

Appropriate Assessment for Nova Innovations Ltd, Extended Shetland Tidal Array,
March 2018.

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**MARINE SCOTLAND LICENSING OPERATIONS TEAM'S ("MS-LOT")
ASSESSMENT OF THE PROJECT'S IMPLICATIONS FOR
DESIGNATED SPECIAL AREAS OF CONSERVATION ("SAC"),
SPECIAL PROTECTION AREAS ("SPA") AND PROPOSED SPECIAL
PROTECTION AREAS ("pSPA") IN VIEW OF THE SITES'
CONSERVATION OBJECTIVES.**

APPLICATION FOR A MARINE LICENCE UNDER THE MARINE (SCOTLAND) ACT
2010 FOR CONSTRUCTION AND OPERATION OF THE EXTENDED NOVA TIDAL
ARRAY, BLUEMULL SOUND, SHETLAND

SITE DETAILS: BLUEMULL SOUND, SHETLAND

Name	Assessor or Approver	Date
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SPECIAL AREAS OF CONSERVATION ("SAC"), SPECIAL PROTECTION AREAS
("SPA") AND PROPOSED SPECIAL PROTECTION AREAS ("pSPA") IN VIEW OF
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SHETLAND TIDAL ARRAY, BLUEMULL SOUND, SHETLAND

SECTION 1: BACKGROUND

1 Appropriate assessment ("AA") conclusion

- 1.1 This AA concludes that, based on the content of the following assessment, there will be no adverse effect on the site integrity of the Yell Sound Coast SAC, the Hermaness, Saxa Vord and Valla Field SPA, and the Bluemull and Colgrave Sounds pSPA from Nova Innovation Ltd's proposal either in isolation or in combination with other plans or projects.

2 Introduction

- 2.1 This is a record of the AA of Nova Innovation Ltd.'s proposal to construct and operate the extended Shetland Tidal Array within Bluemull Sound, Shetland. The assessment has been undertaken by Marine Scotland - Licensing Operations Team ("MS-LOT"). This assessment is required under Regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994 ("the Regulations"). This AA is in accordance with Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora ("the Habitats Directive") and Council Directive 2009/147/EC on the conservation of wild birds ("the Birds Directive"). MS-LOT, as the 'competent authority' under the Regulations, has to be satisfied that the project will not adversely affect the integrity of any European site (SACs, SPA and pSPA) before it can grant consent for the project.
- 2.2 A detailed AA has been undertaken and Scottish Natural Heritage ("SNH") has been consulted.

3 Background to including assessment of new SPAs

- 3.1 Scottish Ministers, as a 'competent authority' under the Regulations, must be satisfied that the proposal will not adversely affect the integrity of any

European site (SACs and SPAs, known as Natura sites) either alone or in combination with other plans or projects before authorisations can be given for the proposal.

- 3.2 In Scotland, Scottish Ministers are currently in the process of identifying a suite of new marine SPAs. In 2014 advice was received from the statutory nature conservation bodies (“SNCBs”) on the sites most suitable for designation and at this stage they became draft SPAs (“dSPAs”). Once Scottish Ministers have agreed the case for a dSPA to be the subject of a public consultation, the proposal is given the status of proposed SPA (“pSPA”) and receives policy protection, which effectively puts such sites in the same position as designated sites, from that point forward until a decision on classification of the site is made. This policy protection for pSPAs is provided by Scottish Planning Policy (paragraph 210), the UK Marine Policy Statement (paragraph 3.1.3) and Scotland’s National Marine Plan (paragraph 4.45).
- 3.3 It is not a legal requirement under the Habitats Directive or relevant domestic regulations for this assessment to assess the implications of the proposal on the pSPAs. The assessment includes an assessment of implications upon those sites in accordance with domestic policy. Scottish Ministers are also required to consider article 4(4) of the Birds Directive in respect of the pSPAs. The considerations under article 4(4) of the Birds Directive are separate and distinct to the considerations which must be assessed under this Habitats Directive assessment but they are, nevertheless, set out within this assessment (see paragraph 10.4).
- 3.4 In accordance with regulation 50 of the Regulations the Scottish Ministers will, as soon as reasonably practicable following the formal designation of the pSPAs, review their decisions if the proposal is authorised. This may include a supplementary AA being undertaken concerning the implications of the proposal on the sites as designated (as they are currently pSPAs their conservation objectives are currently in draft form, their conservation objectives are finalised at the point the sites are designated).

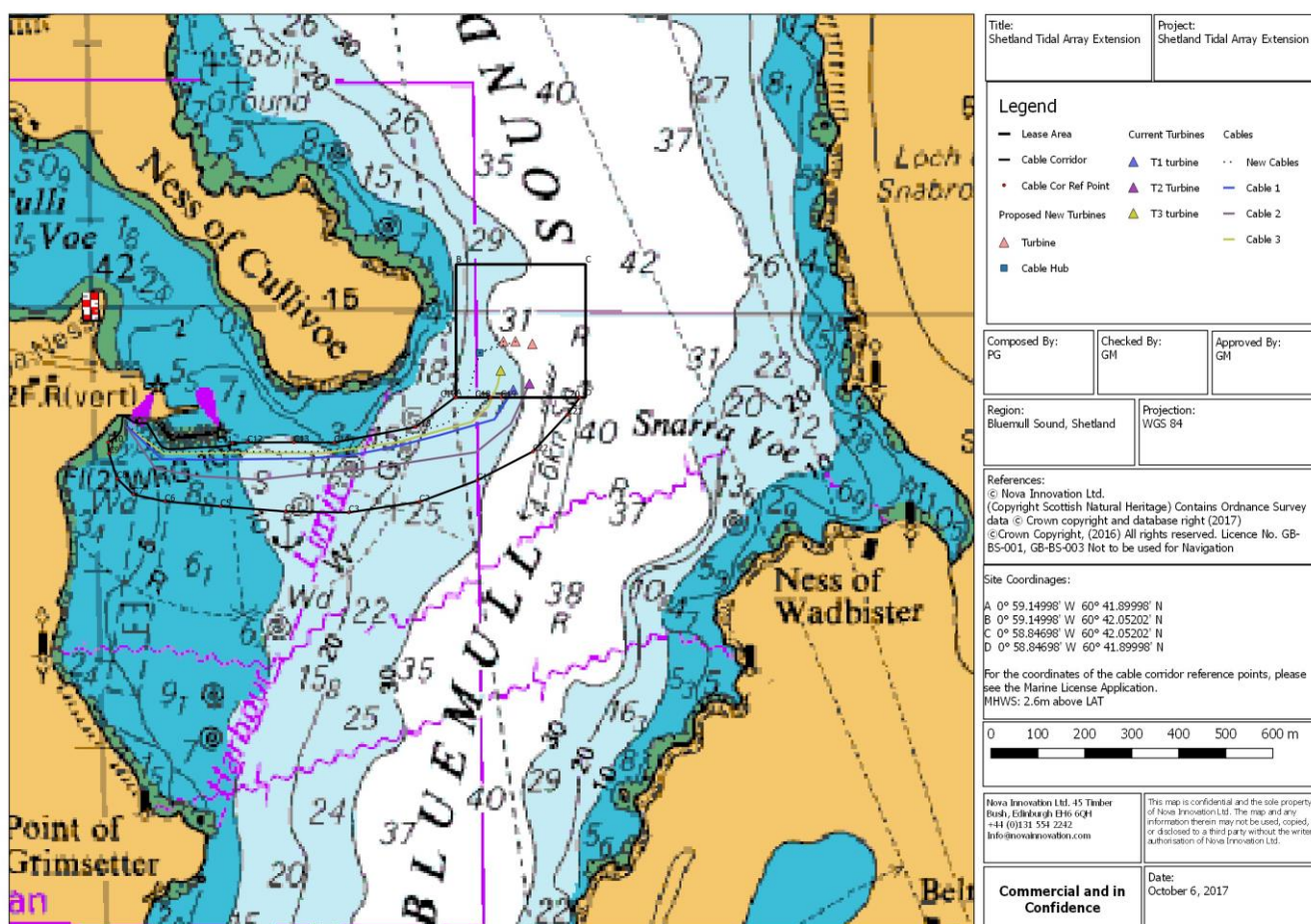
4 Details of proposed operation

- 4.1 The proposed full Shetland Tidal Array will consist of six 100 kW Nova M100 tidal turbines. A marine licence ([04859/15/1](#)) was previously granted, permitting the deployment of five turbines on the site however, so far only three of the turbines have been deployed. An [AA](#) was completed in 2015 in respect of the existing marine licence, the 2015 AA, however, did not include

an assessment of the pSPA as the site was not proposed as an SPA at the time of granting the existing marine licence.

- 4.2 The current proposal is to construct and operate an additional turbine (turbine six, during Q2 2020) within the same site and to allow for future reconfiguration of turbines four, five and six during Q1 2021 within the array area. The proposed operation also covers the maintenance and operation activities associated with the whole of the tidal array. Figure 1 shows the location of the Shetland Tidal Array and the proposed turbine layout.

Figure 1 Location of the Licence Boundary and Turbine Layout at the Shetland Tidal Array Site, Bluemull Sound, Shetland.



5 Consultation

- 5.1 Prior to consultation, discussion regarding the proposal together with the ongoing monitoring of the existing array, took place at a meeting on 26 January 2018 amongst MS-LOT, Shetland Island Council, SNH and Nova Innovations Ltd.

- 5.2 SNH subsequently provided updated collision risk assessments for the proposed six turbine array and included an assessment for the Bluemull and Colgrave Sounds pSPA.
- 5.3 SNH were consulted in respect of the proposal on 22 February 2018 and provided a response on 02 March 2018, which identified the requirement for an AA. This consultation response updated the advice SNH had previously provided in respect of the five turbines dated 24 June 2013, 27 August 2015 and 26 January 2016.
- 5.4 Whale and Dolphin Conservation were consulted in respect of the proposal on 22 February 2018 and provided a response on 16 March 2018, requesting that the sixth turbine only be consented once further evidence on the impacts of turbines four and five has been analysed. MS-LOT are however content as further monitoring of the turbines is ongoing.

6 Main points raised during consultation

- 6.1 SNH note that the proposal is likely to have a significant effect on harbour seals of the Yell Sound Coast SAC as the distance between the proposal site and Yell Sound Coast SAC is well within the foraging range of the harbour seals.
- 6.2 SNH also note that the proposal is likely to have a significant effect on the gannets, puffins, red throated divers, guillemots and shags of the Hermaness, Saxa Vord and Valla Field SPA and the qualifying interests of the Bluemull and Colgrave Sounds pSPA, namely for breeding red-throated diver. This is due to the risk of collision between birds with diving capabilities and the operational turbines.

SECTION 2: INFORMATION ON NATURA SITES

7 Background information and qualifying interests for the relevant Natura sites

- 7.1 This section provides links to the Scottish Natural Heritage Interactive (“SNHi”) website where the background information on the site being considered in this assessment is available. The qualifying interests for the site are listed as are the conservation objectives.

Table 1 Name of Natura site affected and current status

Yell Sound Coast SAC http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8409
Hermaness, Saxa Vord and Valla Field SPA http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=8512
Bluemull and Colgrave Sounds pSPA http://gateway.snh.gov.uk/sitelink/siteinfo.jsp?pa_code=10483

Table 2 European qualifying interests

Yell Sound Coast SAC <ul style="list-style-type: none">• Harbour seal (<i>Phoca vitulina</i>)• Otter (<i>Lutra lutra</i>)
Hermaness, Saxa Vord and Valla Field SPA <ul style="list-style-type: none">• Fulmar (<i>Fulmarus glacialis</i>)*• Gannet (<i>Morus bassana</i>)• Great skua (<i>Catharacta skua</i>)• Guillemot (<i>Uria aalge</i>)*• Kittiwake (<i>Rissa tridactyla</i>)*• Puffin (<i>Fratercula arctica</i>)• Red-throated diver (<i>Gavia stellata</i>)• Shag (<i>Phalacrocorax aristotelis</i>)*• Seabird assemblage <p>*indicates assemblage qualifier only</p>
Bluemull and Cosgrave Sounds pSPA – Birds <ul style="list-style-type: none">• Red-throated diver (<i>Gavia stellata</i>), breeding

Table 3 Conservation objectives

Yell Sound Coast SAC <ol style="list-style-type: none">To avoid the deterioration of the habitats of the qualifying species (listed above) orsignificant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features'
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And to ensure for the qualifying species that the following are maintained in the long term:

- iii. Population of the species as a viable component of the site,
- iv. Distribution of the species within site
- v. Distribution and extent of habitat supporting the species
- vi. Structure, function and supporting processes of habitats supporting the species, repeat of (ii)
No significant disturbance of the species.

Hermaness, Saxa Vord and Valla Field SPA

- i. To avoid the deterioration of the habitats of the qualifying species (listed above) or
- ii. significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained;

And to ensure for the qualifying species that the following are maintained in the long term:

- iii. Population of the species as a viable component of the site,
- iv. Distribution of the species within site
- v. Distribution and extent of habitat supporting the species
- vi. Structure, function and supporting processes of habitats supporting the species, repeat of (ii)
No significant disturbance of the species.

Bluemull and Cosgrave Sounds pSPA (draft conservation objectives)

The following conservation objectives are still in draft form and have not yet been agreed.

To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, subject to natural change, thus ensuring that the integrity of the site is maintained in the long-term and it continues to make an appropriate contribution to achieving the aims of the Birds Directive for each of the qualifying species.

This contribution will be achieved through delivering the following objectives for each of the site's qualifying features;

- a) Avoid significant mortality, injury and disturbance of the qualifying features, so that the distribution of the species and ability to use the site are maintained in the long-term;
- b) To maintain the habitats and food resources of the qualifying features in favourable condition.

SECTION 3: ASSESSMENT IN RELATION TO REGULATION 48 OF THE CONSERVATION (NATURAL HABITATS, &C.) REGULATIONS 1994

8 Requirement for appropriate assessment

Appropriate Assessment for Nova Innovations Ltd, Extended Shetland Tidal Array, March 2018.

- 8.1 *Is the operation directly connected with or necessary to conservation management of the site?*
- 8.2 The operation is not directly connected with or necessary to conservation management of the site.
- 8.3 *Is the operation likely to have a significant effect on the qualifying interest?*
- 8.4 *In their response dated 02 March 2018 SNH advised that the proposal would have a likely significant effect on:*

Yell Sound Coast SAC

- Harbour seal (*Phoca vitulina*)

Hermaness, Saxa Vord and Valla Field SPA

- Gannet (*Morus bassana*)
- Guillemot (*Uria aalge*)
- Puffin (*Fratercula arctica*)
- Red-throated diver (*Gavia stellata*)
- Shag (*Phalacrocorax aristotelis*)

Bluemull and Cosgrave Sounds pSPA – Birds

- Red-throated diver (*Gavia stellata*)

- 8.5 SNH advised that the distance between the proposal and the Yell Sound Coast SAC is well within the foraging range of harbour seals and therefore advised that there is likely to be a significant effect on this qualifying species.
- 8.6 SNH also advised that there is a risk of collision between birds and operational turbines however note that this is only relevant to birds with diving capabilities that may place them at risk of interaction with the devices. SNH advised therefore that there is likely to be a significant effect on gannets, puffins, red-throated divers, guillemots and shags from the Hermaness, Saxa Vord and Valla Field SPA as well as the qualifying interests of the Bluemull and Colgrave Sounds pSPA, being the breeding red-throated divers.
- 8.7 MS-LOT agree with this advice and have undertaken an AA for the Bluemull and Cosgrave Sounds pSPA, Yell Sound Coast SAC and Hermaness, Saxa Vord and Valla Field SPA for the qualifying interests listed above.
- 8.8 SNH further advised that due to the distances and depths involved with the proposal it would be unlikely that there would be connectivity with otters, a

qualifying interest of the Yell Sound Coast SAC. Consequently SNH advised that there is no likely significant effect upon otters. MS-LOT agrees with this advice and therefore has not considered this qualifying interest further.

8.9 SNH also advised that in respect conservation objective (ii) whilst the proposal would be within the foraging range of all of the breeding populations for the Hermaness, Saxa Vord & Valla Field SPA, there would be no likely significant effect in this regard due to the small scale of the proposal, the expected limited duration of the installation procedures and the distance from nesting sites.

8.10 MS-LOT agrees with this advice and therefore has not considered this conservation objective of the Hermaness, Saxa Vord and Valla Field SPA any further.

9 Appropriate assessment of the implications for the site in view of the site's conservation objectives.

9.1 MS-LOT have considered the advice provided by SNH on 24 June 2013, 27 August 2015, 15 August 2017 and 02 March 2018 to support this assessment.

9.2 Yell Sound Coast SAC

9.3 Consideration of conservation objective (ii) identified that there is a likely significant effect upon harbour seals as a qualifying feature, in relation to potential disturbance and displacement of seals and potential collision with operational tidal turbines. SNH considered the following aspects of the proposal;

- the construction methods;
- construction timescales;
- type of vessels to be utilised;
- outputs from collision risk modelling as compared to 2015 (CRM);
- outputs from the ongoing underwater camera monitoring;
- the commitment by Nova Innovations Ltd to continue to conduct further CRM; and
- the implementation of the emergency shutdown protocol in the event of any collisions.

9.4 SNH concluded that, based on consideration of the factors above, there will be no adverse effect on the integrity of the Yell Sound Coast SAC according to its conservation objectives.

9.5 Hermaness, Valla Ford and Saxa Field SPA

9.6 SNH advised that consideration needed to be given to conservation objectives (i), (ii) and (iii) listed above.

9.7 Objective (ii) is concerned with ensuring that there is no significant disturbance of species designated as qualifying interests (e.g. through vessel activity or other activities). SNH advised that, although the proposal would be within foraging range of the above listed breeding populations, there is no likely significant effect in this regard due to the small scale of the development and the expected limited duration for installation procedures and the distance from nesting sites.

9.8 Consideration of objective (iii) identified the risk of collision between birds and operational turbines – relevant only to birds with diving capabilities placing them at risk of interaction with the devices. As such, SNH concluded that there is a likely significant effect for gannets, puffins, red-throated divers, guillemots and shags from Hermaness, Saxa Vord and Valla Field SPA.

9.9 Bluemull and Cosgrave Sounds pSPA

9.10 Consideration of conservation objective (a) identified the risk of collision between red-throated divers and operational turbines which may place them at risk of interaction with the device.

9.11 As such, SNH concluded that there is a likely significant effect for breeding red-throated divers from Bluemull and Cosgrave Sounds pSPA.

9.12 Consideration of conservation objective (b) concluded that there would no likely significant effect on the foraging range of the breeding population of the pSPA due to the small scale of the development relative to available habitats and food resources within the pSPA.

9.13 Collision Risk Modelling – Hermaness, Saxa Vord and Valla Field SPA and Bluemull and Cosgrave Sounds pSPA

9.14 SNH provided an [appraisal of the potential collision risk](#) impacts for the Hermaness, Saxa Vord & Valla Field SPA and Bluemull and Cosgrave

Sounds pSPA within their advice. The collision risk estimates are of a magnitude similar to the previous predictions (as presented in the 2015 AA) and SNH consider that their previous advice of 24 June 2013 (as updated on 15 August 2017) remains valid.

- 9.15 SNH concluded that, based on the updated collision risk models, the collision rates will not lead to an adverse effect on site integrity for the SAC, SPA or pSPA.
- 9.16 MS-LOT, therefore, conclude that the development alone will not have an adverse effect on site integrity for the Hermaness, Saxa Vord and Valla Field SPA, Yell Sound Coast SAC or the Bluemull and Cosgrave Sounds pSPA.

10 In-combination assessment

10.1 MS-LOT are aware of the following activities which currently have a marine licence and where LSE was identified on the qualifying interests of the relevant Yell Sound Coast SAC, Hermaness, Saxa Vord and Valla Field SPA and Bluemull and Cosgrave Sounds pSPA:

10.2 Yell Sound Coast SAC

10.3 *Seal Licensing – SMRU Research*

10.4 The current licence (which expires on 31/01/2019) is for the taking of seals for scientific, research or educational purposes across the whole of Scotland. The AA concluded that the activities would not adversely affect the integrity of any SPAs or SACs provided the conditions within the licence are adhered to (which prevent the taking harbour seals during the breeding season or in any one location for a period exceeding three consecutive days).

10.5 *Seal Licensing – Shetland*

10.6 The current licences (which expire on 31/01/2019) are for the shooting of seals as a last resort means of predator control at various locations. Fish farm companies and organisations responsible for the protection of river fisheries and netting stations can apply for licences to shoot seals as a last resort means of predator control to protect the health and welfare of farmed fish or to prevent serious damage to fisheries. Three separate licences were issued for locations where the shooting of seals could have a likely significant effect on the SAC, permitting a total of three seals to be shot.

- 10.7 The AA concluded that the activities would not adversely affect the integrity of the SAC provided that the conditions within the licences are adhered to and that the number of common seals that can be shot as a last resort means of predator control are limited to the lower maximum figure (of three seals). Licence conditions prevent the shooting of seals within 50 km of the SAC and the shooting of seals while hauled out on land and shooting is only permitted at fish farm sites currently stocked with aquaculture animals.
- 10.8 Hermaness, Saxa Vord and Valla Field SPA
- 10.9 *Dounreay Tri Floating Demonstration Project (Hexicon)*
- 10.10 The current licence (which expires on 16/03/2037) is for a demonstration floating offshore wind farm consisting of the following;
- A two turbine offshore wind farm with an installed capacity of between 8 to 12 megawatts (MW), at least 6km off Dounreay, Caithness;
 - A single, 33kV, export cable to bring the power to shore immediately to the west of the Dounreay Restoration Site fence line; and
 - Subject to a Connection Offer from Scottish and Southern Energy Power Distribution (SSEPD), the associated onshore electrical infrastructure to connect the Project at, or near, the existing substation at Dounreay.
- 10.11 The main offshore components will include:
- Two offshore wind turbines;
 - A floating foundation;
 - Mooring clump weight;
 - Mooring chain and/or steel lines;
 - Drag embedment anchors;
 - One cable to bring the renewable electricity ashore; and
 - Scour protection for the anchors and the export cable, where necessary.
- 10.12 A full project description can be found [here](#). The company behind this development has gone into administration and presently the project is 'on hold'. Although there is interest from other organisations in buying the existing consents, work is currently suspended.
- 10.13 The AA completed for the Dounreay Tri proposal concluded that there would be no adverse effect on the site integrity of the Hermaness, Saxa Vord and Valla Field SPA, either alone or in combination with other projects, on the qualifying interest of this site (gannet) as the collision risk modelling

predicted no collisions during the breeding or non-breeding seasons. Furthermore, northern gannet foraging ranges are extensive and any displacement impacts for this qualifying interest were considered to be insignificant.

10.14 EMEC – *Fall of Warness*

10.15 The European Marine Energy Centre (“EMEC”) received consent (expires on 22 March 2023) for the construction and operation of a tidal test site at the Fall of Warness and has been in existence since 2005. There are (as of July 2014) 8 berths, all assigned to different developers.

10.16 Some redevelopment is planned for 2018, with potential to overlap with the seal licensing. A summary of the key envelope parameters are provided below:

- Mooring/foundation design and installation method - as per section 3.2 of the EMEC Fall of Warness Tidal Test Site: Environmental Appraisal.
- Rotor diameter - 25m (open-bladed rotors).
- Number of simultaneous turbines/rotors - 12 devices with up to 18 rotors
- Rotor depth - Minimum depth - 2.5m clearance from sea surface

10.17 A full project description can be found [here](#).

10.18 The AA completed for the section 36 consent for EMEC Fall of Warness proposal concluded that there would be no adverse effect on the site integrity of the Hermaness, Saxa Vord and Valla Field SPA, either alone or in combination with other developments, provided the devices at this site do not exceed the parameters of the consent.

10.19 *Meygen Phase 1*

10.20 The current licence (which expires on: 01 January 2041) is for the installation and operation of a tidal array consisting of up to 61 fully submerged turbines, with a generating capacity of 86 MW. Phase 1 forms part of a much larger project, for which separate consent will be sought.

10.21 The devices are horizontal axis tidal turbines which are fixed to the seabed using one or a mixture of the following turbine support structures; gravity base foundations, pin piles or monopiles. The turbines and support structure

will be deployed using a DP vessel. The installation is proposed to be staggered as follows:

- Year 1 – 2-10 MW to be deployed
- Year 2 – 10-20 MW to be deployed
- Year 3 – 56-74 MW

- 10.22 Each turbine has a separate electricity export cable which will be laid along the seabed for part of the distance onshore and then passed through Horizontally Directionally Drilled (HDD) bores for the remainder. There are 2 options for the cable landfall and onshore infrastructure along the north Caithness coast, Ness of Quoys and Ness of Huna, both of which have been granted planning permission.
- 10.23 The AA completed for the Meygen Phase 1 proposal concluded that there would be no adverse effect on the site integrity of the Hermaness, Saxa Vord and Valla Field SPA, either alone or in combination with other developments, as the low numbers of gannets recorded during site surveys suggested that the project area is not an important foraging area for this species. Furthermore, the collision risk modelling outputs predicted no collisions during the breeding or non-breeding seasons for this qualifying interest.
- 10.24 Furthermore, the AA concluded that any potential disturbance from increased vessel activity or installation works would be unlikely to be significant and any potential disturbance would be temporary and over a limited area. Any displacement and loss of foraging habits due to the physical presence of turbines would be over a limited area and unlikely to impact the population viability of the species.
- 10.25 Bluemull and Cosgrave Sounds pSPA
- 10.26 At present, no AAs have been conducted for proposals within this pSPA and therefore, MS-LOT conclude that there is no adverse effect on site integrity resulting from this proposal in-combination with other developments/activities.
- 10.27 No adverse effect was identified on the Bluemull and Cosgrave Sounds pSPA. However, as detailed at paragraph 3.3, as the sites are not yet designated, they also fall within the regime governed by the first sentence of Article 4(4) of the Birds Directive as follows:

“In respect of the protection areas referred to in paragraphs 1 and 2, Member States shall take appropriate steps to avoid pollution or deterioration of

habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. Outside these protection areas, Member States shall also strive to avoid pollution or deterioration of habitats.”

- 10.28 MS-LOT consider that the NOVA proposal will not cause pollution, deterioration of habitats or significant disturbance of the qualifying interests of the Bluemull and Cosgrave Sounds pSPA.
- 10.29 In-Combination Assessment - Conclusion
- 10.30 SNH advised that, based on their appraisal of the proposal and their knowledge of other developments/activities in Shetland, any potential cumulative and in-combination effects will not adversely affect the integrity of the SAC, SPA or pSPA.
- 10.31 The appraisal above concludes that the proposal will not adversely affect the integrity of the Yell Sound Coast SAC, Hermaness, Saxa Vord and Valla Field SPA and the Bluemull and Cosgrave Sounds pSPA with respect to the individual qualifying features. Having determined that the proposal will not have a negative effect on the constitutive elements of the sites, on having regard to the reasons for which they were designated and the associated conservation objectives, overall MS-LOT concludes that there will no adverse effect on the site integrity of the Yell Sound Coast SAC, Hermaness, Saxa Vord and Valla Field SPA and the Bluemull and Cosgrave Sounds pSPA from this proposal either in isolation or in-combination with other plans and projects.

SECTION 4: CONDITIONS

11 Requirement for conditions.

- 11.1 The licensee must ensure that all of the mitigation measures set out in the Application and Supporting Documentation are implemented for the duration of the Works. This assessment is based on the works being of short duration and therefore no further conditions are required.