

10 July 2025

Marine Directorate Licencing Operation Team
Scottish Government
375 Victoria Road
Aberdeen AB11 9DB

Dear MD-LOT

Request for extension of consent granted by Scottish Ministers under Section 36 of the Electricity Act 1989 to construct and operate EMEC Fall of Warness site, adjacent to the island of Eday, Orkney

Please accept this letter as a request for a further extension to the Section 36 (S36) consent, granted in March 2016 to European Marine Energy Centre (EMEC) to operate the Fall of Warness (FoW) tidal test site.

A previous extension was granted for 3 years until March 2026 to allow additional time for the 50MW application process to complete. Unfortunately, more time is now required to complete the 50MW application process due to the requirement for two years bird survey data collection and continued discussions around marine mammal collision risk with NatureScot. It has been highlighted by NatureScot that these discussions are critical and should be concluded as much as possible before submission of the 50MW application which may delay the determination further.

Legislative Framework

Section 36 Variation: Section 36C of the Electricity Act 1989 ("the 1989 Act") provides powers to the Scottish Ministers to vary a Section 36 consent.

Background

EMEC currently holds a S36 consent for the Fall of Warness site in Eday which is valid until March 2026. EMEC is seeking an extension to the end date of their current S36 consent for another 2 years until March 2028. The current site activities lie



within the project envelope described within the 2014 Environmental Appraisal (EA) and this will not change over the next 2 years or until the 50MW section 36 consent is achieved. This, in turn, means there will be no change to the environmental impacts assessed in the original EIA.

To facilitate further technology development of this sector, EMEC are currently progressing work on developing a new EIA and S36 consent to expand their electrical capacity to 50 MW and expand the project envelope parameters. The extension to the end date of the current S36 will allow continued use of the site for developers in the tidal sector in the interim period.

Screening Request

A Screening request was submitted to MD-LOT during March 2025 and subsequently consulted on by statutory stakeholders. This process concluded that the Scottish Ministers are of the opinion that the proposal is not an EIA project under the 2017 EW Regulations and, therefore, an EIA is not required to be carried out in respect of the development.

EMEC would therefore like to submit this request to extend the sites consent to March 2028.

Yours sincerely

Donald Leaver
Environment and Consents Manager

Appendix A

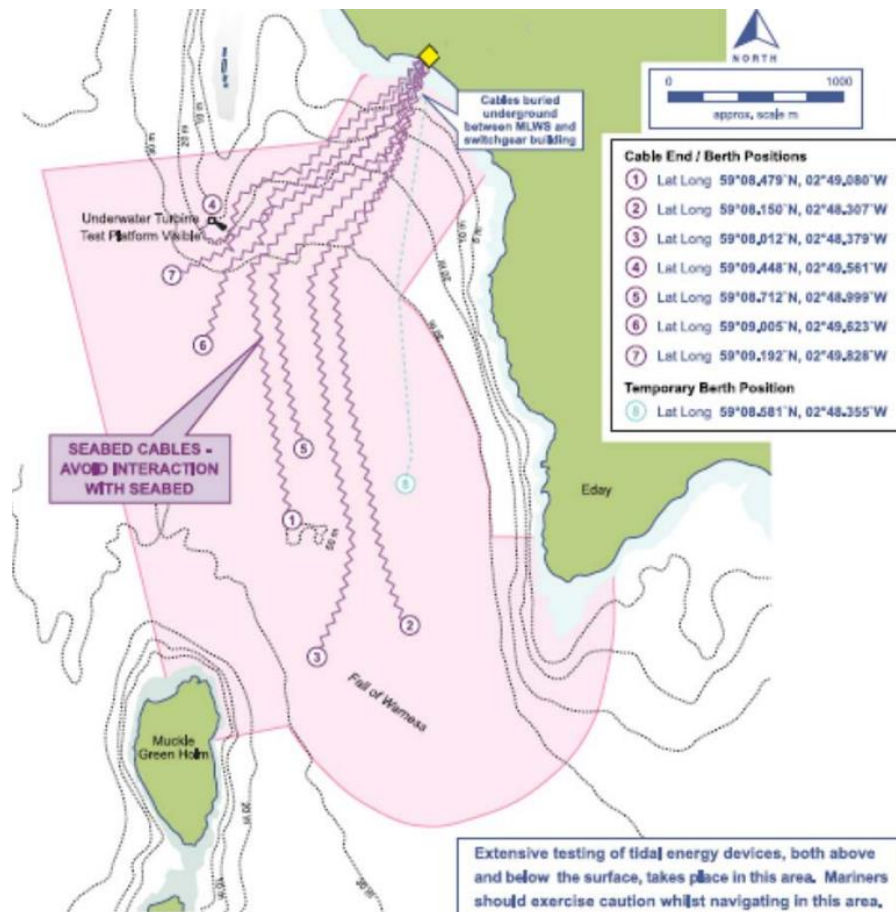
A variation application must be made in writing.

Please accept this letter as a variation request.

Describe the proposed development and identify the location of the proposed development by reference to a map

The Development, located as shown on the figure below, shall have a permitted generating capacity of up to 10 MW and shall comprise a tidal-powered electricity generator test station at the Fall of Warness, adjacent to the Island of Eday, Orkney, including a maximum potential of:

1. 18 rotors; on
2. 12 tidal energy devices; across
3. 9 berths
4. With an open rotor diameter of 25 m; or
5. an appropriately substituted annular blade diameter; and
6. a minimum depth of 2.5 m clearance from the sea surface.



A description of the location of the works and project envelope was provided within the 2014 Environmental Statement in Section 1.2, 1.3, and 1.4 which can be accessed here:

https://marine.gov.scot/sites/default/files/environmental_statement_1.pdf

Explain why it is proposed that the relevant section 36 consent should be varied.

Please find justification contained within this letter.

A draft of the variations which it is proposed should be made to the relevant section 36 consent.

EMEC wish to extend the consent by 2 years until March 2028.

EMEC therefore request that Annex 2, Part 1 – Conditions of the Section 36 Consent, 1. is varied to 'The consent is for a period from the date this consent is granted until the date occurring 12 years after the date of consent'.

Copies of any maps or plans not referred to in the relevant section 36 consent which it is proposed should be referred to in the relevant section 36 consent as so varied.

The site boundary and use of the site will remain the same as proposed in the original consent application.