7.1 Marine Directorate – Licensing Operations Team ("MD-LOT"), previously known as Marine Scotland – Licensing Operations Team ("MS-LOT") sought advice from the Marine Analytical Unit ("MAU"), MSS, and Transport Scotland on the Application.

7.2 MD-LOT only requested general advice from MSS concerning commercial fisheries.

7.3 MAU

7.3.1 Socio-Economics

7.3.1.1 The MAU noted that while the economic aspects of the EIA Report are reasonable and proportionate for the scale of the Development, the assessment of social impacts could have been considered in more detail in local scale impacts within Caithness, as well as cultural and distributional impacts. The MAU noted that although impacts to 'housing and local services' has been scoped in to the EIA Report, only housing is considered.

7.3.1.2 The Company acknowledged the MAU's comments and highlighted that although large in geographic terms, the population density of Caithness is low. The Company considers the spatial area appropriate for consideration of potential local effects on housing and demand for services. The Company said it did not expect effects on services to be different for parts of Caithness, compared to the area as a whole, because provisions for many key services, including hospitals and secondary schools, are shared across the area.

7.3.1.3 The Company does not consider the scale of the Development to be sufficiently large to generate noticeable socio-cultural effects.

7.3.1.4 The Company disagreed with the MAU that housing is only considered in the EIA Report at a spatial level, as the EIA also considered potential effects on local services, such as education and healthcare. The Company acknowledged that the EIA Report could have explained the connection between potential increases in demand for services to the expected population changes associated with the Development clearer.

7.3.1.5 The MAU noted the lack of any primary data collection. The MAU acknowledged that the Pre-Application Consultation ("PAC") event involved questionnaires; however, the methods used in the PAC event were in its view not strong enough to be considered data collection.

7.3.1.6 The Company disputed the comment from the MAU that no primary data collection was undertaken with respect to socio-economics. It stated that it considered the level of consultation proportionate to the size of the Development. The approach to the survey involved the distribution of questionnaires at community consultation events. The Company has acknowledged that people attending such consultation events may not be entirely representative of the community as a whole; however, it stressed the opportunity such events provide to participants to ask their questions about the Development.

7.3.1.7 The Company highlighted that the recommended methods of primary data collection suggested by the MAU were utilised, including workshops, surveys, and interviews. The Company also stressed that restrictions associated with the COVID-19 pandemic caused limitations in engaging with the local community.

7.3.1.8 The MAU noted the lack of evidence to support stakeholder involvement in identifying impacts to communities and agreeing on mitigation measures. The MAU acknowledged that the Company has included a description of plans to monitor economic impacts through a data sharing agreement with Crown Estate Scotland part of the Supply Chain Development Statement but highlighted that this is not the same as monitoring and will not capture social impacts.

7.3.1.9 The Company acknowledged the MAU's comments regarding mitigation and monitoring but noted that no mitigation or monitoring is proposed as the only significant impacts identified in the socio-economics impact assessment were beneficial.

7.3.1.10 The Company has welcomed to opportunity to engage with the MAU as the development of these governance structures progresses.

7.3.1.11 The MAU noted a Community Liaison Officer ("CLO") would be appointed by the Company; however, said that a CLO does not normally carry out monitoring. Therefore, the MAU has requested more detail as to what the CLO role will involve.

7.3.1.12 The Company has confirmed that the CLO would be expected to liaise with local stakeholders and the wider community. The CLO's role is expected to include monitoring any concerns about the progress with and effects of the Development as they arise, including the potential for effects on social, cultural, and/or distributional issues.

7.3.1.13 The MAU highlighted that the thresholds of significance used throughout the EIA are not explained and has requested the Company explain what the thresholds are based on. Additionally, the MAU highlighted that some technical details throughout the EIA are not fully explained or justified. The MAU has welcomed a thorough explanation of the assumptions upon which the parameters and multiplies are based and requested these be provided in a technical annex.

7.3.1.14 The Company directed the MAU to Appendix 19.1 of the EIA Report which provides a detailed explanation of how the multiplier values for various spatial areas used in the EIA had been derived.

7.3.1.15 In reference to housing demand, the MAU expressed the value of speaking to local communities to understand views on various impacts and whether they are considered positive or negative rather than making a judgment call.

7.3.1.16 The Company acknowledged the MAU's advice and has explained that the EIA has utilised the precautionary principle; therefore, in terms of assessing the 'worst case scenario', the Company had assumed that an increase in demand for housing could have the potential to generate negative effects on local communities.

7.4 MSS

7.4.1 Commercial Fisheries

7.4.1.1 MSS advised that all potential impacts to commercial fisheries had been identified within the EIA Report and the worst-case scenario had been considered for the parameters of the project.

7.4.1.2 MSS commented on the Company's estimation that 80% of the cable would be buried to a minimum depth of 0.6m. MSS advised that information should be provided on where the 20% of the cable with cable protection measures would be, as this information would be useful in deciding if an over trawl survey would be required if the area of cable protection overlaps with the area(s) of trawling/dredging activity.

7.4.2 Ornithology

7.4.2.1 MD-LOT requested specific ornithology advice following the RSPB Scotland and NatureScot Initial Consultation representations.

7.4.2.2 MSS agreed with the NatureScot representation that a 25 year population estimate for the Development, along with 30 year and 50 year estimates should be presented. MSS also agreed with the NatureScot representation that review and correction of apportioning should be undertaken by the Company to correctly estimate the potential impacts.

7.4.2.3 MSS agreed with RSPB Scotland that the use of the matrix approach to describe impacts on juvenile birds is against the SNCB advice provided in the Joint SNCB Interim Displacement Advice Note. MSS advised that the approach described in the SNCB advice note is adhered to as the assessment of impacts on juvenile birds is not an appropriate use of the matrix approach.

7.4.2.4 MSS advised that a 2km buffer should be utilised to bring the results for puffin in line with SNCB guidance and to allow for comparison with projects scoped in for cumulative assessment. This advice is supported by NatureScot.

7.4.2.5 MSS agreed with NatureScot that the two survey datasets used (January – December 2015, and September 2020 – August 2021) are acceptable.

7.5 Transport Scotland

7.5.1 Transport Scotland did not submit a response; therefore, a ‘nil-return’ was assumed.

7.6 Summary

7.6.1 The Scottish Ministers have considered the advice provided in reaching their decision.

8. Public Inquiry (“PI”)

8.1 The Scottish Ministers did not require a PI to be held.

9. The Scottish Ministers Considerations

9.1 Environmental Matters

9.1.1 The Scottish Ministers are satisfied that an EIA has been carried out. Environmental information including the EIA Report has been produced and the applicable procedures regarding publicity and consultation laid down in regulations have been followed. The environmental impacts of the Development have been assessed and the Scottish Ministers have taken the environmental information into account when reaching their decision.

9.1.2 In accordance with their obligations under paragraph 3(2) of Schedule 9 of the Electricity Act 1989, the Scottish Ministers have considered and are satisfied that (a) the Company, when formulating its proposal to construct the generating station, has had sufficient regard to the desirability of preserving natural beauty, of conserving flora, fauna, and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest and; (b) the Company, in having regard to these matters, have reasonably sought to mitigate any effect which their proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

9.1.3 The Scottish Ministers have considered fully and carefully the Application, EIA Report, Non-Technical Summary, the Addendum of Additional Information and all relevant representations from consultees, the public and advice from MAU, MSS and TS.

9.2 Main Determinative Issues

9.2.1 The Scottish Ministers, having taken account of all relevant information, consider that the main determining issues are:

- The extent to which the Development accords with and is supported by Scottish Government policy and the terms of the National Marine Plan ("NMP") and relevant local development plans;
- Renewable energy generation and associated policy benefits;
- Economic impacts; and
- The main effects of the Development on the environment, which are in summary impacts on:
    - Marine mammals, seabirds, diadromous fish and shellfish, and European sites and European offshore marine sites;
    - Commercial fisheries;
    - Disturbance of radioactive contamination offshore; and
    - Seascape, landscape and visual amenity.

9.3 Scottish Government Policy Context

9.3.1 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.

9.3.2 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, 3-10';
- 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'; and
- Chapter 15 Defence, policy 'DEFENCE 1'

9.3.3 The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 commits us to reach net zero emissions of all GHGs by 2045, ahead of the UK target of 2050. It includes bold interim targets to reduce emissions by 75% by 2030, against a 1990 baseline, and to reduce emissions by 90% by 2040. These targets are in line with what is required to meet Scotland's commitments under the 2015 Paris Agreement, to limit global average temperature increases to 1.5 degrees Celsius or less. The Glasgow Climate Pact keeps alive this target of limiting global warming to 1.5 degrees.

9.3.4 The Development will provide wider benefits to the offshore wind industry which are reflected within Scotland's Offshore Wind Policy Statement. Offshore wind is seen as 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 to achieve 8-11 gigawatt of offshore wind in Scotland by 2030. Officials recognise that this ambition needs to be reviewed in light of the market ambition expressed in response to the ScotWind leasing round and are currently consulting on setting a further offshore wind deployment ambition, including establishing a 2045 ambition for offshore wind in Scotland, through the draft Energy Strategy and Just Transition Plan.

9.3.5 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 NPF3 and Scottish Planning Policy.

9.3.6 On adoption of NPF4, the provisions in the Planning (Scotland) Act 2019 commenced making NPF4 part of the statutory development plan. NPF4 sets out our 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.

9.3.7 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.

9.3.8 MD-LOT has had regard to NPF4 when assessing the Application. MD-LOT considers that the Development 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 through the testing of a more efficient wind WTG that could be used in future offshore

wind developments in Scotland. Furthermore, the Development supports Policy 11 by contributing to the expansion of renewable energy generation.

9.3.9 There are no site-specific policies covering the Development; therefore, the application requires to be assessed against the general policies of the Highland-wide Local Development Plan. The Onshore Wind Energy Supplementary Guidance provides additional guidance on the principles set out in Policy 67 of the Highland-wide Local Development Plan for Renewable Energy Developments. Policy 67 sets out that renewable energy developments should be well related to the source of the primary renewable resource needed for its operation. The Highland-wide Local Development Plan is currently under review and is at Main Issues Report stage. It is anticipated the Proposed Plan will be published following publication of secondary legislation.

9.3.10 The Caithness and Sutherland Local Development Plan 2018 ("CaSPlan") does not contain any specific land allocations related to the Development. However, the Scottish Ministers highlight that the CaSPlan identifies Special Landscape Areas ("SLA") within the Development. 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 recognised the potential for marine renewable energy generation.

10. Impacts of the Development on the environment

10.1 *Impacts on marine mammals, seabirds, diadromous fish and shellfish, and European sites and European offshore marine sites.*

10.1.1 The Habitats Regulations require the Scottish Ministers to consider whether the Development would be likely to have a significant effect on a European site or European offshore marine site (either alone or in combination with other plans or projects), as defined in the Habitats Regulations.

10.1.2 NatureScot was of the view that the Development would have a Likely Significant Effect (“LSE”) on the qualifying interests of a number of SPAs and SACs. Therefore, MD-LOT, on behalf of the Scottish Ministers as the “Competent Authority”, was required to carry out an Appropriate Assessment (“AA”). Full details of the European sites and qualifying features considered is provided in the AA.

10.1.3 NatureScot advised that there could be LSE on the qualifying interests of the SPAs due to displacement and collision as a result of the Development. Further to this, the risk of entanglement and exposure to increased EMFs and noise could also cause LSE on SAC marine mammal and Atlantic salmon qualifying interests.

10.1.4 Natural England and DAERA were consulted on European sites within their respective jurisdictions where the Company had identified the potential for LSE. Natural England and DAERA both advised no LSE for any of the European sites for which they are responsible for providing advice. Authorities within the Republic of Ireland were consulted on European sites within the Republic of Ireland but were unable to provide advice. Due to the significant distances and limited connectivity, the Scottish Ministers consider

there to be no LSE on European sites within the Republic of Ireland. Therefore, only Scottish European sites are considered in the AA.

10.1.5 The AA considered the conservation objectives, the predicted levels of effect and population consequences and the advice from NatureScot and RSPB Scotland. For a 30 year operational period, the AA concluded that the Development would not adversely affect the integrity of any of the SPAs considered apart from the North Caithness Cliffs SPA with respect to the puffin and kittiwake qualifying interests when the Development was considered in-combination with other offshore wind farm developments.

10.1.6 For a 30 year operational period, the AA concluded that the Development in combination with other offshore wind farms could adversely affect the integrity of the North Caithness Cliffs SPA with respect to the puffin and kittiwake qualifying features based on the NatureScot advice and the AA completed.

10.1.7 For a 10 year operational period NatureScot advised that there would be no adverse effect on the puffin qualifying interest of the North Caithness cliffs SPA from the Development in combination with other offshore wind farms. For kittiwake, NatureScot advised that there was the potential for an adverse effect on the integrity of the North Caithness Cliffs SPA from the Development in combination with other North Sea wind farms. The AA concluded that the Development alone or in combination with other offshore wind farms would not adversely affect the integrity of the North Caithness Cliffs SPA, with respect to the puffin and kittiwake qualifying features. The AA considered the advice from NatureScot and the precaution in the assessment as fully detailed in the AA.

10.1.8 NatureScot recommended that, should the Scottish Ministers be minded to grant consent for a 10 year period, appropriate operational monitoring at the Development site would be helpful to enable validation of the predictions within the EIA and HRA given the lack of empirical evidence.

10.1.9 Concerning Atlantic salmon and freshwater pearl mussels, NatureScot advised that these qualifying interests could suffer disturbance to, and possible alteration of, migration routes due to underwater noise generated from construction activities and further effects on migration from EMFs. These effects would indirectly impact freshwater pearl mussels as the Atlantic salmon plays a vital role in its life cycle. However, these effects would directly impact Atlantic salmon; however, as the Atlantic salmon can readily move out of or avoid the Development the Scottish Ministers conclude that the Atlantic salmon would have adequate range to move to avoid potentially damaging underwater noise. The Atlantic salmon's magnetic sensors make them sensitive to EMFs. Studies on EMF effects on Atlantic salmon are inconclusive but modelling results indicate that only low levels of EMF are anticipated to be released by the Development, particularly if proposed burial depths are achieved. As a result, the Scottish Ministers concluded that there would be no adverse effects on site integrity of the River Thurso SAC, Berriedale and Langwell Waters SAC, Little Gruinard River SAC, Langavat SAC, River Tay SAC, River Tweed SAC, River Teith SAC, Endrick Water SAC, River Bladnoch SAC, River Naver SAC, River Borgie SAC, River Spey SAC, River Oykel SAC, North Harris SAC, River Dee SAC, River Moriston SAC, or River South Esk SAC.

10.1.10 Concerning marine mammal species, NatureScot advised that harbour porpoise, bottlenose dolphin, grey seal, and harbour seal could be disturbed as a result of underwater noise, suffer permanent threshold shift ("PTS") auditory injuries, and be impacted by other impact pathways associated with the operational phase of the development. However, the ultra-short baseline equipment used will be operated at a level below that of PTS and a Marine Mammal Management Plan is to be implemented. The Company's research also shows that <1 harbour seal is predicted to experience PTS-onset per piling day. The Company plans to monitor and remove debris from the mooring lines and cables to decrease the likelihood of secondary entanglement. Additionally, it is believed that the scale of the floating infrastructure used within the Development should discourage the aforementioned qualifying interest species from collisions. The mooring infrastructure associated with the Development has been designed to limit movement of the WTGs and there are no moving substructures so the position of the infrastructure should not change dramatically. Animals are expected to be able to swim around these structures readily. As a result, the Scottish Ministers concluded that there would be no adverse effect on site integrity of the Faray and Holm of Faray SAC, Inner Hebrides and the Minches SAC, Sanday SAC, or the Moray Firth SAC.

10.1.11 The Scottish Ministers consider that, having taken into account the information provided by the Company and the responses of the consultative bodies, there are no concerns in relation to the impact of the Development (for a 10-year operational period) alone or in combination with other plans or projects on seabirds, marine mammals, diadromous fish, European sites or European offshore marine sites which would require consent to be withheld.

10.2 *Impacts on commercial fisheries.*

10.2.1 Effects on commercial fisheries were identified as being not significant by the Company during the operational phase of the Development as the location of the Development is not considered highly fished, and the wider region is considered of higher value.

10.2.2 The SFF raised several concerns about certain aspects of the EIA Report but did not submit a formal objection. The SFF supported the addition of sediment monitoring. Conditions requiring the Company to prepare, consult on and adhere to a CaP, VMP, and FMMS have been attached to the s.36 consent to mitigate the concerns raised.

10.2.3 Scottish Ministers consider that, having taken into account the information provided by the Company, the responses of the consultative bodies and public representation, and having regard to the conditions attached to the s.36 consent, there are no outstanding concerns in relation to the impact of the Development which would require consent to be withheld.

10.3 *Disturbance of radioactive contamination offshore*

10.3.1 Effects on the disturbance of contaminated sediment were identified as being not significant by the Company during the construction and decommissioning

phase of the Development as sediment sampling and chemical analysis demonstrated a low occurrence of contaminants and radioactive particles.

10.3.2 Caithness West Community Council raised several health and safety concerns regarding increased particle finds at Sandside Bay and suggested a link between radioactive particle finds in the Dounreay area and ongoing development. The Company has committed to constructing the Development in a safe and sustainable way and has agreed to not undertake any activities in or around the FEPA Zone if pre-work risk assessments or analysis shows there to be an increased risk to the local community or environment.

10.3.3 SEPA initially objected to the Application and requested the Company give more consideration to the impact onshore of any disturbance of radioactive contamination offshore, particularly, how this will be assessed or demonstrated.

10.3.4 Although SEPA had raised concerns about the impact the Development will have on the potential re-suspension and re-distribution of irradiated fuel particles in the offshore Dounreay environment and the subsequent risk to the public, it withdrew its objection to the Application, subject to conditions being included within the consent.

10.3.5 The Scottish Ministers consider that, having taken into account the information provided by the Company, the responses of the consultative bodies, and having regard to the conditions attached to the s.36 consent, there are no outstanding concerns in relation to the impact of the Development on disturbance of radioactive contamination offshore which would require consent to be withheld.

10.4 *Impacts on seascape, landscape, and visual amenity.*

10.4.1 A SLVIA was undertaken which identified that there would be significant effects from the Development on coastal and landscape character and visual receptors.

10.4.2 NatureScot advised that, whilst the Development would introduce significant adverse effects on coastal receptors within the ‘horseshoe’ of the coast broadly between Strathy Point and Scrabster Hill. The Company has noted the scope to alter the locations of the offshore wind turbines within the array area by altering the arrangement of turbines to potentially reduce the effects on sensitive receptors.

10.4.3 Caithness West Community Council objected to the Application as the Development would increase cumulative visual impacts due to the proximity to neighbouring sites. The Company considers the effects to be localised therefore only affecting a limited part of the coast and hinterland that currently has some development characteristics in the form of energy developments and onshore windfarms.

10.4.4 The Highland Council advised that given the position and scale of the turbines, there would be significant adverse impacts on recreational users of the outdoors, residential receptors and users. There would also be some significant impacts on landscape and seascape character. The Highland Council acknowledged however that the impacts of the Development are in

relatively close proximity to the scheme and do not extend significant distances in shore. The applicant's mitigation by design to push the turbine array further offshore and reduce the horizontal spread of the turbine array area has helped to reduce the effects of the Development for these receptors.

10.4.5 A condition requiring the Company to prepare, consult on and adhere to a DSLP and a LMP has been attached to the s.36 consent. NatureScot and the Highland Council will be consulted.

10.4.6 The Scottish Ministers consider that, having taken into account the information provided by the Company, the responses of the consultative bodies, the public representation, and having regard to the conditions attached to the s.36 consent, there are no outstanding concerns in relation to the impact of the Development on seascape, landscape and visual amenity which would require consent to be withheld.

10.5 *Economic benefits*

10.5.1 National policy and strategies, such as NPF4, the draft Energy Strategy, Just Transition Plan, and The Scottish Energy Strategy: The Future of Energy in Scotland (Scottish Government, 2017), support the role of renewable energy development in achieving socio-economic benefits and supporting the growth of the low carbon economy. The EIA Report reported that the Development would support the Scottish Governments commitments to reaching net zero emissions of all greenhouse gases by 2045.

10.5.2 The Company assessed the impact on tourism as a result of the Development within the Socio-economics, Recreation, and Tourism chapter of the EIA Report. In response to this chapter, the MAU highlighted the value of speaking to local communities to understand views on various impacts and whether they are considered positive or negative rather than making a judgment call. Additionally, the MAU advised that the economic aspects of the EIA Report were reasonable and proportionate for the scale of the Development; however, highlighted some issues with the assessment regarding local scale social impacts within Caithness.

10.5.3 The Company has estimated that net additional employment from the Development is estimated between six and 13 construction jobs for Caithness and 401 FTE jobs across the Highland area.

10.5.4 During the construction phase, the Development is expected to deliver a Gross Added Value ("GVA") impact of between £36.6 million, under the low scenario, and up to £51 million under the highest impact scenario at a Scotland-wide level.

10.5.5 The Scottish Ministers consider that there is sufficient information regarding the socio-economic impacts of the Development to inform their decision.

10.6 *Renewable energy generation and associated policy benefits*

10.6.1 The innovative floating technology trailed in the Development will enable technological advances in the energy generation capabilities of future

offshore wind farms contributing to the security of the UK's domestic energy supply and ultimately contributing towards the ambitious Scottish, UK and European Union ("EU") renewable energy targets.

11. The Scottish Ministers' Determination

11.1 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 Application have been followed.

11.2 When formulating proposals for the construction of the proposed generating station, the Company must comply with paragraph 3 of Schedule 9 to the Electricity Act 1989. Paragraph 3(1)(a) of Schedule 9 requires the Company in formulating such proposals to have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings, and objects of architectural, historic, or archaeological interest. Paragraph 3(1)(b) requires the Company to do what it reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings, or objects. Under paragraph 3(3) of that Schedule, the Company must also avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

11.3 Under paragraph 3(2) of Schedule 9, the Scottish Ministers must have regard to the desirability of the matters mentioned in paragraph 3(1)(a) of that Schedule and the extent to which the Company has complied with its duty under paragraph 3(1)(b). Under paragraph 3(3) the Scottish Ministers must avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

11.4 In considering the Application, the Scottish Ministers have had regard to the desirability of the matters mentioned in paragraph 3(1)(a) of Schedule 9 and the extent to which the Company has complied with its duty under paragraph 3(1)(b). Ministers consider that the Company has done what it reasonably can to mitigate the effect of the Development on the matters mentioned in paragraph 3(1)(a). The Scottish Ministers are content that the requirements of paragraph 3 of Schedule 9 are satisfied.

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

11.6 The Scottish Ministers have considered the extent to which the Development accords with and is supported by Scottish Government policy, the terms of the NPF4, the NMP, local development plans and the environmental impacts of the Development, in particular: impacts on marine mammals, seabirds, diadromous fish and shellfish (including impacts on European sites and European offshore marine sites), impacts on commercial fisheries, disturbance of radioactive contamination offshore and impacts on seascape,

landscape and visual amenity. The Scottish Ministers have also considered the socio-economic and the renewable energy benefits of the Development.

11.7 The Scottish Ministers are satisfied that the environmental issues have been appropriately addressed by way of the design of the Development and through mitigation measures, and that the issues which remain are, on balance, outweighed by the benefits of the Development. In particular, the Scottish Ministers are convinced that a 10 year consent will not adversely affect the integrity of any SPA or SAC as detailed in the AA.

11.8 In their consideration of the environmental impacts of the Development, the Scottish Ministers have identified conditions to be attached to the s.36 consent to reduce and monitor environmental impacts (these conditions are outlined in Annex 2). These includes a requirement for post-consent monitoring of birds, a CMS, an Environmental Management Plan ("EMP"), OMP, a PMP, a LMP, and a VMP.

11.9 A condition requiring the appointment of an Environmental Clerk of Works ("ECoW") and defining the terms of the ECoWs appointment has been attached to the s.36 consent. The ECoW will be required to monitor and report on compliance with all consent conditions and to monitor the construction of the Development in accordance with plans and the terms of the Application, the s.36 consent and all relevant regulations and legislation. The ECoW will also be required to provide quality assurance on the final draft versions of any plans and programmes required under the s.36 consent.

11.10 Under section 36B of the Electricity Act 1989, the Scottish Ministers may not grant a consent in relation to any particular offshore generating activities if they consider that interference with the use of recognised sea lanes, essential to international navigation is likely to be caused by the carrying on of those activities or is likely to result from there having been carried on. The Scottish Ministers, when determining whether to give consent for any particular offshore generating activities, and considering the conditions to be included in such consent, must have regard to the extent and nature of any obstruction of or danger to navigation which, without amounting to interference with the use of such sea lanes, is likely to be caused by the carrying on of the activities, or is likely to result from their having been carried on. In determining this consent, the Scottish Ministers must have regard to the likely overall effect (both whiles being carried on and subsequently) of the activities in question and such other offshore generating activities which are either already the subject of s.36 consent or activities for which it appears likely that such consents will be granted. In this regard, the Scottish Ministers are satisfied that the appropriate consultation was carried out on the Application. Representations were received from MCA and NLB. No concerns were raised on the premise of suggested conditions being attached to the s.36 consent. The Scottish Ministers have concluded that the Company has had regard to the potential interference of recognised sea lanes essential to international and national navigation and has discharged its responsibilities in terms of section 36B to the Electricity Act 1989.

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

11.12 Subject to the conditions set out in Annex 2, the Scottish Ministers grant consent under s.36 of the Electricity Act 1989 for the construction and operation of the Development (as described in Annex 1).

11.13 The embedded mitigation and any additional mitigation identified in the EIA Report has been incorporated into the conditions of this s.36 consent. The conditions also capture monitoring measures required under Regulation 22 of the 2017 EW Regulations.

11.14 In accordance with the 2017 EW Regulations, the Company must publicise notice of this determination and provide that a copy of this decision letter may be inspected: (a) on the Application website; (b) in the Edinburgh Gazette; and (c) in a newspaper circulating in the locality to which the Application relates is situated or such newspaper as is likely to come to the attention of those likely to be affected by the Development. The Company must provide copies of the public notices to the Scottish Ministers.

11.15 Copies of this letter have been sent to the public bodies consulted on the Application, including the relevant planning authorities, NatureScot, SEPA and HES. This letter has also been published on the Marine Scotland Information website.

11.16 The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for regulatory approval. The rules relating to the judicial review process can be found on the Scottish Courts and Tribunals website.

11.17 Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Yours sincerely,

Gayle Holland

Section Head (Consenting), Marine Directorate Licensing Operations Team

A member of staff of the Scottish Ministers

28 June 2023

ANNEX 1 – DESCRIPTION OF THE DEVELOPMENT

The Application is for the construction and operation of an offshore energy generating station, with a generating capacity of around 100 megawatts ("MW"). The offshore generating station shall be comprised of up to:

1. Seven floating offshore wind turbine generators ("WTGs") with:
    a. A maximum hub height of 190 metres ("m") above highest astronomical tide ("HAT");
    b. A maximum height to blade tip of 300m above HAT;
    c. A maximum rotor diameter of 260m;
    d. A minimum blade tip clearance from mean sea level of 35m;
2. Seven associated floating substructures;
3. Nine mooring lines for each floating substructure, 63 in total;
4. Nine anchors or piles for each floating substructure, 63 in total;
5. Seven inter-array cables (dynamic and static); and
6. Associated scour and cable protections.

All as described in the Application.

The total area within the Development site boundary is 10km^2. The location and boundary of the Development site is shown in Figure 1 of Annex 1.

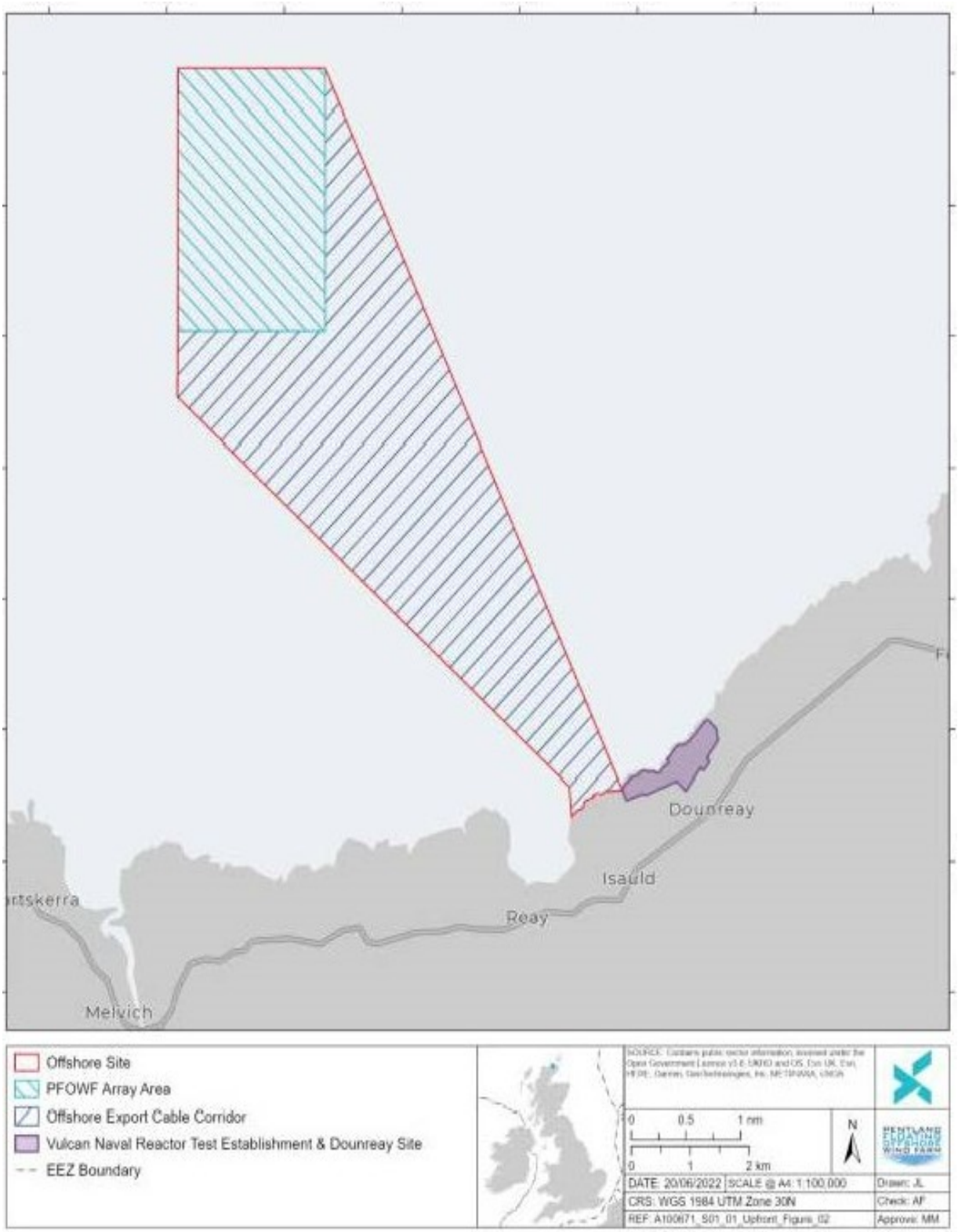

Figure 1: Works Location

ANNEX 2 – CONDITIONS

1. Duration of the Consent

The consent is valid from the date of this consent until 10 years from the date of Final Commissioning of the Development. Written confirmation of the date of Final Commissioning of the Development must be provided by the Company to the Scottish Ministers and to The Highland Council no later than one calendar month after this date.

***Reason**: To define the duration of the consent.*

2. Commencement of the Development

The Commencement of the Development must be no later than five years from the date of this consent, or in substitution such other later period as the Scottish Ministers may hereafter direct in writing. The Company must provide written confirmation of the intended date of Commencement of the Development to the Scottish Ministers and to The Highland Council no later than one calendar month before that date.

***Reason**: To ensure that the Commencement of the Development is undertaken within a reasonable timescale after consent is granted.*

3. Decommissioning

There must be no Commencement of the Development until a Decommissioning Programme, submitted in accordance with a section 105 notice served by the appropriate Minister, has been approved under section 106 of the Energy Act 2004 by the appropriate Minister.

***Reason**: To ensure the decommissioning and removal of the Development in an appropriate and environmentally acceptable manner, and in the interests of safety and environmental protection.*

4. Assignation

This consent must not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignation of the consent (with or without conditions) or refuse assignation as they may see fit. The consent cannot be assigned, alienated or transferred otherwise than in accordance with the assignation procedure as directed by the Scottish Ministers.

***Reason**: To safeguard the obligations of the consent if transferred to another company.*

5. Redundant Wind Turbine Generators

If any Wind Turbine Generator ("WTG") fails to generate electricity for a continuous period of 12 months then, unless otherwise agreed in writing by the Scottish Ministers, the Company must: (i) by no later than the date of expiration of the 12 month period, submit a scheme to the Scottish Ministers setting out the manner in which that WTG and associated infrastructure will be removed

from the site and the sea bed restored; and (ii) implement the approved scheme within six months of the date of its approval, or such other date as agreed in writing by the Scottish Ministers, all to the satisfaction of the Scottish Ministers.

***Reason**: To ensure that should a WTG become redundant it is removed from the site, in the interests of safety, amenity and environmental protection.*

6. Incident Reporting

In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent and decommissioning, the Company must provide written notification of the nature and timing of the incident to the Scottish Ministers within 24 hours of the incident occurring. Confirmation of remedial measures taken and/or to be taken to rectify the breach must be provided, in writing, to the Scottish Ministers within a period of time to be agreed by the Scottish Ministers.

***Reason**: To keep the Scottish Ministers informed of any such incidents which may be in the public interest.*

7. Implementation in accordance with approved plans and requirements of this consent

Except as otherwise required by the terms of this consent, the Development must be constructed and operated in accordance with this consent, the Application, the Environmental Impact Assessment Report ("the EIA Report") submitted by the Company and any other documentation and information lodged in support of the Application.

***Reason**: To ensure that the Development is carried out in accordance with the approved details.*

8. Submission and approval of plans

The Company must submit the requested plans as detailed in the conditions, in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with any such advisors or organisations as detailed in these conditions or as may be required at the discretion of the Scottish Ministers.

Any updates or amendments made to the approved plans must be submitted, in writing, to the Scottish Ministers for their written approval. The Development must, at all times, be constructed and operated in accordance with the approved plans.

***Reason**: To ensure that the Development is constructed and operated in accordance with the approved details.*

9. Compliance with this consent

The Company must satisfy itself that all contractors or sub-contractors are aware of the extent of the Development for which this consent has been granted, the activity which is consented and the terms of the conditions attached to this

consent. All contractors and sub-contractors permitted to engage in the Development must abide by the conditions set out in this consent.

***Reason**: To ensure that the Development is constructed and operated in accordance with the approved details.*

10. Construction Programme

The Company must, no later than six months prior to the Commencement of the Development, submit a Construction Programme ("CoP"), in writing, to the Scottish Ministers for their written approval. Commencement of the Development cannot take place until such approval is granted. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot, Civil Aviation Authority ("CAA"), Ministry of Defence ("MOD"), and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

The CoP must set out:

a. The proposed date for Commencement of the Development;
b. The proposed timings for mobilisation of plant and delivery of materials, including details of onshore lay-down areas;
c. The proposed timings and sequencing of construction work for all elements of the Development infrastructure;
d. Contingency planning for poor weather or other unforeseen delays; and
e. The scheduled date for Final Commissioning of the Development.

The Company must send the approved CoP to The Highland Council, Maritime and Coastguard Agency ("MCA") and Northern Lighthouse Board ("NLB") for information only.

***Reason**: To confirm the timing and programming of construction.*

11. Construction Method Statement

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

The CMS must include, but not be limited to:

a. Details of the commencement dates, duration and phasing for the key elements of construction, the working areas, the construction procedures and good working practices for installing the Development.
b. Details of the roles and responsibilities, chain of command and contact details of company personnel, any contractors or sub-contractors involved during the construction of the Development.
c. Details of how the construction related mitigation steps proposed in the Application are to be delivered.

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 Cable Plan ("CaP") and the Lighting and Marking Plan ("LMP").

The final CMS must be sent to the Highland Council for information only.

Reason: To ensure the appropriate construction management of the Development, taking into account mitigation measures to protect the environment and other users of the marine area.

12. Environmental Management Plan

The Company must, no later than six months prior to the Commencement of the Development, submit an EMP, in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot, Royal Society for the Protection of Birds Scotland ("RSPB Scotland"), and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

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

a. All construction as required to be undertaken before the Final Commissioning of the Development; and

b. The operational lifespan of the Development from the Final Commissioning of the Development until the cessation of electricity generation (environmental management during decommissioning is addressed by the Decommissioning Programme provided for by condition 3).

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

a. Mitigation measures to prevent significant adverse impacts to environmental interests, as identified in the Application and pre-consent and pre-construction monitoring or data collection, and include reference to relevant parts of the CMS (refer to condition 11);

b. A pollution prevention and control method statement, including contingency plans;

c. Management measures to prevent the introduction of invasive non-native marine species;

d. A site waste management plan (dealing with all aspects of waste produced during the construction period), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment. Wherever possible the waste hierarchy of reduce, reuse and recycle should be encouraged; and

e. The reporting mechanisms that will be used to provide the Scottish Ministers and relevant stakeholders with regular updates on construction activity, including any environmental issues that have been encountered and how these have been addressed.

The EMP must be regularly reviewed by the Company at intervals agreed by the Scottish Ministers. Reviews must include, but not be limited to, the reviews of updated information on construction methods and operations of the Development and updated working practices.

The 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 Project Environmental Monitoring Programme ("PEMP").

Reason: To ensure that all construction and operation activities are carried out in a manner that minimises their impact on the environment, and that mitigation measures contained in the Application, or as otherwise agreed are fully implemented.

13. Vessel Management Plan

The Company must, no later than six months prior to the Commencement of the Development, submit a VMP, in writing, to the Scottish Ministers for their written approval. Commencement of the Development cannot take place until such approval is granted. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot, MCA, Scottish Fishermen's Federation ("SFF") and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

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

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

b. How vessel management will be coordinated, particularly during construction, but also 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 and operation of the Development.

The confirmed individual vessel details must be notified to the Scottish Ministers in writing no later than 14 days prior to the Commencement of the Development, and thereafter, any changes to the details supplied must be notified to the Scottish Ministers, as soon as practicable, prior to any such change being implemented in the construction or operation of the Development.

The VMP 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 aggregations of birds on the water.

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.

***Reason**: To mitigate the impact of vessels.*

14. Operation and Maintenance Programme

The Company must, no later than three months prior to the Final Commissioning of the Development, submit an Operation and Maintenance Programme

("OMP"), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot, MCA, NLB, The Highland Council and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

The OMP must set out the procedures and good working practices for operations and the maintenance of the WTGs and substructure of the Development. 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 CMS, the EMP, the PEMP, the VMP, the NSP and the LMP.

The Company must send the approved OMP to The Highland Council for information only.

***Reason**: To safeguard environmental interests during operation and maintenance of the Development.*

15. Navigational Safety Plan

The Company must, no later than six months prior to the Commencement of the Development, submit an NSP, in writing, to the Scottish Ministers for their written approval. Commencement of the Development cannot take place until such approval is granted. Such approval may only be granted following consultation by the Scottish Ministers with MCA, NLB, Royal Yachting Association ("RYA"), SFF and any other navigational advisors or organisations as may be required at the discretion of the Scottish Ministers.

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

a. Navigational safety measures;
b. Construction exclusion zones;
c. Notice(s) to mariners and radio navigation warnings;
d. Anchoring areas;
e. Temporary construction lighting and marking;
f. Buoyage.

***Reason**: To mitigate the navigational risk to other legitimate users of the sea.*

16. Lighting and Marking Plan

The Company must, no later than six months prior to the Commencement of the Development, submit an LMP, in writing, to the Scottish Ministers for their written approval. Commencement of the Development cannot take place until such approval is granted. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot, MCA, NLB, CAA, MOD, RYA, the Highland Council, and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

The LMP must provide that the Development be lit and marked in accordance with the current CAA and MOD aviation lighting policy and guidance that is in place as at the date of the Scottish Ministers approval of the LMP, or any such other documents that may supersede this guidance prior to the approval of the LMP. Consideration should be given in the LMP to reducing the luminous

intensity of aviation lighting in certain visibility conditions but only where this is in accordance with the current CAA and MOD aviation lighting policy and guidance that is in place. The LMP must define how the Development will be lit throughout its life to maintain civil and military aviation safety requirements as determined necessary for aviation safety by the MOD and, accordingly, must set out:

a) details of any construction equipment and temporal structures with a total height of 50m or greater (above mean sea level) that will be deployed during the construction of the Development and details of any aviation warning lighting that they will be fitted with; and
b) the locations and heights of the WTGs featured in the Development identifying those that will be fitted with aviation warning lighting identifying the position of the lights on the WTGs, the type(s) of lights that will be fitted and the performance specification(s) of the lighting type(s) to be used.

The LMP must also detail the navigational lighting requirements detailed in the International Association of Marine Aids to Navigation and Lighthouse Authorities ("IALA") Guideline G-1162 or any other documents that may supersede this guidance prior to approval of the LMP.

***Reason**: To ensure civil and military aviation and navigational safety and the safe marking and lighting of the Development.*

17. Project Environmental Monitoring Programme

The Company must, no later than six months prior to the Commencement of the Development, submit a PEMP, in writing, to the Scottish Ministers for their written approval. Commencement of the Development cannot take place until such approval is granted. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot, RSPB Scotland and any other environmental advisors or organisations as required at the discretion of the Scottish Ministers. The PEMP must be in accordance with the Application as it relates to environmental monitoring.

The PEMP must set out measures by which the Company must monitor the environmental impacts of the Development. Monitoring is required throughout the lifespan of the Development where this is deemed necessary by the Scottish Ministers. Lifespan in this context includes pre-construction, construction, operational and decommissioning phases.

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

Monitoring must be done in such a way so as to ensure that the data which is collected allows useful and valid comparisons between different phases of the Development. Monitoring may also serve the purpose of verifying key predictions in the Application. In the event that further potential adverse environmental effects are identified, for which no predictions were made in the Application, the Scottish Ministers may require the Company to undertake additional monitoring.

The PEMP must cover the following matters:

a) monitoring or data collection for impact on seabirds
b) monitoring for impacts on marine mammals
c) monitoring for impacts on benthic ecology
d) Post-construction monitoring on Electromagnetic Fields ("EMF") produced by the constructed cables.
e) The Company's contribution to data collection or monitoring of wider strategic relevance, including in relation to diadromous fish, as identified and agreed by the Scottish Ministers.

In relation to EMF, the Company must monitor and provide a report on the EMF produced by the works to the Scottish Ministers. The Company must agree the methodologies and timescales for monitoring with the Scottish Ministers prior to the Commencement of the Development as part of wider strategic monitoring on EMF. Any agreement must be adhered to unless otherwise agreed and approved by the Scottish Ministers.

The requirement for monitoring pre-construction, during construction and post-construction in relation to the above receptors must be agreed by the Scottish Ministers.

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 Company to address any of the above issues may be used in part to discharge this condition subject to the written approval of the Scottish Ministers.

The PEMP is a live document which will be regularly reviewed by the Scottish Ministers, at timescales to be determined by them to identify the appropriateness of on-going monitoring. Following such reviews, the Scottish Ministers may require the Company to amend the PEMP and submit such an amended PEMP, in writing, to the Scottish Ministers, for their written approval. Such approval may only be granted following consultation with NatureScot and any other environmental, or such other advisors as may be required at the discretion of the Scottish Ministers.

The Company must submit written reports and associated raw and processed data of such monitoring or data collection to the Scottish Ministers 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 Scottish Ministers, or any such other party appointed at the Scottish Ministers' discretion, may make the results publicly available.

The Scottish Ministers may agree, in writing, that monitoring may be reduced or ceased before the end of the lifespan of the Development.

***Reason**: To ensure that appropriate and effective monitoring of the impacts of the Development is undertaken.*

18. Cable Plan

The Company must, no later than six months prior to the Commencement of the Development, submit an updated CaP, in writing, to the Scottish Ministers for their written approval. Commencement of the Development cannot take place until such approval is granted. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot, MCA, SFF, and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers. The CaP must be in accordance with the Application.

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

a) The location, duration and cable laying techniques for cables;
b) The results of monitoring or data collection work (including geophysical, geotechnical and benthic surveys) which will help inform cable routing;
c) Technical specification of the cables, including a desk based assessment of attenuation of electro-magnetic field strengths and shielding;
d) A Cable Burial Risk Assessment ("CBRA") to ascertain burial depths and where necessary alternative protection measures;
e) Methodologies for post construction and operational surveys (e.g. over trawl) of the cables where mechanical protection of cables laid on the sea bed is deployed; and
f) Methodologies for cable inspection with measures to address and report to the Scottish Ministers any exposure of cables.

Any consented cable protection works must ensure 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.

19. Fisheries Management and Mitigation Strategy

The Company must no later than six months prior to the Commencement of the Development, submit an FMMS, in writing, to the Scottish Ministers for their written approval, in consultation with SFF. Commencement of the Development cannot take place until such approval is granted.

In order to inform the production of the FMMS, the Company must monitor or collect data as relevant and agreed with the Scottish Ministers.

As part of any finalised FMMS, the Company must produce and implement a mitigation strategy for each commercial fishery that can prove to the Scottish Ministers that they would be adversely affected by the Development. The Company and any contractors or sub-contractors working for the Company must implement the mitigation measures committed to be carried out by the Company within the FMMS.

***Reason**: To mitigate the impact on commercial fisheries.*

20. Protocol for Archaeological Discoveries

The Company must, no later than six months prior to the Commencement of the Development, submit an updated Protocol for Archaeological Discoveries ("PAD") and Written Scheme of Investigation ("WSI") which sets out what the Company must do on discovering any marine archaeology during the construction, operation, maintenance, and monitoring of the Development, in writing, to the Scottish Ministers for their written approval. Commencement of the Development cannot take place until such approval is granted. Such approval may be given only following consultation by the Scottish Ministers with Historic Environment Scotland ("HES") and any such advisors as may be required at the discretion of the Scottish Ministers. The Reporting Protocol must be implemented in full, at all times, by the Company.

The Company must send the approved PAD and WSI to the Highland Council for information only.

***Reason**: To ensure any discovery of archaeological interest is properly and correctly reported.*

21. Particle Management Plan

Not later than six months prior to the commencement of the works, a Particles Management Plan ("PMP") shall be submitted to the Scottish Ministers for their written approval in consultation with the Scottish Environment Protection Agency ("SEPA");

The PMP shall be consistent with the Application and supporting documents and shall include, but not be limited to, the following:

a. A programme of scheduled monitoring for radioactive particles;
b. The measures to be taken to reduce the likelihood of irradiated fuel particles in sediment being suspended or disturbed; and
c. A waste management plan for the construction phase of the development.

There shall be no Commencement of the Development unless and until the PMP is approved in writing by the Scottish Ministers, in consultation with SEPA;

Any proposed amendment to the approved PMP shall be submitted, in writing, to the Scottish Ministers for its written approval, in consultation with SEPA. The proposed amendment shall be submitted to the Scottish Ministers no later than 6 months prior to the anticipated implementation of the proposed amendment (or such shorter period as may be agreed with the Scottish Ministers in writing). No amendment to the PMP shall take effect unless and until approved in writing by the Scottish Ministers in consultation with SEPA;

The PMP and any amended PMP shall thereafter be implemented in full.

22. Television and Radio Reception Mitigation Plan

The Company must, no later than six months prior to the Commencement of the Development, submit a Radio and Television Reception Mitigation Plan to the Scottish Ministers for approval, in consultation with the Highland Council. The Radio and Television Reception Mitigation Plan shall provide for a baseline radio and television reception survey to be carried out prior to the installation of any turbine forming part of the Development. The results of the baseline radio

and television reception survey shall be submitted to the Highland Council prior to the installation of any turbine forming part of the Development.

The approved Radio and Television Reception Mitigation Plan shall be implemented in full.

Any claim by any person regarding radio or television interference at their house, business premises or other building, made during the period from installation of any turbine forming part of the Development to the date falling twelve months after the Date of Final Commissioning shall be investigated by a qualified engineer and the results of the investigation shall be considered against the approved plan and submitted to the Highland Council.

Should any impairment to the radio or television signal be attributable to the Development, the impairment shall be remedied so that the standard of reception at the affected property is equivalent to the baseline radio or television reception.

Reason: To mitigate any potential impacts on radio and television reception.

23. Noise Measurement and Mitigation Scheme

1. The rating level of noise immissions from the combined effects of the wind turbines forming part of the Development (including the application of any tonal penalty) when determined in accordance with the Highland Council guidance notes for this condition shall not exceed a value of 34 dB LA90,10 minute at any dwelling which is lawfully existing or has planning permission at the date of this consent.

2. The Company shall continuously log power production, wind speed and wind direction. These data shall be retained for a period of not less than 24 months. The Company shall provide this information to the Scottish Ministers within 14 days of receipt in writing of a request to do so.

3. Prior to the Date of First Commissioning, the Company shall have submitted to, and received written approval of the Scottish Ministers, in consultation with the Highland Council, to an updated predictive noise assessment based on the final turbine model(s) to be installed, based on noise emission data from the turbine manufacturer.

4. Within 21 days from receipt of a written request from the Scottish Ministers following a complaint sent to them from the Highland Council, informing of an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall, at its expense, employ a consultant to assess the level of noise immissions from the wind farm at the complainant's property. The written request from the Scottish Ministers shall set out at least the date, time and location to which the complaint relates and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Scottish Ministers, in consultation with the Highland Council, the noise giving rise to the complaint contains or is likely to contain a tonal component.

5. The assessment of the rating level of noise immissions in terms of paragraph (4) above shall be undertaken in accordance with an assessment protocol

that shall previously have been submitted to and approved in writing by the Scottish Ministers, in consultation with the Highland Council. The protocol shall include at least the proposed measurement location(s) where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Scottish Ministers under paragraph (4) above.

6. The Company shall provide to the Scottish Ministers the independent consultant's assessment of the rating level of noise immissions within two months of the date of the written request of the Scottish Ministers for compliance measurements to be made under paragraph (4), unless the time limit is extended in writing by the Scottish Ministers. Certificates of calibration of the instrumentation used to undertake the measurements shall be submitted to the Scottish Ministers with the independent consultant's assessment of the rating level of noise immissions.

7. Where a further assessment of the rating level of noise immissions from the wind farm is required, the Company shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (4) above unless the time limit has been extended in writing by the Scottish Ministers.

***Reason**: In the interests of safeguarding residential amenity, to protect nearby residents from undue noise and disturbance, to enable prompt investigation of complaints and to ensure that noise levels can be measured to assess whether or not agreed noise limits have been breached and where such noise limits have been breached, suitable mitigation is undertaken.*

24. Development Specification and Layout Plan

The Company must, no later than six months prior to the Commencement of the Development, submit a Development Specification and Layout Plan ("DSLP"), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with the MCA, NLB, NatureScot, MOD, CAA, SFF, the UK Hydrographic Office ("UKHO"), the Highland Council, and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

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

a. A plan showing the location of 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 and any key constraints recorded on the site;

b. A list of latitude and longitude co-ordinates accurate to three decimal places of minutes of arc for each WTG. This should also be provided as a Geographic Information System ("GIS") shape file using WGS84 format;

c. The grid coordinates of the centre point of the proposed location for each WTG;
d. A table or diagram of each WTG dimensions including - height to blade tip (measured above Lowest Astronomical Tide ("LAT")) to the highest point, height to hub (measured above LAT to the centreline of the generator shaft), rotor diameter and maximum rotation speed;
e. The generating output of each WTG used on the site (Figure 1) and a confirmed generating output for the site overall;
f. The finishes for each WTG (see condition 16 on WTG lighting and marking); and
g. The length and proposed arrangements on the seabed of all inter-array cables.

Reason: To confirm the final Development specification and layout.

25. Design Statement

The Company must, no later than six months prior to the Commencement of the Development, submit a DS, in writing, to the Scottish Ministers. The DS, which must be signed off by at least one qualified landscape architect, as instructed by the Company prior to submission to the Scottish Ministers, must include representative wind farm visualisations from key viewpoints as agreed with the Scottish Ministers, based upon the final DSLP as approved by the Scottish Ministers as updated or amended. The Company must provide the DS, for information only, to the Highland Council, NatureScot, MCA and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

Reason: To ensure that the Development is carried out in accordance with the approved details, and to inform interested parties of the final wind farm scheme proposed to be built.

26. Piling Strategy

If piling is to be undertaken, the Company must, no later than six months prior to the Commencement of the Development, submit a PS, in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot, and any such other advisors as may be required at the discretion of the Scottish Ministers. Commencement of the Development cannot take place until such approval is granted.

The PS must include, but not be limited to:

a) Details of expected noise levels from pile-drilling/driving in order to inform point d) below;
b) Full details of the proposed method and anticipated duration of piling to be carried out at all locations;
c) Details of soft-start piling procedures and anticipated maximum piling energy required at each pile location; and
d) Details of any mitigation such as Passive Acoustic Monitoring ("PAM"), Marine Mammal Observers ("MMO"), use of Acoustic Deterrent Devices ("ADD") and monitoring to be employed during pile-driving, as agreed by the Scottish Ministers.

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 cetaceans, harbour seal, grey seal and Atlantic salmon. The PS must, so far as is reasonably practicable, be consistent with the EMP, the PEMP, and the CMS.

Reason: To mitigate the underwater noise impacts arising from piling activity.

27. Environmental Clerk of Works

Prior to the Commencement of the Development, the Company must at its own expense, and with the approval of the Scottish Ministers in consultation with 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 consent to the Scottish Ministers, in sufficient time for any pre-construction monitoring requirements, and remain in post until a date agreed by the Scottish Ministers. The terms of appointment must also be approved by the Scottish Ministers 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 and programmes required under this marine licence;

b. Responsible for the monitoring and reporting of compliance with the marine licence conditions and the environmental mitigation measures for all wind farm infrastructure;

c. Provision of on-going advice and guidance to the Company in relation to achieving compliance with 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 Scottish Ministers at timescales to be determined by the Scottish Ministers;

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 Development is being constructed in accordance with the plans and this consent, 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 Scottish Ministers; and

h. Agreement of a communication strategy with the Scottish Ministers.

28. Fisheries Liaison Officer

Prior to the Commencement of the Development, a Fisheries Liaison Officer ("FLO"), must be appointed by the Company and approved, in writing, by the Scottish Ministers, following consultation with SFF. The FLO must be appointed by the Company for the period from Commencement of the Development until the Final Commissioning of the development. The identity and credentials of the FLO must be included in the EMP (referred to in condition 12). The FLO must establish and maintain effective communications between the Company, any contractors or sub-contractors, fishermen and other users of the sea during the

construction of the Development and ensure compliance with best practice guidelines whilst doing so.

The responsibilities of the FLO must include:

a. Establishing and maintaining effective communications between the Company, any contractors or sub-contractors, fishermen and other users of the sea concerning the overall Development and any amendments to the EMP and site environmental procedures;

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

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

DEFINITIONS AND GLOSSARY OF TERMS

“the Application” means the Application letter, marine licence applications and EIA Report including appendices submitted to the Scottish Ministers by Highland Wind Limited on 11 August 2022;

“AA” means Appropriate Assessment;

“Commencement of the Development” means the date on which the first construction activity occurs in accordance with the EIA Report submitted by the Company on 11 August;

“HWL” or “the Company” means Highland Wind Limited, 4th Floor 115 George Street, Edinburgh, Midlothian, Scotland, EH2 4JN, Company Number: SC675148;

“the Development” means the Highland Wind Floating Offshore Wind Farm, approximately 7.5 kilometres (“km”) off the coast of Dounreay, Caithness as described in Annex 1;

“ADD” means Acoustic Deterrent Devices;

“BWM” means Ballast Water Management;

“CaSPlan” means The Caithness and Sutherland Local Development Plan 2018;

“CLO” means Community Liaison Officer;

“CREW” means Centre of Expertise for Waters;

“ECoW” means Environmental Clerk of Works;

“EIA” means Environmental Impact Assessment;

“EIA Report” means Environmental Impact Assessment Report;

“EMF” means Electromagnetic Field;

“FIR” means Fisheries Industry Representative;

“FLO” means Fisheries Liaison Officer;

“FTE” means Full Time Equivalent;

“GVA” means Gross Added Value;

“HRA” means Habitats Regulations Appraisal;

“HAT” means Highest Astronomical Tide;

“HPAI” means Highly Pathogenic Avian Influenza;

“km” means kilometres;

“km^2” means squared kilometres;

“LSE” means Likely Significant Effect;

“m” means metres;

“MGN 654” means Marine Guidance Note 654;

“MMO” means Marine Mammals Observers;

“mINNS” means Marine Invasive Non-Native Species;

“MPA” means Marine Protected Area;

“MW” means megawatt;

“NSA” means National Scenic Areas;

“NRTE” means Naval Reactor Test Establishment;

“PAC” means Pre-Application Consultation;

“PAM” means Passive Acoustic Monitoring;

“PI” means Public Inquiry;

“PTS” means Permanent Threshold Shift;

“PVA” means Population Viability Assessment;

“s.36” means Section 36 of the Electricity Act 1989;

“s.36A” means Section 36A of the Electricity Act 1989;

“SAC” means Special Area of Conservation;

“SAR” means Search and Rescue;

“ScotMER” means Scottish Marine Energy Research;

“SLA” means Special Landscape Areas;

“SLVIA” means Seascape, Landscape and Visual Impact Assessment;

“SPA” means Special Protected Area;

“SSSI” means Site of Special Scientific Interest;

“UXO” means Unexploded Ordnance;

“WLA” means Wild Land Areas;

“WTG” means Wind Turbine Generator.

Organisations and Companies

“BT” means British Telecommunications;

“CAA” means Civil Aviation Authority;

“DAERA” means Department of Agriculture, Environment and Rural Affairs;

“DSFB” means District Salmon Fishery Board;

“HIAL” means Highlands and Islands Airports Limited;

“HES” means Historic Environment Scotland;

“EU” means European Union;

“MAU” means Marine Analytical Unit;

“MCA” means Maritime and Coastguard Agency;

“MOD” means Ministry of Defence;

“MD-LOT” means Marine Directorate – Licensing Operations Team (previously known as “MS-LOT”, Marine Scotland – Licensing Operations Team);

“MSS” means Marine Scotland Science;

“NDA” means Nuclear Decommissioning Authority;

“NLB” means Northern Lighthouse Board;

“RSPB” means Royal Society for the Protection of Birds;

“RYA” means Royal Yachting Association;

“SEPA” means Scottish Environmental Protection Agency;

“SFF” means Scottish Fishermen’s Federation;

“UKCoS” means United Kingdom Chamber of Shipping;

Plans, Programmes and Statements

“CaP” means Cable Plan;

“CBRA” means Cable Burial Risk Assessment;

“CMS” means Construction Method Statement;

“CoP” means Construction Programme;

“DS” means Design Statement;

“DSLP” means Development Specification and Layout Plan;

“EMP” means Environmental Management Plan;

“FMMS” means Fisheries Management and Mitigation Strategy;

“LMP” means Lighting and Marking Plan;

“NMP” means National Marine Plan;

“NPF3” means Scotland’s National Planning Framework 3;

“NPF4” means Scotland’s National Planning Framework 4;

“NSP” means Navigational Safety Plan;

“OMP” means Operation and Maintenance Programme;

“PAD” means Protocol for Archaeological Discoveries;

“PEMP” means Project Environmental Management Plan;

“PMP” means Particles Management Plan;

“PS” means Piling Strategy;

“VMP” means Vessel Management Plan;

“WSI” means Written Scheme of Investigation.

Legislation

“the Electricity Act” means the Electricity Act 1989;

“the Habitats Regulations” means the Conservation (Natural Habitats, & c.) Regulations 1994 and the Conservation of Habitats and Species Regulations 2017;

“the 2017 EW Regulations” means the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017;

“the 2017 MW Regulations” means the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017.