CONSULTATION QUESTIONS

Q1. What are your views on the overall costs and savings identified in the Business and Regulatory Impact Assessments?

Given the remote and island location of many marine activities that could be affected by the proposed pre-application consultation requirement, the costs of such public events may be greater than mainland associated projects.

Q2. Do you agree with the registration process as described?

In general, we welcome the proposed scheme in the interest of proportionate regulation and the associated administrative burden. However, we believe that the process as described is at a very high level and more detail is required. For example:

- There should be a timeframe within which the MS LOT should approve/reject the registration application. This is essential to enable the applicant to factor the registration process into their project timescales. In the event that an application is rejected, appropriate justification should be provided to enable the applicant to either reapply with appropriate amendments or, alternatively, progress alternative authorisation routes.
- Clarity is required as to what is meant by the "Timing of the project". For example, in the event that a registration permission is time limited, i.e. the application states that it is for an activity to take place within a specific period of time identified on the application form, what would be required in the event that the activity goes beyond this period – would a new registration be required or is there a registration extension facility?
- Applications for registered activities should require the use of the latest chart at a suitable scale to show potential interactions with other interested parties and/or their infrastructure.
- Consideration will need to be given to what control measures may be necessary to protect existing marine infrastructure (e.g sub-marine cables) from potential damage by parties undertaking registered activities such as deploying temporary racing buoys if these involve placing anchors or weights on the sea bed. For example, where such interactions are identified, mitigation measures and/or notices to such third parties could be submitted as part of the registration application.

Furthermore, we are conscious that we do not have sight of the associated specifications that will determine the definition of "specified threshold of environmental impact". Once this is known (and we presume this will be consulted upon) the proposed information to be provided as part of the registration process may need to be modified.

Q3. If not, what changes would you propose to the process?

Please see our response to Qu. 2 above.

Q4. Do you agree that the listed activities should be registerable, rather than licensable?

Yes √ No ☐

Q5. Do you have further comments regarding the activities listed above?

Yes. We believe that listed activity 4 should be expanded to include the placing of measuring/monitoring devices e.g. tide gauges and current monitors. In our view, the deposit/removal etc of these devices has no more of an environmental impact than that associated with signage or other identifying markers. Clearly, to the extent that they are relevant in this scenario, our comments in respect of considering the impact on existing marine infrastructure submitted under Qu. 2 above stands.

Q6. Are there any other classes of activity that should be registerable?

Yes. We believe that there are a number of additional routine, low impact activities associated with our operations that should be considered for registration. We have listed these below:

- Sub sea cable surveys – including geophysical (non-air gun) and geotechnical surveys.
- Shore-end and remedial repairs (reburial).
- The addition of additional protection to existing submarine cables - placing Cast Iron Mechanical Protectors (CIMPs) on existing sub-marine cables.
- Tide gauges and current monitoring (measurements). See our comments under Qu. 5 above.
- Cable pulling/replacement through horizontal direct drilling (HDD). In future, licensed cables laid in ducts by HDD may need to be replaced and we would therefore expect this replacement activity to be subject to registration rather than a further licensing requirement.

We note that Article 32 of the Marine Licensing (Exempt Activities) (Scottish Inshore Region) Order 2011(as amended) makes provision for the exemption of authorised emergency inspection and repair of cables and pipelines. In our view this includes not only cable piece-in but also end-to-end cable replacement and/or new shore ends where this is the most efficient remedial action to take. We have therefore not included these as possible activities for registration.

Q7. Do agree that statutory consultees should not be specified in legislation for the pre-application consultation process?

Yes √ No ☐

Q8. If not, which persons or bodies do you believe should be specified as statutory consultees for the pre-application consultation process?

N/A

Q9. Do you agree with the classes of activity that will be subject to pre-application consultation?

Yes ☐ No √

Q10. If not, what activities would you add or remove from the list?

In the main we support the proposed pre-application consultation proposals.

However, as proposed, activity 3 (Cables crossing the inter-tidal boundary) would capture *all* cable activities and, as such, would necessarily capture a number of our low level activities which, in our view, do not warrant pre-application consultations. We note that Section 22 (3) of the Marine (Scotland) Act 2010 makes it clear that there are instances where pre-application consultation is not required, in particular activities that have previously been carried out at the site to which the application relates or is similar to such an activity and for which a licence has previously been granted. As such, we do not believe that projects to replace existing cables (and associated infrastructure) in the same vicinity should be subject to the pre-application consultation process. We therefore believe that the wording should be amended to make it clear that this pre application consultation activity would only apply to proposed *new* cables. Similar clarity should be provided in respect of activity 4 listed.

For a number of marine renewable energy projects, power capture units are installed offshore but electricity is generated onshore. In these circumstances Marine Scotland may issue a deemed planning consent for onshore works. We would welcome clarification on whether a requirement for pre-application consultation for a project of greater than 20MW will be determined based upon the 30MW trigger in the Marine (Scotland) Act 2010 or the 20MW trigger which applies to the Town and Country Planning (Scotland) Act 1997.

Furthermore, many renewable energy generation projects, irrespective of their size, will require connection to the electricity network via sub marine cables and will therefore fall in to both categories. Some consideration should therefore be given to the interactions between activities 3 and 4 and the associated pre-application consultation activities.

Q11. Do you believe that the above proposals discriminate disproportionately between persons defined by age, disability, sexual orientation, gender, race and religion and belief?

Yes ☐ No √

Q12. If you answered yes to Question 11, in what way do you believe the proposals to be discriminatory?

N/A