

Agenda Item	6.6
Report No	PLN/061/24

HIGHLAND COUNCIL

Committee: North Planning Applications Committee
Date: 07.08.2024
Report Title: 23/05927/FUL: Organic Sea Harvest
Land 1520M NE Of Bridgend Cottage
Flodigarry
Portree
Isle Of Skye

Report By: Area Planning Manager - North

Purpose/Executive Summary

Description: Marine Fish Farm - Atlantic Salmon, comprising 10 x 120m circumference pens with 14m x 14m feed barge and ancillary equipment

Ward: 10 - Eilean A' Cheò

Development category: Local

Reason referred to Committee: Number of representations received

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

Recommendation

Members are asked to agree the recommendation to grant the application as set out in section 9 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 This application seeks planning permission for a new marine fish farm for Atlantic Salmon consisting of ten 120m circumference pens in a 2 x 5 mooring grid. The moorings are marked by 18 grey cushion buoys. The site will be serviced by a 250T feed barge positioned about halfway down the landward side. The barge is constructed from concrete with dimensions of 14m x 14m. The pens will be of plastic construction with fibreglass pole supported bird nets.
- 1.2 The day-to-day servicing of the site will be conducted by boat from Staffin Jetty. Larger vessels and workboats will be from Portree with general servicing from the sea while feed supplies and waste disposal will utilise facilities at nearby Kishorn Port. Supplies will be delivered from Kyle, Kishorn and Mallaig.

There will be no shore base however there are offices and a remote feeding station located in Staffin.
- 1.3 Pre Application Consultation: No formal pre-application advice since the previous appeal was dismissed but some informal discussion with applicants regarding addressing the reasons for refusal in any future application.
- 1.4 Supporting Information:

The application has been submitted with a full EIA Report, Waste minimisation and management plan, SLVIA, draft EMP and a sea lice dispersal modelling report.

It also is presented with a report and evidence on the social and economic benefits for Skye and Scotland and a summary of wild fish monitoring reports.
- 1.5 The application also contains operational business plan information indicating that, should this and pending application 23/05931/FUL both be approved, these sites will be operated in conjunction with each other and the two previously approved sites further to the south. They will operate in an extended fallowing sequence such that at any one time only three of the sites will be operational and contain surface equipment. The extended fallow period of about a year is an important element of the organic production cycle, ensuring reduced disease and parasite risk and the need for chemical treatments.
- 1.6 The applicant has stated that it is their intention to operate the farms in a way that allows the product to achieve an 'organic' standard in line with the two southerly sites. Whilst the planning authority regards this approach positively because it reduces the environmental impacts of production, it is not possible for the operator to guarantee that any production cycle will be completed in organic compliance. Although, to date, the applicant has completed four organic production cycles in the southern sites. If non-organic methods are required for any reason, then animal welfare and fish health requirements must come before organic production goals. Consequently, in assessing the proposal against 'worst-case' outcomes (as it is required to do), the authority must disregard the organic nature of the applicant's proposed production methods and base any assessment on the impacts from non-

organic production methods.

1.7 Variations: None

2. SITE DESCRIPTION

2.1 The proposal is positioned just off the eastern coast of the Trotternish peninsula at the north-eastern end of Skye. It is immediately to the north of Eilean Flodigarry which sits just off the coast from the Flodigarry settlement, hotel and youth hostel. To the south is Staffin Bay.

2.2 Inland, the landscape is dominated by the Trotternish Ridge and its landslip formations which form the main features of the Trotternish National Scenic Area the northern boundary of which lies just to the south of the proposed site. The site also lies just to the seaward side of the eastern edge of the Trotternish and Tianavaig SLA which covers a large proportion of the Trotternish peninsula, outside the NSA, both to the north and south of the site.

3. PLANNING HISTORY

3.1	19.06.2017	17/02314/SCOP EIA Scoping - New Marine Fish Farm for Atlantic Salmon consisting of 14 x 120m circumference circular cages in an 80m mooring grid with associated feed barge	Opinion Provided
	17.04.2018	17/04749/FUL - New Fish Farm for Atlantic Salmon consisting of 12x120m circumference circular cages in an 80m mooring grid with associated feed barge – <i>the northernmost of the applicant's consented sites to the south</i>	Granted
	24.04.2018	17/04735/FUL - Marine Fish Farm - Atlantic Salmon: New site comprising of 12 x 120m circumference circular cages an 80m mooring grid with feed barge – <i>the southernmost of the applicant's consented sites to the south</i>	Granted
	09/04/2019	19/00494/PREAPP - New Marine Fish Farm for Atlantic Salmon consisting of 14 x 120m circumference circular cages in an 80m	Advice Provided
	27/01/2020	19/03093/FUL - New Marine Fish Farm for Atlantic Salmon consisting of 14 x 120m circumference circular cages in an 80m	Refused Appeal dismissed
	02.02.2021	20/00097/FUL - New marine fish farm for Atlantic salmon consisting of 12 x 120m circumference circular cages in a 80m mooring grid with associated feed barge – <i>the</i>	Refused Appeal dismissed

Balmaqueen site to the north

23/05931/FUL - MARINE FIN FISH FARM - Pending –
10no, 120m circumference plastic pens in 2 x recommendation
5 configuration with associated feed barge for approval and
and ancillary equipment - *the Balmaqueen* on this agenda
site to the north

4. PUBLIC PARTICIPATION

4.1 Advertised: EIA Development and Unknown Neighbour

Date Advertised: 22nd March 2024

Representation deadline:

Timeous representations: Object: 43 Support 123

Late representations: None

4.2 Material considerations raised are summarised as follows:

Against:

a) pollution and proximity to rivers

b) sea lice impact on farmed fish and wild fish

c) risk of hybridisation from escaped fish breeding with wild fish

d) concerns regarding noise, light, smell and pollution

e) site is visible from the Skye Coastal Path and the local development plan suggests views across open water should be protected

f) extreme sea-states are common in this location leading to the possibility of equipment damage and mass-escapes

g) toxins from the farm could damage coastal stocks of Dulce and Carrageen

h) the site is on the path of a wild salmon run to and from the Brogaig, Kilmartin and Lealt rivers as evidenced by historic salmon stations on nearby coastal locations

In support:

a) Proposal will help support a wide variety of jobs across many sectors in Scotland

b) There is much misinformation about the fish farming industry. Planners must listen to the regulators.

c) Proposal will support international food exports and supply of Scottish Salmon.

d) Benefits to local community organisations by way of donations

e) Support of local business

f) Support of marine industry within the supply chain and vessel support services

g) increase in school pupils

h) Well paid, secure and year round jobs

i) Setting a new standard for Aquaculture with the current and proposed practices

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam.

5. CONSULTATIONS

5.1 **Environmental Health:** No Objection subject to the following conditions;

1. All plant, machinery and equipment associated with this development shall be so installed, maintained and operated such that the following standard is met: - The operating noise Rating level must not exceed the Background noise level by more than 5dB(A) including any characteristics penalty at any noise-sensitive premises. Terms and measurements to be in accordance with BS 4142: 2014 Methods for Rating Industrial & Commercial Sound.

For the purposes of this condition, "noise-sensitive premises" includes, but is not necessarily limited to, any building, structure or other development the lawful use of which a) falls within Classes 7 (Hotels & Hostels), 8 (Residential Institutions) or 9 (Houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), or b) is as a flat or static residential caravan.

2. The external lighting system shall be designed and installed in accordance with the best practice contained in the Institute of Lighting Professionals document 'Guidance Notes for the Reduction of Obtrusive Light'. All lighting above the water surface and not required for safe navigation purposes should be directed downwards by shielding. It should be extinguished when not required for the purpose for which it has been installed. If lighting is required for security purposes, infra-red lights and cameras should be used.

5.2 **Landscape Officer:** No objection

Any effects on the Key Landscape and Visual Characteristics or Special Qualities of the Trotternish and Tianavaig Special Landscape Area would be localised and do not give rise to grounds of objection

5.3 **NatureScot:** No Objection

- Inner Hebrides and the Minches Special Area of Conservation (SAC) The proposed development lies within an area of international importance for harbour porpoise. In their view, harbour porpoise will not be adversely affected by the proposal. Appropriate Assessment required – see Appendices
- River Kerry Special Area of Conservation (SAC) - Sea lice modelling demonstrates that there is connectivity with the Freshwater Pearl Mussel interest of this SAC, but their advice is that they will not be adversely affected by the proposal. Appropriate Assessment required – see Appendices
- Shiant Islands Special Protection Area (SPA) - The farm would be within foraging distances of many of the Shiant Islands SPA bird species. However, it is unlikely that the proposal will have a significant effect on any of the

breeding seabirds either directly or indirectly. No Appropriate Assessment required

- Special Protection Areas (SPAs) classified for Gannet - There is connectivity between this development and a number of SPAs which are of European importance for breeding gannet. Subject to application of standard conditions relating to top net mesh size and reporting of entanglement/entrapment, these SPAs will not be adversely affected by the proposal. Appropriate Assessment not required if conditions imposed
- The fish farm is on the edge of Trotternish National Scenic Area (NSA) which is of national importance for its landscapes. Whilst the proposal would have some adverse effects on out to sea views from within the NSA, they advise this will not affect the integrity of the NSA.
- Priority Marine Features (PMFs) - Tide swept coarse sands with burrowing bivalves is extensive on this site and is likely to be affected by these proposals. However, they advise that the proposals do not raise any issues of national interest.
- White tailed eagle – covered by a confidential annex – agree with conclusions that the proposal is unlikely to have an adverse effect on this species subject to vessel operation protocols that maintain appropriate buffer distances.

5.4 **RSPB** – not a consultee but comments relate closely to NatureScot advice above;

Welcome the changes that Acoustic Deterrent Devices and underwater lighting are no longer proposed to be used, and that biodiversity enhancement is now proposed.

The following mitigation should be

- Top net mesh should be 200mm or less to reduce the likelihood of bird entanglement. Entanglement should be monitored and reported alongside adaptive management.
- Installation should avoid the breeding bird season, April – July inclusive.
- To avoid disturbance to breeding birds during construction and operation, vessels should avoid travelling through the channel between Eilean Flodigarry and Sgeir na h'Eirran and always travel seaward of the Eilean Flodigarry maintaining over 500m distance when practical from all landforms, particularly between the months of February and August.

5.5 **Skye & Lochalsh Rivers Trust** – not a consultee but comments relate closely to NatureScot advice above and there is no district salmon fishery board for Skye at the present time.

- Concerns that two primary rivers, Kilmaluag and Kilmartin fall within the referenced management area and therefore will be affected by the introduction of new salmon farm sites at Flodigarry.
- Proposed site falls within a wild salmonid protection zone as outlined in SEPA's Sea Lice Regulatory Framework.
- In the event of escapes concerns for genetic introgression between escaped

farmed salmon and wild salmon populations in nearby river catchments.

5.6 **SEPA – No Objection**

- Had previously received an application for this site during the 2019 application with this new application having some modification to the location and pen configuration which they consider to be minimal.
- They are currently dealing with an application under CAR and are processing the modification as an admin variation. They do not see any significant issues with the application at this stage they cannot guarantee that a variation of the existing consent will be granted until the determination of the current application.

Following a request for further information in respect of the recently introduced Sea Lice Risk Framework the following was received;

- The two OSH sites have been assessed under the new sea lice framework as existing sites because their CAR authorisations were granted prior to the framework being put in place.

For existing sites, SEPA have assessed all active farms on the West Coast and Western Isles, using screening models. The farms have been categorised into relative risk categories, describing their relative potential influence on exposure of wild salmon to sea lice. Farms in category one have the lowest potential influence and farms in category four have the highest potential influence.

Balmaqueen and Eilean Flodigarry fell into the lowest risk category and therefore will not have sea lice conditions inserted into the permits to prevent sea lice numbers from increasing. This is because the screening assessment indicates that in the terms of relative contribution to the three Wild Salmon Protection Zones within the vicinity of the sites, the sea lice exposure risk in each would not materially change with these farms in operation.

As existing CAR permits, all four OSH sites operating in the Sound of Raasay will be required to report sea lice numbers between mid-March and 31st October starting in 2025. The permits will be varied by SEPA at the end of 2024 to include this condition.

5.7 **Scottish Government Marine Directorate (5 April 2024)**

The previous application indicated the biomass currently permitted should not result in unacceptable impacts to the water column. Given that the applicant is proposing to reduce the permitted biomass, it is not anticipated that this will result in any increase to the predicted impacts.

- There are currently no sites registered with the SGMD within 1000m of the proposed new site. The applicant has applied for another new site which is located 1700m northwest of the this proposed new site.
- The proposed site appears to be relatively exposed to the North and East. The applicant has acknowledged this and intend to have staff on site during each working day and on days where the site is deemed inaccessible

onshore monitoring and feeding remotely.

- OSH already possess authorisation to farm at their existing sites however an amendment to this authorisation must be sought to include any newly approved or acquired sites prior to commencement of farming operations.
- The operations of the sites will be at an acceptable stocking density.
- The removal of mortalities from pens and the disposal are deemed to be acceptable as far as can be reasonably foreseen.
- Sea lice levels at the applicants existing sites give an indication of sea lice levels in that area. Numbers of adult female sea lice have been low and well below the MD increased monitoring level of 2 during the last two production cycles. Sea lice strategies on existing sites have been managed with strategies proposed for use on the new sites. The proposed location of the site is out with current farm management area boundaries and the applicant proposes to operate their north and south groups in separate FMA. Furthermore, it is proposed that the 4 OSH sites (2 existing in the south and 2 proposed in the North) would be operated on a rotational basis where each site would undertake a prolonged fallow period of around 1 year after every 2 production cycles. Each pair of sites would also undertake synchronous fallow period at the end of every production cycle.
- Proposed monitoring by weekly counts of at least 20 fish per pen and the applicant aims to keep sea lice levels on site below 0.5 adult female *L.salmonis* and intervene at a trigger point of 0.2 adult females.
- Lice skirts have not been used to date but could be used in the future. Cleaner fish are not intended to be used have also been phased out of the applicant's sea lice strategy.
- Minimisation of predator interactions at the site is satisfactory with the use of seal pro nets which are tensioned and weighted by sinker tubes. Due to experience of seals penetrating the nets over the handrail additional panels of seal pro netting with their own shorter support poles are proposed to be used. Top nets of a pole supported design will also be used to deter birds.

Further response (16 May 2024)

- Movement of fallowed pens outwith disease management areas will require a protocol to be agreed with the Marine Directorate
- Fresh water for treatments is available and osmotic-equipped wellboats can supplement
- Only Deltamethrin is compatible with organic production as a chemotherapeutant and could be administered to the whole biomass in 4 to 5 days.
- Equipment attestation information is considered satisfactory

5.8 Historic Environment Scotland – No Objection

- do not consider that the proposal would have any significant impacts on heritage assets within their remit.

5.9 **Northern Lighthouse Board** – Standard navigational lighting advice provided.

5.10 **Scottish Water** – No Objection

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 National Planning Framework 4 (NPF4) (2023)

Policy 1 - Tackling the Climate and Nature Crises

Policy 2 - Climate Mitigation and Adaptation

Policy 3 - Biodiversity

Policy 4 - Natural Places

Policy 7 - Historic Assets and Places

Policy 25 - Community Wealth Building

Policy 29 - Rural Development

Policy 32 - Aquaculture

6.2 Highland Wide Local Development Plan 2012

28 - Sustainable Design

36 - Development in the Wider Countryside

49 - Coastal Development

50 - Aquaculture

57 - Natural, Built & Cultural Heritage

58 - Protected Species

59 - Other important Species

60 - Other Importance Habitats

61 – Landscape

72 – Pollution

6.3 West Highland and Islands Local Development Plan 2019

No specific policies apply

6.4 Highland Council Supplementary Planning Policy Guidance

Highland Historic Environmental Strategy (Jan 2013)

Highland Statutorily Protect species (March 2013)

Special Landscape Area Citations (June 2011)

7. OTHER MATERIAL CONSIDERATIONS

7.1 National Marine Plan (2015)

8. PLANNING APPRAISAL

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Determining Issues

- 8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Planning Considerations

- 8.3 The key material planning considerations raised by this application are:
- a) Changes in the form of the development, national policy and other material considerations since the previous appeal dismissal
 - b) Compliance with the development plan and other planning policy
 - c) Landscape, seascape and visual impacts
 - d) Economic and social impacts
 - e) Inner Hebrides and the Minches SAC
 - f) River Kerry SAC, sea-lice, wild fish and escape risk
 - g) Shiant Isles SPA
 - h) Gannet SPAs
 - i) Black Guillemot
 - j) White-tailed Eagle
 - k) Priority marine features
 - l) Seals
 - m) Navigation and other maritime users
 - n) Noise
 - o) Historic environment

Changes in the form of the development, national policy and other material considerations since the previous appeal dismissal

- 8.4 Section 39(1) of the 1997 Planning Act contains discretionary powers for planning authorities to decline to determine repeat planning applications. Where the Scottish Ministers have, within the previous 5 years, refused permission on a similar application on call-in or appeal and, in the opinion of the planning authority, there has been no significant change in the relevant parts of the development plan or other material considerations since that decision, the planning authority can refuse to deal with the application.

- 8.5 In applying this legislative obligation to the current proposal, the planning authority concluded that since the dismissal of the previous appeal in November 2020, there had indeed been significant change in respect of the development plan, the proposal itself and also some of the other material considerations considered by the Reporter. Consequently, it was concluded that there was no justification for declining to determine the application.
- 8.6 The material change in the development plan is described in detail in the next section. In general terms the policies of NPF4 are considered to place much greater emphasis than their predecessors on the economic, social and community wealth building benefits of developments and the potential to offset these against any environmental impacts.
- 8.7 In addition to the changing policy framework following the introduction of NPF 4 the physical differences between this proposal and that subject of the previously dismissed appeal are summarised as;
- 10 cages rather than 12
 - 2083T maximum stocked biomass rather than 2500T
 - Reorientation of the pens bringing them slightly closer and more aligned to the coast
- 8.8 Contextual changes;
- SEPA being identified by Scottish government as the main regulator for wild fish interactions and the introduction of their sea-lice risk framework as a replacement for local authority administered EMPs
 - The termination of seal shooting licenses and the cessation of the use of acoustic deterrent devices (ADD)
 - Two production cycles at the consented farms to the south showing manageable environmental impacts whilst achieving organic certification standards
 - Existing pens have been subject to storm events with no fish escapes
 - The Organic Sea Harvest business has become established in the community in terms of office location, employment and investment in community projects
- 8.9 In recognition of the significance of these changes, this report will focus upon them particularly and examine whether they represent sufficient material planning justification to come to a different conclusion to that drawn by the Reporter some four years ago.

Compliance with the development plan and other planning policy

- 8.10 Sections 25(1)(a) and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that this application be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- Section 24(1) requires that all planning applications must now be determined in accordance with the provisions of NPF4 and those of any the relevant, extant Local Development Plan unless material considerations provide justification otherwise. Section 24(3) states that in the event of any incompatibility between a provision of

the National Planning Framework and a provision of a local development plan, whichever of them is the later in date is to prevail.

In this case the Development Plan is also comprised of the West Highlands and Islands Local Development Plan (although this has no site-specific policies of relevance to this application) and the Highland-Wide Local Development Plan, the relevant policies of which are listed above at paragraph 6.1.

NPF4 forms part of the Development Plan (a significant difference between it and the Scottish Planning Policy it replaced in terms of its decision-making status) and Policies 1-3 apply to all development proposals throughout Scotland. When considering development proposals, significant weight will be given to the global climate and nature crises. Development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible. Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible.

- 8.11 In respect to NPF4 Policy 3 Biodiversity, although aquaculture is explicitly excluded from the detailed requirements for biodiversity enhancement that are required for terrestrial developments, the basic obligations of paragraph (a) still apply;

“...Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible...”

In this regard, the applicant is proposing to engage in and fund a programme of wild fish habitat enhancements within the three local rivers. Such measures are likely to include the removal of barriers to fish movements, fencing of riverbanks to limit livestock intrusions, the planting of trees, the reinstatement of natural river meanders and potentially to undertake stock enhancement measures.

Such an initiative was not a part of the previously dismissed applications, nor was it a requirement of national/development plan policy at the time. This is seen as another significant positive change for the proposal in comparison with its predecessor.

- 8.12 The key development plan policy for this proposal is considered to be NPF4 Policy 32 (Aquaculture).

The policy intent is “...to encourage, promote and facilitate aquaculture development and minimise any adverse effects on the environment, including cumulative impacts. Planning should support an aquaculture industry that is sustainable, diverse, competitive, economically viable and which contributes to food security, whilst operating with social licence, within environmental limits and which ensures there is a thriving marine ecosystem for future generations...”.

Desired policy outcomes are;

- new aquaculture development in locations that reflect industry needs and considers environmental impacts.
- Producers contribute to communities and local economies.
- Prosperous finfish, shellfish and seaweed sectors.

- Migratory fish species are safeguarded.

Policy 32 can be seen to be a continuity of HwLDP Policy 50 requirements but to also go beyond them in respect of the new concept of community wealth building.

In terms of continuity, the national presumption against open-net fish farming off the north and east coasts of mainland Scotland is a perpetuation of the precautionary principle at a national level. It indicates a recognition by Scottish Government that whilst the potential ecological impact of such farms is acknowledged, an explicitly positive policy towards them is still considered appropriate off the west coast and islands where it is away from the main centres of wild salmonid populations found on the north and east coasts.

Some negative impact on west coast wild salmonids is a logical inevitability accepted by this policy and, indeed, the definition of the precautionary principle contained within Scottish government's post-Brexit continuity publication "Environment - guiding principles: statutory guidance" states at Annex B and para 5.9 that in applying the precautionary principle,

"...Decision makers should generally not seek to achieve zero or near zero risk, something which rarely exists when balanced against the social and economic impact of measures..."

- 8.13 Where NPF4 Policy 32 differs from its HwLDP predecessor in a significant manner is its linkage to NPF4 Policy 25 Community Wealth Building. In its intent this policy aims "...To encourage, promote and facilitate a new strategic approach to economic development that also provides a practical model for building a wellbeing economy at local, regional and national levels...". Successful policy outcomes are identified as the facilitation of local economic development that focuses on community and place benefits as a central and primary consideration – to support local employment and supply chains and also to support community ownership and management of buildings and land.

The application makes an explicit argument to show how the proposal fulfils these requirements and aspirations.

- 8.14 NPF4 Policy 29 Rural Development as it applies to remote rural areas such as north Skye, is closely aligned with the intent and outcomes of Policy 25. In terms of general intent Policy 29 aims "...to encourage rural economic activity, innovation and diversification whilst ensuring that the distinctive character of the rural area and the service function of small towns, natural assets and cultural heritage are safeguarded and enhanced...". The policy outcomes are identified as "...rural places are vibrant and sustainable and rural communities and businesses are supported [resulting in] a balanced and sustainable rural population..."

More specifically for this location, paragraph (c) states that,

Development proposals in remote rural areas, where new development can often help to sustain fragile communities, will be supported where the proposal:

- i. will support local employment;
- ii. supports and sustains existing communities, for example through provision of digital infrastructure; and
- iii. is suitable in terms of location, access, siting, design and environmental

impact

It is considered that the combined effects of Policies 25 and 29 place much more weight upon the local employment issues than was the case with HwLDP Policy 36, which they effectively replace in the development plan and which was in place at the time of the previous Reporter's decision.

- 8.15 NPF4 Policy 4 Natural Places supplants HwLDP Policy 57 Natural, Built and Cultural Heritage. As with the policies above it also places a greater emphasis than its predecessor on the potential for social and economic benefits to outweigh environmental impacts. Paragraphs (c) and (d) are relevant to the identified NSA and SLA designations adjacent to this site.

Paragraph (c) states;

"...Development proposals that will affect a...National Scenic Area...will only be supported where:

- i. The objectives of designation and the overall integrity of the areas will not be compromised; or
- ii. Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance..."

Paragraph (d) states;

Development proposals that affect a site designated as [special] landscape area in the LDP will only be supported where:

- i. Development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified; or
- ii. Any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance.

- 8.16 NPF4 Policy 7 Historic assets and places requires proposals with potential significant impacts upon listed buildings and other historic assets to be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset and/or place.

Development proposals affecting scheduled monuments will only be supported where:

- i. direct impacts on the scheduled monument are avoided;
- ii. significant adverse impacts on the integrity of the setting of a scheduled monument are avoided; or
- iii. exceptional circumstances have been demonstrated to justify the impact on a scheduled monument and its setting and impacts on the monument or its setting have been minimised.

- 8.17 It is considered that the proposed development is aligned with the relevant policy objectives of NPF4 and the Local Development Plan for the reasons set out below.

Landscape, seascape and visual impacts

- 8.18 One difficult to quantify factor that must be kept in mind when assessing the visual impact of this proposal is the matter of the proposed extended fallow periods that would be implemented should both this and the proposed Balmaqueen farm to the north be consented and operate in conjunction with the currently operational farms to the south.

In this scenario, each farm would be subject to an extended fallow period of a year on a rotational basis during which the pens and surface equipment would be cleared from the site.

Clearly this would have significant implications for the visual impacts of each site and any cumulative impacts also. A condition is recommended to secure this rotational strategy in which (assuming both this and the Balmaqueen site are approved) all four of the applicant's sites are operated such that only three of the four farms are stocked and operational at any one time.

- 8.19 Another general visual issue is that of external lighting – both navigational and operational. Obviously, such lighting has the potential to increase the visibility of the farm, although night-time visual receptors are likely to be very few in number.

Environmental health have suggested that a condition to require any lighting to adhere in design to an industry standard guidance document in added to any consent. This is agreed.

- 8.20 Among the third-party comments received in respect of this application, concerns about the visual and landscape impact of the fish farm are one of the most frequent considerations raised.

In dismissing the previously submitted scheme the Reporter was able to conclude that,

“...I am content that the development would not detract from the overall integrity of the NSA or the SLA...”

However, visual and landscape impacts were the reason given for dismissing the appeal,

“...I consider that the proposed development would unacceptably erode the landscape character, scenic setting and visual amenity of the community at Flodigarry Township. I also find that, due to the proximity of the proposed development to the offshore islands, it would have unacceptable landscape and visual impacts on the views out to sea from this part of the coastal fringe...”

The Reporter makes it clear that it is the localised impacts that are being identified here.

- 8.21 This is important because NatureScot, in their assessment of the NSA impact of the current application, repeat the same (no objection) conclusion drawn previously stating,

“Our advice is that the proposal would have an adverse effect on the “distant views over the sea” Special Quality of the Trotternish NSA. However, this effect is localised and not of sufficient magnitude to affect the integrity of the NSA. It is unlikely that the proposed fish farm would significantly affect the other Special

Qualities of the NSA as these relate to the inland landscape and the sea cliffs of the NSA...”

Similarly, the Council's landscape officer has concluded in respect of the SLA impacts that,

“...I confirm that any effects on the Key Landscape and Visual Characteristic or Special Qualities of the Trotternish and Tianavaig Special Landscape Area would be localised and do not give rise to grounds for objection...”

8.22 Furthermore, in reducing the visual bulk and surface area of the farm, the reduction from 12 cages down to 10 and the slight landward repositioning of the farm can be seen to materially lessen the localised visual and landscape impact of the proposal when seen from the Flodigarry settlement (viewpoints VP06 and VP07) and the coastal path between Flodigarry and Balmaqueen to the north (VP02, VP03 and VP04). The conditioned rotational strategy will also contribute positively in this regard.

8.23 However, in respect of localised visual impact upon the experience of users of the coastal path, the SLVIA submitted with the application still concludes that there will be a significant effect when the receptor is immediately adjacent to the site at a distance of just under 1km.

8.24 Conversely, in respect of views from the Flodigarry settlement the SLVIA continues to conclude that impacts will be negligible. In respect of the previous scheme the Reporter did not agree with this assessment and considered that there was an unacceptable impact on the setting of the Flodigarry settlement and with particular reference to the framing effect of the physical landform 'bowl' within which the settlement sits with the prominent hotel building to one side and the offshore islands to the other, which accentuated the visual impact of the farm sitting within this frame.

Although the revised scheme reduces this visual impact, it seems unlikely that it would be enough change to overcome the Reporter's negative conclusions.

8.25 Notwithstanding this, officers remain of the opinion that the current proposal is acceptable and in support of this position believe that the new policies of NPF4 suggest that such localised impacts can be outweighed by relevant economic and social factors, the physical changes to the site and the cyclical manner which the sites are to be operated.

8.26 In respect of the how much weight to give these localised visual impacts, it is noted that the Reporter was concerned about effects upon A855 road users travelling north past the Flodigarry settlement – VP07. It is recognised that this is a busy tourist route and that there are ever more receptors each passing year. However, such road users will have already passed the two previously approved farms belonging to the same operator and also within the same SLA, a few miles further south. These farms also present fleeting views to the car/motorhome traveller but were not and are not considered unacceptable in visual impact terms by the authority or public.

8.27 The Reporter also stated that such effects would be even more pronounced and impactful on those tourists who park or stop to admire the view or explore on foot.

However, in those circumstances, it is considered that the view of the receptor will no longer be confined by the orientation of the windows of their vehicle, and they will be able to enjoy wider 360° vistas. In this situation the distant views across the Sound to Raasay, Rona, Torridon and the Assynt become much more significant to the viewer and the localised coastal impact of the farm respectively less significant.

It is noted that the southernmost of the two consented farms to the south is a good example of this. It sits just offshore from a well-known viewpoint and overnight camping spot. The location's growing popularity and busyness has continued after the installation and operation of the farm. It is considered that, despite its proximity and prominent localised visual impact, the farm does not detract from the qualities of the viewpoint because the focus of attention are the long views available over to the islands and the mainland. This argument was accepted by the planning committee at the time this southern farm was consented.

8.28 A similar argument may be made in respect of how much weight to give the visual impacts from VP02 – VP04 on the coastal path. Although very prominent in the immediate view of the coastal waters of this stretch of coast and certainly representing an overt introduction of human development and activity into an otherwise undeveloped coastline, the eye is rather more drawn to the magnificent views (weather permitting) offered by the mainland and islands landscapes. Some of the visual impact of the farm can be literally 'overlooked' by users of the path and these wider, higher quality vistas enjoyed in a relatively undiminished state.

8.29 In examining impacts upon the coastal path, there were a couple of contextual matters the Reporter did not address. The first of these concerns the number of users of the path. The application provides some information to suggest that the path is only lightly used. There is evidence of more frequent use in the vicinity of the radar station ruin – VP02 – but at this point the path is only some 100m from the A855 and so the sense of undeveloped remoteness of this part of the coast is considered to be greatly lessened.

The Reporter placed some weight on the negative impact of the proposal on the experience of those following the Skye Trail. This unofficial long distance footpath stretches some 128km from Broadford, through the Cuillin mountains and along the Trotternish ridge to the northern tip of Skye. Notwithstanding, again, questions about the numbers of receptors this Trail would generate, consideration must also be given to their actual experience. Walkers on this trail will have experienced a variety of landscapes, mostly through very remote parts of the island including the southern part of the SLA coast just north of Portree. It is unlikely that this small section of coast north of Flodigarry would have a particular amenity significance or value therefore to those undertaking the trail.

8.30 Although the Reporter's findings in respect of localised visual impacts and their relevance to the development plan in force at that time are accepted and considered to be similarly relevant to this revised scheme, the weight placed upon them in concluding that the proposal should be refused requires to be reviewed having regard to other material considerations associated with this revised application.

Economic and social impacts

8.31 This question over the weight to give the localised visual impacts of this proposal is particularly significant in respect of the increased emphasis placed upon community wealth building and other economic and social considerations by the adoption of the new NPF4 development plan introduced since the previous decision on this farm was taken.

8.32 Paragraphs 8.10 – 8.16 above describe the relevant policies of the current development plan and draw out the new emphasis on the contribution proposals should have on local community wealth building. The concept is established in the development plan by Policy 25 and placed in the context of rural development and aquaculture by Policies 29 and 32.

However, it is Policy 4 which is of most direct relevance to this assessment because it gives guidance on how the economic and social benefits of a proposal should be factored in to counterbalance the identified negative environmental impacts of the development. Paragraph (c) relates to significant adverse effects on the designated qualities of NSAs whilst paragraph (d) deals with significant adverse effects on the integrity or identified qualities of SLAs.

8.33 In relation to NSAs the outweighing economic and social benefits should be of national importance. However, in this case it must be remembered that it is only localised impacts that have been identified. NatureScot have confirmed that the overall integrity of the NSA has not been compromised. Consequently, the relevance of paragraph (c) is considered to be less relevant to this proposal than paragraph (d).

8.34 The application has been accompanied by a supporting document entitled “Delivering Social and Economic Benefits for Skye and Scotland”. The information contained within the supporting document can be divided into three categories;

- i. capital investment in equipment paid to other businesses
- ii. payments made in relation to salaries and rental
- iii. donations made to community projects on Skye

8.35 The supporting document reports that;

- i. Since 2019 the applicant has spent over £30 million pounds on the Skye business with about £1 million of that going to some 50 separate Skye firms.
- ii. The business has created 16 direct jobs on Skye which has amounted to a total of £2.5 million being spent on salaries to employees living in NE Skye. It claims that the consenting of this and the Balmaqueen site to the north would create an additional 14 jobs
- iii. The company’s donations to some 18 community organisations and initiatives over this time has amounted to more than £100,000 and has been recognised by a Community Initiative award at the 2023 Aquaculture Awards.

In qualitative terms it is stressed that the jobs created are skilled and permanent and involve on-going training which has resulted in the award of 16 SVQs and advanced maritime qualifications. Average salaries at the company exceed the

Scottish average.

- 8.36 These figures were presented by the applicant as evidence to substantiate the associated economic benefits linked with the proposal, whilst caution should always be exercised in reviewing this, it is undoubtedly the case that the business has created jobs in a fragile economic area that would not have otherwise existed. Comparable jobs within the other main employment sector in the area – tourism and hospitality – do not tend to be at the same skill or salary level.

In terms of Policy 25, the applicant's business activity ticks many of the community wealth building topics identified in the policy text;

- Development proposals which contribute to local or regional community wealth building strategies and are consistent with local economic priorities will be supported. This could include for example;
 - Improving community resilience and reducing inequalities
 - increasing spending within communities
 - ensuring the use of local supply chains and services
 - local job creation
 - supporting community led proposals (Staffin harbour project)
- 8.37 For the decision-maker, the increased significance and weight of economic and social contributions from development proposals with identified environmental impacts, requires an even more complex weighing-up and balancing of the pros and cons of the proposal than previously. Officers believe that, for this proposal, the community economic and social wealth building on offer outweighs any visual harm that might result.

In this case, it is only a matter of balancing the localised visual impacts of the proposal against its local economic and social contribution. As will be shown in the following sections (and in accordance with the previous conclusions of the Reporter) the other environmental impacts of the proposal are as acceptable as before or actually less impactful. None was a reason for refusal previously.

Inner Hebrides and the Minches SAC

- 8.38 The proposal lies within the Inner Hebrides and the Minches Special Area of Conservation (SAC). The qualifying interest of this designation is harbour porpoise. The previous proposal included the possible use of acoustic deterrent devices to deter seals, which were of concern in respect of cetaceans such as the harbour porpoise. However, the use of ADDs has now ceased within the aquaculture sector (largely as a result of such concerns and the licensing requirements required).
- Notwithstanding this, NatureScot still state in respect of the current application that an appropriate assessment must be carried out. However, their advice is that the farm is in an open water area where operational noise is unlikely to disturb harbour porpoise and that workboats operating on defined routes will not need to use echo-sounding gear.
- An appropriate assessment is appended to this report and concludes, with the benefit of NatureScot's advice, that no adverse effect on site integrity (AESI) will result from this development.

River Kerry SAC, sea-lice, wild fish and escape risk

- 8.39 The River Kerry SAC is designated for freshwater pearl mussel which require healthy juvenile salmonid populations to complete their life cycle. Impacts upon the health of wild salmonid populations due to the emission of raised levels of sea-lice from fish farms could impact negatively upon the SAC. As with the previous application NatureScot advise that an appropriate assessment is required.
- 8.40 However, like the previous application and the Reporter's own assessment, NatureScot advise that the farm is unlikely to result in an AESI because with the 34km separation distance from the farm means that the density of any sea-lice plume emanating from the farm will be very dispersed. The appended appropriate assessment comes to the same conclusion and also factors in the 20% reduction in biomass associated with this proposal compared to its predecessor – fewer farmed fish are likely to result in lower sea lice emissions.
- 8.41 The other significant change in respect of this material consideration which has occurred since the Reporter's determination, is that Scottish government has designated SEPA as the regulator for interactions between fish farms and wild fish. This has largely removed the responsibility for such interactions from local planning authorities. As a result SEPA has developed a sea-lice risk assessment framework which it is just beginning to implement.
- SEPA's supplementary response on this matter is quoted above at 5.6. Significantly, it indicates that the CAR licenses relating to both the existing and proposed sites will be varied later this year to require the reporting of sea lice numbers between mid-March and the end of October each year starting in 2025. It is also noted that SEPA consider these four farms (two consented, two proposed) to fall within their lowest risk category.
- 8.42 Currently, sea-lice impact monitoring for the existing sites is focused upon an environmental management plan (EMP) which requires monitoring of wild fish numbers in the vicinity of the farm and a mechanism for interested parties to discuss any evidence of correlation between sea-lice numbers and monitored wild fish health.
- The new SEPA framework seems to have made such activity obsolete. The applicant has included a draft EMP with this application which would allow the two proposed sites to join the regime currently in place for their neighbours. However, in the light of the SEPA information, this is no longer considered necessary.
- 8.43 Within the new NPF4 development plan the focus of attention is now rather more on biodiversity enhancement and the applicant has suggested that a programme of riparian management and improvement in respect of the three local rivers could raise the population of wild salmonids in those rivers. This would not only represent a biodiversity enhancement as required by NPF4 Policy 3 but also a level of mitigation in respect of any negative impact of the farm on the local population of wild salmonids.
- Detail of exactly what works and measures might be involved have not been submitted, but it is considered appropriate to use a condition to call in those details in the form of a programme of works coupled to a requirement to monitor outcomes

and adaptively manage the programme through the lifetime of the permission.

- 8.44 The risk of farmed fish escapes with the associated potential for introgression between such fish and wild Atlantic salmon has been raised – as it was with the previous application.

Marine Directorate are satisfied with the equipment attestation information provided by the applicant and consider the risk of escapes to be acceptably low.

- 8.45 Third party comment has suggested that rare but regular northerly gales can create exceptionally high sea states and energies in this specific location which could destroy moorings and nets leading to escapes.

It is noted however that the existing farms to the south have already survived an extreme storm event which, whilst causing some equipment damage, did not lead to the integrity of the nets/cages being compromised.

Such empirical data seems to support the conclusions drawn by Marine Directorate.

Shiant Isles SPA

- 8.46 NatureScot's advice in respect if this SPA designated for a range of breeding seabirds is that the farm is unlikely to have a significant effect on the qualifying interests and no appropriate assessment is required.

Gannet SPAs

- 8.47 In contrast NatureScot do have a concern in respect of this wide-ranging species from Flannan Islands SPA, North Rona and Sula Sgeir SPA and St Kilda SPA.

Since the introduction of the most recent design of top-nets mounted on high poles, NatureScot have had a concern that Gannets could become entrapped/entangled due to their plunge diving technique.

However, standing advice and conditions are now recommended which reduce this risk to a minimum and allow NatureScot to conclude that no appropriate assessment is required. The conditions require a mesh size of no more than 200mm and for an entanglement reporting mechanism to be put in place at the farm.

Black Guillemot

- 8.48 As with the previous application, RSPB have raised a concern in respect of Black Guillemot which breed in the vicinity of the farm and are a priority marine feature.

- 8.49 However, NatureScot have concluded that since individual birds feed in particular areas of the sea only a small number of birds would be displaced by the fish farm. Also their favoured habitat - kelp beds – are inshore of the farm. Overall, even if a few pairs were displaced it would not affect the favourable conservation status of the PMF.

White-tailed Eagle

- 8.50 A confidential annex has been submitted in respect of this protected species which

proposes a number of mitigation measures to limit impact upon such birds.

- 8.51 NatureScot are satisfied that the report does not identify any roost or nest sites within 1km of the proposed farm and that this coupled with the mitigation proposed relating to boat routing and constant speed, will mean that there will be no adverse impact upon these birds.

Priority marine features

- 8.52 The sea bed over which the farm would sit is identified as 'tide swept coarse sands with burrowing bivalves' and is a priority marine feature
- 8.53 NatureScot consider that although deposition from the farm is likely to have a significant effect on this habitat, the impact will be limited to a small area beneath the farm and that the extent of this area is actively monitored and controlled through SEPA's CAR license.

Moreover, although this habitat has limited distribution around Scotland, this area is an extensive one and so any negative impact will be proportionally limited. The national status of the PMF will not be materially impacted.

Seals

- 8.54 There are populations of seals in the vicinity of the farm and the Reporter was concerned that further information might be needed had she been minded to allow the previous appeal.
- 8.55 However, the situation regarding seals has materially changed since that time with the government no longer granting seal shooting licenses to fish farms. With ADD use also coming to an end, this has resulted in the widespread use of tensioned 'seal-pro' netting to keep seals away from the farmed fish. Such passive measures appear successful and so coexistence between farms and seals is no longer the issue it once was.

Navigation and other maritime users

- 8.56 These issues were raised during the previous application and examined by the Reporter as part of the appeal. Evidence of vessel movements close to the farm was submitted and assessed
- 8.57 The Reporter was able to conclude;
- "...I am satisfied that the proposed fish farm would not have significant adverse impacts upon commercial inshore fishing grounds, established harbours and natural anchorages and navigation. Adequate space would remain to allow safe passage for leisure and recreational craft such as tourist boat trips and kayaks. The requirements in relation to navigational lighting set out in the consultation response from Northern Lighthouse Board would be addressed by Marine Scotland..."
- 8.58 It is not considered that there is any evidence or reason to come to a different conclusion with this application.

Noise

- 8.59 In recent years the authority has become aware of an increase in noise complaints emanating from fish farming operations. It is believed that the greater use of larger well-boats for freshwater and other non-chemical treatments of the farmed fish is a factor in this.
- 8.60 The EIA information suggests that because of the separation distance between the farm and any noise sensitive receptors, no unacceptable loss of amenity should occur.
- 8.61 To address this issue environmental health have recommended a condition requiring any noise emissions from the farm to be no more 5dB(A) above the background noise at any noise sensitive property. Persistent noise above this level could then be investigated as a noise nuisance and appropriate mitigation required.
- 8.62 Such an approach is compatible with other recent fish farm planning permissions and is considered appropriate here.

Historic environment

- 8.63 Historic Environment Scotland have assessed the impact of the proposal upon a number of scheduled monuments in the area.
- 8.64 Although they have some criticisms of some of the methodology used in the EIA, they have been able to conclude,
“...We do not consider that the proposal would have any significant impacts on heritage assets within our remit. We therefore do not wish object to the proposal...”

Non-material considerations

- 8.65 None

Matters to be secured by Section 75 Agreement

- 8.66 None

9. CONCLUSION

- 9.1 The key consideration for this application is whether the reasons for the dismissal of the appeal for the previous application have been overcome. The conclusion of this recommendation is that they have.
- 9.2 The previous application had the potential to have a localised visual impact on the special qualities of both the NSA and the SLA when seen from the Flodigarry settlement and the coastal path. However, reducing the number of pens and moving the site south has helped mitigate, to a certain degree, the visual impact of the proposed development. This can be seen by the SLVIA and the interactive model (on the applicant's website) of the Flodigarry site demonstrating the expected views from key locations surrounding the farm. Any negative impacts that still exist are finite and localised in their extent and will only impact on a small number of

receptors. Some recognition and weight can be given to the potential for the site to be part of an extended fallow regime in which the site would be devoid of surface equipment for one year every few years.

Consequently, the negative visual impacts of the proposal are considered marginal enough to be capable of being offset by the economic and social benefits of the farm in accordance with NPF4 Policies 4, 25, 29 and 32 of the development plan.

9.3 As identified in the letters of support from residents and businesses, the applicant has now established its operations within the local community, and in turn, strengthened services and facilities in an area of rural decline through funding community projects, contracting local business and offering well paid jobs to local residents as outlined in the socio-economic evidence report provided with the application.

There remains significant local opposition to the proposal on visual and environmental grounds. As identified in the above report, only the visual concerns are considered to be supportable in the light of consultee advice.

Although considered sufficient to justify the dismissal of the previous appeal, these visual impacts must now be balanced against the community wealth building benefits of the established business and its growth plans - as required by NPF4 Policy 4. This is in addition to the physical features of mitigation including the reduction in the number of cages and the reorientation of the pens and the extended fallow period across the four sites.

In doing this the authority has been able to conclude that the visual negatives of the proposal are outweighed by the economic and social positives, and this justifies approval of the project.

9.4 The applicant has included a biodiversity enhancement plan which is welcomed by wider consultees, specifically the RSBP and Skye and Lochalsh River Trust. The envisaged riparian habitat improvements have the potential to increase the carrying capacity of three local rivers as breeding habitat for wild salmonids. This would not only fulfil biodiversity enhancement requirements of NPF4 Policy 3 but would also mitigate any negative impacts upon wild salmonid populations that might still occur in the context of the new SEPA sea-lice risk framework.

9.5 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. IMPLICATIONS

10.1 Resource: Not applicable

10.2 Legal: Not applicable

10.3 Community (Equality, Poverty and Rural): Not applicable

10.4 Climate Change/Carbon Clever: Not applicable

10.5 Risk: Not applicable

10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued

No

Subject to the above actions, it is recommended to grant the application subject to the following conditions and reasons:

1. No development shall take place until a salmonid riparian habitat improvement and biodiversity enhancement plan covering the rivers Kilmartin, Brogaig and Kilmaluag has been submitted to and approved in writing by the planning authority. The submitted plan shall include;
 - details of river habitat improvements focussed upon increasing the carrying capacity of the river as breeding habitat for salmonids
 - a monitoring methodology for assessing the degree of success of the habitat enhancement plan
 - details of an adaptive management approach to feeding the results of monitoring back into the plan
 - a mechanism for funding the works
 - a commitment to maintain the plan during the lifetime of the farm.

Reason: In the interests of achieving a biodiversity enhancement in accordance with the requirements of NPF4 Policy 3(a).

2. All surface equipment, with the exception of navigational markers, shall be finished in a dark, matt neutral colour unless alternative finishes are agreed in advance in writing with the Planning Authority. Pipes between the automated feed barge and the cages shall be neatly bundled to minimise clutter.

Reason: To ensure the landscape and visual impact of the development upon the Trotternish NSA and the Trotternish and Tianavaig SLA is minimised

3. The external lighting system shall be designed and installed in accordance with the best practice contained in the Institute of Lighting Professionals document "Guidance Notes for the Reduction of Obtrusive Light"

All lighting above the water surface and not required for safe navigation purposes should be directed downwards by shielding. It should be extinguished when not required for the purpose for which it has been installed. If lighting is required for security purposes, infra-red lights and cameras should be used.

Reason: To ensure the landscape and visual impact of the development upon the Trotternish NSA and the Trotternish and Tianavaig SLA is minimised

4. In the event of equipment falling into disrepair or becoming damaged, adrift, stranded, abandoned or sunk in such a manner as to cause an obstruction or danger to navigation, the site operator shall carry out or make suitable arrangements for the carrying out of all measures necessary for lighting, buoying, raising, repairing, moving or destroying, as appropriate, the whole or any part of the equipment so as to remove the obstruction or danger to navigation.

Reason: In the interests of amenity and navigational safety.

5. At least three months prior to cessation of use of the site for fish farming, a scheme for the decommissioning and removal of all equipment shall be submitted to and agreed in writing with the Planning Authority. Upon cessation the approved scheme shall be implemented.

Reason: To ensure that decommissioning of the site takes place in an orderly manner and to ensure proper storage and disposal of redundant equipment in the interest of amenity and navigational safety.

6. For the avoidance of doubt, unless amended by the terms of this permission, the development shall be constructed and operated in accordance with the provisions of the application, the submitted plans and EIAR

Reason: In order to clarify the terms of permission

7. All plant, machinery and equipment associated with this development shall be so installed, maintained and operated such that the following standard is met;

- The operating noise Rating level must not exceed the Background noise level by more than 5dB(A) including any characteristics penalty at any noise-sensitive premises. Terms and measurements to be in accordance with BS 4142: 2014 Methods for Rating Industrial & Commercial Sound.

For the purposes of this condition, "noise-sensitive premises" includes, but is not necessarily limited to, any building, structure or other development the lawful use of which a) falls within Classes 7 (Hotels & Hostels), 8 (Residential Institutions) or 9 (Houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), or b) is as a flat or static residential caravan

Reason: In the interests of amenity of neighbouring property

8. No top nets shall be installed with a mesh size exceeding 200mm.

Reason: to reduce the likelihood of Gannet entanglement.

9. The applicant shall maintain daily records of wildlife entanglement/entrapment using a standardised proforma and submit regular (typically six-monthly) returns to the LPA, copied to NatureScot;

The applicant will immediately notify the LPA and NatureScot in the event that any significant entrapment or entanglement of gannets, and any other SPA interests identified as relevant to a particular fish farm (e.g. involving three or more birds of any named species on any one day and/or a total of ten or more birds in the space of any seven day period and/or repeat incidents involving one or more birds on four or more consecutive days); occur.

In the event of such a significant event, adaptive management approaches shall be agreed between the planning authority and the applicant in consultation with NatureScot to avoid reoccurrence.

Reason: to reduce the likelihood of Gannet (and other species) entanglement.

10. Construction activity associated with the installation of the site shall not take place outwith the period August and March.

Vessel movements shall not be carried out other than in accordance with the mitigation contained within the confidential annex submitted with the planning application

Reason: To minimise disturbance of white-tailed eagles.

11. In the circumstances of both this and the neighbouring site at Balmaqueen (23/05931/FUL) being granted planning permission, this site shall not be equipped and operated other than in strict accordance with the 'rotational strategy' described in the EIAR unless otherwise agreed in writing with the Planning Authority. This means that, other than during transitional periods of moving pens to and from this site, no surface equipment, other than mooring buoys, shall be installed at this site when pens are also present at more than two of the other three sites (Lealt [17/04735/FUL], Culnacnock [17/04749/FUL] and Balmaqueen).

Reason: To minimise the visual impact of the site and in accordance with the submitted details.

REASONED CONCLUSION

The Council is in agreement with the findings of the Environmental Impact Assessment Report that the marine fish farm - Atlantic Salmon and of comprising 10 x 120m circumference pens with 14m x 14m feed barge and ancillary equipment is unlikely to give rise to any new or other significant adverse impact on the environment. The Council is satisfied that all environmental effects of this development can be addressed by way of mitigation. The Council has incorporated the requirement for a schedule of mitigation within the conditions of this permission. Monitoring of operational compliance has been secured through Conditions 1-12 that secure environmental mitigation and monitoring of this permission.

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates

must commence within three years of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

INFORMATIVES

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans and Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Construction Hours and Noise-Generating Activities: You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your

Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Protected Species – Halting of Work

You are advised that work on site must stop immediately, and NatureScot must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from NatureScot: <https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species>

Signature: Dafydd Jones
 Designation: Area Planning Manager - North
 Author: Mark Harvey
 Background Papers: Documents referred to in report and in case file.
 Relevant Plans:

Document Type	Document Number	Version	Document Date	Site Received Date
Location Plan	Fig 1			11 Dec 2023
Location Plan	Fig 2			11 Dec 2023
Location Plan	Fig 3			11 Dec 2023
Site Layout Plan	Fig 4			11 Dec 2023
Site Layout Plan	Fig 5			11 Dec 2023
Elevations	Fig 8			11 Dec 2023
Top Nets	Fig 9			11 Dec 2023
Section Plan	GFE_SM_SSC_350_GA_00001 1 of 3	Rev A		11 Dec 2023
Section Plan	GFE_SM_SSC_350_GA_00001 2 of 3	Rev A		11 Dec 2023
Section Plan	GFE_SM_SSC_350_GA_00001 3 of 3	Rev A		11 Dec 2023
Section Plan	01-1504			11 Dec 2023

Appendix B Appropriate Assessment

CONSIDERATION OF PROPOSALS AFFECTING EUROPEAN SITES

Inner Hebrides and the Minches Special Area of Conservation

The status of the Inner Hebrides and the Minches Special Area of Conservation means that the requirements of the Conservation (Natural Habitats, & c.) Regulations 1994 as amended (the 'Habitats Regulations') or, for reserved matters the Conservation of Habitats and Species Regulations 2017 as amended apply.

This means that where the conclusion reached by the Council on a development proposal unconnected with the nature conservation management of a Natura 2000 site is that it is likely to have a significant effect on those sites, it must undertake an Appropriate Assessment of the implications for the conservation interests for which the areas have been designated. The need for Appropriate Assessment extends to plans or projects out with the boundary of the site in order to determine their implications for the interest protected within the site.

This means that the Council, as competent authority, has a duty to:

- determine whether the proposal is directly connected with or necessary to site management for conservation; and, if not,
- determine whether the proposal is likely to have a significant effect on the site either individually or in combination with other plans or projects; and, if so, then
- make an Appropriate Assessment of the implications (of the proposal) for the site in view of that site's conservation objectives.

The competent authority can only agree to the proposal after having ascertained that it will not have an adverse effect on the integrity of the sites. If this is not the case and there are not alternative solutions, the proposal can only be allowed to proceed if there are imperative reasons of overriding public interest, which in this case can include those of a social or economic nature.

Screening of Likely Significant Effects

It is evident that the proposal is not connected with or necessary to site management for conservation, hence further consideration is required.

Inner Hebrides and the Minches Special Area of Conservation

NatureScot have advised that the proposal is **likely** to have a significant effect on the qualifying interests of the Inner Hebrides and the Minches Special Area of Conservation and an **appropriate assessment IS required**.

APPROPRIATE ASSESSMENT

While the responsibility to carry out the Appropriate Assessment rests with the Council, advice contained within Circular 6/1995 is that the assessment can be based on the information submitted from other agencies. In this case, the Appropriate Assessment is informed by information supplied by NatureScot, the applicant and various published information.

NatureScot advise that based on the information provided, their conclusion is that the proposal will not adversely affect the integrity of the site. Their appraisal considered the impact of the proposals on the following factors:

- The proposals are broadly in line with the guidance laid out in the SAC Conservation and

Management Advice document – <https://sitelink.nature.scot/site/10508> - which seeks to limit the impacts of the proposals.

- The site is on the edge of the Minch in a relatively unconstrained area in terms of cetacean movements (as opposed to sounds or narrows), reducing the likelihood interactions.
- Acoustic deterrent devices (ADDs) and sub-surface anti-predator nets will not be used at this site.
- Mitigation is proposed to reduce amounts of underwater noise, including workboats operating to defined routes which will reduce the need for echosounders to be used.

The planning authority agrees with this assessment and concludes that no adverse effect on the integrity of the SAC is likely to result from this development.

Appendix C Appropriate Assessment

CONSIDERATION OF PROPOSALS AFFECTING EUROPEAN SITES

River Kerry Special Area of Conservation

The status of the River Kerry Special Area of Conservation means that the requirements of the Conservation (Natural Habitats, & c.) Regulations 1994 as amended (the 'Habitats Regulations') or, for reserved matters the Conservation of Habitats and Species Regulations 2017 as amended apply.

This means that where the conclusion reached by the Council on a development proposal unconnected with the nature conservation management of a Natura 2000 site is that it is likely to have a significant effect on those sites, it must undertake an Appropriate Assessment of the implications for the conservation interests for which the areas have been designated. The need for Appropriate Assessment extends to plans or projects out with the boundary of the site in order to determine their implications for the interest protected within the site.

This means that the Council, as competent authority, has a duty to:

- determine whether the proposal is directly connected with or necessary to site management for conservation; and, if not,
- determine whether the proposal is likely to have a significant effect on the site either individually or in combination with other plans or projects; and, if so, then
- make an Appropriate Assessment of the implications (of the proposal) for the site in view of that site's conservation objectives.

The competent authority can only agree to the proposal after having ascertained that it will not have an adverse effect on the integrity of the sites. If this is not the case and there are not alternative solutions, the proposal can only be allowed to proceed if there are imperative reasons of overriding public interest, which in this case can include those of a social or economic nature.

Screening of Likely Significant Effects

It is evident that the proposal is not connected with or necessary to site management for conservation, hence further consideration is required.

River Kerry Special Area of Conservation

NatureScot have advised that the proposal is **likely** to have a significant effect on the qualifying interests of the River Kerry Special Area of Conservation and an **appropriate assessment IS required**.

APPROPRIATE ASSESSMENT

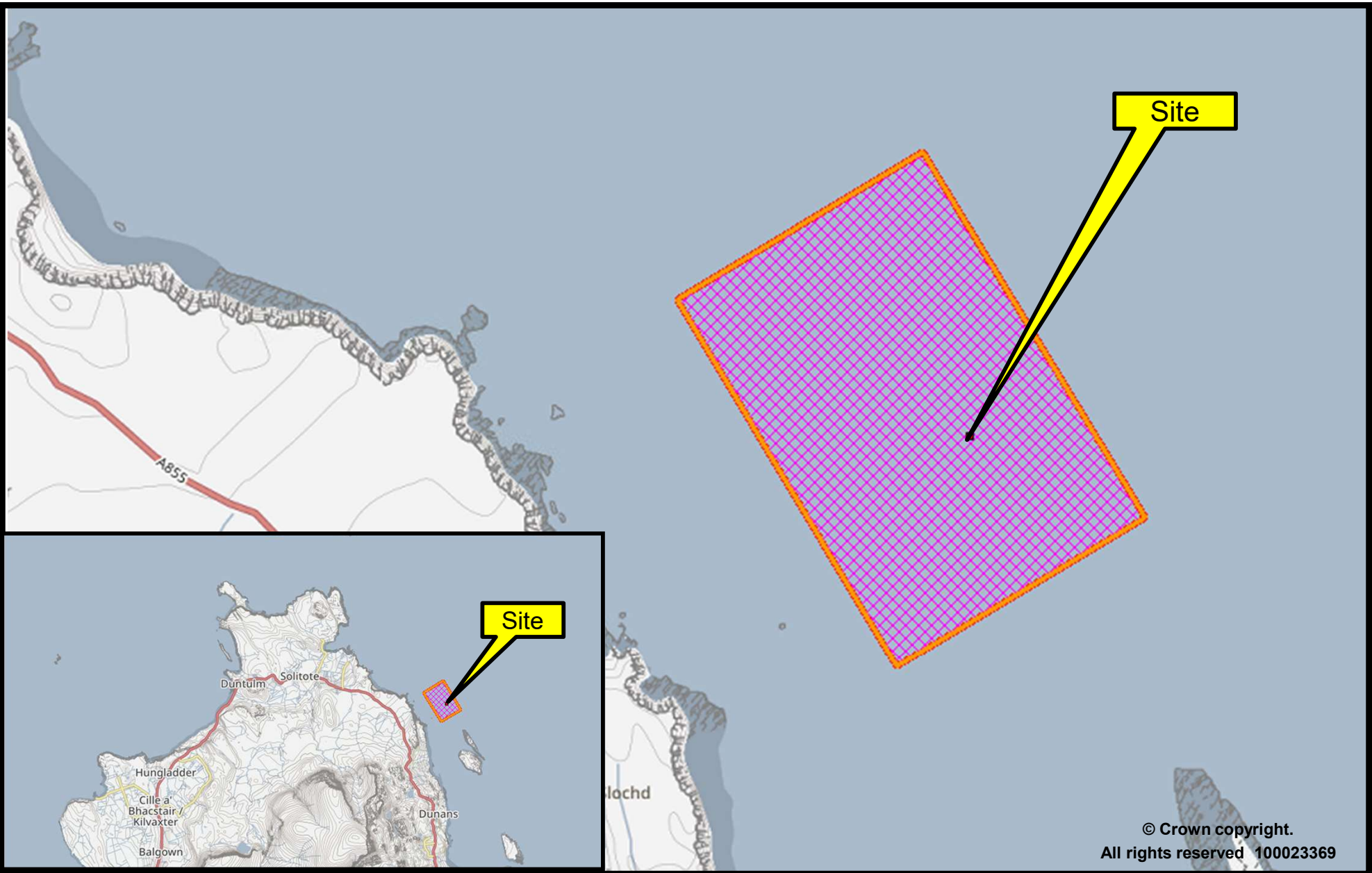
While the responsibility to carry out the Appropriate Assessment rests with the Council, advice contained within Circular 6/1995 is that the assessment can be based on the information submitted from other agencies. In this case, the Appropriate Assessment is informed by information supplied by NatureScot, the applicant and various published information.

NatureScot advise that based on the information provided, their conclusion is that the proposal will not adversely affect the integrity of the site. Their appraisal considered the impact of the proposals on the following factors:

- Salmon is the primary host for larval FWPM (glochidia) in the River Kerry.

- The supplied SAMS Sea Lice Dispersal Modelling shows that salmon post smolts swimming out to sea from the River Kerry may pass through a plume of sea lice emanating from the farm.
- The presence, location and concentration of lice would depend on a number of factors including number of reproductive lice on the farmed fish, currents and weather.
- However, the relatively low predicted density of lice and relatively short time taken for fish to swim through any lice plume means that it is not considered high risk to River Kerry salmon.
- This conclusion aligns with SEPA's screening assessment modelling, which predicts that significant sea lice loads are not reaching the Wild Salmon Protection Zone (WSPZ) at the River Kerry.

The planning authority agrees with this assessment and concludes that no adverse effect on the integrity of the SAC is likely to result from this development.



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23/05927/FUL

Marine Fish Farm – Atlantic Salmon, comprising 10 x 120m circumference pens with 14m x 14m feed barge and ancillary equipment
At Land 1520M NE of Bridgend Cottage, Flodigarry, Portree, Isle of Skye



Figure 9 - Top-Nets

Top-nets will be fitted to all pens to restrict predation by seabirds.

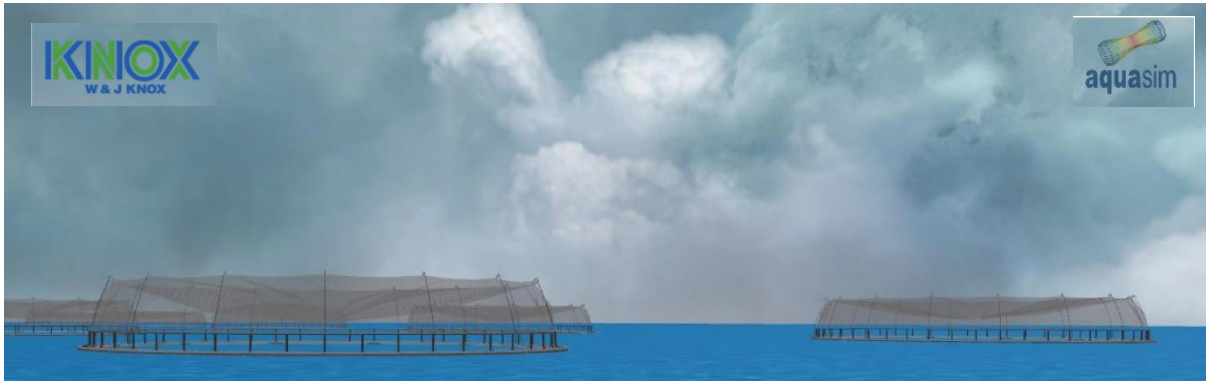


Figure 9a – Digital Rendition of Top-Net

Net Height

4.5m from pen walkway to top of side wall.

Net Support

14 x Fibreglass poles per pen (e-glass fibres in polyester resin) 5m length, 42mm Diameter

Net Specifications

Roof 300mm mesh (see below) x 1.2mm dia. chineema twine, light grey

Upper side walls (handrail to roof) 100mm mesh x 1.2mm dia. chineema twine, light grey

Lower side walls 25mm mesh x 1.2mm dia. chinema twine, light grey.

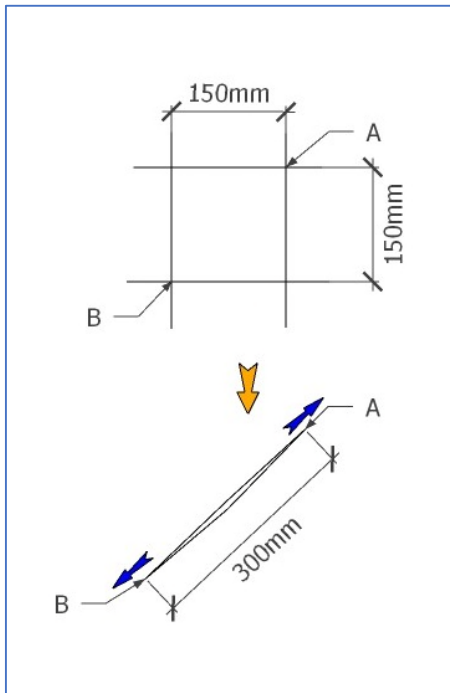


Figure 9b –Top Net Roof Mesh Dimensions

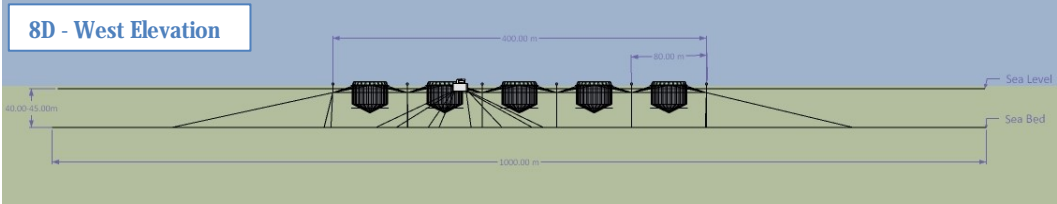
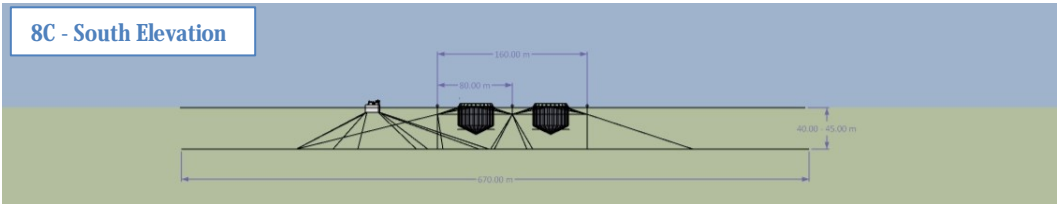
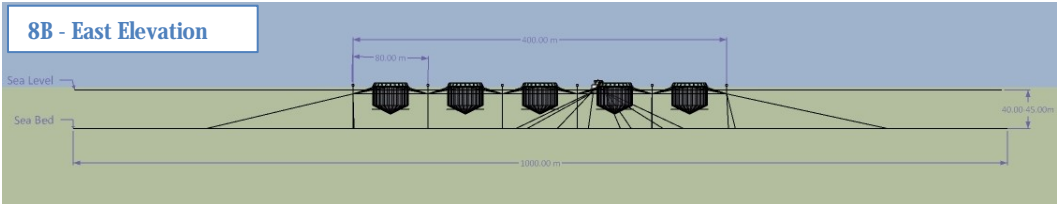
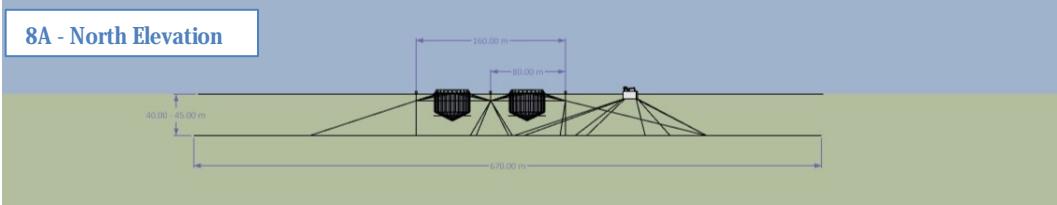


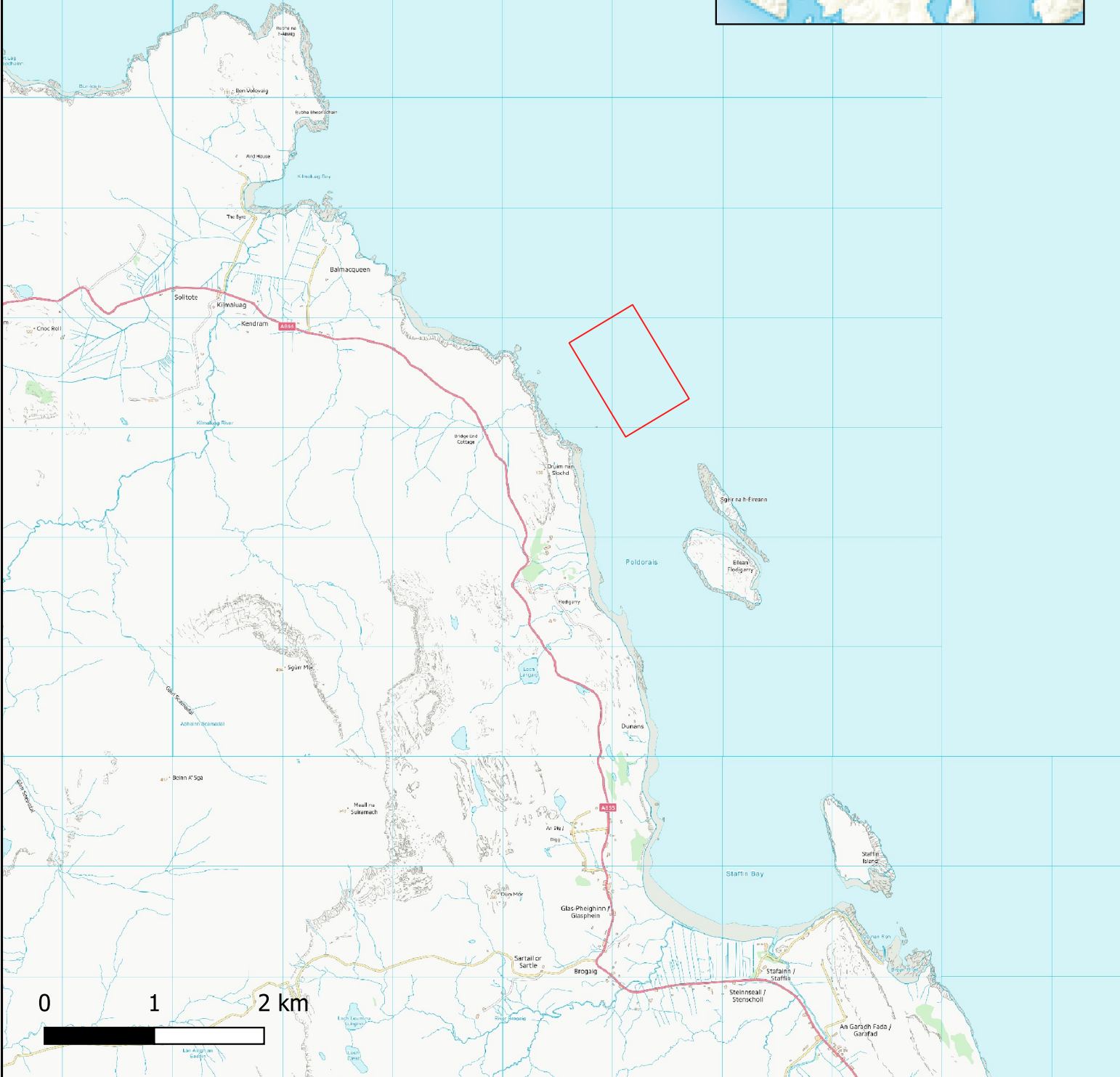
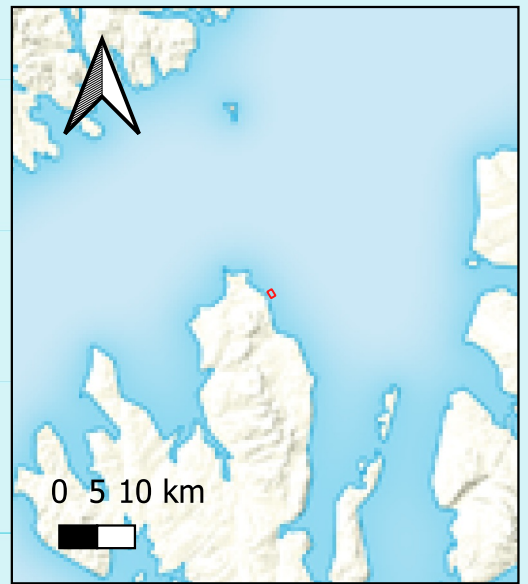
Figure 9c – Top Net roof mesh

Figure 8 - Elevation Diagrams

Notes:

- 1- These figures show pens, nets, feedbarge and their spatial relationships.
- 2- The thickness of all ropes, moorings and pen structures, is exaggerated
- 3- Angle of mooring legs is representative and will change with tide and wind across the sites





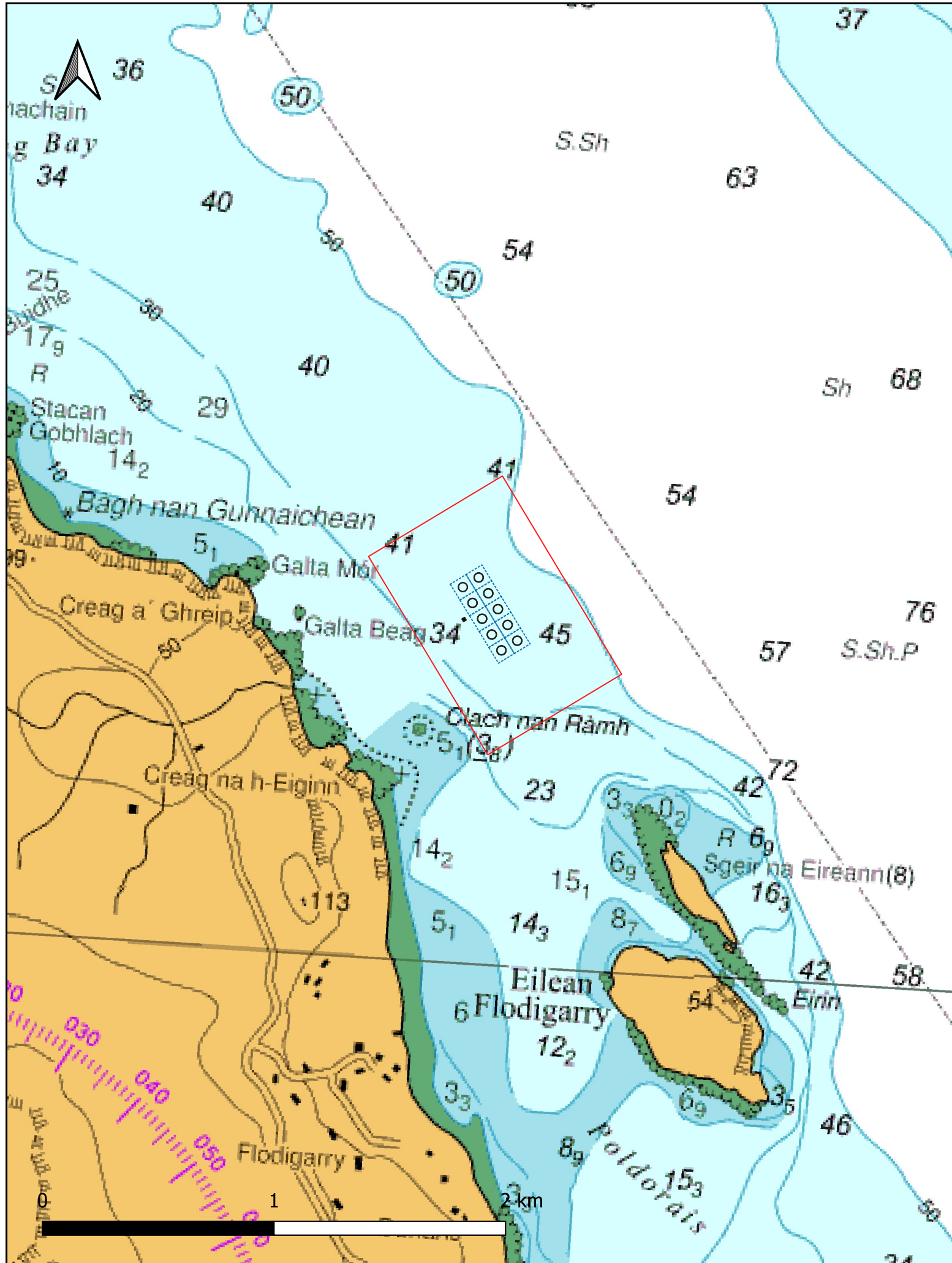
ORGANIC SEA HARVEST - EILEAN FLODIGARRY
FIG 1 - LOCATION PLAN

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ORGANIC SEA HARVEST - EILEAN FLODIGARRY
 FIG 3 - LOCATION PLAN - SHOWING SURFACE EQUIPMENT
 (CHART)

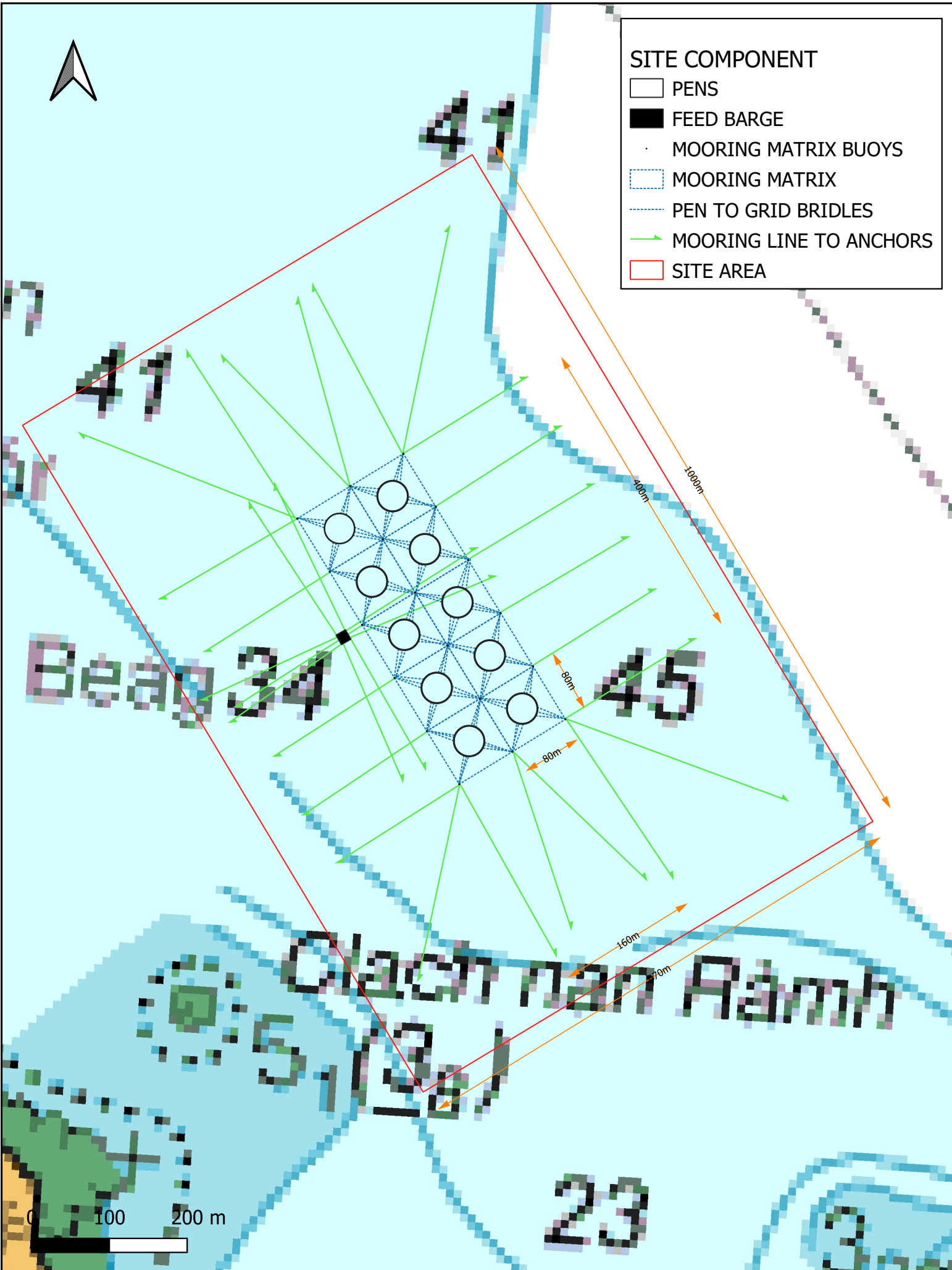
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 **LOCHSIDE**
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SITE COMPONENT

- PENS
- FEED BARGE
- MOORING MATRIX BUOYS
- MOORING MATRIX
- PEN TO GRID BRIDLES
- MOORING LINE TO ANCHORS
- SITE AREA



ORGANIC SEA HARVEST - EILEAN FLODIGARRY
FIG 4 - SITE PLAN - SHOWING EQUIPMENT COMPONENTS
NOTE - MOORING LAYOUT SUBJECT TO MICROSITING

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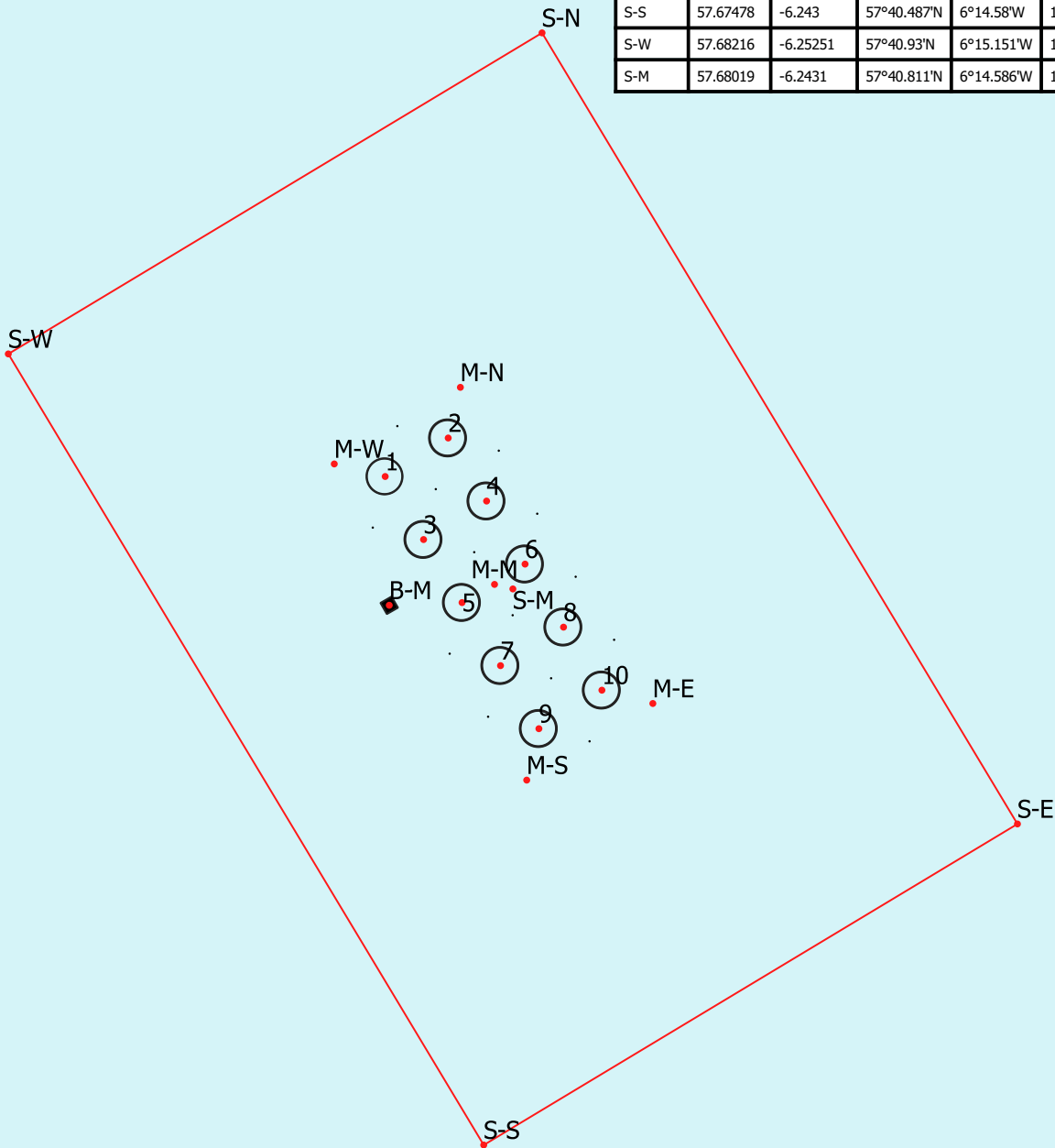
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POINT	LAT DD	LONG DD	LAT DM	LONG DM	EASTING	NORTHING	NGR
1	57.6812	-6.24555	57°40.872'N	6°14.733'W	147013.6	873639.3	NG 47013 73639
2	57.68162	-6.24445	57°40.897'N	6°14.667'W	147081.9	873681	NG 47081 73680
3	57.68062	-6.24478	57°40.837'N	6°14.687'W	147055.2	873571	NG 47055 73571
4	57.68103	-6.24368	57°40.862'N	6°14.621'W	147123.5	873612.7	NG 47123 73612
5	57.68003	-6.24401	57°40.802'N	6°14.64'W	147096.9	873502.7	NG 47096 73502
6	57.68044	-6.24291	57°40.826'N	6°14.575'W	147165.2	873544.4	NG 47165 73544
7	57.67944	-6.24324	57°40.766'N	6°14.594'W	147138.6	873434.4	NG 47138 73434
8	57.67985	-6.24214	57°40.791'N	6°14.528'W	147206.9	873476.1	NG 47206 73476
9	57.67885	-6.24247	57°40.731'N	6°14.548'W	147180.2	873366.1	NG 47180 73366
10	57.67926	-6.24137	57°40.756'N	6°14.482'W	147248.5	873407.8	NG 47248 73407
B-M	57.67996	-6.24533	57°40.797'N	6°14.72'W	147018	873499.8	NG 47017 73499
M-N	57.68211	-6.24428	57°40.927'N	6°14.657'W	147095.1	873735.9	NG 47095 73735
M-E	57.67916	-6.24044	57°40.75'N	6°14.426'W	147303.7	873393.4	NG 47303 73393
M-S	57.67834	-6.24263	57°40.701'N	6°14.558'W	147167	873310.4	NG 47166 73310
M-W	57.68129	-6.24648	57°40.878'N	6°14.789'W	146958.4	873652.9	NG 46958 73652
M-M	57.68022	-6.24344	57°40.813'N	6°14.606'W	147132.1	873522.4	NG 47132 73522
S-N	57.6856	-6.24321	57°41.136'N	6°14.592'W	147183.6	874119.9	NG 47183 74119
S-E	57.67822	-6.23369	57°40.693'N	6°14.021'W	147698.9	873262.9	NG 47698 73262
S-S	57.67478	-6.243	57°40.487'N	6°14.58'W	147120.4	872915.1	NG 47120 72915
S-W	57.68216	-6.25251	57°40.93'N	6°15.151'W	146605.1	873772.1	NG 46605 73772
S-M	57.68019	-6.2431	57°40.811'N	6°14.586'W	147152	873517.5	NG 47152 73517



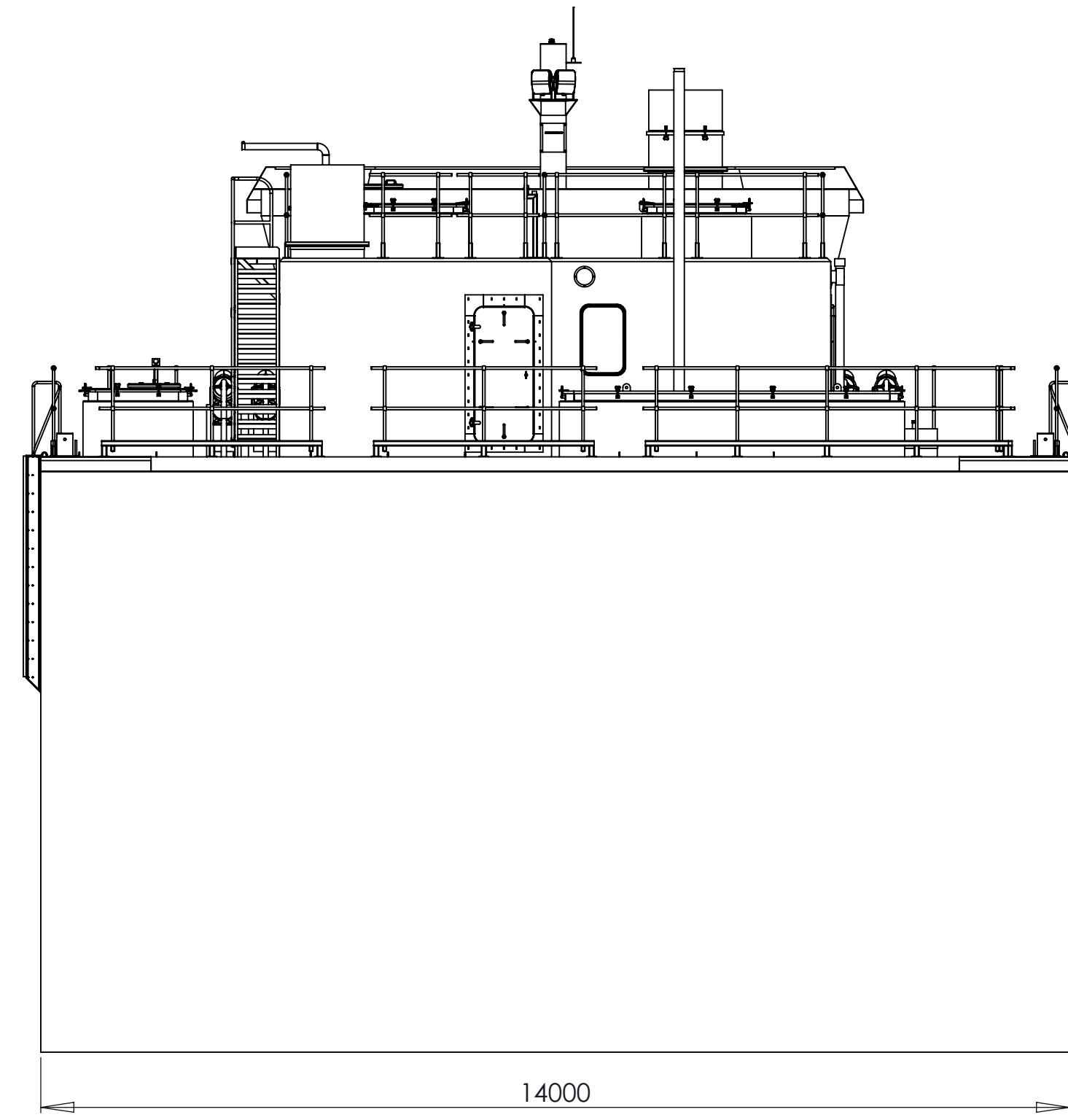
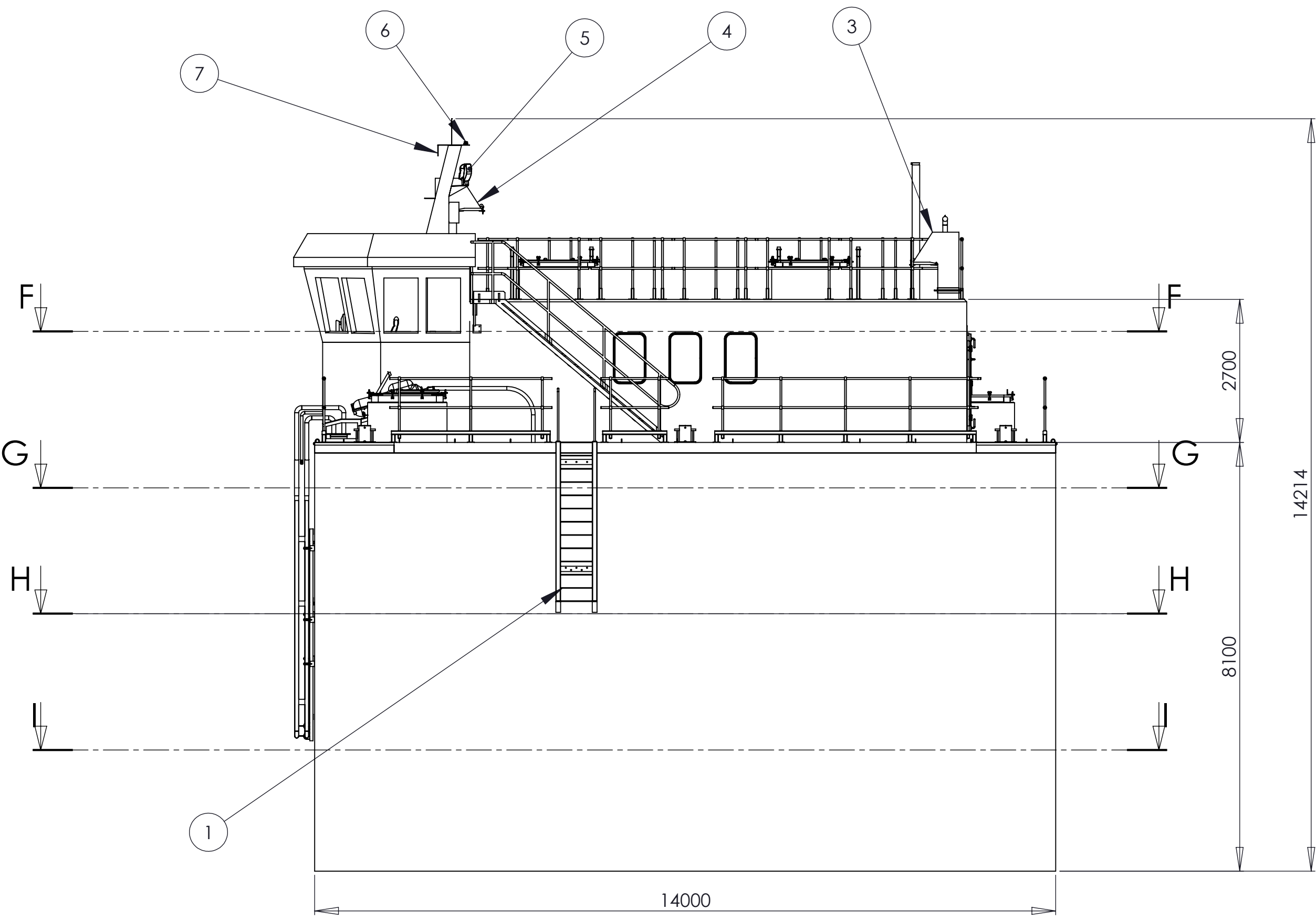
ORGANIC SEA HARVEST - EILEAN FLODIGARRY
FIG 5 - SURFACE EQUIPMENT - KEY POSITIONS

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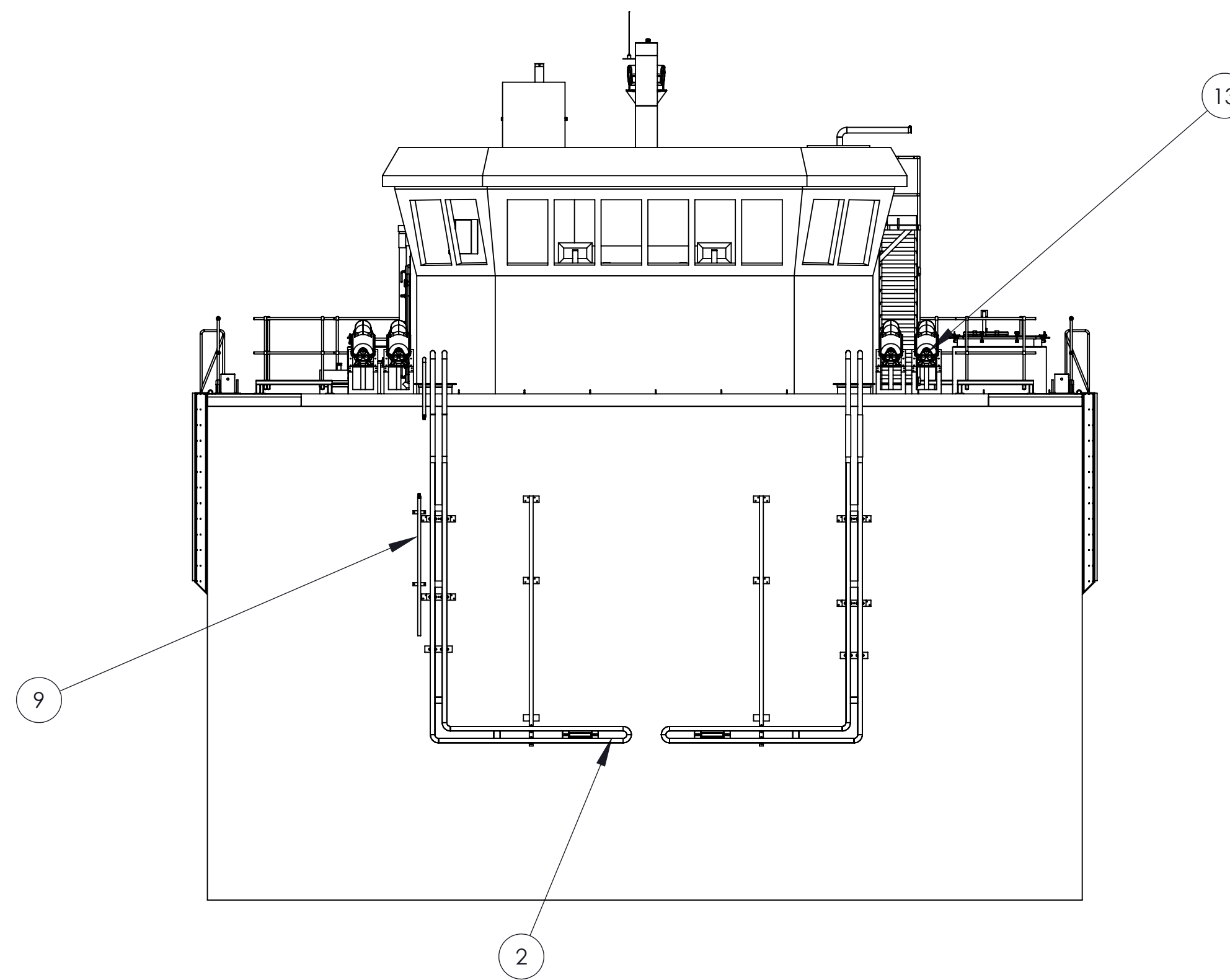
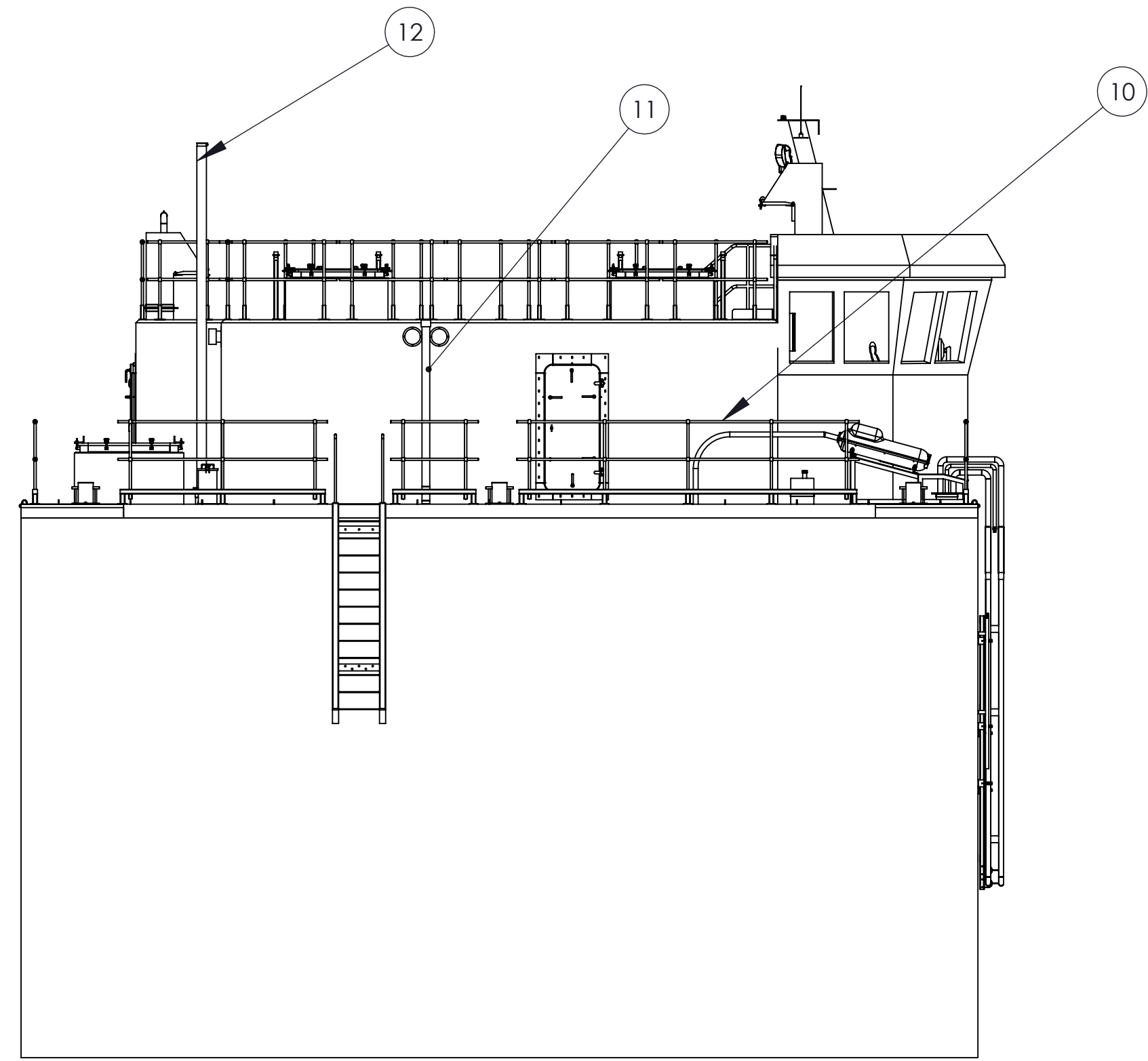
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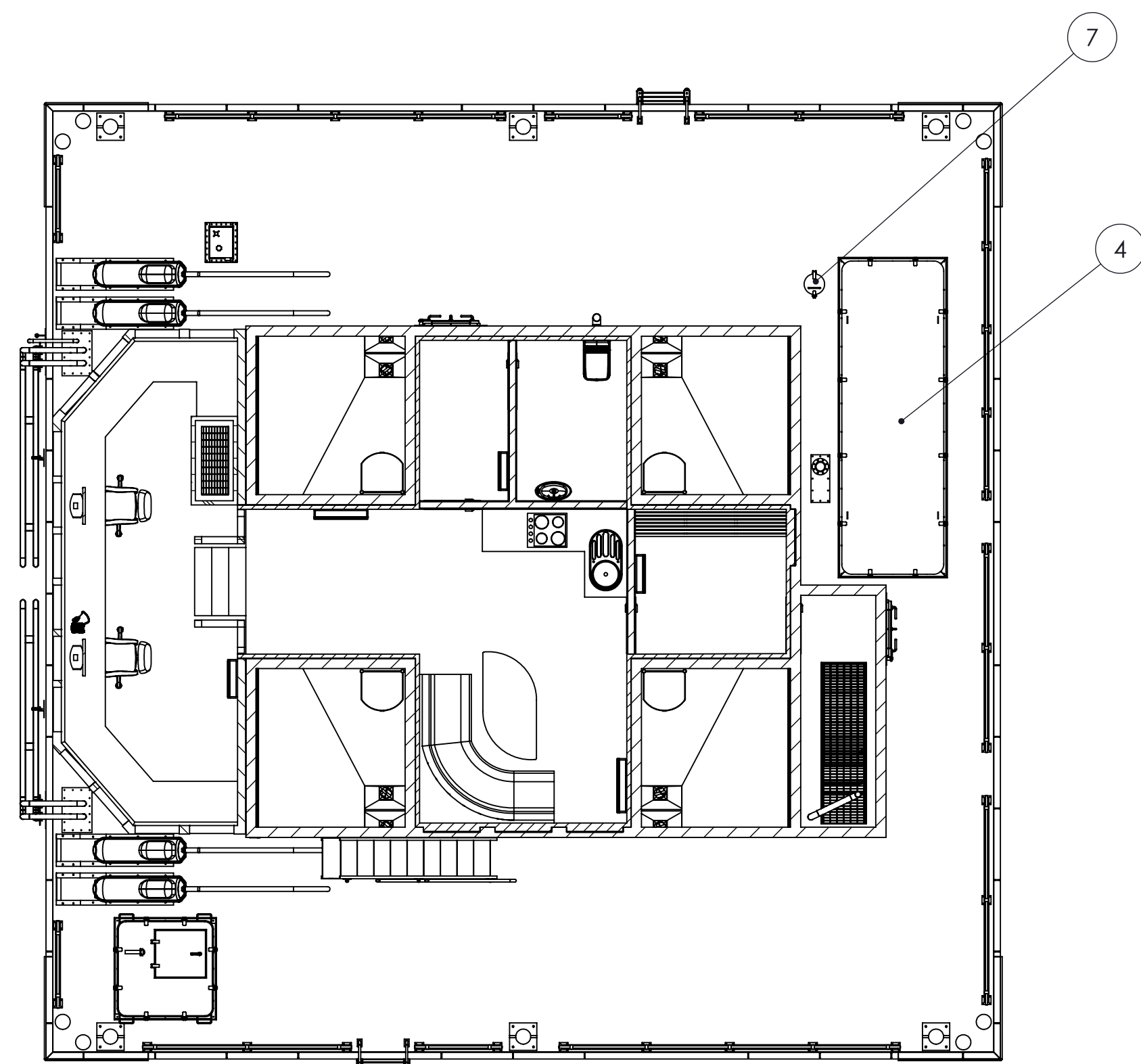
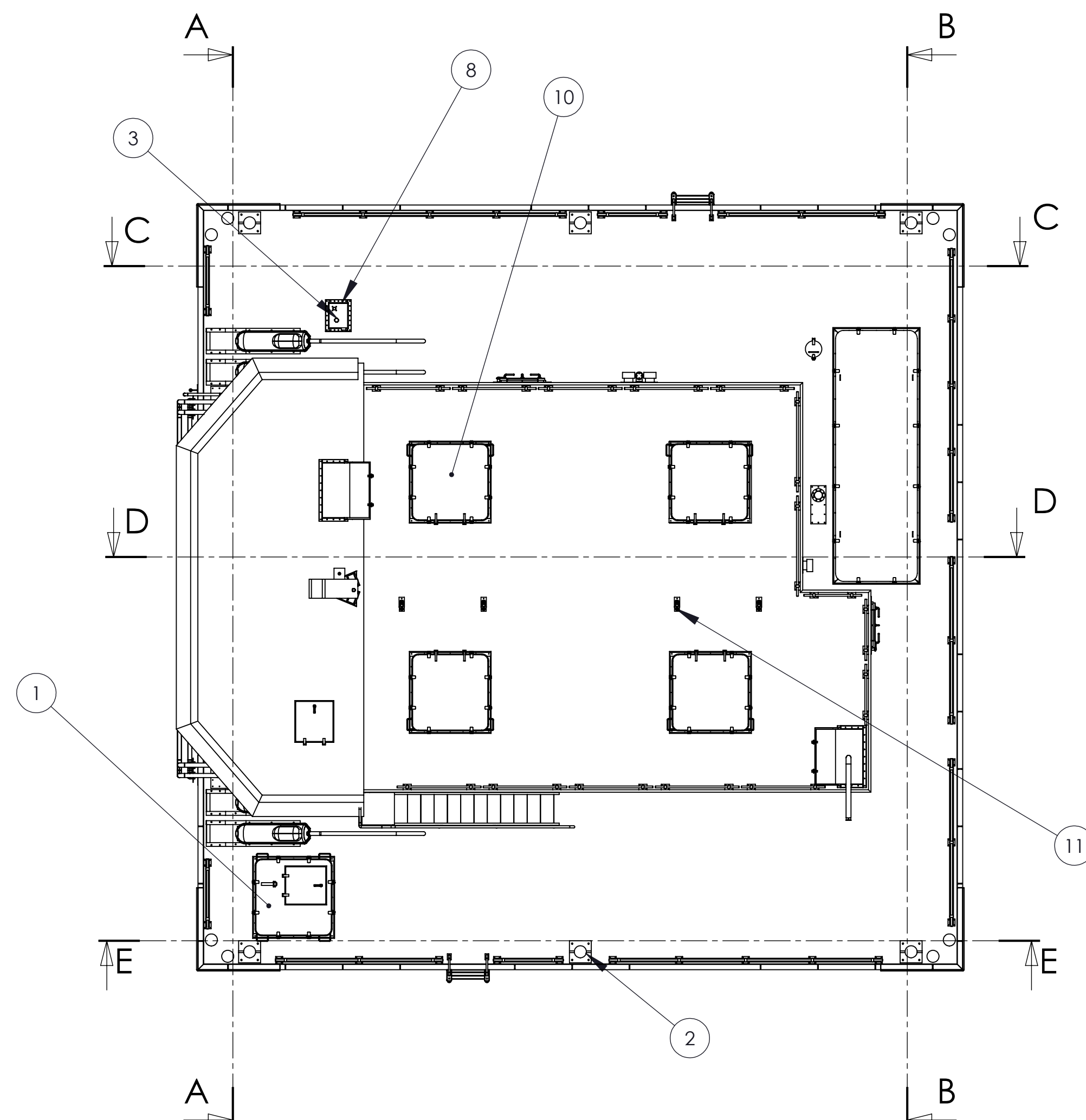


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3	1	TALL VENT
4	1	GENERATOR VENT
5	1	70W DECK LIGHT
6	1	ALL ROUND WHITE LIGHT
7	1	FEED SYSTEM ANTENNA
8	1	RADIO ANTENNA
9	1	GREY WATER OUTLET
10	8	HANDRAILS
11	1	CINDERELLA FLUE
12	1	GENERATOR EXHAUST
13	4	SELECTORS
14	1	CRANE



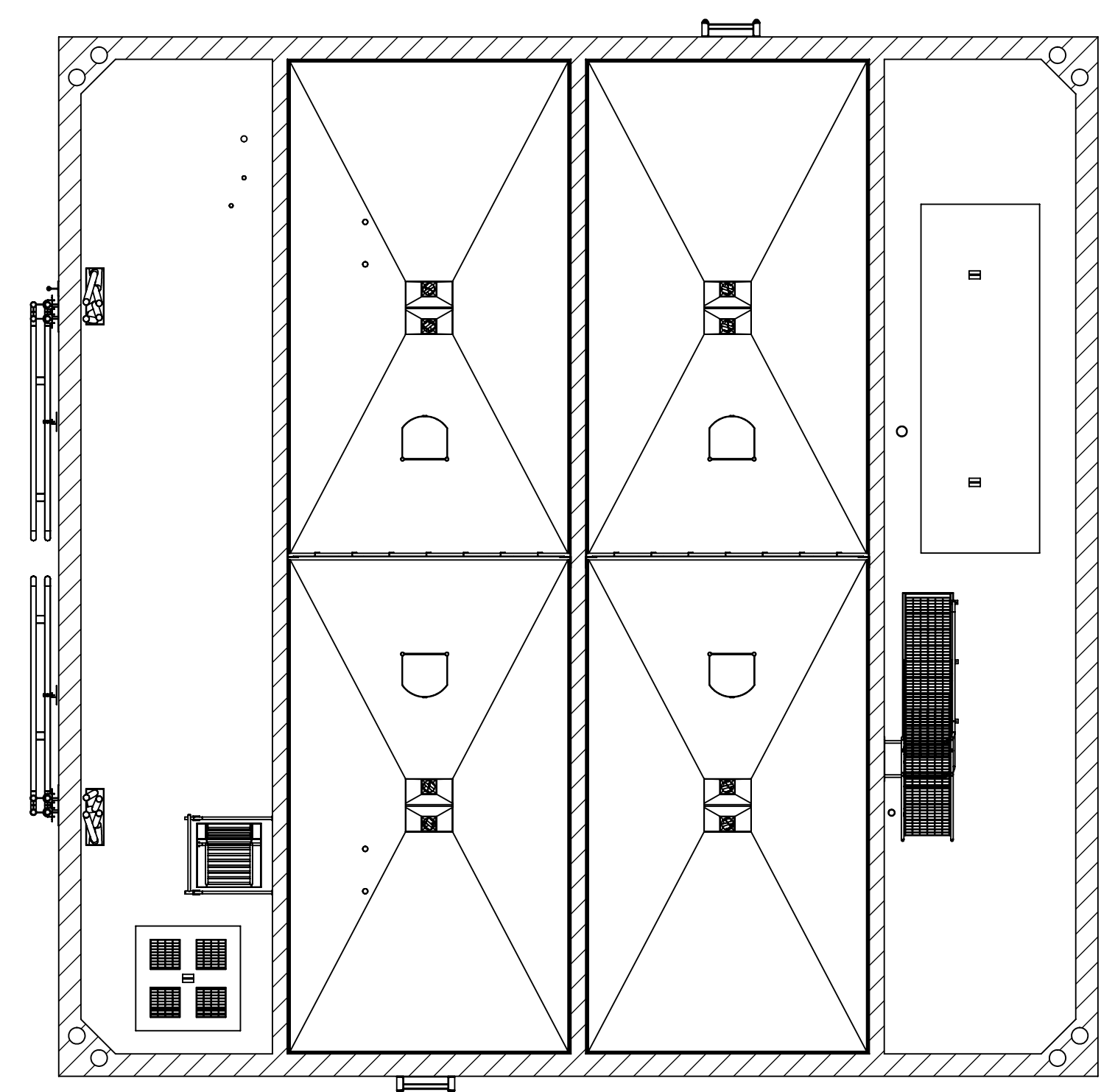
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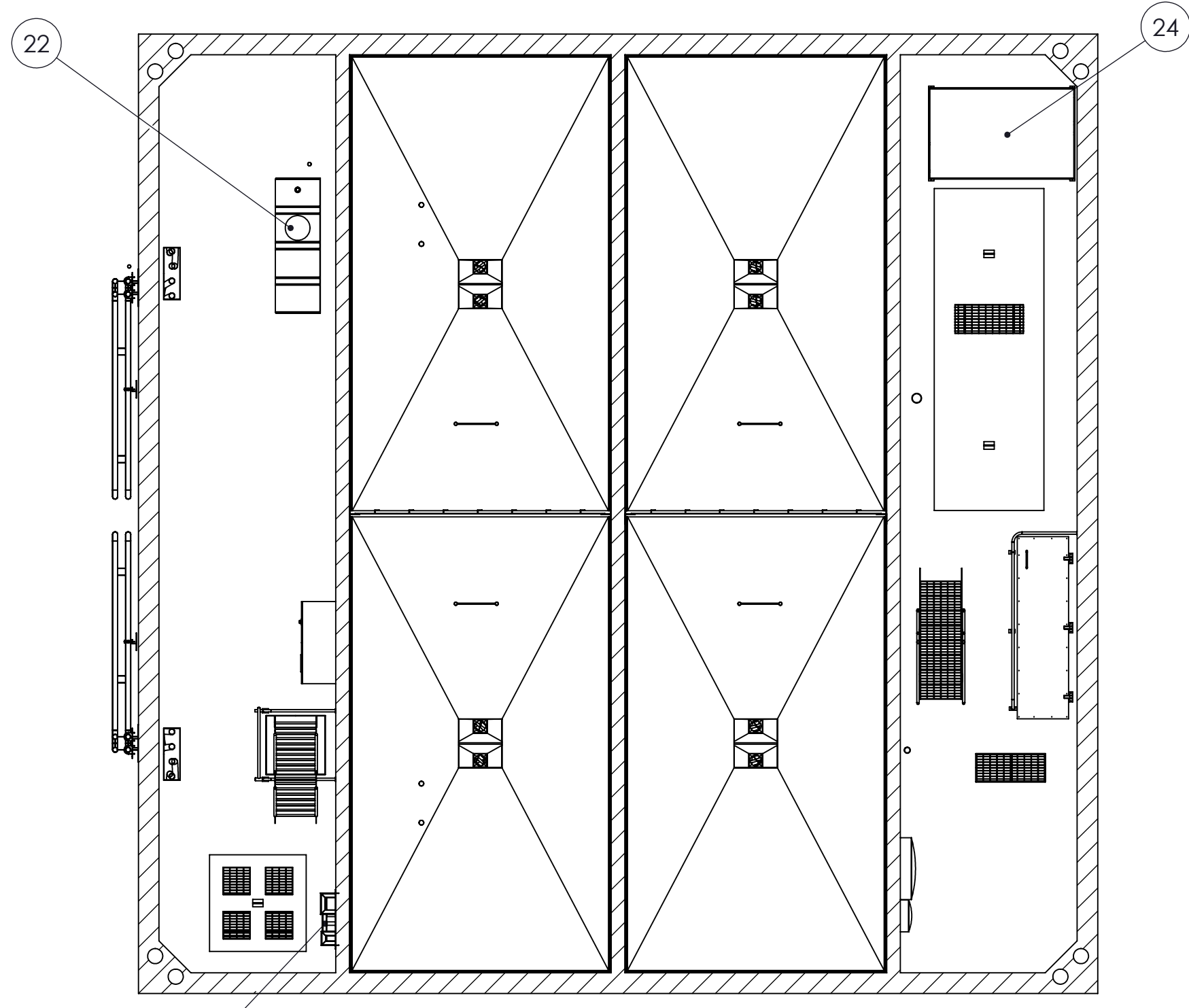


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2	9	BOLLARDS
3	1	HYDRAULIC BOX
4	1	GENERATOR HATCH
5	1	GENERATOR HATCH COVER
6	1	12V PANEL
7	1	DIESEL INLET
8	1	FRESH WATER INLET
9	4	AIR PRESSURE SENSOR
10	4	SILO HATCH
11	4	SILO LID SUPPORT
12	1	FRESH WATER PUMP
13	4	MOORING TUBE
14	4	SELECTOR SUPPLY
15	1	HOT WATER CYLINDER
16	4	SELECTOR
17	4	BILGE PUMP
18	1	BATHROOM
19	1	DRYING ROOM
20	4	SILO
21	1	GENERATOR
22	1	WATERTANK
23	4	BLOWER
24	1	FUEL TANK
25	1	D/B 3
26	1	COMPRESSOR

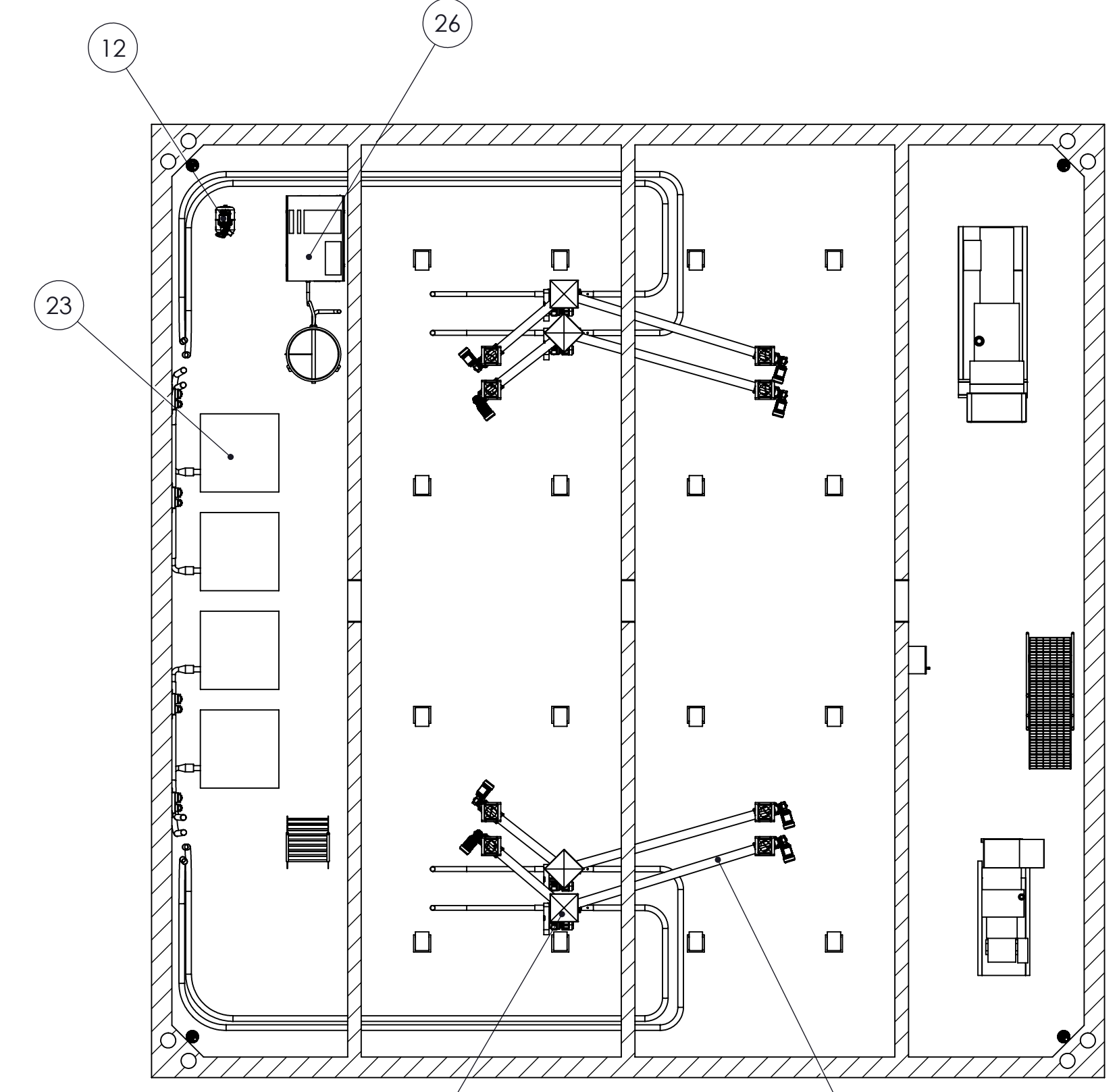
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SECTION G-G



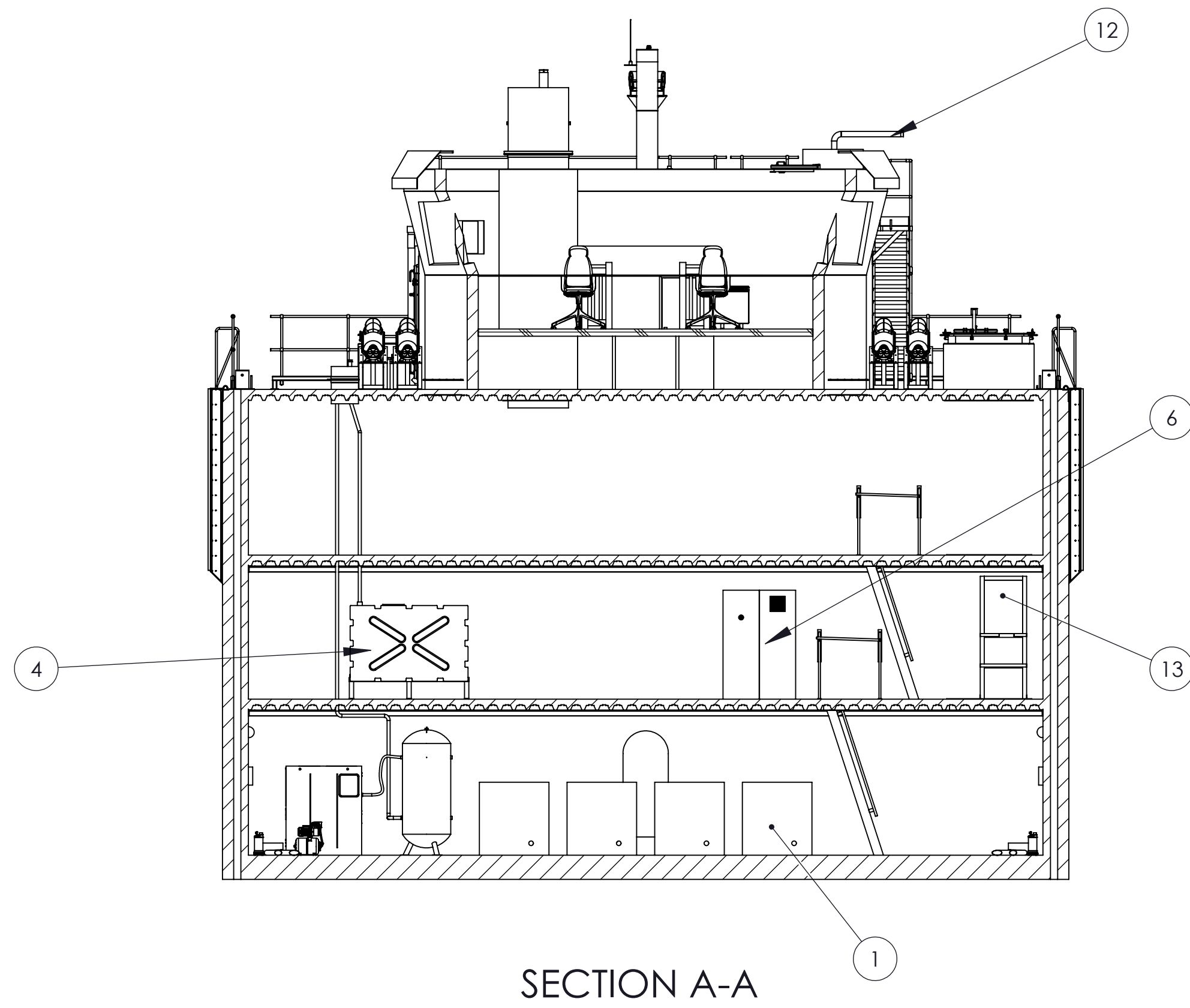
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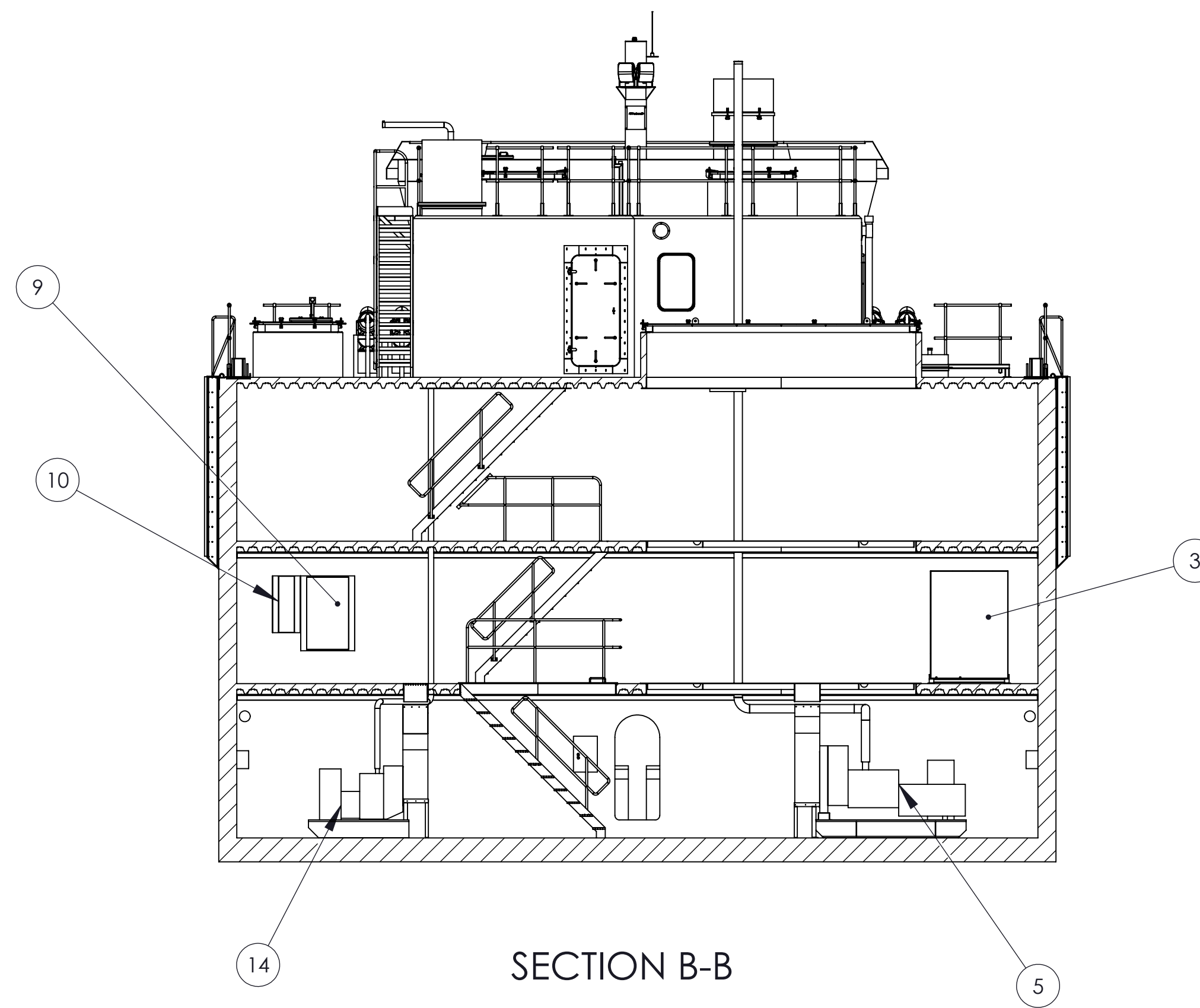
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							REFERENCED DOCUMENT (NO. / TITLE)	GEN. TOL. WELDED PARTS: ISO 13920-BF CHAMFERS: ISO 15715 (DIN 6784)		SYSTEM: GENERAL ARRANGEMENT
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										2 OF 3



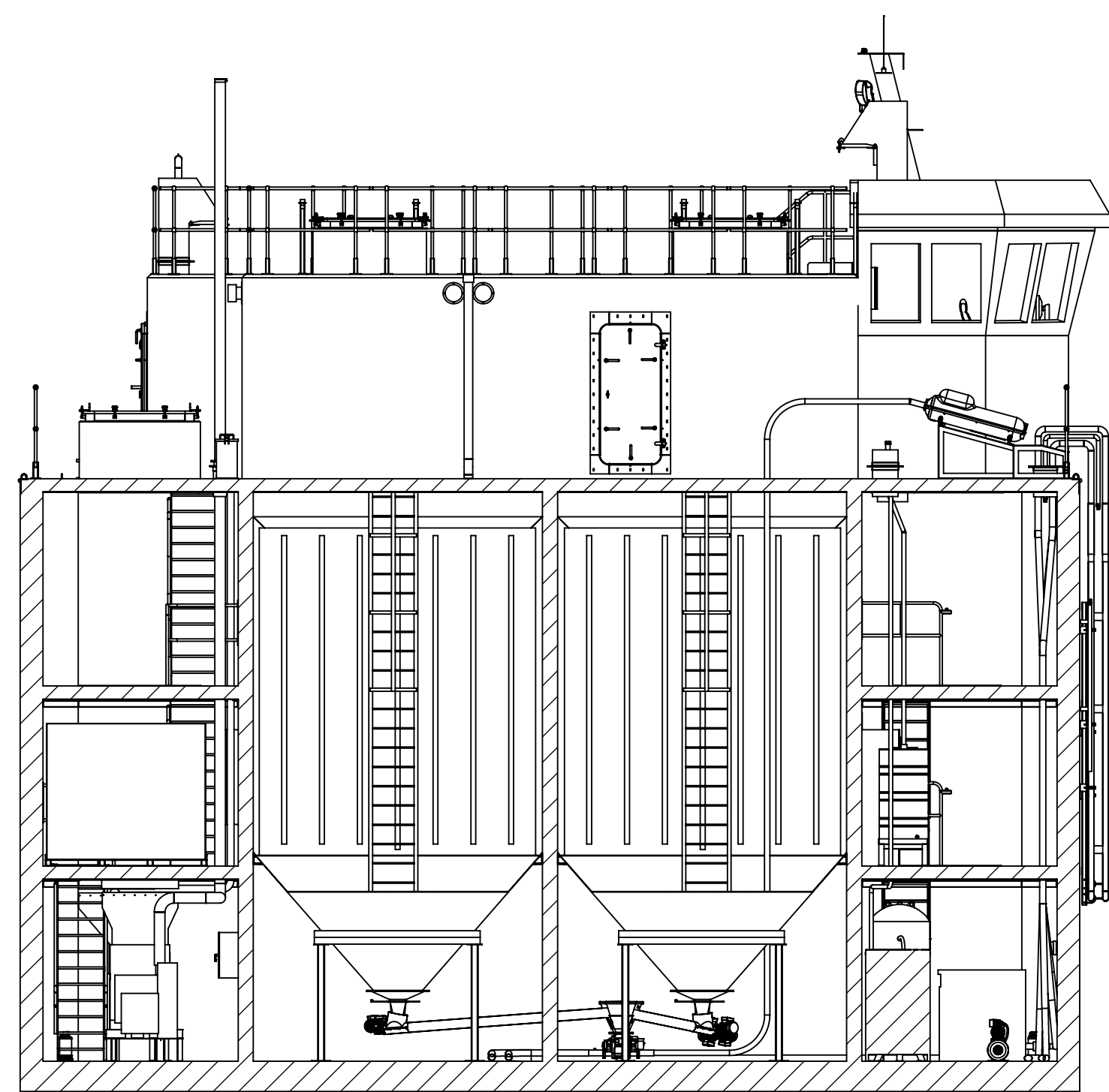


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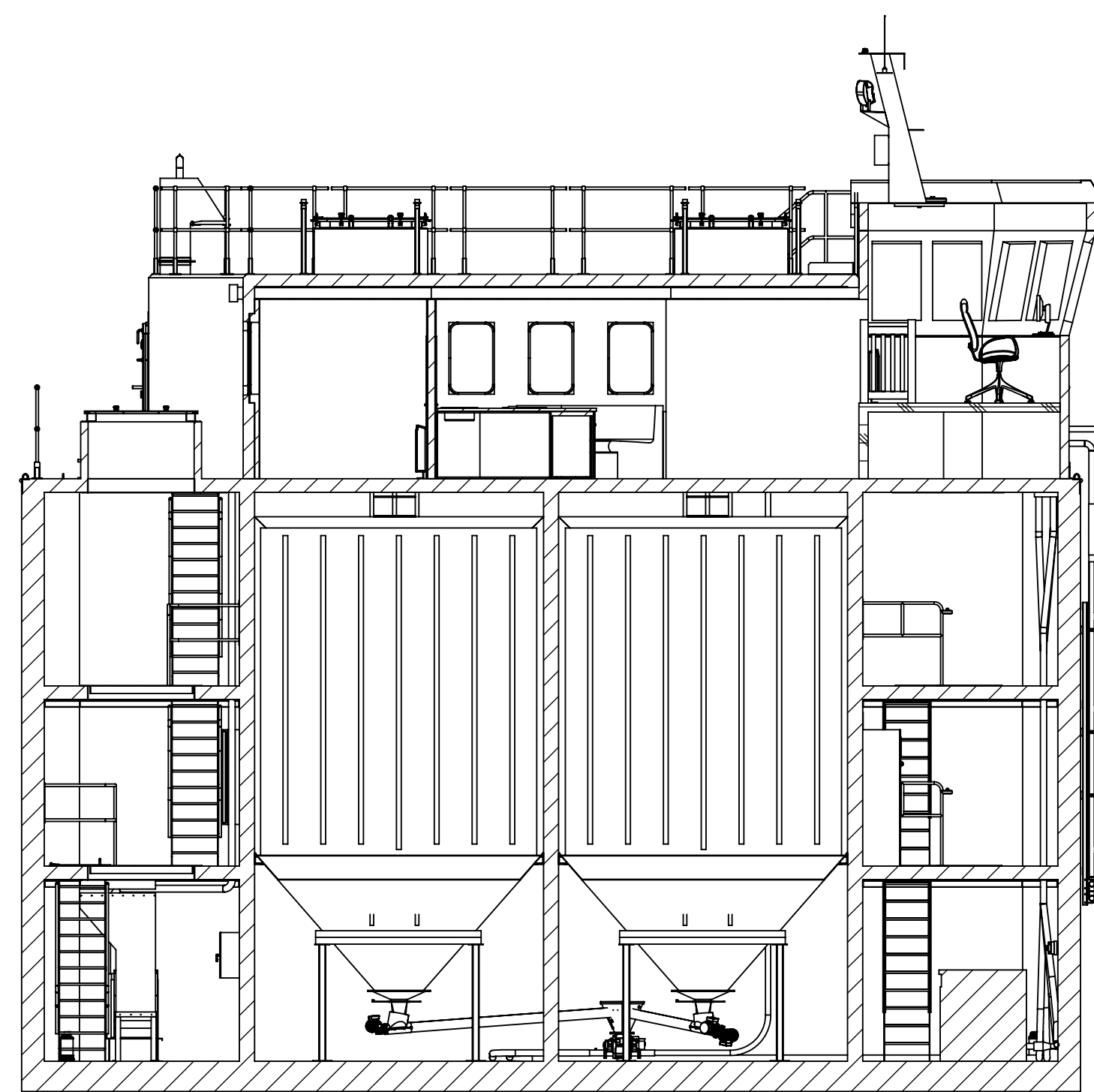


SECTION B-B

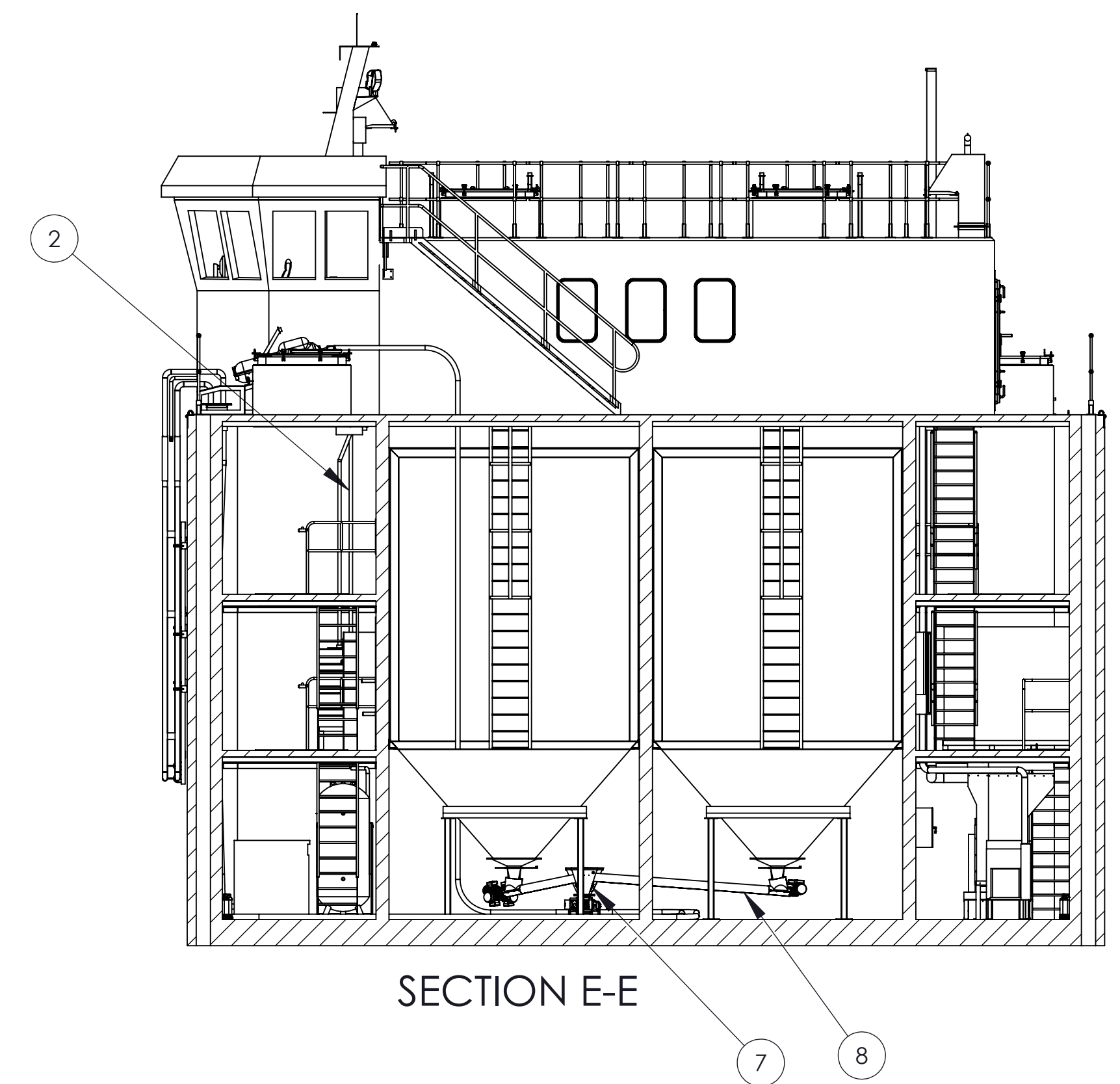
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3	1	DIESEL FUEL TANK
4	1	FRESH WATER TANK
5	1	GENERATOR 1
6	1	FEED PANEL
7	4	SLUICE
8	4	AUGER
9	1	D/B 1
10	1	D/B 2
11	1	SELECTOR SUPPLY PANEL
12	1	EXHAUST
13	1	12V PANEL
14	1	GENERATOR 2



SECTION C-C



SECTION D-D

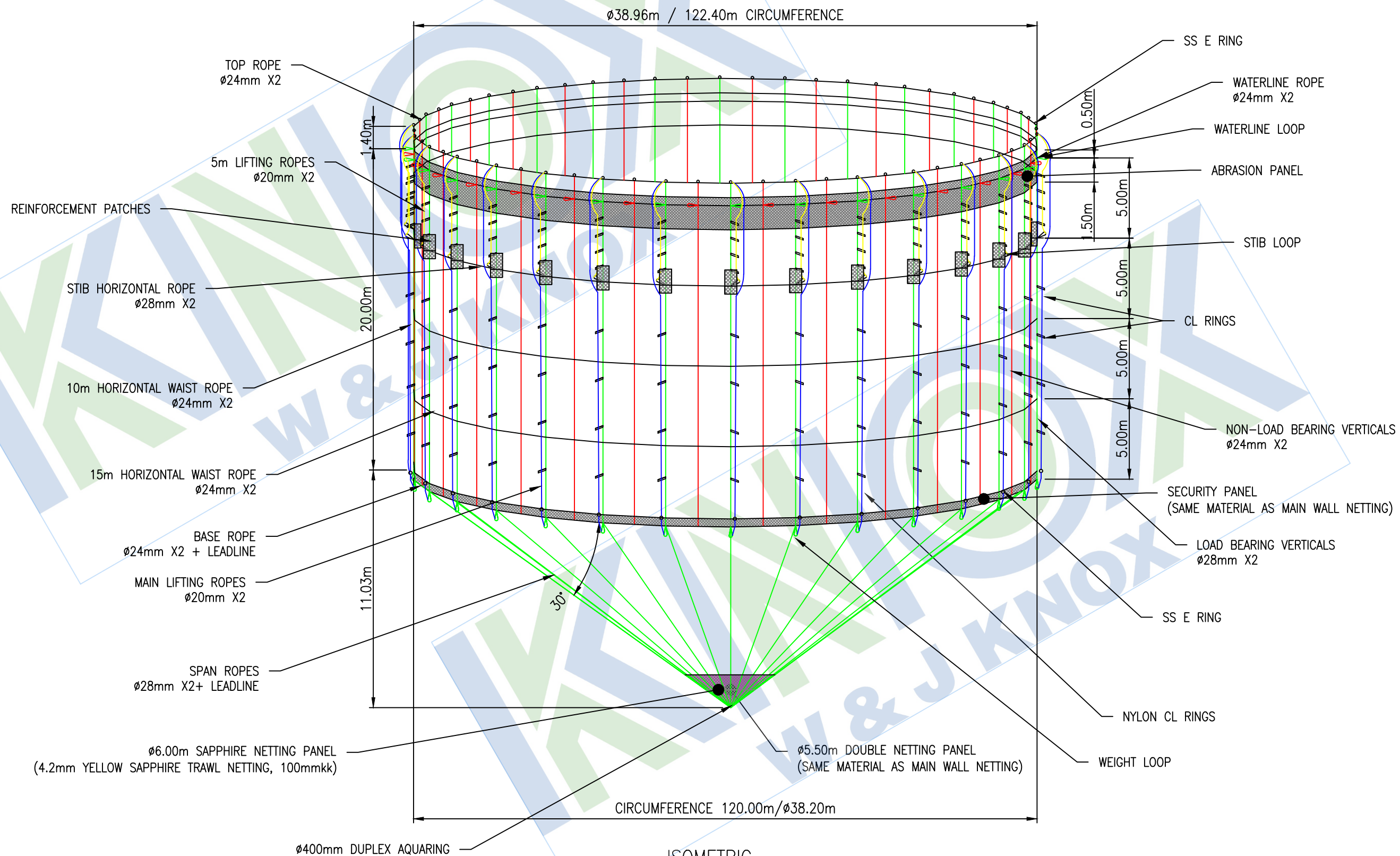


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				APPVD BY		DATE		TOLERANCES (UNLESS OTHERWISE SPECIFIED)		SYSTEM:			
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								DEBURR & BREAK SHARP EDGES		A			
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								GEN. TOL. WELDED PARTS: ISO 13020-BF		3 OF 3			
								CHAMFERS: ISO 13715 (DIN 6784)					



NETTING MATERIAL	CAGE NET (OPTION 1)	2.1mm CFR, 18mm MESH 515GSM, 150kgf MESH BREAK
	ABRASION PANEL	4.2mm YELLOW SAPPHIRE TRAWL NETTING, 100mmkk



CUSTOMER	ORGANIC SEA HARVEST	TITLE	120m x 20m + 1.4m CAGE NET
SITE	BALMACQUEEN/FLODIGARRY		48 VERTS / 24 SPANS
DRAWING NUMBER	01-1504	REV	3
STATUS	APPROVED		2.1mm CFR, 18mm APERTURE
ORDER NUMBER	ORDER NUMBER	SCALE	1:350@ A3
		PROJECTION	THIRD ANGLE

KNOX
W & J KNOX
MILL ROAD KILBIRNIE AYRSHIRE KA25 7DZ
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