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Marine Scotland - Licensing Operations Team **Scoping Opinion**

**THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT)
(SCOTLAND) REGULATIONS 2000 (AS AMENDED)**

**THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT)
REGULATIONS 2007 (AS AMENDED)**

**SCOPING OPINION FOR THE PROPOSED SECTION 36 CONSENT AND
ASSOCIATED MARINE LICENCE APPLICATION FOR THE MORAY EAST
OFFSHORE WINDFARM ALTERNATIVE DESIGN PARAMETERS.**

Contents

1	Executive Summary	4
2	Introduction	8
3	Description of development	9
4	Aim of this Scoping Opinion	10
5	Consultation	11
6	Contents of the Environmental Statement	13
6.1	Requirements from the EIA Regulations	13
6.2	Non-Technical Summary	14
6.3	Mitigation	14
6.4	Design Envelope	15
7	Interests to be Considered Within the ES	15
7.1	Introduction.....	16
7.2	Approach to Defining the Scope of the EIA	18
7.3	Project Description	21
7.4	Validation of site characterisation data and impact assessment methods.....	22
7.5	Validation of project specific impacts based on changes to Design Envelope	25
7.6	Validation of whole project and cumulative impacts	28
7.7	Proposed scope of the EIA.....	30
7.8	Seascape, landscape and visual assessment	31
7.9	Archeology and cultural heritage (visual setting)	33
7.10	Civil and military aviation	34
7.11	Socio-Economic impact assessment.....	35
7.12	Habitats Regulations Appraisal	36
7.13	Stakeholder Engagement.....	38
7.14	Structure of the ES	39
8	Marine Planning.....	40
9	Land Use Planning.....	40
10	General ES Issues	41
10.1	Gaelic Language	41
10.2	Application and ES	41

10.3	Judicial review	42
Appendix I: Consultee Responses		43
Aberdeenshire Council		43
Joint Nature Conservation Committee.....		45
Maritime and Coastguard Agency		45
Moray Council		46
Northern Lighthouse Board		46
Scottish Environment Protection Agency		47
Scottish Natural Heritage		47
The Highland Council		57
Civil Aviation Authority.....		59
Fisheries Management Scotland.....		61
Historic Environment Scotland		61
Joint Radio Company		63
Ministry of Defence.....		64
Scottish Fishermen’s Federation		68
Transport Scotland		70
UK Chamber of Shipping.....		71
Whale and Dolphin Conservation		72
Responses from Marine Scotland Advisors		73
Marine Scotland Science.....		73
Appendix II: Licensing Process		76
Appendix III: Gap Analysis		79

List of Table and Figures

Table 1 Summary of MS-LOT’s decision as to whether potential effects can be scoped out and the reason for the decision.....	5
Figure 1 Location of the proposed development	10

1 Executive Summary

This is Marine Scotland Licensing Operations Team's ("MS-LOT") Scoping Opinion in respect of the [Scoping Report](#) for the alternative design parameters proposed for Moray East Offshore Windfarm.

This document sets out MS-LOT's opinion on the basis of the information provided in the Scoping Report of 06 March 2017. The scoping request relates to the Moray East Alternative Design to be situated in the same area of the Moray Firth as the previously consented Telford, Stevenson and MacColl offshore windfarms. The total capacity would not exceed the already consented 1,116MW. The approach taken in the Scoping Report is to use the Environmental Statement ("ES") submitted in relation to the Telford, Stevenson and MacColl offshore windfarms in 2012 as an evidence base. The 2012 ES is used to scope factors out of the forthcoming ES where significant effects were not previously identified and where the baseline characterisation remains valid.

This opinion can only reflect the proposal as currently described by the Developer. The matters addressed by the Developer in the Scoping Report have been carefully considered and use has been made of professional judgment and experience in order to adopt this opinion. It should be noted that when it comes to consider the ES, MS-LOT will take account of relevant legislation and guidelines (as appropriate). MS-LOT will not be precluded from requiring additional information if it is considered necessary in connection with the ES submitted with the application for section 36 consent and associated marine licence.

MS-LOT have consulted on the Scoping Report and the responses received have been taken into account in adopting this opinion. A series of scoping meetings were held with stakeholders and the Developer to discuss the Scoping Report further. MS-LOT is satisfied that the topics identified in the Scoping Report encompass those matters identified in Schedule 4 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (as amended) and Schedule 3 of the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended).

This scoping opinion does not include ornithology. A separate scoping opinion will be issued in due course to address ornithology interests.

MS-LOT draws attention to the general points and those made in respect of the specialist topics in this opinion.

The main potential issues identified are:

- The cumulative visual impact of this Development in combination with other nearby turbines is a key issue

- The increase in turbine size/nominal capacity
- The potential effect of sediment on scallops and the requirement for additional work to assess the potential impact
- The effect on military aviation, ongoing consultation will be required to reach agreement
- The requirement for a Navigation Risk Assessment (“NRA”), clarification is needed as to whether the previous NRA remains valid
- Transparent and effective communication with all stakeholders will help ensure that issues are identified and addressed early in the process

Where significant effects were identified in the Moray East ES 2012, and the assessment remains relevant, these matters must still be reported in the forthcoming ES but may be scoped out of further assessment work. Matters are not scoped out unless specifically addressed and justified by the Developer and confirmed as being scoped out by MS-LOT. The table below details topics proposed to be scoped out within the Scoping Report and whether MS-LOT agree. Detailed information is provided in the specialist topic sections.

Table 1 Summary of MS-LOT’s decision as to whether potential effects can be scoped out and the reason for the decision.

<u>Potential Effect proposed to be scoped out by the Developer</u>	<u>MS-LOT decision</u>
Physical environment and sediment processes	Agree that no further assessment is required as part of the EIA with the exception of physical process modelling of likely spatial extent of suspended sediments and their potential effect on scallops (see text).
Benthic ecology	Agree that no further assessment is required as part of the EIA and that significant effects identified in the Moray East ES 2012 must be reported in the forthcoming ES.
Fish and shellfish ecology	Further assessment on the effect of sediment on scallops required (see text). Significant effects identified in the Moray East ES 2012 must be reported in the forthcoming ES.
Marine mammals	No further assessment required, piling strategy and previous assessment work will be sufficient to inform the EIA and HRA. Significant effects identified in the

<u>Potential Effect proposed to be scoped out by the Developer</u>	<u>MS-LOT decision</u>
	Moray East ES 2012 must be reported in the forthcoming ES.
Commercial fisheries	Results from validation of site characterisation data for commercial fisheries to be presented in the ES. Conclusions from the Moray East ES 2012 are expected to remain valid and significant effects identified must be reported in the forthcoming ES.
Shipping and navigation	Clarification must be sought by the Developer to ascertain whether the Navigational Risk Assessment that was carried out for the Moray East ES 2012 is still valid or whether further work is required.
Other human activities	The Moray East ES 2012 concluded the potential cumulative impacts would not be significant, except for longer term significant impacts on oil and gas exploration activities where the Moray East site is located within licence blocks. These significant impacts will not be assessed further but must be reported in the ES.
Air quality	MS-LOT agree that there will be no change in the number of vessels required during construction as part of the proposed wind farm consent application, therefore, impacts on air quality do not require further consideration.
Airborne noise	MS-LOT agree that given existing low levels of vessel traffic and the distance of the site from any sensitive receptors, any potential impacts associated with airborne noise from construction vessels and piling activities, operations and maintenance activities will be negligible.
Socio economics (recreation and tourism)	Significant impacts identified in the Moray East ES 2012 should be included within the forthcoming ES.

<u>Potential Effect proposed to be scoped in by the Developer</u>	<u>MS-LOT advice</u>
Ornithology	To be addressed in a separate scoping opinion to follow*.
Seascape, landscape and visual assessment (SLVIA)	Agree that further assessment is required and that photomontages should be presented following The Highland Council standards but do not require photomontages to follow SNH guidance.
Archaeology and cultural heritage (visual setting only)	Agree that further assessment is required with respect to impacts on settings only.
Civil and military aviation	Agree further assessment is required and recommended ongoing discussions with stakeholders to reach a resolution to the technical issues.
Socio-economics	Agree further assessment is required.

*Comments on the ornithological aspects of this report will follow in a later opinion, as agreed by all stakeholders at the scoping meeting held on Wednesday, 29 March 2017 at the Marine Laboratory, Aberdeen.

2 Introduction

I refer to your letter of 06 March 2017 requesting a scoping opinion from MS-LOT under Regulation 7 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (as amended) and Regulation 13 and Schedule 4 of the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) (herein referred to as “the EIA Regulations”). The request was accompanied by a Scoping Report containing a plan sufficient to identify the site which is the subject of the proposed development and a brief description of the nature and purpose of the proposed development and of its possible effects on the environment. The Scoping Report was accepted on 13 March 2017.

Under the EIA Regulations, Scottish Ministers are required to consider whether any proposal is likely to have a significant effect on the environment. Any proposal to construct or operate an offshore power generation scheme with a capacity in excess of 50 megawatt and outwith 12 nautical miles (“nm”) requires Scottish Ministers’ consent under section 36 of The Electricity Act 1989 (“the Act”).

Schedule 9 of the Act places on the Developer a duty to “have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest”. In addition, the Developer is required to give consideration to the UK Marine Policy Statement, Scotland’s National Marine Plan (“NMP”), Scottish Planning Policy, other relevant Policy and National Policy Planning Guidance, Planning Advice Notes, the relevant planning authority’s Development Plans and any relevant supplementary guidance.

With regard to your request for a scoping opinion on the proposed content of the required environmental statement (“ES”), MS-LOT have, in accordance with the EIA Regulations, considered the documentation provided to date and consulted with the appropriate consultation bodies (see Appendix I) in reaching their scoping opinion.

Please note that the EIA process is vital in generating an understanding of the biological, chemical and physical processes operating in and around the proposed development site and those that may be impacted by the proposed activities. We would however state that references made within the scoping document with regard to the significance of impacts should not prejudice the outcome of the EIA process. It is therefore expected that these processes will be fully assessed in the ES.

3 Description of development

Moray Offshore Windfarm (East) Limited (known as Moray East) is seeking a new consent to take advantage of recent technological improvements. This will enable offshore wind generation in the Moray Firth to be undertaken more economically than with the infrastructure for which consent for the generation of 1,116 MW was previously granted on this site in 2014. Moray Offshore Windfarm (East) Limited aim to deliver cost reduction by using fewer, larger turbines to generate the same amount of MW, within the zone previously consented for three wind farms sites (Stevenson, Telford and MacColl). The new consent application for Moray East will not increase the capacity or development area above that for the previously granted consents. The proposed changes to the Design Envelope for the consented Telford, Stevenson and MacColl wind farms that form the basis of this new Section 36 consent and Marine Licence application are summarised below.

- A single Section 36 consent and associated Marine Licence will be sought for the Moray East site. However, as with the consents granted in 2014, the Moray East site may be built out in a maximum of three phases;
- There will be an increase in turbine size / nominal capacity and a corresponding reduction in turbine numbers and increase in turbine spacing; and
- The revised Design Envelope will include the option for using suction bucket foundations.

The location of the proposed development is outwith 12 nautical miles (apart from where the cable comes ashore) and the regulations that will apply are the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (as amended) and the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended).

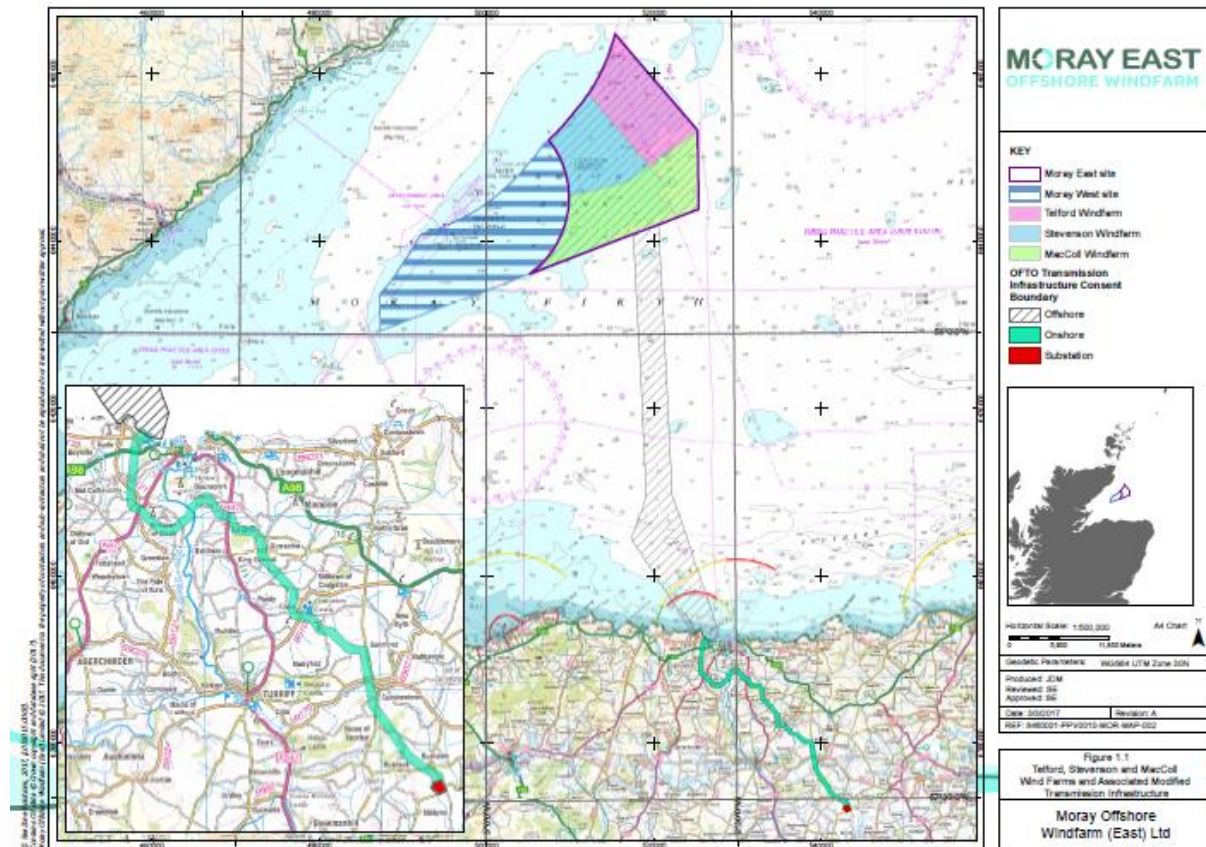


Figure 1 Location of the proposed development

4 Aim of this Scoping Opinion

Scoping provides the first identification, and likely significance, of the environmental impacts of the proposal and the information needed to enable their assessment. The scoping process is designed to identify which impacts will, or will not, need to be addressed in the ES. This includes the scope of impacts to be addressed and the method of assessment to be used. The scoping process also allows consultees to have early input into the EIA process, to specify their concerns and to supply information that could be pertinent to the EIA process. In association with any comments herein, full regard has been given to the information contained within the scoping opinion request documentation submitted.

MS-LOT have also used this opportunity to provide advice in relation to the licensing requirements in addition to the EIA requirements (see Appendix II).

5 Consultation

On receipt of the scoping opinion request documentation, MS-LOT, in accordance with the EIA Regulations, initiated a 28 day consultation process, which commenced on 13 March 2017. The following bodies were consulted, those marked in **bold** provided a response:

- **Aberdeenshire Council “AC”**
- British Telecom Radio Network Protection Telecom “BT”
- **Civil Aviation Authority “CAA”**
- Cromarty Firth Port Authority “CFPA”
- **Fisheries Management Scotland “FMS”**
- Fisheries Office Buckie
- Fisheries Office Fraserburgh
- Fisheries Office Scrabster
- Fisheries Office Ullapool
- **Historic Environment Scotland “HES”**
- Inshore Fisheries Group “IFG”
- **Joint Radio Company “JRC”**
- Marine Safety Forum “MSF”
- **Maritime Coastguard Agency “MCA”**
- **Ministry of Defence “MOD”, Defence Infrastructure Organisation “DIO”**
- **Moray Council “MC”**
- Moray Firth Partnership “MFP”
- National Air Traffic Services “NATS”
- **Northern Lighthouse Board “NLB”**
- Royal Society for the Protection of Birds “RSPB”
- Royal Yachting Association Scotland “RYAS”
- Scottish Canoe Association
- **Scottish Environmental Protection Agency “SEPA”**
- **Scottish Fishermen’s Federation “SFF”**
- Scottish Government Planning “SG Planning”
- **Scottish Natural Heritage “SNH”**
- Scottish Surfing Federation “SSF”
- Scottish Wildlife Trust “SWT”
- Sport Scotland “SS”
- Surfers Against Sewage “SAS”
- The Crown Estate “TCE”
- **The Highland Council “THC”**
- **The Joint Nature Conservation Committee “JNCC”**
- **Transport Scotland “TS”**
- **UK Chamber of Shipping “CoS”**

- Visit Scotland “VS”
- **Whale and Dolphin Conservation “WDC”**

From the list above a total of 16 responses were received. Advice was also sought from Marine Scotland Science (“MSS”). The purpose of the consultation was to obtain advice and guidance from each consultee or advisor as to which potential effects should be scoped in or out of the EIA.

MS-LOT are satisfied that the requirements for consultation have been met in accordance with the EIA Regulations. The sections below highlight issues which are of particular importance with regards to the ES and any marine licence application(s). Full consultation responses are attached in Appendix I and each should be read in full for detailed requirements from individual consultees. MS-LOT expects all consultee concerns to be addressed in the ES unless otherwise stated.

6 Contents of the Environmental Statement

6.1 Requirements from the EIA Regulations

Information on what must be included in an Environmental Statement (ES) can be found in The Marine Works (Environmental Impact Assessment) Regulations 2007, Schedule 3, and The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000, Schedule 4. New EIA Regulations come into force on the 16 May 2017, however as this scoping request has been received before that date the factors to be considered in the ES are those detailed in the above regulations.

The processing of any application in relation to Moray East will be completed under The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 EIA Regulations”) and The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2007 (due to the transitional arrangements detailed within the regulations). It is considered good practice to set out within the ES the qualifications and experience of all those involved in collating, assessing or presenting technical information (this is also a requirement of the 2017 EIA Regulations).

EU guidance on EIA identifies the following qualities of a good ES:

- Includes a clear structure with a logical sequence, for example describing existing baseline conditions, predicted impacts (nature, extent and magnitude), scope for mitigation, agreed mitigation measures, significance of unavoidable/residual impacts for each environmental topic.
- Includes a table of contents at the beginning of the document.
- Includes a clear description of the development consent procedure and how EIA fits within it.
- Reads as a single document with appropriate cross-referencing.
- Is concise, comprehensive and objective.
- Is written in an impartial manner without bias.
- Includes a full description of the development proposals.
- Makes effective use of diagrams, illustrations, photographs and other graphics to support the text.
- Uses consistent terminology with a glossary.
- References all information sources used.
- Has a clear explanation of complex issues.
- Contains a good description of the methods used for the studies of each environmental topic.
- Covers each environmental topic in a way which is proportionate to its importance.

- Provides evidence of good consultations.
- Includes a clear discussion of alternatives.
- Makes a commitment to mitigation (with a programme) and to monitoring.
- Has a Non-Technical Summary (“NTS”) which does not contain technical jargon
- Further guidance can be found at <http://ec.europa.eu/environment/eia/eia-support.htm>

6.2 Non-Technical Summary

This should be a concise stand-alone document written in a manner that is appealing to read and easily understood. The NTS should highlight key points set out in the ES. The non-technical summary should include:

- a description of the project including a map and figures as appropriate;
- a description of the main environmental impacts the project is likely to have;
- a description of the measures envisaged to prevent, reduce and offset any significant adverse effects; and
- an outline of the main alternatives studied, including an indication of the main reasons for the primary choice of the project, taking into account the environmental effects of those alternatives and the project as proposed.

6.3 Mitigation

Within the ES it is important that all mitigating measures are:

- clearly stated;
- accurate;
- assessed for their environmental effects;
- assessed for their effectiveness;
- fully described with regards to their implementation and monitoring, and;;
- described in relation to any consents or conditions

The ES should contain a mitigation table providing details of all proposed mitigation discussed in the various chapters. Refer to Appendix I for consultee comments on specific baseline assessment and mitigation.

Where potential environmental impacts have been fully investigated but found to be of little or no significance, it is sufficient to validate that part of the assessment by stating in the ES:

- the work has been undertaken;
- what this has shown i.e. what impact if any has been identified, and
- why it is not significant?

6.4 Design Envelope

Where flexibility in the design envelope is required, this must be defined within the ES and the reasons for requiring such flexibility clearly stated. The Developer must also describe the criteria for selecting the worst case, and the most likely, scenario and the impacts arising from these. MS-LOT will determine the application based on the worst case scenario. The EIA will reduce the degree of design flexibility required and that the detail will be further refined in a Construction Method Statement (“CMS”) to be submitted to MS-LOT, for their approval, before works commence. The CMS will freeze the design of the project and will be reviewed by MS-LOT to ensure that the worst case scenario described in the ES is not exceeded.

7 Interests to be Considered Within the ES

The Scoping Report contained a series of questions posed by the Developer and these are used to inform the structure of this opinion. Each question is addressed in turn below and MS-LOT’s answers or advice provided. Where necessary, consultee comments have been incorporated to provide further relevant information. The page and table numbers contained within the boxes refer to the Scoping Report.

This section contains a summary of main points raised by consultees and MS-LOT’s opinion on whether EIA topics should be scoped in or out. The consultation responses are contained in Appendix I and the Developer is advised to carefully consider these responses and use the advice and guidance contained within them to inform the ES. The Developer has used an ES undertaken for the Moray East Offshore Development, which obtained consent in March 2014, for much of the baseline information in their Scoping Report and this is referred to as the ‘[Moray East ES 2012](#)’ in this opinion. The ES to be submitted for the current project should be a standalone document without the need for users to refer back to the Moray East ES 2012 to understand the information contained within the 2017 report. The need for a single, comprehensive volume including any previous, but currently relevant, assessment work was highlighted by consultees as helpful for readers. MS-LOT consider that it would be appropriate for previous assessment work being relied on from the Moray East ES 2012 to be contained in appendices so that the main text of the ES for the current project is concise.

It is important to state that where it is suggested that a topic should be scoped out this does not mean any potential significant impact on that topic identified in the Moray East ES 2012 is discounted or no longer considered as part of the proposed new Moray East application. To ensure that all potential significant impacts (for topics scoped in and out of further assessment) are considered as part of the consent determination they will be reported within the ES for the new Moray East application. Relevant conditions attached to the Telford, Stevenson and MacColl consents will also be reported in the ES.

7.1 Introduction

Scoping Question	Question
1.1 (Page 24)	<p>Does Marine Scotland agree that the following can be scoped out from the EIA for the proposed wind farm consent application:</p> <ul style="list-style-type: none"> • Air quality, and • Airborne Noise?
<p>Aberdeenshire Council did not consider that the alternative design parameters would lead to any adverse issues in relation to Environmental Health.</p> <p>MS-LOT agree that air quality and airborne noise can be scoped out of the ES, and agree with the justification provided in the Scoping Report</p>	

Scoping Question	Question
1.2 (Page 24)	<p>Does Marine Scotland agree that the EIA topics considered in this scoping report cover the factors requiring assessment under the EIA Directive 2014?</p>
<p>The regulations relevant to the Moray East project to enact The Environmental Impact Assessment (EIA) Directive 2014/52/EU i.e. The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 and The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (which amend The Marine Works (Environmental Impact Assessment) Regulations 2007) will not come into force until 16 May 2017.</p> <p>The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (as amended) and The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended, but not including the 2017 amendment) will apply to this scoping request. However for the EIA Report (or ES), consultation periods, publicity requirements, additional information provisions and decision notices will follow The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 and The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended, but not including the 2017 amendment). This is due to the different transitional arrangements within the regulations.</p> <p>Aberdeenshire Council welcomed the Developer's cognisance of the updated EIA Regulations.</p>	

MS-LOT agree that the factors as detailed in table 1-1 of the Scoping Report satisfy the factors to be considered by the 2017 Regulations:

- **population and human health**
- **biodiversity with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC**
- **land, soil, water, air and climate**
- **material assets, cultural heritage and the landscape**

MS-LOT however draw your attention to other matters required to be considered under the 2017 regulations, including:

Expected effects on the above from the vulnerability of the development of major accidents and disasters.

Schedule 4 of The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 and Schedule 3 of The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) detail what must be included in the EIA Report/ES.

7.2 Approach to Defining the Scope of the EIA

Scoping Question	Question
2.1 (Page 30)	Does Marine Scotland agree with the approach to the scoping in/out of topics and reporting of significant residual impacts for the proposed wind farm EIA?

Figure 2-1 provided by the Developer illustrated the approach to defining the scope of the EIA.

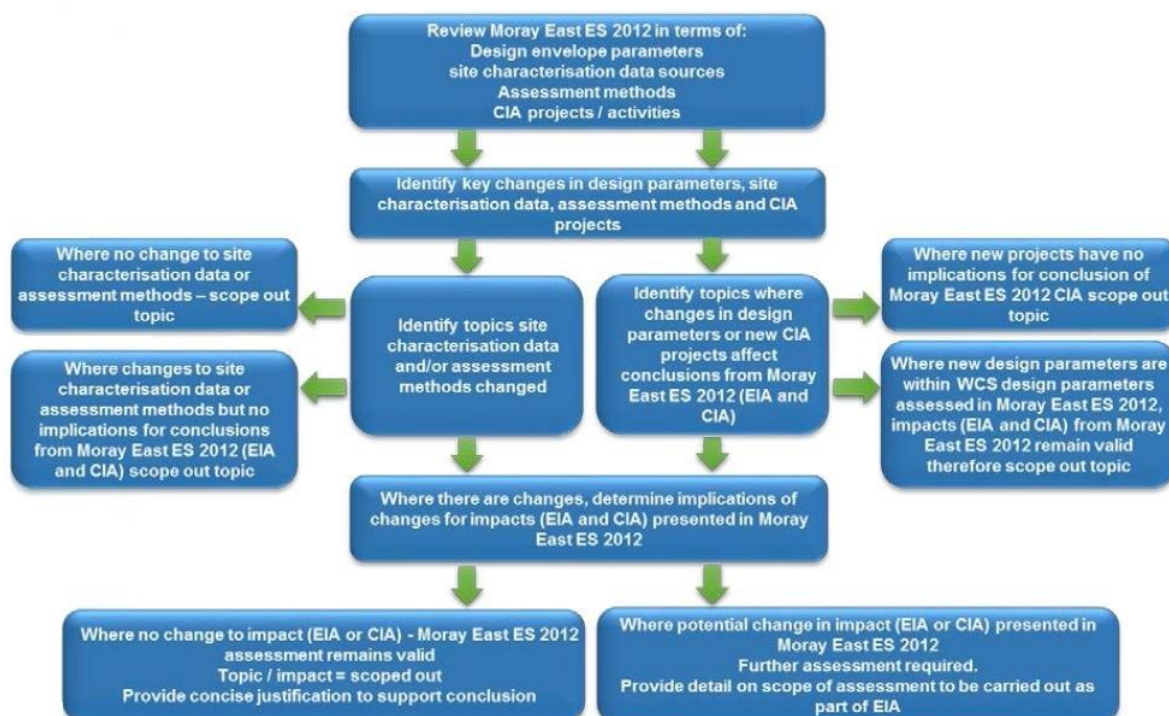


Figure 2-1: Approach to defining the scope of the EIA

MS-LOT agree with this approach, MS-LOT highlight that where significant effects were identified within the Moray East ES 2012 these must be reported in the ES for the current project, even though there is no requirement to update the previous assessment based on the approach above.

Scoping Question	Question
2.2 (Page 31)	Does Marine Scotland agree with the proposal that Beatrice Offshore Windfarm Limited (“BOWL”) and potential future development within the Zone (i.e. Moray West) should be

	<p>excluded from the CIA based on the fact that;</p> <ul style="list-style-type: none"> • BOWL is now considered with the baseline (due to the commencement of construction in 2017), and • It will be requested that the Moray East application is determined before Moray West?
<p>SNH agreed with the proposed approach, subject to the proviso that:</p> <p>i) The actual build out design for BOWL is considered alongside the Moray East proposal; and</p> <p>ii) The Moray East application is determined prior to the Moray West application.</p> <p>The Moray West application would then be required to complete a CIA including the impacts from BOWL and Moray East.</p> <p>SFF agreed, if Moray West is submitted for consideration second, that Moray West's CIA should include Moray East. SFF highlighted that BOWL should be included within the CIA as its impacts have not yet been clarified.</p> <p>MS-LOT advise that the build-out design for BOWL should be included in the CIA for the Moray East application. Moray East wrote to MS-LOT on the 12 April 2017 requesting that any determination on Moray East is made before Moray West. MS-LOT responded on the 30 April 2017 accepting this approach and on that basis agree that Moray West does not require to be included in the CIA for the Moray East project. The Moray West project must however include a CIA with the Moray East project.</p>	

Scoping Question	Question
2.3 (Page 34)	Does Marine Scotland agree that the consented Telford, Stevenson and MacColl wind farms do not need to form part of the CIA?
<p>SNH provided comment agreeing that the consented Telford, Stevenson and MacColl wind farms do not need to form part of the CIA, particularly as the existing assessments for these wind farms can be used as comparators for any new ES.</p> <p>MS-LOT agree that the consented Telford, Stevenson and MacColl wind farms do not need to form part of the CIA.</p>	

Scoping Question	Question
2.4 (page 34)	Does Marine Scotland agree that the assessment of impacts should be based on the development scenario set out in 2.4.3.?
<p>SNH provided comments stating they were in agreement that the assessment of impacts should be based on the development scenario set out in 2.4.3 and advise that the consented 2014 parameters represent the first point of comparison for any revised assessments for Moray East. This represents the upper end of the original design envelope: 186 turbines (6 - 8MW machines). SNH advise that full EIA and HRA is not required for the alternative design to be used at Moray East, comprising a maximum of 137 turbines at the lowest rating (8.1 MW). SNH consider that the previous assessments provide a solid understanding of the potential impact pathways and likely significance of impacts, all of which were deemed acceptable through the issue of consent and approval of the final appropriate assessment in 2014.</p> <p>MS-LOT agree that the assessment of impacts should be based on the development scenarios set out in 2.4.3 of the Scoping Report.</p>	

Scoping Question	Question
2.5 (page 34)	Does Marine Scotland agree that the potential for transboundary impacts is unlikely?
<p>SNH confirmed that they have not identified any European sites with which connectivity exists beyond Scotland.</p> <p>MS-LOT agree that the potential for transboundary impacts as a result of the proposed works is unlikely.</p>	

7.3 Project Description

Scoping Question	Question
3.1 (page 41)	Is the level of detail presented in the project description in this scoping report of sufficient detail to inform the proposed Windfarm EIA, if not – what further details would Marine Scotland expect to see presented in the ES?
<p>SNH confirmed that the level of detail was sufficient.</p> <p>SFF requested further clarity on the design parameters for the worst case scenarios, particularly for the spacing between the new, larger capacity, turbines. Further clarification was also requested regarding the decision to introduce suction buckets as a design option and plans for decommissioning the suction buckets, if used.</p> <p>MS-LOT advise that details on the design parameters requested by the SFF should be included in the ES.</p>	

7.4 Validation of site characterisation data and impact assessment methods

Scoping Question	Question
4.1 (page 65)	<p>Does Marine Scotland agree that no further work is required for validation of site characterisation data and impact assessment methods as part of the EIA (HRA is dealt with separately in section 13) with regards to the following;</p> <ul style="list-style-type: none"> • Physical environment and sediment processes; • Benthic ecology; • Fish and shellfish ecology; • Marine mammals; • Civil and military aviation; • Archaeology and cultural heritage, and • Other human activities?
<p>MSS and SNH provided comments in relation to site characterisation data for the above topics, confirming that they did not think further work was required as the maximum footprint has already been assessed within the Moray East ES 2012. MS-LOT requested further advice from MSS with regard to concerns raised by SFF about the impact of sediment on scallops.</p> <p>MS-LOT agree that no further work is required for validation of site characterisation data and impact assessment methods as part of the EIA for; physical environment and sediment processes; benthic ecology; marine mammals; civil and military aviation; archaeology and cultural heritage and other human activities.</p> <p>MS-LOT advise that for fish and shellfish ecology further work to assess the impact of sediment on scallops is carried out. MS-LOT would suggest that the following two pieces of work be undertaken:</p> <ul style="list-style-type: none"> • A review of literature on effects of suspended sediments to scallops (including different life stages); and • Physical process modelling of likely spatial extent of suspended sediments from activities of concern. <p>These could be used to provide a comparison with the spatial extent of the scallop fishery, identified from commercial fisheries data (e.g. VMS data as described by Kafas <i>et al</i> (2012)¹ and found online at Kafas <i>et al</i> (2013)². This would allow an</p>	

¹ Kafas, A., Jones, G., Watret, R., Davies, I., Scott, B., 2012. Representation of the use of

understanding of the spatial extent of effects, if any, to scallops and provide a context within which to consider them.

Provided conditions relating to marine fish species, as found across the Telford, Stevenson and MacColl wind farm consent and licence conditions, are attached to any future consent resulting from this application, **MS-LOT agree** that no further assessment on marine fish species need to be undertaken (with the exception of the work on the effect of sediment on scallops mentioned above). Conditions attached to existing consents, relating to other receptors above, will also be included in any future consent if granted.

Scoping Question	Question
4.2 (Page 65)	Does Marine Scotland agree with the proposed approach for validation of site characterisation data for commercial fisheries and shipping and navigation?
<p>Comments were received from MCA and SFF on the proposed approach, and this issue was discussed further at the scoping meeting on Commercial Fisheries on 04 April 2017.</p> <p>MCA highlighted that the cumulative and in combination effects require detailed consideration within the ES, particularly for layout design and aviation lighting requirements with BOWL.</p> <p>Clarification must be sought by the Developer to ascertain whether the Navigational Risk Assessment that was carried out for the Moray East ES 2012 is still valid or whether further work is required.</p> <p>Particular concerns in relation to the characterisation of scallop fishery were raised by SFF who requested inclusion of baseline consideration of scallops, squid and whitefish, in addition to cod, sand eel and herring. SFF request that any data/information relevant to commercial fishing is validated by the Commercial Fisheries Working Group applicable to the proposal. However, SFF agree that basing the assessment of impacts on fishing activity on BOWL as built provides more certainty in the assessment's findings. However, SFF are still concerned that the impacts from either Moray East or BOWL are still not known in terms of impact</p>	

marine space by commercial fisheries in marine spatial planning. ICES CM I:23.

² Kafas, A., Jones, G., Watret, R., Davies, I., Scott, B., 2013. 2009 - 2013 amalgamated VMS intensity layers, GIS Data. Marine Scotland, Scottish Government. doi: 10.7489/1706-1

on fishing activity. The Developer has already carried out an initial data validation exercise and it was agreed (at the Commercial Fisheries scoping meeting on 04 April 2017) that a meeting will be set up with Fishing Industries Representatives to present these data.

MS-LOT agree with the proposed approach for the validation of site characterisation data for commercial fisheries and shipping and navigation – subject to the presentation and discussion of figures discussed at the scoping meeting to the Fisheries Industry Representatives (yet to be appointed) prior to the submission of the ES.

The Developer must seek clarification as to whether the Navigational Risk Assessment for the Moray East ES 2012 remains a valid assessment or whether updates are required.

7.5 Validation of project specific impacts based on changes to Design Envelope

Scoping Question	Question
5.1 (Page 96)	<p>Is Marine Scotland in agreement that the following disciplines do not require further assessment in the EIA to support the proposed wind farm consent application due to there being no changes in the conclusions on potential impacts presented in the Moray East ES 2012:</p> <ul style="list-style-type: none"> • Physical environment and sediment processes; • Benthic ecology; • Fish and shellfish ecology; • Marine mammals; • Commercial fisheries; • Shipping and navigation; and • Other human activities?
<p><u>Physical environment and sediment processes</u> MS-LOT agree that the WCS has already been assessed in the Moray East ES 2012 and therefore no further assessment is required.</p> <p><u>Benthic Ecology</u> At the scoping meeting on 29 March 2017 it was agreed that the worst case scenario had already been assessed in the Moray East ES 2012. It was also noted that the Caithness Moray HVDC project would be installed and not give rise to any cumulative impacts. MS-LOT agree that no further assessment is required.</p> <p><u>Fish and shellfish ecology</u> FMS raised issues regarding uncertainty around the potential impacts of such developments on migratory salmonid fish. They recommended that existing monitoring work undertaken by BOWL should be built on and include work to understand the use of the marine environment by sea trout. At the scoping meeting on 29 March 2017 SNH and MSS agreed that, on the basis there will be no change in the WCSs assessed with respect to fish and shellfish, the impacts from the previous assessment (Moray East ES 2012) remain valid and that no further assessment is required. MS-LOT agree that no further assessment is required, with the exception of the work outlined above in relation to the concerns raised by SFF about the effect of sediment on scallops (Question 4.1).</p> <p><u>Marine mammals</u> SNH advised that no further assessment is required for the proposal alone or</p>	

cumulatively, previous assessment work and the piling strategy agreed in relation to the consented wind farms are sufficient. Whale and Dolphin Conservation (WDC) welcomed the inclusion of suction buckets and advised that the alternative design parameters will have no additional impacts on marine mammals than those stated in the ES in 2012. WDC asked for clarification on the Moray Firth ship to ship transfer application which was submitted to the MCA in 2016. This application has been withdrawn and therefore Moray East are not required to consider this in a CIA. MS-LOT agree that no further assessment is required.

Commercial Fisheries

The Moray East ES 2012 already assessed scallop as the principal fishery in the Moray East site, and this is expected to remain the case. In addition there will be no changes to the WCS design parameters assessed in the Moray East ES 2012 associated with the current proposal, it is expected that any further assessment would also conclude a moderate significant impact on the scallop fishery. This will be required to be reported in the ES but MS-LOT do not consider that any re-assessment is required. MSS advised in relation to the Moray East ES 2012 that when thinking about the CIA of the potential area of exclusion in the Moray Site with the Forth and Tay the impact would be at least moderate. As the impacts were previously identified as being significant and this is unlikely to change, these will be reported in the ES. In the Moray East ES 2012 the Developer noted it was not possible to assess the potential impact on a vessel by vessel basis. Instead the Developer considered the scallop grounds affected by the proposed projects in the Moray Firth within the context of available scallop grounds around the UK relevant to other offshore renewable developments. MS-LOT do not consider that any further assessment is required other than that in relation to sediment and scallops as discussed above (Question 4.1).

Shipping and Navigation

The CoS were broadly satisfied but requested confirmation that the following aspects of shipping and navigation would be scoped in to the ES:

- Navigational Risk and Safety – page 48 of the Scoping Report identifies that more recent Automatic Identification System (“AIS”) tracking data is available, similarly that MCA have published a new MGN (MGN 453). Both should be fully used to update the understanding of vessel activity and transits as suggested on page 63.
- Orientation and Spacing of new turbine layout with fewer turbines – CoS believe it is imperative that straight line of sight and grid structure to farm layout is maintained to ensure navigational safety for mariners – figure 9.3 appears to show straight line of sight but confirmation required.
- Assessment of the impact of wind farm vessel traffic affecting commercial navigation routing during maintenance & operation – not discussed on page 91-92 and should be included. Maintenance traffic can be considerable and

does not appear to be scoped in.

At present, the CoS do not agree that shipping and navigation question 5.1 has been satisfactorily answered at present.

The Developer must seek clarification as to whether the Navigational Risk Assessment for the Moray East ES 2012 remains a valid assessment or whether updates are required.

Other Human Activities

MS-LOT agree that no further assessment is required.

Scoping Question	Question
5.2 (page 96)	Does Marine Scotland agree this Chapter has identified correctly the specific significant effects predicted in the Moray East 2012 which should be reported in the ES for the proposed wind farm application?
<p>SNH agree that the significant effects have been identified.</p> <p>Marine Scotland consider that this Chapter [Chapter 5 of the Scoping Report] has correctly identified the specific significant effects predicted in the Moray East 2012 for reporting in the ES for the proposed wind farm application. The Developer should consider carefully the significance of the effects identified in the Moray East ES 2012 along with the consultation responses received which may have provided expert opinion significance, and report all significant effects identified in the Moray East 2012 (or where these were considered to be significant through the consultation responses).</p>	

7.6 Validation of whole project and cumulative impacts

Scoping Question	Question
6.1 (Page 110)	Is Marine Scotland in agreement with the list of new projects in Table 6-2 (excluding the BOWL and Moray West) that need to be considered with respect to the CIA for the proposed Windfarm consent application?
<p>SNH provided advice that they do not see the need for a full CIA to be carried out.</p> <p>SFF highlighted that the CIA needs to include consideration of displacement effects for scallops and squid fisheries, as well as the Caithness-Moray HVDC project (assessment as to its final seabed condition). The Scoping Meeting on Commercial Fisheries on 04 April 2017 discussed this issue and it was reiterated that is no requirement for further assessment of these projects on the basis that the cumulative impacts will have already been assessed. However, information will be provided in the ES on the approach taken to cumulative impacts to ensure they are addressed correctly. SFF agreed with this approach.</p> <p>In their consultation response the SFF would contend that because the proposal is directly concerned with a scallop fishery, the proposals for developments in the Firth of Forth area should be included in any CIA. MSS advised in relation to the Moray East ES 2012 that when thinking about the CIA of the potential area of exclusion in the Moray Site with the Forth and Tay the impact would be at least moderate. As the impacts which were previously identified as being significant and this is unlikely to change, these will be reported in the ES. The Forth and Tay offshore windfarms considered the Moray East (Telford, Stevenson and MacColl) sites when assessing the impacts on the scallop fishery, therefore MS-LOT do not consider that it is necessary for Moray East carry out further assessment.</p> <p>The MCA made comment stating that the cumulative and in combination effects require detailed consideration within the ES, particularly for layout design and aviation lighting requirements with BOWL. The Developer notes that there will be a requirement to implement industry standard mitigation measures and other best practice to limit impacts on navigational safety.</p> <p>In order to comply with the EIA regulations MS-LOT consider that new projects are required to be included in CIA and agree with the list of new projects in Table 6-2 that need to be considered.</p>	

Scoping Question	Question
6.2 (Page 110)	<p>Is Marine Scotland in agreement that the following have been scoped out of the whole project and cumulative impacts for the proposed wind farm EIA due to there being no changes in the impacts predicted in the Moray East ES 2012:</p> <ul style="list-style-type: none"> • Physical environment and sediment processes; • Benthic ecology; • Fish and shellfish ecology; • Marine mammals; • Commercial fisheries; • Civil and military aviation; • Shipping and navigation; and • Other human activities?
<p>SNH and Transport Scotland agreed with the scoping out of the activities listed above for whole project and cumulative impacts.</p> <p>SFF had concerns with regard to scallops and these are dealt with in Question 4.1</p> <p>MS-LOT agree that the topics listed above can be scoped out (with the exception of scallops and NRA) of the whole project and cumulative impacts for the proposed wind farm EIA due to there being no changes in the impacts predicted in the Moray East ES 2012. The Developer should consider carefully the significance of the effects identified in the Moray East ES 2012 along with the consultation responses received which may have provided expert opinion on the level of significance, and report all significant effects identified in the Moray East 2012 (or where these were considered to be significant through the consultation responses).</p>	

7.7 Proposed scope of the EIA

Scoping Question	Question
7.1 (page 112)	<p>Is Marine Scotland in agreement with the topics that require consideration as part of the proposed wind farm consent application with regards to;</p> <ul style="list-style-type: none"> • Baseline validation • Project specific impact assessment • Whole project and cumulative impact assessment; and • HRA?
<p>MS-LOT agree that the topics listed in Chapter 7 are those that should be considered in the EIA and HRA, taking into account the responses given to previous questions. Migratory fish do not require to be considered under HRA.</p>	

7.8 Seascape, landscape and visual assessment

Scoping Question	Question
9.1 (page 138)	<p>Is Marine Scotland in agreement with the following with regards to the proposed wind farm EIA for SLVIA?</p> <ul style="list-style-type: none"> • Have all appropriate sources of data been identified to inform the site characterisation/baseline description? • Is the method of project specific impact assessment proposed, including proposed VPs and the approach to visualisations, appropriate? • Is the method of whole project and cumulative impact assessment proposed appropriate?
<p>SNH provided advice on how the SLVIA could consider the increased height and rotor diameter of turbines through the preparation of comparative zone of theoretical visibility maps. SNH agree with the viewpoints selected and advise that wireframes will be sufficient to assess the significance of the change in wind farm design parameter for both Moray East and BOWL. They advise there will be no need for the production of photomontages. SNH emphasise that the assessment should focus on explaining and illustrating the effects of the proposed changes to turbine parameters and whether or not these are significant in comparison to the consented 2014 scheme and the BOWL final build out scheme.</p> <p>Aberdeenshire Council agree that including the requirements for more “standard” information including photomontages from certain locations can be scoped out as per the Scoping Report as well as SNH’s response on the matter. AC request that the reasoning for this decision is included in the ES in the interests of transparency and completeness.</p> <p>MS-LOT are awaiting a final response from The Highland Council but, in the interim, have received an email with comments regarding the approach for LVIA. The formal response will be sent onto the Developer once it has been received.</p> <p>THC expressed reservations regarding the approach suggested by SNH (focusing LVIA on viewpoints which were identified as experiencing significant impacts for the consented applications). They commented that if this approach is adopted, it should be supported by a piece of work which reviews the Study Area and new ZTV and <i>verifies</i> that changes to effects arising from the proposed alteration to the design will not create new or intensified effects in other areas. They expressed a preference for a receptor-led visual impact assessment and provided further information what this required (see response).</p>	

THC noted that baseline reports should be reviewed for currency in a number of areas, e.g. onshore wind applications. They also highlighted that the new NC500 route is now being promoted and bringing more users with elevated sensitivity to the area. They highlighted that the consultants may find the Onshore Wind Energy Supplementary Guidance and the Sensitivity Study work for Caithness helpful. They also highlighted that the route of the A9 is now subject to change due to the A9 Berriedale Braes Improvement Scheme – this is likely to change views towards the site in an area where significant impacts were previously identified on receptors using the A9 between Berriedale and Latheron. As legislation has now been passed for these improvements to the trunk road, these changes should be regarded as change to baseline.

THC noted that they would expect that the visualisations should be provided to Highland Council Standards.

Comments from Moray Council highlighted that any submission for increased height and spacing of turbines should be supported by clear information relating to what extent aviation and nautical lighting might be seen from the Moray Firth coast to the south.

MS-LOT note that SNH, Aberdeenshire Council and Moray Council have no objections with the proposed approach but The Highland Council expect that visualisations should be provided to The Highland Council Standards. MS-LOT consider that appropriate sources of data have been identified to inform the site characterisation and baseline description but advise that the Developer discuss this further with THC. MS-LOT advise the Developer to provide one set of visualisations in line with THC standards i.e. the visualisations do not have to be provided in the format preferred by SNH as well. MS-LOT agree that the method of whole project and cumulative impact assessment is appropriate.

7.9 Archeology and cultural heritage (visual setting)

Scoping Question	Question
10.1 (page 147)	<p>Is Marine Scotland in agreement with the following with regards to the proposed Windfarm EIA for cultural heritage?</p> <ul style="list-style-type: none"> • Have all appropriate sources of data been identified to inform the site characterisation/baseline description? • Is the method of project specific impact assessment proposed appropriate? • Is the method of whole project and cumulative impact assessment proposed appropriate?
<p>Aberdeenshire Council commented that the alternative design is not expected to result in any adverse issues with regards to Built Heritage, Archaeology and Landscape and Ecology.</p> <p>HES were content with the approach and raised no objections. Their response contained some general comments and corrections (see response).</p> <p>MS-LOT agree with the proposed methods of project specific impact assessment, whole project and cumulative impact assessed and selection of data sources.</p>	

7.10 Civil and military aviation

Scoping Question	Question
11.1 (Page 154)	<p>Is Marine Scotland in agreement with the following with regards to the proposed windfarm EIA for civil and military aviation:</p> <ul style="list-style-type: none"> • Have all appropriate sources of data been identified to inform the site characterisation/baseline description? • Is the method of project specific impact assessment proposed appropriate? • Is the method of whole project and cumulative impact assessment proposed appropriate?
<p>Comments from Moray Council highlighted that any submission for increased height and spacing of turbines should be supported by clear information relating to what extent aviation and nautical lighting might be seen from the Moray Firth coast to the south.</p> <p>CAA reiterated that, as highlighted in the report, there are a number of issues associated with helicopter search and rescue operations in and around the wind farm area and the operator concerned (Bristow helicopters) may provide additional information in respect of lighting, structure layout and potential operations within the wind farm.</p> <p>MS-LOT note that the MOD Defence Infrastructure Organisation (DIO) have objected to the proposed development due to potential significant and detrimental effects on operations and on the provision of Air Traffic Services at RAF Lossiemouth. MS-LOT encourages the Developer to engage with DIO to investigate technical mitigation solutions further. DIO also raised concerns regarding unacceptable interference to the Air Defence Radar and Air Surveillance and Control Systems Buchan and requests that should the developer overcome these issues, all WTGs should be fitted with aviation safety lighting in accordance with the Air Navigation Order and Civil Aviation Authority regulations. Note that MOD wishes to be consulted and notified about the progress of planning applications and submissions relating to this proposal to verify that it will not adversely affect defence interests.</p> <p>MS-LOT agree with the proposed approach outlined in sections 11.4 -11.7 of the Scoping Report and advise that consultation should continue with the stakeholders to resolve issues.</p>	

7.11 Socio-Economic impact assessment

Scoping Question	Question
12.1 (Page 163)	<p>Is Marine Scotland in agreement with the following with regards to the proposed windfarm EIA with regards to the socio economic impact assessment:</p> <ul style="list-style-type: none"> • Have all appropriate sources of data been identified to inform the site characterisation/baseline description? • Is the method of project specific impact assessment proposed appropriate? • Is the method of whole project and cumulative impact assessment proposed appropriate?
<p>Socio-economics were discussed at a scoping meeting on the 30 March 2017. MS-LOT are satisfied that tourism and recreation can be scoped out, on the basis that potential impacts on visitor accommodation (where used as a temporary accommodation for construction workers) is included within the wider socio-economic impact assessment (as discussed at the meeting) and significant adverse impacts on recreation and tourism identified in the Moray East ES 2012 are reported in the ES for the current proposal.</p> <p>MS-LOT are satisfied with the proposed approach outlined in sections 12.4-12.7 of the Scoping Report.</p>	

7.12 Habitats Regulations Appraisal

Scoping Question	Question
13.1 (Page 166)	Is Marine Scotland in agreement with the approach outlined for HRA?
<p>Appendix B of the SNH advice in relation to HRA should be followed.</p> <p>SNH provided comments stating that new information will not be required from Moray East to inform the appropriate assessment, other than perhaps for ornithology (to be confirmed).</p> <p>For Special Protection Areas (SPAs) SNH advised that the short list of sites / qualifying features previously agreed (see section 3C of the previous AA approved 04/02/14) remains valid with the exception of puffin, which has recently been removed from the East Caithness Cliff SPA citation.</p> <p>For Special Areas of Conservation (SACs) SNH advised that potential impacts to migratory fish and therefore as a consequence freshwater pearl mussel (FWPM) should be considered under EIA rather than HRA. This is because it is not currently possible to undertake site-specific HRA for migratory Atlantic salmon or other migratory fish because impacts cannot be correctly apportioned to SACs and there is a lack of information on SAC populations to inform decisions on site integrity.</p> <p>In relation to marine mammals SNH consider that previous modelling work together with the piling strategy agreed in relation to the existing consents should be sufficient to address HRA considerations.</p> <p>MS-LOT advise that SNH advice should be followed in the approach to HRA. Moray East should rely on the appropriate assessment completed for the current consents and the additional work completed for the piling strategy to inform the HRA for marine mammals. A qualitative update using information from more recent appropriate assessments which include an in-combination assessment with the current consents should also be provided. The HRA report should be submitted along with the ES.</p>	

Scoping Question	Question
13.2 (Page 166)	Does Marine Scotland have existing templates or tables that set out how information should be provided? E.g. tabular/matrix formats?
<p>SNH commented that matrices are not appropriate for HRA.</p> <p>MS-LOT do not have templates for providing this information.</p>	

7.13 Stakeholder Engagement

Scoping Question	Question
14.1 (page 170)	Does Marine Scotland agree with the approach to stakeholder engagement?
<p>SFF raised concerns regarding the Commercial Fisheries Working Group and their terms of reference and mix of representation and highlighted the importance of this group in facilitating engagement with all fisheries stakeholders. Moray East, in the scoping meeting held on the 04 April 2017, have agreed to instruct Brown and May to work with the SFF to organize a Moray East and Moray West commercial fisheries working group prior to submission of the applications and to develop the Terms of Reference for both groups.</p> <p>FMS recommended that any fish monitoring work should be undertaken in partnership with the local District Salmon Fishery Boards and Fisheries Trust, in conjunction with input from MSS.</p> <p>Marine Scotland agrees with the approach to stakeholder engagement outlined in the Scoping Report, subject to completion of the tasks above.</p>	

7.14 Structure of the ES

Scoping Question	Question
15.1 (page 172)	Does Marine Scotland agree with the proposed structure of the ES?
<p>Aberdeenshire Council and SNH both had comments on the proposed structure of the ES. Whilst both agreed with the proposed structure, they highlighted the need for the ES to avoid duplication of large volumes of text whilst being a standalone document capable of being used without reference to previous ES documentation.</p> <p>MS-LOT discussed the proposed structure with the Moray East team at a meeting on 26 April 2017. MS-LOT advise that the ES should be a standalone document, containing summaries of relevant assessment work carried out in the Moray East ES 2012, where significant impacts were identified, to assist readers in their interpretation of the new ES. The reader should not be required to consult the Moray East ES 2012 and if required any assessment work from the 2012 ES necessary to support summaries and conclusions can be included in appendices.</p> <p>MS-LOT are content with the structure outlined in section 15.2 of the Scoping Report.</p>	

8 Marine Planning

Offshore Renewable Energy development should be in accordance with the UK Marine Policy Statement and Scotland's NMP.

The UK Marine Policy Statement 2011 – The UK Administrations share a common vision of having clean, healthy, safe, productive and biologically diverse oceans and seas. Joint adoption of a UK-wide Marine Policy Statement provides a consistent high-level policy context for the development of marine plans across the UK to achieve this vision. It also sets out the interrelationship between marine and terrestrial planning regimes. It requires that when the Scottish Ministers make decisions that affect, or might affect, the marine area they must do so in accordance with the Statement.

Scotland's NMP 2015 – Developed in accordance with the Marine (Scotland) Act 2010 and the Marine and Coastal Access Act 2009 (as amended), the NMP provides a comprehensive statutory planning framework for all activities out to 200 nautical miles. This includes policies for the sustainable management of a wide range of marine industries. The Scottish Ministers must make authorization and enforcement decisions, or any other decision that affects the marine environment, in accordance with the NMP. The NMP sets out a presumption in favour of sustainable development and use of the marine environment when consistent with the policies and objectives of the Plan.

9 Land Use Planning

The Scottish Government's planning policies are set out in the National Planning Framework, Scottish Planning Policy, Designing Places and Circulars.

The National Planning Framework is the Scottish Government's Strategy for Scotland's long term spatial development.

Scottish Planning Policy ("SPP") is a statement of Scottish Government policy on land use planning and contains:

- The Scottish Government's view of the purpose of planning,
- the core principles for the operation of the system and the objectives for key parts of the system,
- statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
- concise subject planning policies, including the implications for development planning and development management, and
- The Scottish Government's expectations of the intended outcomes of the planning system.

Other land use planning documents which may be relevant to this proposal include:

- Aberdeenshire Local Development Plan 2016

- Planning Advice Note (“PAN”) 2/2011: Archaeology – Planning Process and Scheduled Monument Procedures
- PAN 51: Planning, Environmental Protection and Regulation
- PAN 1/2011: Planning and Noise
- PAN 1/2013: Environmental Impact Assessment
- PAN 60: Planning for Natural Heritage
- PAN 62: Radio Telecommunications
- PAN 68: Design Statements
- PAN 75: Planning for Transport
- PAN 79: Water and Drainage
- Marine Guidance Note (“MGN”) 543 (M+F) Safety of Navigation: Offshore Renewable Energy Installations (OREIs) – UK Navigational Practice, Safety and Emergency Response
- Moray Local Development Plan
- Moray Structure Plan
- Moray Wind Energy Policy Guidance
- Highland Renewable Energy Strategy and Planning Guidelines
- Highland Coastal Development Strategy
- Highland-wide Local Development Plan
- Scottish Planning Policy (“SPP”)
- National Planning Framework 3

10 General ES Issues

10.1 Gaelic Language

Where developments are located in areas where Gaelic is spoken, Developers are encouraged to adopt best practice by publicising the project details in both English and Gaelic.

10.2 Application and ES

A gap analysis template is attached at Appendix III to record the environmental concerns identified during the scoping process. This template should be completed and used to inform the preparation of the ES. Please note that the ES must contain all of the information specified in the scoping opinion. On submission of the application and supporting ES, MS-LOT, via a gatecheck process, will review the completed template in conjunction with the ES to ensure this is the case before the application is officially accepted. The gatecheck will also include an EIA audit. If information requested at scoping stage has not been provided in the ES then the applicant will be asked to provide that information before the application can be accepted.

Please note all aspects of this scoping opinion should be considered when preparing a formal application to reduce the need to submit further information in support of the application. The consultee comments presented in this opinion are designed to offer an opportunity to consider all material issues relating to the development proposals.

The exact nature of the work that is needed to inform the EIA may vary depending on the design choices. The EIA must address this uncertainty so that there is a clear explanation of the potential impact of each of the different scenarios. It should be noted that any changes produced after the ES is submitted may require further environmental assessment and public consultation.

In assessing the quality and suitability of applications, the MS-LOT will use the gap analysis and this scoping opinion in assessment of the application. In addition to scoping, applications are required to go through a gate check process. See Appendix II for further information on this. In the event of a submitted application not containing essential information, the MS-LOT reserves the right not to accept the application. Developers are advised not to publicise applications in the local or national press, until their application has been accepted by the MS-LOT.

10.3 Judicial review

All decisions may be subject to judicial review. A judicial review statement should be made available to the public.

Signed

Gayle Holland
10/05/2017

Authorised by the Scottish Ministers to sign in that behalf

Appendix I: Consultee Responses

Consultee Comments relating to Moray East Offshore Windfarm

Aberdeenshire Council

I refer to your request for a consultation response on a scoping opinion for the above proposal received on 13 March 2017. Aberdeenshire Council consider that Marine Scotland are generally well placed to provide the expertise required to determine if the offshore elements of the Scoping Report are acceptable and if the proposals can be adequately managed with low risk to the marine environment. Officers from the Planning Service are working closely with the applicants in relation to the onshore elements of the wider project.

Having appraised the offshore elements of the project with regard to the revised design parameters set out, as well as the proposed scope and content of the proposed Environmental Statement (ES), the Planning Service would comment as follows:

The alternative design, reduction in wind turbine generators and approach to presenting this information are not considered to lead to any adverse issues from the Council's perspective with regard to Built Heritage, Archaeology, Environmental Health, Landscape and Ecology. More detailed analysis of these issues can be forwarded if required.

A cumulative assessment of the proposal in combination with approved or pending development is an important issue with regard to all environmental receptors that will require to be fully addressed.

In terms of mitigation of any potential adverse effects associated with this proposed development, Aberdeenshire Council would suggest that following known industry best practice in terms of constructing and erecting offshore wind turbines, would be appropriate.

Landscape and Seascape visual impacts are of primary interest to Aberdeenshire Council. The scope and methodology outlined within the Scoping Report generally appears to be acceptable. The applicant needs to fully address the issue of cumulative impact as part of the seascape, landscape and visual impact assessment to fully address the potential combined visual affects between the Beatrice Offshore Wind Farm (BOWL) development and the onshore wind energy projects that fall within the agreed extent of a cumulative ZTV. Updating the assessment from previous iterations is required also. The cumulative seascape/landscape and visual impact assessment should be primarily graphic based, with ZTV information, panoramas, photomontages and wireline models and should include impacts, or a summary of impacts if appropriate, upon Aberdeenshire as well. The location, likely scale and potential visual effects of this scheme on the seascape of the development area, its maritime context and indeed on the landscape character of the coastal areas beyond is likely to be notable, particularly given the known visual effect of the scale of turbines, proposed and consented, for the site area and it's immediate

context. For this reason a comprehensive seascape/landscape and visual impact assessment would be appropriate.

In terms of providing a reasonably comprehensible Environmental Statement it is recommended that the applicant produce a single up to date comprehensive volume including any previous, but currently relevant, assessment work done for earlier versions of offshore wind energy development proposals for this site. The extent and possible volume of information for this proposed development is notable and it would assist readers in reasonably comprehending the issue if all relevant information was included in one up to date volume, rather than any process referring to information in previous ES documents produced for earlier development schemes for the site.

Aside from the matters raised above, the Scope and approach to the updated ES raises no concerns so long as the issues highlighted are adequately addressed in the final ES in line with appropriate guidance and legislation and reference to relevant up to date information. The structure of the proposed ES as set out in Chapter 15 of the Scoping document similarly raises no issues so long as the ES can be read as one document without the need for constant cross referencing between various iterations of documents. Cognisance to the updated EIA Regulations, coming into force on 16 May 2017 is also a matter which is welcomed.

Following the AC consultation response the Developer had further dialogue with AC. An email from AC on 4 May 2017 stated the following:

The issues highlighted are noted and accepted, on this occasion it does appear that we have utilised some “stock” paragraphs/information which conflicts with some of the detail provided in the Scoping Report. I would apologise for this oversight, this was an error on my part when compiling responses from consultees. I will take steps to ensure that issues like this can be avoided in the future.

- Regarding paragraph 3, this is intended to convey the fact that consultees commented on these issues and confirmed that no adverse issues were being raised with regard to the content of the Scoping Report and methodology outlined. Apologies if I did not articulate this clearly. For added clarity, please see attached for the relevant consultee responses covering these issues confirming no adverse issues.
- Given that the Scoping Report and the ES currently under production are heavily influenced by the previous ES, which provides a full and robust assessment of a number of issues, it is considered appropriate to agree to a more streamlined ES in this instance given that a number of issues have already been demonstrated as being of reduced impact. The previous ES and its conclusions represent one of the strongest sources of analysis and information for scoping out issues and as such I can confirm that the issues highlighted in your email below including the requirements for more “standard” information including photomontages from certain locations can be scoped out as per the Scoping Report as well as SNH’s response on the matter.
- I would however suggest that the reasoning offered below and logic behind this is included in the ES, purely in the interests of transparency and completeness.
- I would also confirm and agree that BOWL should be a baseline, apologies for not specifying originally but I considered this to be already agreed and established

through the content of the Scoping Report.

I would confirm agreement with the paragraphs and justification below and would again apologise for any confusion caused as a result of our response. I trust the above is of use to you.

Joint Nature Conservation Committee

Thank you for consulting JNCC in this matter. As renewables advice in Scottish waters been devolved from JNCC to SNH, JNCC will not be responding to this request and SNH are now the advisors for this case.

Maritime and Coastguard Agency

The MCA has reviewed the scoping report for the Moray East offshore wind farm as detailed in your email dated 13 March 2017 and I would comment as follows:

The Environmental Statement should supply detail on the possible the impact on navigational issues for both Commercial and Recreational craft, viz.

Collision Risk
Navigational Safety
Visual intrusion and noise
Risk Management and Emergency response
Marking and lighting of site and information to mariners
Effect on small craft navigational and communication equipment
The risk to drifting recreational craft in adverse weather or tidal conditions
The likely squeeze of small craft into the routes of larger commercial vessels.

A Navigational Risk Assessment will need to be submitted in accordance with MGN 543 and the MCA Methodology for Assessing the Marine Navigational Safety & Emergency Response Risks of Offshore Renewable Energy Installations. The shipping and navigation study should include radar and manual observations in addition to AIS data to ensure vessels of less than 300gt are captured. This NRA should be accompanied by a detailed MGN 543 Checklist which can be downloaded from the MCA website.

Particular attention should be paid to cabling routes and where appropriate burial depth for which a Burial Protection Index study should be completed and, subject to the traffic volumes, an anchor penetration study may be necessary. If cable protection are required e.g. rock bags, concrete mattresses, the MCA would be willing to accept a 5% reduction in surrounding depths referenced to Chart Datum. This will be particularly relevant where depths are decreasing towards shore and potential impacts on navigable water increase.

Any application for safety zones will need to be carefully assessed and additionally supported by experience from the development and construction stages.

Particular consideration will need to be given to the implications of the site size and location on SAR resources and Emergency Response Co-operation Plans (ERCoP). Attention should be paid to the level of radar surveillance, AIS and shore-based VHF radio coverage and give due consideration for appropriate mitigation such as radar, AIS receivers and in-field, Marine Band VHF radio communications aerial(s) (VHF voice with Digital Selective Calling (DSC)) that can cover the entire wind farm sites and their surrounding areas.

MGN 543 Annex 2 requires that hydrographic surveys should fulfil the requirements of the International Hydrographic Organisation (IHO) Order 1a standard, with the final data supplied as a digital full density data set, and survey report to the MCA Hydrography Manager. Failure to report the survey or conduct it to Order 1a might invalidate the Navigational Risk Assessment if it was deemed not fit for purpose.

The cumulative and in combination effects require detailed consideration within the ES, particularly for layout design and aviation lighting requirements with the Beatrice Offshore Wind Farm.

Moray Council

Regarding the scoping opinion request for the above Moray Council would have nothing to say beyond a request that:-

Any submission for increased height and spacing of turbines should be supported by clear information relating to what extent aviation and nautical lighting might be seen from Moray Firth coast to the south.

Northern Lighthouse Board

Thank you for your correspondence dated 13 March 2017 and regarding the Scoping Opinion Request for the proposed Eastern Area Development at the Moray Firth Offshore Wind Farm and the intention of **Moray East Offshore Windfarm Limited (Moray East)** to deploy and operate turbines in the Eastern Area Development.

We note that the Scoping Opinion request is based on the previous marine licences granted to the original areas of Telford, Stevenson and MacColl now being superseded by a single marine licence for the combined areas.

NLB are content with the application for a single licence but would require that any

changes to the marking and lighting recommendations proposed for the Eastern Area Development be based on IALA Recommendation O-139 as before, and that NLB would also require to examine the amended layout and recommend any changes to the previous marking requirements if necessary.

We would likewise require the Navigational Risk Assessment for the amended configuration to be in line with the requirement of MCA Marine Guidance Notice 543.

Please advise if we can be of any further assistance, or require clarification any of the above.

Scottish Environment Protection Agency

Thank you for consulting SEPA on the scoping opinion for the above development proposal by your email received on 13 March 2017.

Advice to the planning authority

Based on the information submitted to us we consider that, with respect to interests relevant to our remit, the proposed development will be **unlikely to have a significant effect** (in the context of the Regulations) on the onshore environment or within 3 nautical miles of the shoreline. We do not therefore have any requests for further issues to be scoped into the Environmental Impact Assessment.

If you have queries relating to this letter, please contact me by telephone on 01224 266636 or e-mail at planning.aberdeen@sepa.org.uk.

Scottish Natural Heritage

Thank you for consulting SNH on the natural heritage interests to be addressed under Environmental Impact Assessment (EIA) and Habitats Regulation Appraisal (HRA) for the Moray East offshore wind farm.

This proposal is located in the Eastern Development Area (EDA) of the Moray Firth Round 3 zone. Consents were issued (March 2014) for three offshore wind farms (MORL: Telford, Stevenson & MacColl) in the EDA. The developer is now seeking consent for a single wind farm in this location, encompassing alternative design parameters to those previously assessed, but for which total site capacity (1,116MW) remains the same.

The change in parameters relate specifically to an increase in turbine size (up to 280m HAT / 250m rotor diameter) and individual turbine capacity (up to 15MW each) which could result in a reduction in the number of turbines across the site. The revised design envelope will also include the additional option of using suction bucket foundations. The new application will apply only to the offshore wind farm elements.

We provided preliminary advice pre-scoping, (23 February 2017) focussing on what we felt would be an appropriate approach to the EIA.

We broadly agree with the suggested approach to impact assessment presented in the scoping report, and provide commentary below where we feel further clarity or guidance would be helpful.

Appendix A details those natural heritage interests to be considered in respect of the alternative design, indicating where we consider further assessment is required, where new information may be applicable or where receptors can be scoped out.

Appendix B provides advice from SNH to MS LOT on what information will be applicable to consider in the update of the appropriate assessment.

Appendix C provides our comments where appropriate to the scoping report questions.

APPROACH TO THE ASSESSMENT OF IMPACTS FOR THE ALTERNATIVE DESIGN

Moray East – changes to design parameters

Table 3.1 of the scoping report provides a useful summary of the changes in design parameters: comparing the original “worst case scenario” from the 2012 environmental statement (ES) against what was consented in 2014 and the alternative design proposals now submitted for scoping. In this regard we advise that the consented 2014 parameters represent the first point of comparison for any revised assessments in respect of Moray East. This represents the upper end of the original design envelope: 186 turbines (6 - 8MW machines).

Assessment requirements going forward

As outlined in our preliminary advice, we are of the view that full EIA and HRA is not required for the alternative design to be used at Moray East, comprising a maximum of 137 turbines at the lowest rating (8.1 MW). We consider that the previous assessments provide a solid understanding of the potential impact pathways and likely significance of impacts, all of which were deemed acceptable through the issue of consent and approval of the final appropriate assessment in 2014.

We advise that assessment is not necessary for all receptors; as outlined in our preliminary pre-scoping advice (23 February 2017) we consider that the updated design parameters only have implications for ornithology and seascape landscape and visual impact assessment (SLVIA). Please see **Appendix A** for our full advice across receptors.

We note the reference made throughout the scoping report to conditions attached to the consents for MORL EDA wind farms. Many if not all of these conditions remain relevant going forward and as such can be considered as embedded mitigation.

Cumulative impact assessment

Moray East and Beatrice

The impacts of Moray East, the alternative design, should fall within the worst case previously assessed; this includes the worst case cumulative impact assessment in combination with Beatrice (as per the 2014 consents).

In considering any reassessment of cumulative impacts, we advise that it is the confirmed “build out” design which should be used for Beatrice: 84 turbines (7MW machines). This again is likely to represent a reduction in impacts compared to the consented worst case.

Moray East and other development

Table 6.2 (page 101) of the scoping report provides a summary of those developments that have come forward since 2012 for consideration for cumulative impact assessment. However, those developments that have come forward since the MORL EDA ES was submitted in 2012 have:

- a) accounted for any cumulative effects with MORL EDA and Beatrice in their respective applications and
- b) assessed these effects against the previous (2012) worst case scenario for MORL EDA and Beatrice (both of which have now reduced in scale through what was consented in 2014 and what has been agreed at build out).

We therefore do not see any merit in reopening a full cumulative impact assessment. We recommend that the agreed approach with respect to this is clearly outlined in the Scoping Opinion.

We agree that the cumulative impacts of the Moray East and Moray West developments can be assessed through the forthcoming Moray West application.

ES STRUCTURE AND CONTENTS

We support the proposal to submit a succinct, robust ES that is proportionate and that reflects the limited changes from the previous assessment of impacts. We are content that those topics for which assessment is required (e.g. ornithology and SLVIA) are presented as new information in their respective chapters, but highlight that where possible Moray East should avoid replicating large parts of the previous assessment for the other receptors. Instead a summary of the most significant impacts and whether this is with or without mitigation including consideration of the consent conditions for the MORL projects should be presented with links to the original publicly available ES and determination documentation.

We hope these comments are helpful. If further information or advice is required please contact me in the first instance: karen.taylor@snh.gov.uk or 01546 603611.

APPENDIX A

NATURAL HERITAGE ISSUES TO BE CONSIDERED

As indicated above, we have focussed our advice on those areas for which we feel further *comparative assessment* is required to understand how the alternative design (and proposed development scenarios together with final build parameters for Beatrice) may affect the scale of impacts predicted, against what was previously consented and deemed acceptable in 2014 for the MORL EDA in combination with Beatrice. Where we agree that specific receptors can be scoped out of any assessment going forward, we have provided brief commentary on how we have reached this view. We provide commentary below for each receptor in turn:

- Benthic ecology

The key impacts previously identified for which the alternative design proposal may have a bearing relate to habitat loss and disturbance. The predicted effects from these impact pathways were addressed and deemed acceptable through a number of conditions attached to the 2014 consent, as outlined in Table 5.3 of the scoping report.

We agree that any impact from the inclusion of suction bucket foundations in the alternative design envelope would be within what was previously assessed for the gravity based structure and considered to be worst case in the 2012 ES. Furthermore, the inclusion of a fewer number of larger turbines in the alternative design envelope would see a reduction in the scale of impact from what was assessed as worst case, even if the development scenario includes a mixture of the turbines consented in 2014 with the larger proposed turbines.

We therefore do not see a need for any further assessment either individually or cumulatively and as such are content that Benthic Ecology is scoped out of the EIA on this basis.

- Marine mammals

The key impact previously identified for which this alternative design proposal may have a bearing relates to the underwater noise impact from piling activity during construction of foundations. The predicted effects from this impact pathway were addressed and deemed acceptable through a number of conditions attached to the 2014 consent, as outlined in Table 5.5 of the scoping report with respect to harbour and grey seal, harbour porpoise, bottlenose dolphin and minke whale.

In this regard, there has been substantial work undertaken to develop MORL's piling strategy for the EDA. MORL have refined the pile-driving requirements and undertaken new noise modelling in this regard; all these assessments will be relevant to the new alternative design envelope and we do not consider that any further updates are needed in this regard.

As such we do not have any outstanding concerns nor do we see any need for any further assessment either individually or cumulatively with respect to marine mammals.

- Fish (Diadromous and marine species)

To note, we provide advice only on diadromous fish and advise that advice on marine fish species should be sought from Marine Scotland Science.

The key impacts previously identified for which the alternative design proposal may have a bearing relate to habitat loss / disturbance and underwater noise from construction impacts.

The predicted effects from these impact pathways were addressed and deemed acceptable through a number of conditions attached to the 2014 consent, as outlined in Table 5.4 of the scoping report. Related to this, we highlight the assessment work undertaken post-consent through the MORL EDA piling strategy with respect to fish species.

As such we do not have any outstanding concerns nor do we see any need for any further assessment either individually or cumulatively with respect to diadromous fish.

- Ornithology

Collision risk

The key impacts previously identified for which the alternative design proposal may have a bearing relate to collision risk and displacement. We identified in our preliminary advice that further collision risk modelling would be required to understand how the reduction in turbine number and increase in size would affect the predicted impacts and to what scale. At the scoping meeting held on 29 March 2017 between MSLOT, Moray East, SNH and RSPB, we agreed to provide written advice (by the 12 April 2017) detailing what in our view is required from this initial collision risk assessment. Further dialogue will then be required to reach agreement as to whether any further assessment work is needed and if so by what method(s).

We will therefore provide further advice upon receiving outputs from the collision risk modelling exercise which we anticipate to have received by 28 April 2017.

Displacement

We are content with the advice we provided with respect to displacement, as outlined in our preliminary advice, dated 23 February 2017.

As such we are of the view that no further assessment is required with respect to displacement impacts.

- Seascape, landscape and visual impact assessment (SLVIA)

The seascape, landscape and visual impact assessment (SLVIA) for the MORL EDA was assessed alongside BOWL in 2014. The assessment reflected the nature of the assessment process and the inter-relationship between the two wind farm developments: Beatrice being located closer to shore within Scottish territorial waters

and MORL EDA located further out beyond 12nm, with both likely to be perceived as one single wind farm lying offshore, parallel to the coast.

We refer to our preliminary advice of 23rd February, in which we indicate the key issues that will need to be considered will be whether the increased height and rotor diameter of turbines will be noticeable at this distance and how Moray East will be perceived alongside Beatrice. This could be illustrated through the preparation of comparative zone of theoretical visibility (ZTV) maps:

- ZTV illustrating the existing consented EDA (8MW) scheme alongside the scenario of the most likely and largest turbines.
- Comparative ZTVs of the EDA scenarios with the Beatrice as being built scheme.

We would be happy to meet to discuss preliminary outputs, but the emphasis of our advice is that the assessment should focus on explaining and illustrating the effects of the proposed changes to turbine parameters and whether or not these are significant in comparison to the consented 2014 scheme and with that of the Beatrice final build out scheme.

APPENDIX B

HABITATS REGULATION APPRAISAL – APPROPRIATE ASSESSMENT

There will be a requirement for a new appropriate assessment to be undertaken by MS-LOT, however we do not consider, other than perhaps for bird interests – which we will be able to advise on at a later date, that any new information is required from Moray East to inform the HRA process including the appropriate assessment.

To assist MS-LOT, we provide commentary below with respect to each of the European designations outlining where process or information has changed since 2014 and where this may affect those sites for which a likely significant effect was previously identified (i.e. the short list as taken forward in section 3C of the AA approved 04/02/14) and where, in our view, the previous appraisal remains applicable going forward, or where further appraisal is required.

- Special Protection Areas

We are content that the short list of sites / qualifying features previously agreed (see section 3C of the previous AA approved 04/02/14) remains valid with the exception of puffin, which has recently been removed from the East Caithness Cliff SPA citation.

We will provide further advice with regard to HRA following receipt of the collision risk estimates as referred to above (Appendix A – Ornithology). This advice will also cover the suite of marine pSPAs which have come forward since the original application in 2012.

- Special Areas of Conservation

Diadromous fish and freshwater pearl mussel

We no longer advise it is possible to undertake site-specific HRA for migratory Atlantic salmon or other migratory fish because we cannot apportion impacts correctly to SACs and there is a lack of information on SAC populations to inform decisions on site integrity. As our knowledge improves and assessment methods develop this position may change. Potential impacts to migratory fish and therefore as a consequence freshwater pearl mussel (FWPM) should be considered under EIA rather than HRA. Therefore the following sites can be scoped out of the HRA:

- Berriedale & Langwell Water SAC (Atlantic salmon)
- River Evelix SAC (FWPM)
- River Moriston SAC (Atlantic salmon & FWPM)
- River Oykel SAC (Atlantic salmon & FWPM)
- River Spey (Atlantic salmon, Sea Lamprey & FWPM)
- River Thurso (Atlantic salmon)
- River Borgie SAC (Atlantic salmon & FWPM)
- River Dee SAC (Atlantic salmon & FWPM)
- River Naver (Atlantic salmon & FWPM)

We advise that Moray East should continue to use the previous 2014 assessment for

diadromous fish and also to refer to the work being undertaken to discharge the 2014 consent conditions, but that this should be summarised as part of the ES and that in terms of the AA, the above SACs no longer need to be included.

Subtidal Sandbank

The subtidal sandbank qualifying habitat of Moray Firth SAC was scoped into the original HRA due to uncertainty surrounding the dredging and disposal of sediment related to the use of gravity base foundations. We are content with the previous approach that if this foundation type is to be used that this will be subject to a further Marine Licence application and will therefore require its own HRA.

Harbour (common) seal

The assessment of underwater noise impacts to harbour seals from Dornoch Firth & Morrich More SAC was previously undertaken through the Moray Firth Offshore Wind Developers Group (MFOWDG) via the common seal impact assessment framework.

The MORL EDA piling strategy updates this work and considers noise impacts to harbour seal from the use of fewer larger turbines. We are therefore content that the previous assessment together with the piling strategy should be sufficient to address AA considerations in relation to harbour seal.

Lastly, evidence came to light in 2015 suggesting that the so called ‘spiral / corkscrew’ injuries seen in seal carcasses which were thought to have come about through interaction with ducted propellers, can instead be attributed to grey seal predation. As such the vessels with ducted propellers are not likely to pose any increased risk to seals over and above normal shipping activities. This impact can therefore be scoped out.

Bottlenose dolphin

Underwater noise impacts from the construction of both MORL EDA and Beatrice were previously modelled in relation to bottlenose dolphin from the Moray Firth SAC. The MORL EDA piling strategy updates this work and considers noise impacts to bottlenose dolphin from the use of fewer larger turbines. We are therefore content that the previous modelling together with the piling strategy should be sufficient to address HRA considerations in relation to bottlenose dolphin.

Harbour porpoise

There are several candidate Special Areas of Conservation for harbour porpoise within UK waters – Inner Hebrides and the Minches cSAC and Southern North Sea cSAC. We advise that there is no connectivity between these cSACs and Moray East and there is no need to consider whether of these sites within the HRA process.

Further ornithology responses are expected and these will be discussed in a separate report.

APPENDIX C

SCOPING QUESTIONS

Scoping Question Reference number	SNH advice
1.1	SNH has no comments to make on these aspects.
1.2	SNH has no comments to make on this aspect.
2.1	Please see our comments above.
2.2	SNH advise that we agree subject to: i) Beatrice build out design is considered alongside Moray East proposal and ii) Moray East is determined before Moray West, so that the Moray West application completes a cumulative impact assessment with impacts from Moray East and Beatrice considered. Please refer to our advice in our comments above.
2.3	Yes, because assessment of impacts for the consented 2014 Telford, Stevenson and MacColl wind farms already exist and therefore can be compared against.
2.4	Yes – we have suggested a way forward with respect to the worst case scenario to reflect this.
2.5	Yes – we have not identified any European sites with which connectivity exists beyond Scotland.
3.1	Yes.
4.1	Yes.
4.2	SNH has no comments to make on these aspects.
5.1	Yes.
5.2	Yes.
6.1	No – we do not see the need for a full CIA to be carried out. Please refer to our advice in our comments above.
6.2	Yes.
8.1	We will offer further advice pending results from the agreed collision risk reassessment exercise.
9.1	Yes.
10.1	SNH has no comments to make on these aspects.
11.1	SNH has no comments to make on these aspects.
12.1	SNH has no comments to make on these aspects.
13.1	Yes – noting our advice above.
13.2	We advise that matrices are not appropriate for HRA.
14.1	SNH has no comments to make on these aspects.
15.1	Yes – the ES & AA should be proportionate and succinct, with use of appropriate signposting, summaries etc. to avoid duplication of large volumes of text. We also advise that the information relating to the HRA should be part of the ES albeit we do not advise at this time that further HRA information is required, unless in respect to birds for which we will provide advice as agreed at the scoping meeting (March 2017).

The Highland Council

Receptor-led VIA

GLVIA3 2.21 *Assessment of Visual Effects: assessing effects on specific views and on the general visual amenity experienced by people.*

GLVIA3 2.21 has two clear elements:

- effects on specific views
- effects on the general visual amenity experienced by people.

The Highland Council stance is that:

‘effects on specific views’ are effects experienced by receptors of views *from or to* landmark locations. Judgement of value of views should take account of indicators such as those listed in GLVIA37. Eg.

- *relation to heritage assets*
- *planning designations*
- *appearance in guidebooks/tourist maps*
- *through references in literature and art*

Where views are from a landmark locations, *provision of facilities for their enjoyment eg parking and interpretive material* will also be an indicator. However where views are to the landmark no lack of value should be construed solely on the basis of absence of such features. By their nature landmarks may be appreciated for their constancy from a range of routes and locations, with no one spot being perceived as providing the essential view.

‘effects on general visual amenity’ are effects experienced across an area as receptors move through and within the landscape.

In practice, Visual Impact Assessments often focus on specific views with less emphasis on consideration of the general visual amenity experienced by people.

GLVIA3 is clear on the need to identify:

- areas of visibility
- groups of people affected and their susceptibility to change
- nature and scale of visual effect
- whether ‘viewpoints’ are representative, specific or illustrative

GLVIA3 6.3 *Baseline studies for visual effects should establish, in more detail than is possible in the scoping stage, the area in which the development may be visible, the different groups of people who may experience views of the development, the viewpoints where they will be affected and the nature of the views at those points. Where possible it can also be useful to establish the approximate or relative number of different groups of people who will be affected by changes in views or visual amenity, while at the same time recognising that assessing visual effects is not a quantitative process.*

Again we can break this down. Studies should establish:

- the area in which the development may be visible
- *the different groups of people* who may experience views of the development
- the viewpoints where they will be affected
- the nature of the views at those points
- the approximate or relative number of different groups of people who will be affected by changes in views or visual amenity,

I would encourage the developers and their consultants to think about visual impact in a layered way including:

- Experience of people as they move around the area- this might include looking at travel routes as ‘typical journeys for receptor groups’ rather than assessment of visibility of development over the entire length of a numbered route within the study area.
- Identification of any key valued views, recognising that these might be:
 - Views **from** key locations
 - Views **to** any key features

It is essential to recognise the difference between ‘representative viewpoints’ and ‘specific viewpoints’. While GLVIA3 describes different types of viewpoints - representative, specific and illustrative – it then treats the viewpoints much the same for assessment purposes, treating each as a ‘view’.

This approach can lead to an over-emphasis on a handful of locations which are selected very early in the VIA process and a failure to give due weight to the frequency, range and duration of exposure to effects which are experienced by receptors. Therefore I would encourage the assessors to retain emphasis and focus on categories of receptors, eg Tourists, Residents of various localities, local settlements etc in preference to the ‘viewpoint’ locations. . Consideration should be given to relative numbers of receptors within categories and their typical frequency of reception of impacts.

The Visual Impact Assessment report should not be an esoteric document which can only be deciphered by Landscape and Planning professionals. Any member of the public who may be affected should be able to recognise themselves in the receptor descriptions and understand what impacts they are likely to experience. The assessment should be Receptor-led in preference to Viewpoint-led.

Generally

- Methodology for the Assessment: must make clear what thresholds are defined for significance of impact.
- Mitigation measures must be clearly identified and their effectiveness evaluated. This applies to all aspects of the development, including tracks borrowpits, compounds, control buildings, lay-down areas etc.

Visualisations will be required to meet the most recent version of Highland Council Standard, available from the HC Website.

Civil Aviation Authority

Having reviewed the Scoping Report for the proposed Moray East Offshore Windfarm, Alternative Design, the Civil Aviation Authority confirms that the document acknowledges:

- The safety requirement to provide accurate GPS positions of all wind farm structures for civil aviation navigation charting purposes
- The impact on surveillance radar performance
- The need for aviation obstruction lighting
- The risk presented by construction infrastructure as a physical obstruction hazard to aircraft operating in the area of the three developments and the resultant impact on the published minimum safe altitude for aircraft.
- The need to consider potential impacts on operations to and from HIAL Wick Airport
- Potential impacts on Moray Firth helicopter operations in support of the Oil and Gas Industries
- Search and Rescue operations

If the proposed development is approved, there is an international civil aviation requirement for all structures of 300 feet (91.4 metres) or more to be charted on aeronautical charts. However, on behalf of other non-regulatory aviation stakeholders, in the interest of Aviation Safety, the CAA requests that any feature/structure 70 feet in height, or greater, above ground level is notified to the Defence Geographic (dvof@mod.uk) including the location(s), height(s) and lighting status of the feature/structure, the estimated and actual dates of construction and the maximum height of any construction equipment to be used, at least 10 weeks prior to

the start of construction, to allow for the appropriate notification to the relevant aviation communities.

In order to ensure that aviation stakeholders are aware of construction infrastructure, turbines and / or meteorological masts while aviation charts are in the process of being updated, developments should be notified through the means of a **Notice to Airmen** (NOTAM). To arrange an associated NOTAM, a developer should contact CAA Airspace Regulation (AROps@caa.co.uk / 0207 453 6599); providing the same information as required by the DGC at least 14 days prior to the start of construction.

The CAA advises the lighting of wind turbines generators in accordance with Article 223 of the UK ANO (2016). Taking into account changes to ICAO Annex 14 Vol 1, Chapter 6, paragraph 6.2.4 in November 2016 and that the proposed wind turbine generators have a maximum blade tip height at or above 150m above LAT, it is likely that the CAA would request a second light at the top of the structure serving as an alternative should be provided in case of failure of the operating light, as well as low-intensity lights provided at an intermediate level of half the nacelle height.

To resolve concerns from the maritime community, work has been undertaken to develop an aviation warning lighting standard which is clearly distinguishable from maritime lighting. Where it is evident that the default aviation warning lighting standard (article 223) may generate issues for the maritime community, a developer can make a case, that is likely to receive CAA approval, for the use of a flashing red Morse Code Letter 'W' instead. There is, however, no intent to change the lighting intensity specifications set out in article 223; indeed those specifications remain the default aviation warning lighting requirement.

Where flashing lights are used, they are to be synchronised to flash simultaneously, which may be a consideration for the phased construction approach for the Telford, Stevenson and MacColl fields and any future Western Area developments. Such a measure would then ensure UK compliance with ICAO Annex 14 Volume 1 paragraph 6.4.3. Where the Flashing Morse W standard is approved by the CAA and utilised, the recommendation is for a 5 second long sequence, visually synchronised across aviation and maritime lighting sequences.

As highlighted in the scoping opinion, there are a number of issues associated with helicopter search and rescue operations in and around the windfarm area and the operator concerned (Bristow Helicopters) may provide additional information in respect of lighting, structure layout and potential operations within the windfarm.

Fisheries Management Scotland

Thank you for the opportunity to comment on the Scoping Report for the Moray East Offshore Windfarm. Fisheries Management Scotland have no specific comments to make, other than those previously offered through previous responses as the Association of Salmon Fishery Boards.

However, we would like to emphasise the uncertainty that remains in relation to the potential impacts of such developments on migratory salmonid fish. On that basis, we welcome the continuing commitment of Moray Offshore Windfarm (East) Ltd to monitor wild fish through acoustic tracking. Given the work already undertaken by the BOWL development, we consider that the monitoring should build on the work undertaken to date, and include work to understand the use of the marine environment by sea trout. We consider that there are considerable advantages in ensuring that such work is undertaken in partnership with local District Salmon Fishery Boards and Fisheries Trusts with the continuing input of Marine Scotland Science.

Historic Environment Scotland

Thank you for your consultation which we received on 13 March 2017 about the above scoping report. We have reviewed the details in terms of our historic environment interests. This covers world heritage sites, scheduled monuments and their settings, category A-listed buildings and their settings, inventory gardens and designed landscapes, inventory battlefields and historic marine protected areas (HMPAs). In this case, our advice also includes matters relating to marine archaeology outwith the scope of the terrestrial planning system.

The relevant local authority's archaeological and cultural heritage advisors will also be able to offer advice on the scope of the cultural heritage assessment. This may include heritage assets not covered by our interests, such as unscheduled archaeology, and category B- and C-listed buildings.

Proposed Development

I understand that the proposed development will be carried out under a new single consent to replace the 3 separate consents for the Telford, Stevenson and MacColl wind farms. The consent will be for fewer but larger turbines to improve efficiency on the site taking advantage of recent technological improvements. The development will now comprise a maximum of 137 wind turbines to a maximum blade tip height of up to 280m. There may also be a revised design option to include the potential use of suction bucket foundations.

Scope of assessment

Background

Our predecessor body Historic Scotland was consulted on the applications and Environmental Statement (ES) for the Telford, Stevenson and MacColl wind farms in 2012. Historic Scotland did not object to the proposed wind farms and was content with the information supplied in the ES and the assessment of effects.

We note that the scoping report for the new Environmental Impact Assessment (EIA) aims to identify those topics where the alternative design parameters will mean that further assessment is required and also those which can be scoped out rather than reiterating the entire ES from 2012.

The alternative design parameters have been assessed against the Worst Case Scenario (WCS) from the previous consents and where no change is found to this (i.e. the new design parameters will not be worse than the previous WCS) and there have been no changes to baseline data or assessment methodology, these topics are proposed to be scoped out. Historic Environment Scotland (HES) is content with this proposed approach.

Marine Assets

We note that the scoping report states that effects on marine archaeology are intended to be scoped out from the new EIA. This is because the proposed design changes are not expected to change the outcome from the previous assessment in the 2012 ES. The design changes are within the WCS from the 2012 ES which was based on the use of gravity base structure foundations. The seabed footprint are affected will remain within the WCS and there will be no change to the proposed mitigation which includes Archaeological Exclusion Zones around known assets, micro-siting and the implementation of the Offshore Renewables Protocol for Archaeological Discovery (ORPAD). As there have been no changes to the baseline characterisation data or assessment methods the conclusions from the 2012 ES will remain valid.

HES are content with the information provided regarding the potential impacts of the proposed design changes on marine archaeology. We are content that as long as the proposed mitigation strategy remains in place the scheme will remain acceptable. We are therefore content that this element of the historic environment assessment can be scoped out of the new ES.

Terrestrial Assets

We note that the scoping report has identified that the alternative design parameters have the potential to have significant impacts on the setting of terrestrial designated historic environment assets. The previous 2012 ES identified no significant impacts to the setting of any of the assets assessed, however the increased height and spacing of the turbines, along with the inclusion of the now consented Beatrice Offshore Wind Farm (BOWL) as part of the baseline, will have the capacity to alter the potential setting impacts. HES therefore, agree that this element of the historic environment should be scoped in to the new EIA.

We are content that the review of baseline characterisation data has identified that there have been no significant changes but that this will be updated with the most recent data wherever possible. We are content that the HES designations database

has been identified as a key dataset to help with updating the baseline data and that this will be used alongside a revised ZTV from the SLVIA to identify assets for assessment. HES is content with the assessment methodology identified in section 10.6.1 of the scoping report and the WCS parameters identified. We are pleased to see that the assessment criteria for the setting assessment will be updated to take account of the revised Managing Change Guidance Note on Setting (2016). We are also content with the proposed parameters for the cumulative impact assessment as described in the scoping report at section 10.7.

General

For information only, we would note that the scoping report refers to Scottish Historic Environment Policy (SHEP) 2016, however this should refer to the Historic Environment Scotland Policy Statement (HESPS) 2016 which can be found [here](#).

We hope this is helpful. Please contact us if you have any questions about this response. The officer managing this case is Victoria Clements and she can be contacted by phone on 0131 668 8730 or by email on Victoria.Clements@hes.scot

Joint Radio Company

IMPORTANT: Please direct any correspondence relating to wind farm developments to 'windfarms@jrc.co.uk'

Site Name: Moray East Offshore Windfarm

Turbine at NGR: details not available/not supplied

Hub Height: 155m above HAT ***Rotor Radius:*** 125m

Approximate Boundary Points (UTM 30n) :

Point 01 at : 505117 6436035

Point 02 at : 515331 6464698

Point 03 at : 524869 6443604

Point 04 at : 523034 6440559

This proposal **cleared with respect to radio link infrastructure operated by:**

The local electricity utility and Scotia Gas Networks

JRC analyses proposals for wind farms on behalf of the UK Fuel & Power Industry. This is to assess their potential to interfere with radio systems

operated by utility companies in support of their regulatory operational requirements.

In the case of this proposed wind energy development, JRC does not foresee any potential problems based on known interference scenarios and the data you have provided. However, if any details of the wind farm change, particularly the disposition or scale of any turbine(s), it will be necessary to re-evaluate the proposal. Please note that due to the large number of adjacent radio links in this vicinity, which have been taken into account, clearance is given specifically for a location within the declared grid reference (quoted above).

In making this judgement, JRC has used its best endeavours with the available data, although we recognise that there may be effects which are as yet unknown or inadequately predicted. JRC cannot therefore be held liable if subsequently problems arise that we have not predicted.

It should be noted that this clearance pertains only to the date of its issue. As the use of the spectrum is dynamic, the use of the band is changing on an ongoing basis and consequently, you are advised to seek re-coordination prior to submitting a planning application, as this will negate the possibility of an objection being raised at that time as a consequence of any links assigned between your enquiry and the finalisation of your project.

JRC offers a range of radio planning and analysis services. If you require any assistance, please contact us by phone or email.

Ministry of Defence

Thank you for consulting the Ministry of Defence (MOD) about the above scoping request in your communication dated 13/03/2017.

I am writing to advise you that the MOD objects to the proposal. Our assessment has been carried out using the grid references provided for the boundary outline only, on the basis that there will be 137 turbines, 280 metres in height from ground level to blade tip and located at the grid references below as provided by the developer:

Turbine	Easting	Northing
1	346,122	908,851
2	347,335	909,813
3	348,070	910,555
4	348,839	911,483
5	349,501	912,512
6	350,071	913,694

7	350,440	914,639
8	350,664	915,509
9	350,785	916,123
10	350,913	916,923
11	350,962	918,065
12	350,893	919,272
13	350,734	920,134
14	350,555	920,982
15	350,394	921,481
16	350,394	921,481
17	350,269	921,869
18	349,860	922,840
19	349,312	923,857
20	348,635	924,824
21	348,706	924,885
22	348,997	925,142
23	349,282	925,405
24	349,563	925,672
25	349,840	925,944
26	350,112	926,220
27	350,378	926,501
28	350,441	926,570
29	350,658	926,807
30	350,915	927,098
31	351,166	927,393
32	351,412	927,692
33	351,654	927,995
34	351,699	928,054
35	351,781	928,145
36	352,038	928,436
37	352,289	928,731
38	352,410	928,878
39	352,536	929,030
40	352,777	929,334
41	353,013	929,642
42	353,243	929,954
43	353,468	930,269
44	353,687	930,590
45	353,901	930,913
46	354,109	931,240
47	354,311	931,571
48	354,507	931,905
49	354,698	932,243
50	354,882	932,583
51	355,061	932,928
52	355,164	933,132
53	355,255	933,319
54	355,422	933,669
55	355,583	934,022
56	355,736	934,378
57	355,885	934,736
58	356,027	935,097
59	356,162	935,460
60	356,291	935,826
61	356,413	936,194
62	356,530	936,563
63	356,639	936,935
64	356,715	937,209

65	356,727	937,252
66	356,743	937,309
67	356,744	937,315
68	356,759	937,358
69	357,514	936,450
70	357,597	936,350
71	366,453	925,702
72	366,453	925,691
73	366,453	925,691
74	366,453	925,691
75	366,454	916,299
76	362,060	914,690
77	361,402	914,449
78	359,099	913,605
79	359,096	913,604
80	358,867	913,520
81	358,867	913,520
82	358,864	913,519
83	358,864	913,519

Air Traffic Control (ATC) Radar

The development will be 46.7 km from, detectable by, and will cause unacceptable interference to the ATC radar used by RAF Lossiemouth.

Wind turbines have been shown to have detrimental effects on the performance of Primary Surveillance Radars. These effects include the desensitisation of radar in the vicinity of the turbines, and the creation of "unwanted" aircraft returns which air traffic controllers must treat as aircraft returns. The desensitisation of radar could result in aircraft not being detected by the radar and therefore not presented to air traffic controllers. Controllers use the radar to separate and sequence both military and civilian aircraft, and in busy uncontrolled airspace radar is the only sure way to do this safely. Maintaining situational awareness of all aircraft movements within the airspace is crucial to achieving a safe and efficient air traffic service, and the integrity of radar data is central to this process. The creation of "unwanted" returns displayed on the radar leads to increased workload for both controllers and aircrews, and may have a significant operational impact. Furthermore, real aircraft returns can be obscured by a turbine's radar return, making the tracking of both conflicting unknown aircraft and the controllers' own traffic much more difficult.

An operational assessment of this proposal has been conducted by an ATC subject Matter Expert (SME) who considered the position of the development weighed against a number of operational factors. Close examination of the proposal has indicated that the proposed development would have a significant and detrimental effect on operations and on the provision of Air Traffic Services at RAF Lossiemouth. MOD therefore objects to this development; reasons for this objection include, but are not limited to:

- Restrictions the development would impose upon departure to NE
- Restrictions the development would impose upon approach and arrival procedures from NE

- Restrictions the development would impose upon traffic patterns, in particular the Radar Training Circuit for Swept Wing approaches
- Restrictions the development would impose upon traffic patterns, in particular the Radar to Visual profile
- Restrictions the development would impose upon aircraft operating areas
- Restrictions the development would impose upon Tactical Aid to Navigation (TACAN) procedures
- Restrictions the development would impose upon holding areas
- The position of the development in relation to danger areas
- The frequency of the provision of Traffic Service and Deconfliction Service in the vicinity of the proposed windfarm
- Air traffic density in the vicinity of the proposed windfarm
- The type and characteristics of aircraft routinely using the airspace in the vicinity of the proposed windfarm
- The performance of the radar
- The complexity of the ATC task
- The workload of controllers

Research into technical mitigation solutions is currently ongoing and the developer may wish to consider investigating suitable mitigation solutions.

Air Defence (AD) radar

The development will be 95.9 km from, detectable by, and will cause unacceptable interference to the AD radar at ASACS Buchan.

Wind turbines have been shown to have detrimental effects on the operation of radar. These include the desensitisation of radar in the vicinity of the turbines, and the creation of "false" aircraft returns. The probability of the radar detecting aircraft flying over or in the vicinity of the turbines would be reduced, hence turbine proliferation within a specific locality can result in unacceptable degradation of the radar's operational integrity. This would reduce the RAF's ability to detect and deter aircraft in United Kingdom sovereign airspace, thereby preventing it from effectively performing its primary function of Air Defence of the United Kingdom.

An operational assessment has been conducted by an AD Subject Matter Expert (SME) who considered the position of the development weighed against a number of operational factors including:

- a. Detectability of the development.
- b. Position of the development.
- c. Other developments within the vicinity.
- d. Number of turbines within the proposed development.

Close examination of the proposal at this stage has indicated that the proposed development would have a significant and detrimental affect on AD operations. The MOD therefore has concerns with the development.

If the developer is able to overcome the issues stated above, the MOD will request that all turbines are fitted with aviation safety lighting in accordance with the Air Navigation Order and Civil Aviation Authority regulations.

MOD Safeguarding wishes to be consulted and notified about the progress of planning applications and submissions relating to this proposal to verify that it will not adversely affect defence interests.

I hope this adequately explains our position on the matter. Further information about the effects of wind turbines on MOD interests can be obtained from the following website:

MOD: <https://www.gov.uk/government/publications/wind-farms-ministry-of-defence-safeguarding>

Scottish Fishermen's Federation

Chapter 1 seeks to scope out some topics but the SFF would need to be assured that the EIA properly assesses the impact of any sediment suspension particularly as regards to scallops.

1.7.2.5 regarding the National Marine Plan makes little mention of the policies requiring consideration of fishing and Chapter 2 further seeks to define the need for scoping in or out. The SFF would contend that the previous work had not done enough on the matter of scallop fisheries and the cumulative impact on them from all parts of Scottish Territorial Waters by developments so should be scoped in.

The SFF would point out that displacement in the Scallop sector across territorial waters is affected by many factors out-with the sectors control, and on such a wide scale that these must be considered.

BOWL should be included in the CIA as its impacts have not yet been clarified, any assumptions made need to be clearly portrayed and agreed. If Moray East is to be determined before Moray West, Moray East should then become assessed in the MWCIA.

If the design parameters are to remain worst case scenario, especially for spacings, the SFF would seek clarity on what these parameters could actually be with new mega-watt capacity of the turbines. The introduction of suction bucket design to the options, with the belief that they are simpler and better, needs to be properly clarified and scoped including the plan for decommissioning them, where the SFF would seek to apply the standard, leave it as you found it.

Furthermore, if worst case scenarios are to be adopted as the assessment scale, the SFF would seek assurances that any data/ information relevant to commercial fishing is validated by a subset of fishermen from the CFWG applicable to MORL.

The SFF remains convinced that the development has not given sufficient

consideration to the baseline characterisation of the scallop fishery and would seek to see such work included in the scoping report in addition to cod, sand eel and herring.

The existence or inclusion or presence of BOWL is irrelevant to the need for a scallop baseline to be developed.

The SFF would contend that because the proposal is directly concerned with a scallop fishery, the proposals for developments in the Firth of Forth area should be included in any CIA.

With regard to the Benthic Ecology section the SFF would contend that there has been insufficient consideration given to the lifecycle of scallops from larval through to adult, especially with disturbance and sediment suspension and smothering being real problems, so not minor or insignificant, more likely to result in decimation of the stock.

In the Commercial Fisheries section the effect on particularly but not exclusively the scallop fishery is underwhelming simply due to the lack of a baseline and monitoring of the stock. In due course the SFF would expect to see this monitoring of all commercial stocks included in the licence conditions.

Squid and whitefish fisheries will also require a full and proper baseline.

The SFF would express concerns about the ability of the commercial fisheries working group as currently convened to address any meaningful issues post consent, so the condition regarding involvement and the commercial fisheries mitigation strategy should be revisited and given a meaningful revision, including an appropriate discussion on “community” funding relevant to fisheries.

Fishers also need to be reassured of input into such as the COP, CMS, DSLP and the CaP, and again in due course would expect to see that in the consent conditions.

Moving to Chapter 6 SFF agrees that the list in table 6.1 is correct in its subject but needs to factor in the nomadic scallop fleet to a much greater degree than it has.

Table 6.2 also needs to be evaluated, especially for scallops and squid fisheries and displacement effects. The Caithness – Moray HVDC project must be properly assessed as to its final seabed condition, not ignored.

With regards to the socio-economic data consideration should be given to any possible effects on the catches of fish from the area, and cumulatively, across Scottish Territorial Waters.

Transport Scotland

With reference to your recent correspondence on the above development, we acknowledge receipt of the ES Scoping Report prepared by Xodus Group in support of the above development.

This information has been passed to SYSTRA Limited for review in their capacity as Term Consultants to Transport Scotland – Trunk Road and Bus Operations (TRBO). Based on the review undertaken, we would provide the following comments.

Proposed Development

The Proposed Development site is located in the north-east of Scotland, approximately 22 km from the Caithness coast in the Moray Firth. The nearest Trunk Road to the site is the A9(T) between Helmsdale and Lybster.

Previous Consent

The Moray East site was originally split into three sites: Telford, Stevenson and MacColl wind farms. A Section 36 and Marine Licence application was submitted in 2012, supported by an Environmental Statement (2012 ES) which Transport Scotland provided comment upon by way of a JMP Consultants letter dated 12/9/2012. In March 2014, the three wind farms were granted consent and Marine Licences were issued for each of the three wind farms in September 2014.

We understand that the final consented development was for up to a total of 186 turbines with an output rating of between 6 and 8 MW. The final consented maximum capacity was for 1,116 MW.

Scoping Report

The current Scoping Report (SR) has been prepared to support a new Section 36 and Marine Licence application for proposed changes to the Moray East site. These changes are designed to take advantage of recent improvements in technology which will allow the installation of more efficient turbines and foundations. This will deliver lower cost energy using fewer installations.

The Scoping Report identifies any EIA topics where, in light of the proposed amendments, further assessment is required as part of an EIA to determine potential impacts of the changes on the environment. This includes project specific impacts, whole project impacts (generating station together with the Modified TI) and potential cumulative impacts. The scoping report also identifies any changes in site characterisation data or assessment methods that could alter the conclusions presented in the Moray East ES 2012.

The proposed changes to the Design Envelope for the consented Telford, Stevenson and MacColl wind farms that form the basis of this new Section 36 consent and Marine Licence application are

- A single Section 36 consent and associated Marine Licence will be sought, however, as with the 2014 consent, the Moray East site may be built out in a maximum of three phases;
- There will be an increase in turbine size / nominal capacity, with a corresponding reduction in turbine numbers and increase in turbine spacing. The number of turbines will reduce from the consented 186 to 137, while the maximum tip height will increase from 204m to 280m;
- There will be an increased turbine output rating range of 8.1 MW – 15 MW; and
- The revised design will include the option for using suction bucket foundations.

Transmission Infrastructure

We note that the new consent will apply to the offshore wind farm only. There will be no changes to the consented Modified Transmission Infrastructure (TI). Consequently, we would ask that cognisance be taken of the comments provided in our letter dated 12/9/2012.

Construction

It is noted that there is no mention within the SR of which port will be utilised during construction and the method of transportation for the offshore turbine components, or the potential for abnormal loads utilising the trunk road network. We accept that the majority of components are likely to come in by sea so we do not require an assessment of the increased traffic (or associated environmental impacts) on the trunk road network.

We would however, advise that if any abnormal loads associated with the offshore elements of the project are required to be transported on the Trunk Road network, then a separate report will require to be provided to assess the route to site in terms of its suitability for the transportation of these abnormal loads.

I trust that the above is satisfactory and should you wish to discuss any issues raised in greater detail, please do not hesitate to contact Alan DeVenny at SYSTRA's Glasgow Office on 0141 226 6923.

UK Chamber of Shipping

Thank you for providing the UK Chamber the opportunity to respond to the Scoping request.

The Chamber is broadly satisfied however requests the confirmation that the following aspects will be fully scoped in:

- Navigation Risk and Safety
 - o Page 48 of the scoping report identifies that more recent AIS tracking data is available, similarly that MCA has published a new MGN, MGN 543
 - o Both should be fully used to update the understanding of vessel activity and transits as suggested on page 63.
- Orientation and spacing of the new turbine layout with fewer turbines
 - o Chamber believes it imperative that straight line of sight and grid structure to farm layout is maintained to ensure navigational safety for mariners.
 - o Figure 9.3 appears to show straight line of sight but confirmation requested.
- Assessment of the impact of wind farm vessel traffic affecting commercial navigation routeing during maintenance & operation
 - o Not discussed on p91-92 and should be included. Maintenance traffic can be considerable and does not appear scoped in.

Therefore based on the above the Chamber does not agree that shipping and navigation Scoping Question 5.1 has been satisfactorily answered at present.

Hope these comments of some use and please revert to me if you have any queries.

Whale and Dolphin Conservation

We understand that Moray Offshore Windfarm East (MORL East) is seeking a new consent for alternative design parameters in order to take advantage of recent advances in windfarm technologies. We understand that the present application is for a decrease in turbine numbers and an increase in turbine size/capacity and a revised design to include the option for suction bucket foundations.

Thank you for the opportunity to provide comments on the MORL Offshore Windfarm East Scoping Opinion Request. Given our area of interest, we have only focused on the marine mammal sections.

WDC are endeavouring to assist with the environmentally sustainable development of marine renewable energy in Scotland. Whilst welcoming the Scottish Governments' commitment to renewable energy generation, particularly noting the potential consequences of climate change for cetaceans, we have concerns about current levels of uncertainty and the possible negative impacts these developments, both individually and cumulatively, may have on cetaceans (whales, dolphins and porpoises) and seals in Scottish waters.

In summary

Overall, we are happy that the scoping document appears to have included all the information required for the Environmental Statement (ES) and HRA to be produced. We are content that the alternative design parameters will have no additional impacts on marine mammals than those stated in the ES in 2012

Pile driving

There is still considerable scientific uncertainty surrounding the impacts of pile driving during construction on all species, and in this region. At present, considerable uncertainty remains about the efficacy of active acoustic deterrent devices, and the impacts resulting from their use and we do not consider their use to be a suitable or adequate mitigation method. We welcome the inclusion of suction bucket for the foundations in this Alternative Design Scoping Report.

Harbour seals

Recently, connectivity between harbour seals in the Moray Firth and Orkney has been shown from tagged data. Due to the significantly declining population in Orkney, harbour seals in the Moray Firth should be given the same level of protection from disturbance and displacement as harbour seals in Orkney. See <http://synergy.st-andrews.ac.uk/harbourseals/> blog post on 3rd June 2016 for more information on the connectivity.

Cumulative impact assessment (CIA)

The status of the Ship to Ship Oil Transfer (StS) application should be clarified from the Cromarty Firth Port Authority and included in the CIA if the StS application from 2016 is still valid.

We hope you find these comments useful and would be happy to discuss any of these comments further.

Responses from Marine Scotland Advisors

Marine Scotland Science

Marine Scotland Science (MSS) has reviewed the submitted scoping report and has provided the following comments.

marine fish ecology

MSS has reviewed the Moray East Offshore Windfarm Alternative Design Parameters scoping report with regards to marine fish ecology.

The design envelope parameters that are to change include a reduction in the maximum number of wind turbine generators (WTGs) (associated with the use of higher WTG rated turbines), a higher maximum tip height and a larger maximum rotor diameter. It is not expected that these changes will alter the validity of the impacts presented in the Moray East ES 2012.

An addition to the design envelope parameters is the use of suction bucket foundations. Habitat loss associated with the footprint of such foundations will not require further assessment for effects on marine fish - this on the basis that the maximum footprint has already been assessed under the worst case scenario for gravity base structure foundations in the Moray East ES 2012.

Provided conditions relating to marine fish species, as found across the Telford, Stevenson and MacColl wind farm consent and licence conditions, are attached to any future consent resulting from this application, MSS are content that no further assessment of effects on marine fish species need be undertaken as part of this EIA process.

commercial fisheries

MSS has no comments to make on commercial fisheries.

socio economics

MSS has no comments to make on socio economics

Further advice was sought following receipt of the consultation responses and the following response received:

RE: Is it possible for Moray East to carry out any meaningful assessment of the impact of sediment suspension and smothering on the different life stages of scallops? If it is possible, what would this involve?

Thank you for your question. MSS would suggest that, should an assessment be required of the impact of sediment suspension and smothering of the different life stages of scallops, the following two pieces of work be undertaken:

- A review of literature on effects of suspended sediments to scallops (including different life stages); and
- Physical process modelling of likely spatial extent of suspended sediments from activities of concern.

These could be used to provide a comparison with the spatial extent of the scallop fishery, identified from commercial fisheries data (e.g. VMS data as described by Kafas *et al* (2012) and found online at Kafas *et al* (2013) . This would allow an understanding of the spatial extent of effects, if any, to scallops and provide a context within which to consider them.

Hopefully these comments are helpful to you. If you wish to discuss any matters further contact the MSS Renewables in-box MS_Renewables@scotland.gsi.gov.uk.

Appendix II: Licensing Process

Consent Timescale and Application Quality

In December 2007, Scottish Ministers announced an aspirational target to process new section 36 applications within a 9 month period, provided a Public Local Inquiry (“PLI”) is not held. This scoping opinion is specifically designed to improve the quality of advice provided to developers and thus reduce the risk of further information being requested and subject to further publicity and consultation cycles. MS-LOT will complete a processing agreement with Moray East.

Application

The application letter must detail how many licences are being sought, what marine licensable activities are proposed and what legislation the application is being made under.

Developers should be aware that the ES should also be submitted in a user-friendly PDF format which can be placed on the Scottish Government website. Developers are asked to issue the ES directly to consultees. Consultee address lists can be obtained from Marine Scotland. Marine Scotland also requires 2 hardcopies to be submitted for onward distribution.

Scottish Natural Heritage (“SNH”) has produced a Service Level Statement (“SLS”) for renewable energy consultation. This statement provides information regarding the level of input that can be expected from SNH at various stages of the EIA process. Annex A of the SLS details a list of references, which should be fully considered as part of the EIA process. A copy of the SLS and other vital information can be found on the renewable energy section of their website – www.snh.org.uk.

Ordnance Survey (“OS”) Mapping Records

Developers are requested at application stage to submit a detailed OS plan showing the site boundary and location of all deposits and onshore supporting infrastructure in a format compatible with The Scottish Government’s Spatial Data Management Environment (“SDME”), along with appropriate metadata. The SDME is based around Oracle RDBMS and ESRI ArcSDE and all incoming data should be supplied in ESRI shape file format. The SDME also contains a metadata recording system based on the ISO template within ESRI ArcCatalog (agreed standard used by The Scottish Government); all metadata should be provided in this format.

Gatecheck

MS-LOT undertakes a gatecheck prior to formal submission of applications and advises you to take full advantage of this service. The gatecheck is not designed as

an in depth evaluation of the content of an ES. However, it will allow MS-LOT the confidence that minimum legislative requirements have been met prior to formal submission of the ES. This should reduce the risk of the potential requirement for you to submit an addendum to the ES and therefore be subject to re-advertisement and re-consultation. In order to assist the gatecheck process, a thorough gap analysis (Appendix III) of the issues identified in this Scoping Opinion should be drawn up for submission with the ES. The timeline for the gatecheck will be agreed with Moray East through the processing agreement.

Advertisement

Where the developer has provided MS-LOT with an ES, the developer must publish their proposals in accordance with Regulation 14 of The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 and Regulation 16 of The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended). Licensing information and guidance, including the specific details of the adverts to be placed in the press, can be obtained from Marine Scotland. In addition, requirements under The Electricity (Applications for Consent) Regulations 1990 must be met .

If additional information is submitted further public notices will be required.

EPS licence

European Protected Species (“EPS”) are animals and plants (species listed in Annex IV of the [Habitats Directive](#)) that are afforded protection under [The Conservation \(Natural Habitats, &c.\) Regulations 1994](#) (as amended) and [The Offshore Marine Conservation \(Natural Habitats, &c.\) Regulations 2007](#) (as amended). All cetacean species (whales, dolphins and porpoise) are European Protected Species. If any activity is likely to cause disturbance or injury to a European Protected Species a licence is required to undertake the activity legally.

A licence may be granted to undertake such activities if certain strict criteria are met:

- there is a licensable purpose;
- there are no satisfactory alternatives, and;
- the actions authorised will not be detrimental to the maintenance of the population of the species concerned at favourable conservation status in their natural range.

Applicants must give consideration to the three fundamental tests and may choose to apply for an EPS licence following any grant of consent once construction methods have been finalized, however it is useful to include a shadow EPS assessment within the ES.

Basking sharks are also afforded protection under the Wildlife & Countryside Act 1981 (as Amended by the Nature Conservation (Scotland) Act 2004).

Appendix III: Gap Analysis



APPLICATION - Consultation Gap Ana

[illegible]