

Consents and Licensing

A Marine Scotland Perspective



Planning

marine scotland

Licensing

Science



This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No 646436.

Today's Presentation

- Programmes of Work
- Consenting/licensing process in Scotland
- One Stop Shop
- Streamlined licensing
- Habitats Regulations



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Consents and licences in Scotland

- Marine Scotland Act and Marine and Coastal Access Act Licence
- Section 36 of the Electricity Act 1989 (s.36)
- Section 44 European Protected Species (EPS)
- Town and Country Planning (Scotland) Act
- Energy Act (2004) Decommissioning issued by DECC



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Streamlining

- Marine Scotland Licensing Operations Team became the single point of access for FEPA, CPA and S.36 applications and enquiries in April 2010
- This leads us towards-
 - replacement of CPA and FEPA with a new Marine Licence;
 - refreshing Marine Renewable Licensing Manual to include wind industry;
 - complete transfer of responsibility for Marine Licensing (seals conservation) and EPS to MS LOT; resulting in
 - One-Stop-Shop for licensing and consenting – April 2011
- A new marine licensing system which aims to be Transparent, Efficient and Proportional



Why a 'one stop shop'?



- To reduce the burden on applicants by providing a single contact for advice, enquiries and applications;
- To reduce the pressures on the licensing process, a better use of available resource;
- Enables coordinated consultation with the relevant nature conservation bodies and other interested parties;
- A more holistic assessment of proposed projects (essentially Marine Licence and S36) and;
- Provides a mechanism to manage enquiries and interaction with applicants, stakeholders and public.



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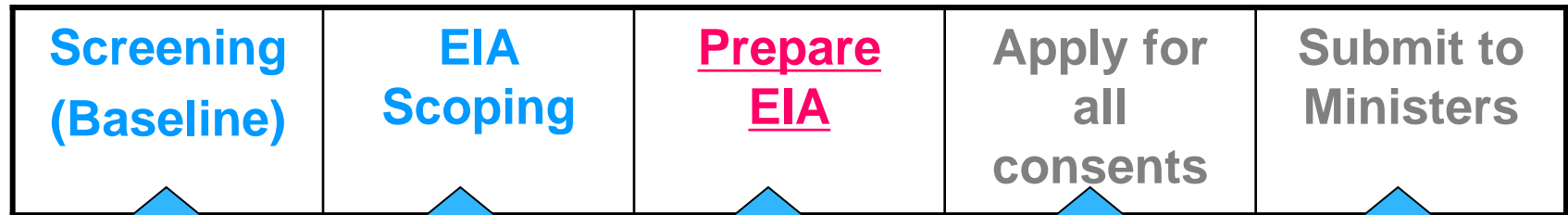
Processing applications - Renewables

- Marine Licence
 - Statutory consultees are SNH, SEPA, NLB and MCA
 - Current list of non-statutory consultees extended
 - Public notification
 - Determination in 12 weeks – but!
- Section 36 Consent
 - Statutory consultees are SNH, SEPA and Local Authorities
 - Public notification
 - Mirror marine licence vice versa
 - Determination (objective) in nine months



Process Timeline - Renewables

May take three years!



Developer lead
consultation
with interested
parties
including local

Licensing
consultees but
wider as
needed
including local

Licensing
consultees
as per EIA
Regulations
including
local

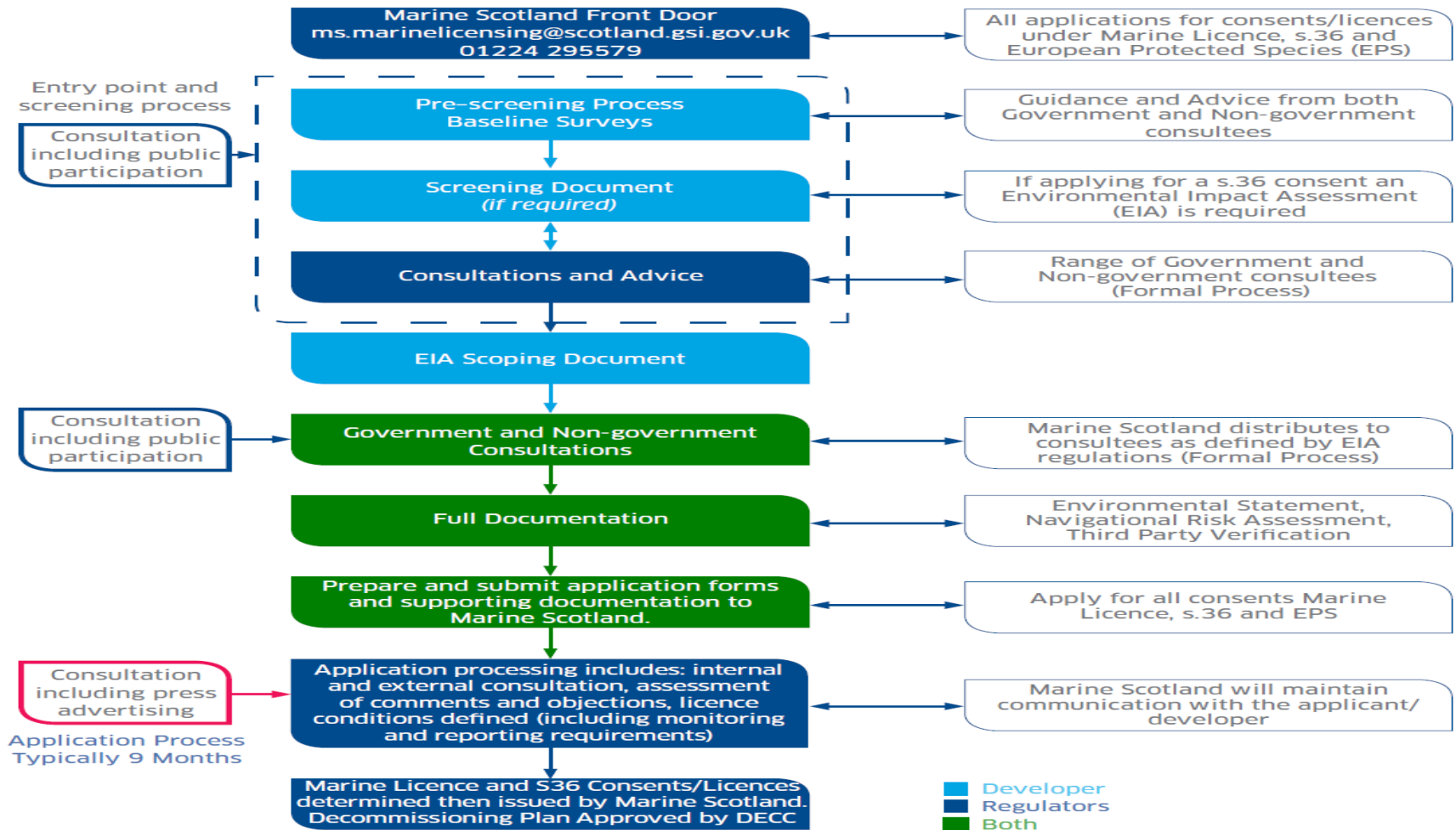
Public notification
and advertised.
Wider ranging
community
involvement

Submission to
Ministers for
determination



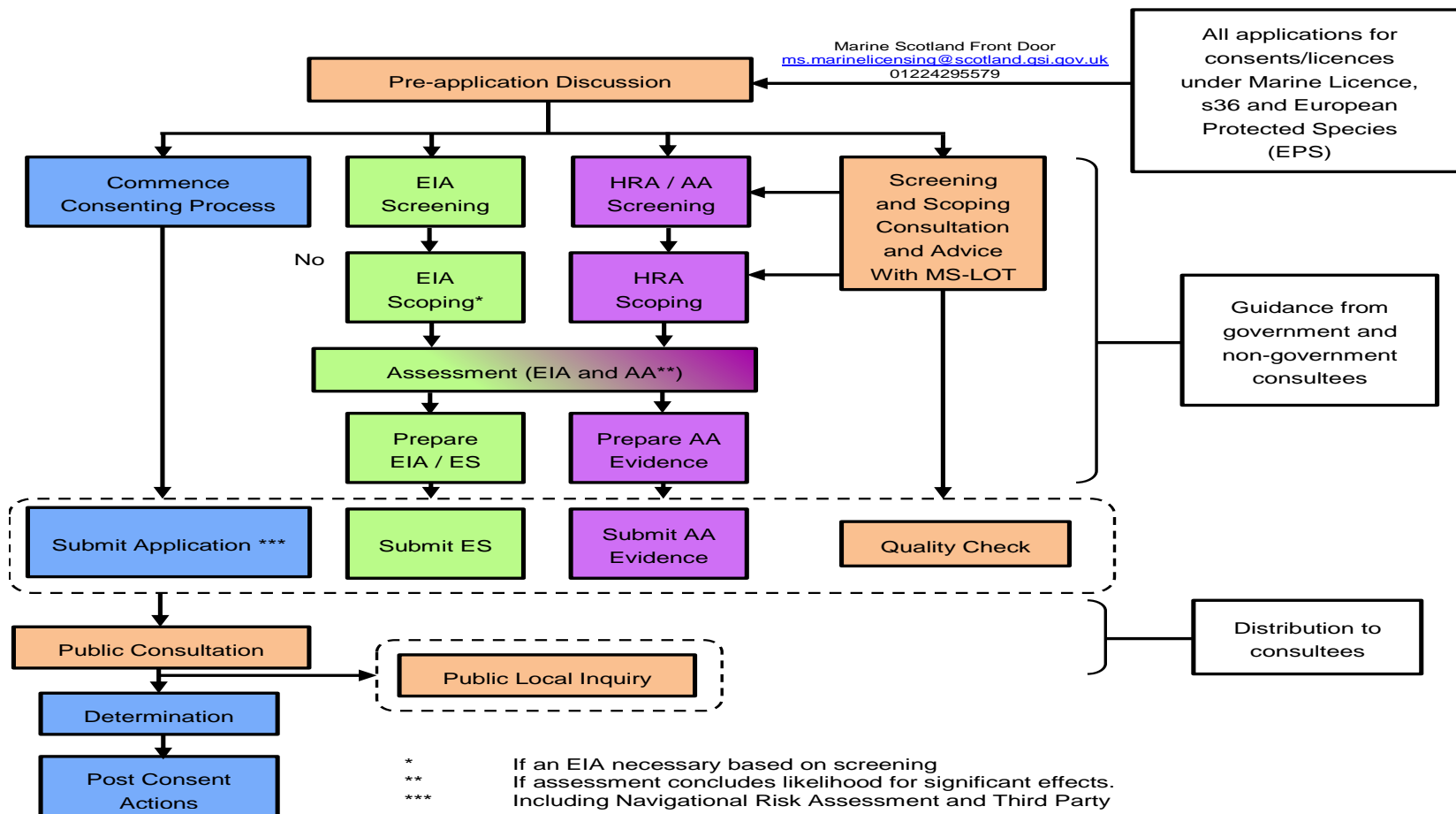
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Renewable Consenting Process - April 2011



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Key Stages in the Marine Licence Application Process



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Habitats Regulations

The following Regulations are collectively termed the Habitats Regulations for inshore waters and Offshore Marine Regulations (OMR) for offshore waters and give protection to designated species and habitats designated through implementation of the Habitats Directive and the Birds Directive (Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds).

- The Conservation (Natural Habitats, &c.) Regulations 1994;
- The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004;
- The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2007;
- The Conservation (Natural Habitats, &c.) Amendment (No. 2) (Scotland) Regulations 2007;
- The Conservation of Habitats and Species Regulations 2010 which replace the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) in England and Wales (and to a limited degree in Scotland - as regards reserved matters); and
- The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 and associated amendments.



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Habitats Regulations

- Regulation 48 of the Habitat Regulations 1994 and 2007 and Regulation 21 of the OMR 2010 state that if a plan or project is in, or adjacent to, a Natura site, or, regardless of location, wherever the development has potential to affect the qualifying features of a Natura site, then the proposal must undergo a HRA.
- Where the possibility of a likely significant effect on these sites cannot be excluded, either alone or in combination with other plans or projects, an AA should be undertaken in view of the site's conservation objectives by the Competent Authority in compliance with the Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the EC Habitats Directive).



Licensing Manual - Renewables

- Updated in 2012 to cover offshore wind, Wave and Tidal
- Advice to:
 - Scottish Government
 - Developers
 - Stakeholders
- Four Parts
 - 1 – Consenting Process
 - 2 – Regulatory Requirements
 - 3 – EIA, HRA and Appropriate Assessment
 - 4 – Reference and Bibliography
- Currently being updated to cover pre-application process and gate check



Summary

- Marine Licence implemented in April 2011
- The streamlined regime aimed to reduce some of the burden for applicants and regulators alike;
- The implementation of the ‘one stop shop’ is an opportunity to do things better and more sympathetically
- A holistic consenting regime promotes a close working relationship with our consulting bodies – running s36 and Marine Licence simultaneously
- Allows public participation and opportunities to comment

