

Mr Donald Leaver
The European Energy Centre Ltd.
The Charles Clouston Building
ORIC
Back Road
Stromness
Orkney
KW16 3AW

Date: 26 June 2025

Dear Mr Leaver,

SCREENING OPINION UNDER THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017

Thank you for your screening opinion request dated 22 April 2025 in regards to the proposed variation to the section 36 consent for the Fall of Warness tidal test site, granted in favour of the European Marine Energy Centre ("EMEC"), under section 36 of the Electricity Act 1989 ("the Proposed Development").

The consented Fall of Warness tidal test site was an Environmental Impact Assessment ("EIA") project therefore, the Scottish Ministers consider the Proposed Development to fall under paragraph 2 of schedule 2 of The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the 2017 EW Regulations"). Consequently, the Scottish Ministers are obliged to adopt a screening opinion as to whether the Proposed Development is an Environmental Impact Assessment ("EIA") project under the 2017 EW Regulations.

Under regulation 8(5) of the 2017 EW Regulations, the Scottish Ministers have consulted with NatureScot (formerly Scottish Natural Heritage), Orkney Islands Council and Historic Environment Scotland ("HES") as to their view on whether the Proposed Development is an EIA project. Copies of the consultation responses received are attached for your review (at Appendix I).

When making a determination as to whether schedule 2 works are an EIA project, the Scottish Ministers must provide their reasons in a written statement, taking into account the selection criteria set out in schedule 3 of the 2017 EW Regulations, as are relevant to the Proposed Development. This is set out below.

Characteristics of the works

EMEC was issued a section 36 consent for the operation of a tidal energy test centre at the Fall of Warness tidal test site, Orkney in December 2014 (subsequently varied in July 2022) with a total generating capacity of up to 10 megawatts ("MW"). The purpose of the section 36 consent is to allow developers wishing to test tidal devices with a capacity greater than

1MW to submit a marine licence application only, subject to the proposals being within the maximum parameters assessed in the relevant consented project envelope.

EMEC are currently progressing work on developing an EIA and application for a new section 36 consent to expand the parameters of the section 36 consent project envelope. The Proposed Development will seek to extend the validity of the section 36 consent for a further two years, from March 2026 to March 2028 to allow the continued operation of the Fall of Warness tidal test site in the interim. The Proposed Development does not seek any proposed change to the site location or boundary, extent of activities, or overall project envelope.

Location of the works

The Proposed Development is located at the Fall of Warness tidal test site, adjacent to the Island of Eday, Orkney and is located in close proximity to a number of designated sites, including North Orkney Special Protection Area (“SPA”) and Scapa Flow SPA.

With regard to the North Orkney and Scapa Flow SPA's, NatureScot referred to its previous advice issued on 28 June 2022 and confirmed that this remained applicable with respect to the Proposed Development.

Within the NatureScot advice of 28 June 2022, NatureScot advised that with respect to ornithology and the North Orkney SPA and Scapa Flow SPA, that at the time of determination of the section 36 consent, the North Orkney SPA and Scapa Flow SPA were not included for assessment as both were not subject to policy protection and considered draft SPAs at that time.

NatureScot concluded within its advice of 28 June 2022 that there would be no likely significant effect with respect to either the Scapa Flow SPA or North Orkney SPA nor any other designated sites, arising from the Proposed Development. The full advice can be found at Appendix 1.

Orkney Island Council advised that the Proposed Development forms part of the pre-designation baseline level of activity for the North Orkney and Scapa Flow SPAs and an assessment of likely significant effects on the features of these SPAs is not considered necessary.

Characteristics of the potential impact

NatureScot advised that the Proposed Development would not result in a likely significant effect with respect to either the Scapa Flow SPA or North Orkney SPA based on the Proposed Development not representing any proposed change to site location or boundary, extent of activities or overall project envelope of the section 36 consent. NatureScot concluded that since there are no other changes to designated sites, natural heritage interests or development projects in the vicinity of the Proposed Works, an EIA is not required.

HES stated that it did not identify any potentially significant effects on the historic environment and therefore gave no reason to consider the Proposed Development an EIA project.

Orkney Island Council agreed with the conclusion that the requirement for an assessment of population and human health is adequately covered by the existing assessment of socio-economic impacts and had no other comments on the Proposed Development.

Conclusion

In view of the findings above, the Scottish Ministers are of the opinion that the Proposed Development 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 Proposed Development.

If you increase, alter or extend the Proposed Development, you are advised to contact Marine Directorate - Licensing Operations Team again to confirm if the screening opinion is still valid.

A copy of the screening opinion has been forwarded to Orkney Islands Council planning department. The screening opinion has also been made publicly available through the [Marine Scotland Information website](#).

If you require any further assistance or advice on this matter, please do not hesitate to contact me.

Yours sincerely,

Anna Shenton

Marine Directorate - Licensing Operations Team