

## **Marine Directorate - Licensing Operations Team Scoping Opinion**

**Scoping Opinion adopted by the Scottish Ministers  
under:**

**The Marine Works (Environmental Impact Assessment)  
(Scotland) Regulations 2017**

**The Electricity Works (Environmental Impact  
Assessment) (Scotland) Regulations 2017**

**and**

**The Marine Works (Environmental Impact Assessment)  
Regulations 2007**

**Aspen Offshore Wind Farm**

**May 2025**

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## **1. Introduction**

### **1.1 Background**

- 1.1.1 On 31 January 2025, the Scottish Ministers received a scoping report (“the Scoping Report”) from Cerulean Winds (UKCS) Limited (“the Developer”) as part of its request for a scoping opinion relating to Aspen Offshore Wind Farm (“the Proposed Development”). The Scottish Ministers considered the content of the Scoping Report as sufficient and in accordance with regulation 14 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“2017 MW Regulations”), regulation 12 of The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“2017 EW Regulations”) and Schedule 4 of The Marine Works (Environmental Impact Assessment) Regulations 2007 (“2007 MW Regulations”), all collectively referred to as “the EIA Regulations”.
- 1.1.2 This scoping opinion is adopted by the Scottish Ministers under the EIA Regulations (“Scoping Opinion”) in response to the Developer’s request and should be read in conjunction with the Scoping Report. The matters contained in the Scoping Report have been carefully considered by the Scottish Ministers and use has been made of professional judgment, based on expert advice from stakeholders and Marine Directorate in-house expertise and experience. This Scoping Opinion identifies the scope of impacts to be addressed and the method of assessment to be used in the Environmental Impact Assessment Report (“EIA Report”) for the Proposed Development.
- 1.1.3 The Scottish Ministers, in adopting this Scoping Opinion, have, in accordance with the EIA Regulations, taken into account the information provided by the Developer, in particular, information in respect of the specific characteristics of the Proposed Development, including its location and technical capacity and its likely impact on the environment. In addition, the Scottish Ministers have taken into account the representations made to them in response to the scoping consultation they have undertaken.
- 1.1.4 In accordance with regulation 6(3) of the 2017 MW Regulations, regulation 5(3) of the 2017 EW Regulations, and regulation 12(2)(c) of the 2007 MW Regulations, the EIA Report must be based on this Scoping Opinion, failure to adhere to this Scoping Opinion will likely lead to the Scottish Ministers requiring additional information in accordance with the EIA Regulations. In examining the EIA Report, and any other environmental information, the Scottish Ministers will seek to reach an up to date reasoned conclusion on the significant effects on the environment from the Proposed Development. This reasoned conclusion will be considered as up to date if the Scottish Ministers are satisfied that current knowledge and methods of assessment have been taken account of. For the avoidance of doubt, this Scoping Opinion does not preclude the Scottish Ministers from requiring the Developer to submit additional information in connection with any EIA Report submitted with an application for consent under section 36 (“s.36 consent”) of The Electricity Act 1989 (“the 1989 Act”).

and marine licences under The Marine (Scotland) Act 2010 (“the 2010 Act”) and The Marine and Coastal Access Act 2009 (“the 2009 Act”).

- 1.1.5 In the event that the Developer does not submit an application for a s.36 consent under the 1989 Act and marine licences under the 2010 Act and the 2009 Act for the Proposed Development within 12 months of the date of this Scoping Opinion, the Scottish Ministers strongly recommend that the Developer seeks further advice from them regarding the validity of the Scoping Opinion.
- 1.1.6 The Scottish Ministers advise that as more than one set of environmental impact assessment regulations apply the most stringent requirements must be adhered to in terms of, for example, consultation timelines and public notice requirements.

## **2. The Proposed Development**

### **2.1 Introduction**

- 2.1.1 This section provides a summary of the description of the Proposed Development provided by the Developer in the Scoping Report together with the Scottish Ministers' general comments in response. The details of the Proposed Development in the Scoping Report have not been verified by the Scottish Ministers and are assumed to be accurate.

### **2.2 Description of the Proposed Development**

- 2.2.1 The Proposed Development is comprised of an offshore generating station located approximately 84 kilometres ("km") east of Peterhead, off the Aberdeenshire coast in the North Sea. The Proposed Development is an Innovation and Targeted Oil and Gas ("INTOG") project within INTOG area E-b and has been awarded an exclusivity lease by Crown Estate Scotland.
- 2.2.2 The Proposed Development will have a generating capacity of greater than 50 megawatts ("MW") and therefore requires the Scottish Ministers' consent to allow its construction and operation. The Proposed Development will also require marine licences granted by the Scottish Ministers under the 2010 Act and the 2009 Act to permit any and all 'licensable marine activities' carried on for the Proposed Development.
- 2.2.3 The Developer intends to build out three floating offshore generating stations: the Proposed Development, Beech Offshore Wind Farm and Cedar Offshore Wind Farm, all of which will be connected via High Voltage Alternating Current ("HVAC") cables and together form the North Sea Renewables Grid ("NSRG"). The NSRG aims to create a renewable generation and transmission system which will supply low-carbon power to oil and gas assets, with any excess power available for export to the National Grid or other onshore users.
- 2.2.4 As a TOG project, the Proposed Development will connect to oil and gas assets for the purposes of electrification. The oil and gas assets to be connected are yet to be agreed upon and as such the Scoping Report does not include any cable infrastructure between the offshore substation platforms ("OSPs") and oil and gas assets.
- 2.2.5 The design envelope for the Proposed Development is broad and there are a number of design parameters which are yet to be determined by the Developer. The technology in relation to the wind turbine generators ("WTGs") will consist of floating semi-submersible substructures. The Developer has defined an "Offshore Scoping Boundary" consisting of the Offshore Scoping Array Area and the Offshore Scoping Cable Corridor Boundary. The Offshore Scoping Array Area is approximately 333 square kilometres ("km<sup>2</sup>").

2.2.6 The Proposed Development includes the construction and operation of offshore floating WTGs. The key components of the Proposed Development will depend on the final design chosen by the Developer and will include:

- Up to 67 WTGs:
  - Generating capacity of each WTG between 15 and 18 MW;
  - Maximum blade length (to centreline of the hub) = 130 metres (“m”);
  - Maximum rotor diameter = 260 m;
  - Maximum blade width = 8 m;
  - Maximum blade tip height = 283 m;
  - Maximum hub height (above Mean Sea Level) = 153 m;
  - Minimum blade tip clearance (above Highest Astronomical Tide (“HAT”)) = 23 m.
- Floating semi-submersible WTG foundations:
  - All of NOV-GustoMSC Tri-Floater substructure type;
  - Elevation above waterline (at HAT) = 16 m;
  - Maximum dimensions (L x W x H) = 120 m x 110 m x 40 m;
  - Maximum horizontal face length = 120 m;
  - Diameter of vertical columns = 16 m;
  - Maximum mooring points = 6.
- WTG foundation anchors and foundation moorings:
  - For foundation anchors, the Developer anticipates that the preference for the Proposed Development will be either driven pile anchors or suction anchors; however, the type and number required will be subject to further refinement by the Developer.
  - For foundation moorings, the type and number required will be subject to further refinement by the Developer. The most suitable options are catenary or semi-taut moorings.
  - Maximum number of anchors per mooring line = 1;
  - Maximum number of anchors per WTG = 3;
  - Mooring line radius  $\leq$  1200 m.

- Up to 325 km total of dynamic intra-array cables:
  - 1 intra-array cable per WTG;
  - 67 maximum total of intra-array cables;
  - Maximum length of each intra-array cable = 2.5 m.
- Up to 3 OSPs:
  - Fixed jacket foundations with either pin piles or suction buckets;
  - Maximum topside length  $\leq 60$  m;
  - Maximum topside width  $\leq 40$  m;
  - Topside height above HAT (excluding crane antennas and helideck)  $\leq 60$  m.
- Up to 4 HVAC offshore transmission cables (“OTCs”), each up to 155 km in length:
  - Cable trench width  $\leq 5$  m;
  - Cable burial depth  $\leq 4$  m.
- Scour and cable protection.

2.2.7 The construction programme for the Proposed Development is yet to be confirmed but is anticipated to last approximately 3 years in total and this estimate is typically based on 24/7 operations when weather conditions allow. The operational lifetime of the Proposed Development is not specified; however, the Climate Change Resilience assessment carried out by the Developer covers up to the 2070s which the Developer states is expected to cover the operational lifetime of the Proposed Development.

## **2.3 Onshore/Planning**

2.3.1 The Scottish Ministers note that the Scoping Report only describes the offshore works. It is essential that the EIA Report concerning onshore works will be available at the time that the EIA Report for the Proposed Development is being considered so that all the information relating to the project as a ‘whole’ is presented. The EIA Report for the Proposed Development must consider the cumulative impacts with the onshore works.

## **2.4 The Scottish Ministers’ Comments**

### *Description of the Proposed Development*



- 2.4.1 Section 3.4 of the Scoping Report states that a design envelope approach will be adopted by the Developer in the EIA Report. The Developer states that the design envelope has already been refined, for example, the floating substructure type for the WTGs has already been selected. Although an indicative design envelope has been included in Sections 3 of the Scoping Report, the EIA Report must include a full and detailed description of all options considered within the design envelope. Further information on the design envelope is set out in Sections 2.4.20 through 2.4.23 of this Scoping Opinion below.
- 2.4.2 Table 3-1 of the Scoping Report states that the Proposed Development will include up to 67 WTGs. The Scottish Ministers note that the WTG parameters are presented in the design envelope in Table 3-1 and advise that the EIA Report must include a full and detailed description of all WTG parameters considered within the design envelope, including turbine spacing.
- 2.4.3 Section 3.8.7 of the Scoping Report outlines the design envelope for floating WTG foundations, with mooring and anchoring for these foundations outlined in Section 3.8.8 through 3.8.11. The Scottish Ministers note that the floating WTG foundation type has been selected by the Developer and advise that the EIA Report must include a full and detailed description of all mooring and anchoring designs considered within the design envelope.
- 2.4.4 The Scoping Report states that static sections of the intra-array cables may be buried and that it is anticipated that the OTCs will be buried along the majority of their length, with burial methods including jet trenching, mechanical trenching, ploughing, and mass flow excavating. The cable installation, burial and protection method will be chosen post-consent by the Developer and informed by a cable burial risk assessment. The EIA Report must provide an estimate of the anticipated likelihood of suitable burial along cable routes and be clear on the range of depths that have been considered as part of the assessment. Clear narrative must be provided to show how this has been estimated before further geophysical and geotechnical surveys are undertaken. Where reliance is placed on a subsequent cable plan or cable burial risk assessment, the EIA Report must also explain how this measure will mitigate the effects, what measures are proposed for inclusion and the effectiveness and degree of confidence that can be placed on such measure.
- 2.4.5 The Scoping Report outlines that, where burial depths cannot be achieved or at touchdown points, external cable/scour protection will be used. For the avoidance of doubt, the use of scour and cable protection must be fully assessed in the EIA Report, including details on materials, quantities and location. Additionally, any seabed levelling, or removal of substances or objects from on or over the seabed, required for the installation of intra-array cables or OTCs will require consideration in the EIA Report and may also require a marine licence. Should seabed preparation involve dredging, the EIA Report must identify the quantities of dredged material and identify the likely location for deposit. The Developer may also be required to submit

pre-dredge sample analysis, which should include supporting characterisation of the new and existing deposit sites.

- 2.4.6 The Scoping Report lists four potential landfall locations. The Scottish Ministers direct the Developer to the Aberdeenshire Council representation regarding sites of regional or local importance near the proposed landfall locations and request that this is considered by the Developer when compiling the EIA Report.
- 2.4.7 Section 3.9 of the Scoping Report provides an overview of the Proposed Development programme. Section 3.9.3 states that there are likely to be pre-construction surveys, including geophysical, geotechnical and Unexploded Ordnance (“UXO”) surveys, as well as possible boulder clearance. The Scottish Ministers advise that the EIA Report must describe the environmental effects of the range of surveys and clearance activities that may be required.
- 2.4.8 The Scottish Ministers advise that the EIA Report must include full consideration of the options which will be assessed in relation to UXO clearance, the differences amongst them, and an assessment of the environmental effects of these options. In this regard, the Scottish Ministers advise that the EIA Report must include a worst case scenario of high order detonation in terms of impact and mitigation.
- 2.4.9 If, following pre-construction surveys, boulders are required to be cleared, the EIA Report must provide the anticipated estimate of numbers of boulders to be cleared, including how much uncertainty may be associated with the figures presented. A clear narrative must be provided in the EIA Report to show how this has been estimated.
- 2.4.10 Sections 3.9.24 through 3.9.30 of the Scoping Report provide details on the operation and maintenance phase for the Proposed Development. The Scottish Ministers advise that the EIA Report must provide a full description and consideration of the nature and scope of these operation and maintenance activities, including the types of activity, their frequency, how activities will be carried out for the Proposed Development and any anticipated cumulative impacts with neighbouring developments. Such proposed activities may require to be permitted by marine licence issued for the Proposed Developments unless an exemption applies.
- 2.4.11 The Developer indicates that there may be a need to store WTGs within the marine environment. A number of consultees have provided advice in relation to turbine storage and highlighted this as a potentially significant impact pathway. The Scottish Ministers are considering their position on this topic and will advise the Developer of any updates.
- 2.4.12 Section 3.9.31 of the Scoping Report confirms that best practice will be followed by the Developer in preparing a decommissioning programme will be prepared and submitted the Scottish Ministers in line with Section 105 of the Energy Act 2004. The EIA Report must include an assessment of potentially significant effects during the decommissioning phase of the Proposed Developments. Any uncertainty on the

impacts upon receptors from activities during decommissioning should be clearly explained, along with the implications for the assessment of significant effects.

- 2.4.13 The EIA Report must provide the estimate of expected residues and emissions, for example drill cuttings, where considered in the design envelope. Specific reference should be made to water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases, where relevant. This information should be provided in a clear and consistent fashion and may be integrated into the relevant aspect assessments.
- 2.4.14 Regulatory approvals will be required for licensable marine activities including all construction activities, whether as part of the original construction or any subsequent alteration or improvement, any deposit on, or removal from on or under the seabed of substances, any dredging and deposit, and any use of explosive substances. Any reference to the 'Proposed Development' in this Scoping Opinion should be taken, as appropriate, to include all activities in connection with the construction, alteration, improvement (including 'change-outs' of components) and decommissioning of the Proposed Development for which a regulatory approval will be needed. The Developer should give consideration to all activities related to the Proposed Development which require regulatory approval and ensure that these are applied for as appropriate.
- 2.4.15 With regards to the HRA Screening Report, the Scottish Ministers highlight that the representations provided by consultees should be taken into account in the Report to Inform the Appropriate Assessment ("RIAA") to be submitted alongside the EIA Report. Detailed advice on HRA aspects is provided in the relevant receptor chapters in Section 5 of this Scoping Opinion.
- 2.4.16 The Scottish Ministers highlight the requirements of Crown Estate Scotland's three stage lease approach as outlined in – INTOG Leasing Offer Document and INTOG Leasing Guidance Notes. Additionally, the Scottish Ministers advise that the Developer provides as much information as possible regarding the proposed onwards oil and gas connections in the EIA Report. This view is supported by the NatureScot, Flotation Energy and Scottish Fishermen's Federation representations.
- 2.4.17 The Scottish Ministers further direct the Developer to the NatureScot representation on the need to understand potential impacts holistically at a wider ecosystem scale, rather than just as discrete individual receptor assessments. The Scottish Ministers therefore advise that this assessment must focus on potential impacts across predator prey interactions to enable a better understanding of the consequences of any potential changes in prey distribution and abundance from the Proposed Development on bird and marine mammal (as well as other top predator) interests and what influence this may have on population level impacts.
- 2.4.18 With regard to the approach for the identification of impacts and assessment of significance, the Scottish Ministers direct the Developer to the NatureScot representation and advise that in terms of biodiversity, the magnitude of change

should generally be expressed in absolute terms and relatively in terms of percentage change to habitat area or species population.

### *Design Envelope*

- 2.4.19 The Scottish Ministers note the Developer's intention to apply a 'Design Envelope' approach. Where the details of the Proposed Development cannot be defined precisely, the Developer will apply a worst case scenario, as set out in 3.4 of the Scoping Report.
- 2.4.20 The Scottish Ministers advise that the Developer must make every attempt to narrow the range of options. Where flexibility in the design envelope is required, this must be defined within the EIA Report and the reasons for requiring such flexibility clearly stated. At the time of application, the parameters of the Proposed Development should not be so wide-ranging as to represent effectively different projects. To address any uncertainty, the EIA Report must consider the potential impacts associated with each of the different scenarios. The criteria for selecting the worst case and the most likely scenario, together with the potential impacts arising from these, must also be described. The parameters of the Proposed Development must be clearly and consistently defined in the application for the s.36 consent and marine licences and the accompanying EIA Report.
- 2.4.21 The Scottish Ministers will determine the applications based on the worst case scenario. The EIA will reduce the degree of design flexibility required and the detail may be further refined in a Construction Method Statement ("CMS") to be submitted to the Scottish Ministers, for their approval, before works commence. Please note however, the information provided in Section 7 below regarding multi-stage consent and regulatory approval. The CMS will 'freeze' the design of the project and will be reviewed by the Scottish Ministers to ensure that the worst case scenario described in the EIA Report is not exceeded.
- 2.4.22 It is a matter for the Developer, in preparing the EIA Report, to consider whether it is possible to robustly assess a range of impacts resulting from a large number of undecided parameters. If the Proposed Development or any associated activities materially change prior to the submission of the EIA Report, the Developer may wish to consider requesting a new scoping opinion.

### *Alternatives*

- 2.4.23 The EIA Regulations require that the EIA Report include 'a description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the Developer, which are relevant to the proposed works and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects'. The Scottish Ministers acknowledge Section 5 of the Developer's Scoping Report setting out the consideration of alternatives to date together with the planned activities that are proposed to inform the EIA Report further. The Scottish Ministers advise however that these considerations must include how decommissioning has been taken into

account within the design options. The Scottish Ministers advise that this must be based on the presumption of as close to full removal as possible of all infrastructure and assets and should consider the methods and processes of doing so.

- 2.4.24 For the avoidance of doubt, the Scottish Ministers advise that the EIA Report must include an up to date consideration of the reasonable alternatives studied as the parameters of the Proposed Development have been refined. This includes but is not limited to the identification of the potential wind turbine layouts within the array area, the parameters of the export cables, the cable corridor options and the landfall location or locations. The Scottish Ministers expect this to comprise a discrete section in the EIA Report that provides details of the reasonable alternatives studied across all aspects of the Proposed Development and the reasoning for the selection of the chosen option(s), including a comparison of the environmental effects.

### **3. Contents of the EIA Report**

#### **3.1 Introduction**

- 3.1.1 This section provides the Scottish Ministers' general comments on the approach and content of information to be provided in the Developer's EIA Report, separate to the comments on the specific receptor topics discussed in section 5 of this Scoping Opinion.

#### **3.2 EIA Scope**

- 3.2.1 Matters are not scoped out unless specifically addressed and justified by the Developer and confirmed as being scoped out by the Scottish Ministers. The matters scoped out should be documented and an appropriate justification noted in the EIA report.

#### **3.3 Mitigation and Monitoring**

- 3.3.1 The Developer has committed to several mitigation plans, including, but not limited to, a Navigational Safety Plan, a Vessel Management Plan, a Cable Plan, a Construction Environmental Management Plan, and a Fisheries Management and Mitigation Strategy. Appendix A to the Scoping Report summarises the embedded mitigation for each receptor and phase of the Proposed Development.
- 3.3.2 Any embedded mitigation relied upon for the purposes of the assessment should be clearly and accurately explained in detail within the EIA Report. The likely efficacy of the mitigation proposed should be explained with reference to residual effects. The EIA Report must identify and describe any proposed monitoring of significant adverse effects and how the results of such monitoring would be utilised to inform any necessary remedial actions.
- 3.3.3 The EIA Report should clearly demonstrate how the Developer has had regard to the mitigation hierarchy, including giving consideration to the avoidance of key receptors. The Scottish Ministers advise that where the mitigation is envisaged to form part of a management or mitigation plan, the EIA Report must set out these plans or the reliance on these in sufficient detail so the significance of the residual effect can be assessed and evaluated. This should also include identification of any monitoring and remedial actions (if relevant) in the event that predicted residual effects differ to actual monitored outcomes. Commitment to develop plans without sufficient detail is not considered to be suitable mitigation in itself.
- 3.3.4 The EIA Report must include a table of mitigation which corresponds with the mitigation identified and discussed within the various chapters of the EIA Report and accounts for the representations and advice attached in Appendix I.
- 3.3.5 Where potential impact on the environment have been fully investigated but found to be of little or no significance, it is sufficient to validate that part of the assessment by detailing in the EIA Report, the work that has been undertaken, the results, what impact, if any, has been identified and why it is not significant.

### **3.4 Risks of Major Accidents and/or Disasters**

- 3.4.1 The Scoping Report notes that the potential for major accidents and/or disasters is inherently related to the nature of the Proposed Development and proximity to high-risk infrastructure. The Developer considers that the potential for major accidents and/or disasters is highly unlikely and can be managed through adherence to industry established practice, site selection, design, planning and development of and adherence to management plans. As such, the Developer has proposed to scope out human health and major accidents and/or disasters from assessment in the EIA Report.
- 3.4.2 The Scottish Ministers advise that the EIA Report must include a description and assessment of the likely significant effects deriving from the vulnerability of the Proposed Development to major accidents and disasters. The Scottish Ministers are content for this description to be included within relevant receptor chapters rather than a standalone chapter. The Developer should make use of appropriate guidance, including the recent Institute of Environmental Management and Assessment (“IEMA”) ‘Major Accidents and Disasters in EIA: A Primer’, to better understand the likelihood of an occurrence and the Proposed Development susceptibility to potential major accidents and hazards. The description and assessment should consider the vulnerability of the Proposed Development to a potential accident or disaster and also the Proposed Development potential to cause an accident or disaster.
- 3.4.3 The Scottish Ministers advise that existing sources of risk assessment or other relevant studies should be used to establish the baseline rather than collecting survey data and note the IEMA Primer provides further advice on this. This should include the review of the identified hazards from your baseline assessment, the level of risk attributed to the identified hazards and the relevant receptors to be considered.
- 3.4.4 The assessment must detail how significance has been defined and detail the inclusions and exclusions within the assessment. Any mitigation measures that will be employed to prevent, reduce or control significant effects should be included in the EIA Report.

## 4. Consultation

### 4.1 The Consultation Process

- 4.1.1 Following receipt of the Scoping Report, the Scottish Ministers, in accordance with the EIA Regulations, initiated a 30 day consultation process, which commenced on 21 February 2025. The following bodies were consulted, those marked in bold provided a representation and those marked in italics sent nil returns or stated they had no comments:

- **Joint Nature Conservation Committee (“JNCC”)**
- **NatureScot**
- **Natural England**
- Natural Resources Wales
- *Department of Agriculture, Environment and Rural Affairs of Northern Ireland*
- **Scottish Environmental Protection Agency (“SEPA”)**
- **Maritime and Coastguard Agency (“MCA”)**
- **Northern Lighthouse Board (“NLB”)**
- **Aberdeenshire Council**
- *Aberdeen City Council*
- **Historic Environment Scotland (“HES”)**
- Aberdeen Harbour Board
- *Aberdeen Airport*
- Dundee Airport
- *Edinburgh Airport*
- **British Telecom (Radio Network Protection Team)**
- Civil Aviation Authority
- **UK Chamber of Shipping (“UKCoS”)**
- Crown Estate Scotland
- Cruise Association
- Department for Energy Security and Net Zero
- **Defence Infrastructure Organisation (“MOD”)**
- Dee District Salmon Fishery Board
- Don District Salmon Fishery Board
- Esk District Salmon Fishery Board
- Tay District Salmon Fishery Board
- **Ugie District Salmon Fishery Board**
- Ythan District Salmon Fishery Board
- **Fisheries Management Scotland (“FMS”)**
- Northlink Ferries
- Aberdeen Fishery Office
- Peterhead Fishery Office
- **North East Coast Regional Inshore Fisheries Group (included in SFF)**
- **Joint Radio Company**
- Marine Safety Forum



- National Trust for Scotland
- **NATS**
- Offshore Energies UK (OEUK)
- Scottish Government Planning
- **Royal Yachting Association (“RYA”)**
- **Royal Society for the Protection of Birds Scotland (“RSPB”)**
- Scottish Canoe Association
- Scottish Creel Fishermen's Federation
- **Scottish Fishermen's Federation (“SFF”)**
- Scottish Fishermen's Organisation
- Scottish Surfing Federation
- Scottish Water
- Scottish White Fish Producers Organisation
- Scottish Wildlife Trust
- *Sport Scotland*
- Surfers Against Sewage
- Visit Scotland
- Whale and Dolphin Conservation
- **Scottish and Southern Electricity Networks- Transmission (“SSEN”)**
- BP
- Shell
- Portlethen and District Community Council
- Newtonhill, Muchalls and Cammachmore
- Stonehaven and District
- Cove and Altens Community Council
- Torry Community Council
- Pittodrie and Castlehill

*Offshore Wind Farm Developers for the following projects:*

- **Green Volt**
- **Cenos**
- Champion Wind
- Flora
- Bowdun
- Morven
- Muir Mhor
- **Salamander**
- *Hywind*
- Kincardine
- Bellrock
- Ossian

- 4.1.2 Specific advice was sought from the Marine Directorate – Science Evidence Data and Digital (“MD-SEDD”), the Marine Directorate – Marine Analytical Unit (“MAU”) and Transport Scotland.

## **4.2 Responses received**

- 4.2.1 From the list above a total of 28 responses were received. Advice was also provided by MD-SEDD, MAU and Transport Scotland. The purpose of the consultation was to seek representations to aid the Scottish Ministers’ consideration of which potential effects should be scoped in or out of the EIA Report.
- 4.2.2 The Scottish Ministers 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 EIA Report and the s.36 consent and marine licence applications. The representations and advice received are attached in Appendix I and each must be read in full for detailed requirements from individual consultees.

## **5. Interests to be considered within the EIA Report**

### **5.1 Introduction**

- 5.1.1 This section contains the Scottish Ministers' opinion on whether the impacts identified in the Scoping Report are scoped in or out of the EIA Report. The Scottish Ministers advise that the representations from consultees and advice from MAU, MD-SEDD and Transport Scotland must be considered in conjunction with the Scoping Opinion and with the expectation that recommendations and advice as directed through this Scoping Opinion are implemented.

### **5.2 Marine and Coastal Processes**

- 5.2.1 Section 7.2 of the Scoping Report details the study area under consideration with regards to potential impacts on Marine and Coastal Processes. The Scottish Ministers are content with the area defined at this stage and note that in Section 7.4.51 the Developer states that as the EIA and design parameters are progressed the Cable Corridor Boundary and Landfall areas are likely to be refined.
- 5.2.2 The Scottish Ministers note the use of publicly available data to inform the ongoing assessment. The Scottish Ministers are generally content with sources identified in as much as they refer to the scope of the EIA as it is described in the Scoping Report. The Scottish Ministers welcome the Developer's commitment to update the data sources as they become available and as more evidence presents.
- 5.2.3 The Developer provides an adequate description of the baseline characteristics of the area as provided in Section 7.4 of the Scoping Report. The Scottish Ministers are content with the characterisation of the offshore scoping array area, offshore scoping cable corridor boundary and landfall area with regards to tides, waves, non-tidal influences, bathymetry, geology, surficial sediments, suspended sediments, sediment transport, frontal zones and stratification and coastal form, as applicable.
- 5.2.4 The Developer lists the impacts, at various stages of the project, it intends to scope in to the EIA in Table 7.3 of the Scoping Report and those that it intends to scope out in Table 7.5. Justification for scoping out those receptors is detailed in that table. The Scottish Ministers are largely content with the lists of impacts at various stages to be scoped in and out of the assessment with the notable exception of the need to scope in potential impacts arising from modifications to stratification, detailed below.
- 5.2.5 In its representation NatureScot states that it does not agree with the Developer's rationale for scoping out potential impacts arising from modification to stratification. However, NatureScot defers to MD-SEDD on this matter to make final recommendations as to whether modification to stratification should be scoped in or out of the EIA. MD-SEDD advised that modification to stratification and fronts during the operational phase of the Proposed Development should be scoped in. The Scottish Ministers are in agreement with this.

- 5.2.6 The Scottish Ministers refer to the Developer to the advice provided by MD-SEDD regarding the scoping in of potential impacts arising from modifications to stratification. Additional baseline data should be presented including water column conditions and the timing of stratification and frontal positions. The advice also includes a number of references and models which may assist in this characterisation as well as details regarding expectations of content. The Developer should also include additional details as to assessment methodology for this topic.
- 5.2.7 The Scottish Ministers are content with the method of assessment detailed throughout Chapter 7 although this will require the additional inclusion of a methodology for the assessment of potential impacts related to the modification of stratification. The Scottish Ministers refer the Developer to the representations from MD-SEDD and NatureScot for guidance on this and the recommendation for further consultation prior to submission of the EIA report. The Developer's commitment to adherence to best practice guidelines, detailed in Section 7.10 is noted.
- 5.2.8 With regards to mitigation, the Scottish Ministers find the list of measures of embedded mitigation listed in Table 7.4 to be acceptable. However, the Scottish Ministers agree with the observation made in the NatureScot representation that many of the mitigation measures detailed are adherence to future management plans. Whilst the commitment to mitigation is appreciated, in itself, this does not define the mitigation and therefore the mitigation measures should be detailed within the EIA and their suitability be fully considered.
- 5.2.9 The Scottish Ministers, in line with the representations from MD-SEDD and NatureScot, are broadly content with the Developer's approach to the assessment of cumulative impacts as detailed in Section 7.8 of the Scoping Report. It is stressed, however, that both the MD-SEDD advice and NatureScot representations seek to encourage the inclusion of a comprehensive list of all other projects and plans which may have some bearing on this assessment. NatureScot recommend agreeing a list of projects and plans for inclusion with MD-LOT prior to submission. The Scottish Ministers agree with this approach.
- 5.2.10 The Scottish Ministers are also satisfied with the Developer's consideration of transboundary impacts and agree that these may be scoped out of the EIA.
- 5.2.11 With regards to the HRA screening, the Developer concludes that there are no sites which require to be screened in to the HRA process due to potential impacts on Marine and Coastal Processes. The NatureScot representation supports this conclusion and the Scottish Ministers are in agreement with this position.

### **5.3 Marine Water and Sediment Quality**

- 5.3.1 Section 8.2 presents the near-field and far-field study area for marine water and sediment quality. The Scottish Ministers are broadly content with the study area presented by the Developer. The Scottish Ministers are broadly content with the baseline characterisation for marine water and sediment quality presented in Section 8.3 of the Scoping Report and the Developer's intention to further develop

understanding of the baseline through site-specific surveys. The Scottish Ministers are also largely content with the data sources presented in Table 8-1.

- 5.3.2 Table 8-11 of the Scoping Report outlines the impacts proposed to be scoped in to the assessment for marine water and sediment quality in the EIA Report during different phases of the Proposed Development, while Table 8-12 presents the impacts proposed to be scoped out. The Scottish Ministers are content with this approach and direct the Developer to the standing advice provided by SEPA and advise that this is fully considered in the EIA Report. The Scottish Ministers are additionally content with the proposed approach to EIA outlined in Section 8.9 of the Scoping Report.
- 5.3.3 The Scottish Ministers are generally content with the approach to cumulative assessment for marine water and sediment quality as described in Section 8.7. With regard to transboundary impacts, the Scottish Ministers agree that these can be scoped out from further assessment in the EIA Report.

#### **5.4 Benthic Subtidal and Intertidal Ecology**

- 5.4.1 Section 9.2 presents the study area defined for benthic subtidal and intertidal ecology. The Scottish Ministers are broadly content with the study area presented by the Developer. This view is supported by the NatureScot representation.
- 5.4.2 The Scottish Ministers are content with the baseline characterisation presented in Sections 9.3 and 9.4 of the Scoping Report and the proposal to utilise site-specific survey data to inform the EIA Report, as well as the data sources presented in Table 9-1. The Scottish Ministers advise that, in line with the NatureScot representation, if any other habitats or features of conservation interest are found during the site-specific surveys, these should be taken into consideration in the EIA Report. In terms of designated sites, the Scottish Ministers draw the Developer's attention to the NatureScot representation regarding this and request that this is considered in the EIA Report.
- 5.4.3 The impacts proposed to be scoped in to the assessment for benthic subtidal and intertidal ecology in the EIA Report during different phases of the Proposed Development are outlined by the Developer in Table 9-4 of the Scoping Report, while Table 9-5 presents the impacts proposed to be scoped out. The Scottish Ministers largely agree with the impacts proposed to be scoped in and out. However, in line with the NatureScot representation, the Scottish Ministers advise that electromagnetic fields ("EMF") may have direct impacts on benthic ecology rather than indirect impacts and direct impacts should be scoped in for further assessment in the EIA Report.
- 5.4.4 The Scottish Ministers are broadly content with the proposed approach to EIA outlined in Section 9.10 of the Scoping Report. However, the Scottish Ministers draw the Developer's attention to the NatureScot representation regarding specific definitions of magnitude and sensitivity for the benthic ecology impact assessment and advise that the Developer engages further with NatureScot on this matter.

- 5.4.5 In terms of mitigation, the Scottish Ministers are broadly content with the embedded mitigation described in Section 9.5 of the Scoping Report. The Scottish Ministers advise that the following embedded mitigation measures must be included: micrositing of infrastructure to avoid key features, Marine Pollution Contingency Plan, and Decommissioning Plan. The Scottish Ministers additionally advise that the full range of mitigation measures and published guidance is considered and discussed in the EIA Report.
- 5.4.6 The Scottish Ministers are not content with the approach to cumulative assessment for benthic subtidal and intertidal ecology as described in Section 9.8. The Scottish Ministers highlight the NatureScot representation regarding cumulative assessment and advise that the assessment is revisited once the assessment of impacts from the Proposed Development alone is carried out in order to ensure that any relevant cumulative impacts are fully considered.
- 5.4.7 With regards to transboundary impacts, the Scottish Ministers agree with the conclusion drawn in Section 9.9 of the Scoping Report that these can be scoped out from further assessment in the EIA Report. This view is supported by the NatureScot representation.
- 5.4.8 In terms of HRA, the Scottish Ministers agree with the Developer's conclusion that no sites with Annex 1 habitat features need taken forward for assessment.

## **5.5 Fish and Shellfish Ecology**

- 5.5.1 Section 10.2.1 of the Scoping Report details the study area to be considered in relation to potential impacts on fish and shellfish ecology. This encompasses a precautionary underwater noise zone of influence and also a secondary zone of influence within which consideration shall be given to effects other than those caused by underwater noise. The Scottish Ministers, in line with the NatureScot and FMS representations, are content with the study area detailed by the Developer and with the explanation of why these different zones will be used. The Scottish Ministers also note that the study area may be further refined as the project progresses in response to on- going studies and modelling as well as in response to stakeholder feedback.
- 5.5.2 The Scottish Ministers are generally content with the data sources listed in Section 10.3 of the Scoping Report and with the intention to gather further data from various surveys to inform the EIA and enhance the understanding of baseline conditions. Further to the sources listed, however, the Scottish Ministers refer the Developer to the NatureScot representation which includes two additional data sources.
- 5.5.3 The Scottish Ministers, in keeping with the NatureScot representation, are broadly content with the approach to characterisation of the baseline conditions and note that this shall be further enhanced in the EIA following completion of surveys, as mentioned in the previous section. The Scottish Ministers refer the Developer to consider the FMS representation for guidance on enhancing the baseline information as it relates to diadromous fish species.

- 5.5.4 The impacts proposed to be scoped in and out of the EIA are listed in Tables 10.7 and 10.8 respectively. The Scottish Ministers are broadly in agreement with the Developer's proposal in this regard however direct the Developer to the NatureScot and FMS comments regarding the potential impacts of fish aggregation around the WTGs and EMFs. The Scottish Ministers are also in agreement with the NatureScot representation that potential impacts resulting from underwater noise should be scoped in for the operational phase.
- 5.5.5 The Scottish Ministers direct the Developer to the NatureScot representation which states that the assessment should quantify, where possible, potential impacts on Priority Marine Feature ("PMF") species. The Scottish Ministers also refer the Developer to the FMS representation which corrects Table 10.3 of the Scoping Report by stating that Atlantic salmon and sea trout are on the list of PMFs and therefore merit specific consideration in the EIA.
- 5.5.6 The Scottish Ministers are in agreement with the NatureScot representation which states that due to the incomplete knowledge base surrounding diadromous fish, impacts on these species should be considered through the EIA process rather than through HRA. The Scottish Ministers, however, also refer the Developer to the FMS representation generally which emphasises the need for thorough consideration of the impacts specifically on diadromous fish.
- 5.5.7 The Scottish Ministers concur with the NatureScot representation which states that the Developer's approach to the assessment is high level and lacking in detail. The Scottish Ministers are, therefore, currently not content with this aspect of the Scoping Report. To counter this lack of detail the Developer is referred to the NatureScot representation which sets out a number of areas where improvements should be made.
- 5.5.8 The Scottish Ministers are broadly content with the embedded mitigation measures listed in Table 10.6 of the Scoping Report but note that, as per the NatureScot representation, many of the proposed mitigation measures involve adherence to future plans, rather than specifying actual actions. These measures, and any additional ones which may be required in response to issues coming to light in the EIA should be detailed in the EIA Report.
- 5.5.9 The Scottish Ministers are generally content with the Developer's consideration of transboundary impacts and are content that these may be scoped out of further assessment within the EIA, in line with the NatureScot representation. The Scottish Ministers are also broadly content with the Developer's approach to cumulative impacts as detailed in Section 10.6 of the Scoping Report although, in keeping with the NatureScot and FMS representations, advise that, additionally, the cumulative impacts of EMF should be included.
- 5.5.10 With regards to the HRA assessment, the Scottish Ministers are in agreement with the NatureScot representation that due to the limited knowledge of the distribution and behaviour of diadromous fish in the marine environment it is not possible to assess the impacts of the Proposed Development to the level required under HRA

and therefore these species should be assessed through EIA only. In turn, as impacts from the Proposed Development on freshwater pearl mussels may only be secondary to impacts on Atlantic salmon (as per the FMS representation) then they must also be assessed through the EIA process rather than HRA. No other fish or shellfish species are qualifying interests of any designated sites which may have connectivity to the Proposed Development.

## **5.6 Marine Mammals and other Megafauna**

- 5.6.1 Section 11.2 of the Scoping Report details how the study area for assessment of impacts on marine mammals and other megafauna will be determined. For all species this will include the site specific area and a broader regional area which will vary somewhat between potential receptor species due to differences in range and movement of management units. Generally, the Scottish Ministers are content with this approach.
- 5.6.2 The Developer lists the key data sources used to characterise the baseline environment in Table 11.1. In addition, the Developer states that the list of data sources included in the Scoping Report will remain under review and be updated in line with stakeholder feedback or as further information becomes available. The Scottish Ministers are content with the sources listed and with the commitment to ongoing review. In addition, the Scottish Ministers refer the Developer to the updated papers on seals data and on bottlenose dolphin population estimates for the east of Scotland, detailed in the NatureScot representation. The Developer is also directed to the paper regarding seals, appended to the Natural England representation.
- 5.6.3 A description of the baseline environment, including how it relates to a number of different species and various designated sites is given in Section 11.4 of the Scoping Report. The Scottish Ministers are broadly in agreement with the approach taken but direct the Developer to the information provided in the NatureScot representation regarding the use of management units for different species and on the use of density estimates.
- 5.6.4 The Developer lists the receptors to be scoped in to the EIA in Section 11.5.1 of the Scoping Report. It then goes on to list the impacts, at various stages of the Proposed Works, to be scoped in or out of the EIA in Tables 11.5 and 11.6 respectively. The Scottish Ministers broadly agree with the Developer but in line with the NatureScot representation, recommend that should appropriate quantitative data become available for operational noise, this should be taken into account in the assessment.
- 5.6.5 The approach to the EIA and assessment methodology are detailed in Section 11.10 of the Scoping Report. The Scottish Ministers are in agreement with the NatureScot representation which notes that the description of the proposed approach is 'high level and lacking in detail'. In addition to the limited detail provided, the Developer is referred to the recommendations made by NatureScot with regards to modelling of impacts, auditory injury and consideration of sensitivity. The Scottish Ministers are supportive of the Developer's commitment to engage with a wide variety of guidance documents, as detailed in Section 11.10.2.



- 5.6.6 Embedded mitigation measures are detailed in Table 11.4. The Scottish Ministers, in line with the NatureScot representation, are content with the measures listed.
- 5.6.7 The Scottish Ministers are broadly content with the Developer's approach to the assessment of cumulative effects as described in Section 11.8 of the Scoping Report. This aligns with the NatureScot representation which notes its previous comments on the Interim Population Consequences of Disturbance ("iPCoD") model would be applicable in this context.
- 5.6.8 Transboundary effects as they related to the receptors of marine mammals and other megafauna are considered in Section 11.9 of the Scoping Report. The Developer considers that these impacts should be scoped in for further assessment within the EIA. The Scottish Ministers are in agreement with this position.
- 5.6.9 With regards to the HRA screening as it relates to marine mammals and other megafauna, the Scottish Ministers, in line with the NatureScot and Natural England representations, are broadly content with the sites to be screened in to the HRA process. However, in agreement with the Natural England representation, the Scottish Ministers advise that the Berwickshire and North Northumberland Coast SAC be included for potential impacts to the grey seals qualifying interest. Natural England have appended a report on that population status of grey seals to their representation, to which the Developer is referred.

## **5.7 Offshore and Intertidal Ornithology**

- 5.7.1 The Scottish Ministers are not content with the offshore and intertidal ornithology study areas presented in Section 12.3 of the Scoping Report which includes a 2km buffer. The Scottish Ministers advise that, in line with the NatureScot representation, a 4km buffer should be incorporated into the study area in line with that used for DAS.
- 5.7.2 The Developer presents approach to baseline characterisation in Section 12.7 of the Scoping Report, including its intention to submit the EIA Report with 18 months of DAS data with amendments made post-submission to incorporate further data once this is available. The Scottish Ministers strongly advise that the Developer does not take this approach and instead follows the NatureScot Guidance Notes and submits the EIA Report once a full 24 months of DAS is complete. This is in line with the NatureScot representation and the NatureScot advice dated 15 March 2024. The Scottish Ministers expect to see a full DAS report to inform the EIA Report in line with NatureScot Guidance Note 2. The Scottish Ministers highlight paragraph 1.1.4 above and note that the EIA Report must be based on this Scoping Opinion.
- 5.7.3 Moreover, the Scottish Ministers direct the Developer to the NatureScot advice on baseline characterisation specifically regarding designated sites, receptors, and gannet. The Scottish Ministers advise that this must be fully considered and implemented in the EIA Report, specifically the use of NatureScot Guidance Note 3 to use foraging ranges to establish connectivity in the breeding season, the use of Wade *et al.* (2016) for Scottish-specific sensitivities to offshore wind, and running

Collision Risk Modelling with reduced densities to account for macro-avoidance in the breeding season.

- 5.7.4 The Scottish Ministers agree with NatureScot that the conservation values used are not appropriate and direct the Developer to the NatureScot representation regarding assigning conservation value for ornithological receptors. This must be fully considered and implemented in the EIA Report. The Scottish Ministers additionally draw the Developer's attention to the RSPB representation regarding EIA assessment of significance and request that this is fully considered by the Developer.
- 5.7.5 The receptors proposed to be scoped in for further assessment in the EIA Report are outlined in Section 12.8, with the impacts proposed to be scoped in presented in Table 12-9 while the impact proposed to be scoped out of further assessment is presented in Table 12-10. The Scottish Ministers are broadly content with the impacts proposed to be scoped in and out of the EIA Report, subject to the following comments. The Scottish Ministers advise that the potential impact of lighting attraction and disorientation from servicing and/or construction vessels must be scoped in for assessment in the EIA Report. The Scottish Ministers disagree with the proposed approach to scope out distributional response due to construction, installation and decommissioning for the export cable corridor and instead advise that this must be scoped in for assessment in the EIA Report. In terms of UXO clearance, the Scottish Ministers advise that both direct and indirect impacts of this are scoped in for assessment in the EIA Report. The Scottish Ministers highlight the representation from NatureScot on the above points regarding lighting, distributional response and UXO clearance and request that this is fully considered and implemented in the EIA Report.
- 5.7.6 With regards to the approach to assessment described in Section 12.13 of the Scoping Report, the Scottish Ministers advise that the NatureScot representation regarding MRSea; seasonal guidance; reference populations; species demographic; distributional responses for kittiwake, gannet and fulmar; SeabORD; collision risk modelling; population viability analysis; and highly pathogenic avian influenza must be fully considered and implemented by the Developer. Specially on MRSea, the Scottish Ministers request that the Developer runs this where there are suitable data points and that the Developer considers whether the model fit if appropriate. If the number of data points is fewer than 10, or the species are present in a uniform distribution, the Scottish Ministers accept the use of the design-based methods proposed by the Developer. This view is supported by the NatureScot representation. The Scottish Ministers highlight the RSPB representation regarding gannets during the breeding season and advise that this must be considered by the Developer when compiling the EIA Report.
- 5.7.7 The Natural England and RSPB ornithology advice differs in some respects from the NatureScot advice as detailed in the Natural England and RSPB representations. The Scottish Ministers do not expect the Developer to carry out three separate offshore ornithological assessments and expect that the NatureScot guidance is

followed. However, if the Developer chooses to undertake supplementary ornithological assessments in addition, following the RSPB and Natural England representations, this must be clearly labelled. Additionally, the Scottish Ministers highlight the Natural England advice that there may be instances where a different assessment is needed to be able to adequately assess in-combination effects on English seabirds. Any differences in approaches between Natural England, RSPB and NatureScot should be acknowledged when compiling the EIA Report.

- 5.7.8 In terms of mitigation and monitoring, the Scottish Ministers are broadly content with the embedded measures presented by the Developer in Section 12.9. However, the Scottish Ministers advise, in line with the NatureScot representation, that if significant effects are identified in the EIA, the embedded measures identified by the Developer may not be sufficient to mitigate these impacts. The Scottish Ministers direct the Developer to the NatureScot representation regarding artificial light sources and the development of a Vessel Management Plan and request that this is fully considered by the Developer when compiling the EIA Report.
- 5.7.9 The Scottish Ministers are content with the approach to potential cumulative impacts outlined in Section 12.11 of the Scoping Report. The Scottish Ministers advise that the Developer engages with NatureScot if age ratios are inferred from site-specific DAS. The Scottish Ministers are also generally content with the approach to transboundary impacts presented in Section 12.12 of the Scoping Report.
- 5.7.10 Regarding HRA, the Scottish Ministers are content with how the connectivity distances for each species are derived during the breeding season. In terms of the non-breeding season, the Scottish Ministers advise that connectivity should be derived utilising the approach in NatureScot Guidance Note 4. The Scottish Ministers request that the Developer engages with NatureScot to provide clarity on the >1% figure used for the biologically defined minimum population scale approach. The Scottish Ministers additionally highlight the NatureScot representation with regard to migratory birds and request that this is considered by the Developer.
- 5.7.11 In terms of HRA screening, the Scottish Minister advise that a full 24 months of DAS data will provide a better understanding of whether guillemot and herring gull can be screened out during the breeding season. The Scottish Ministers recommend that large gulls should not be screened out during the non-breeding season until two years of DAS have been completed. The Scottish Ministers additionally advise that, while they are content with the inclusion of entanglement risk as a likely significant effect, any distances used should be based on scientific evidence and request that further discussion is undertaken between the Developer and NatureScot on this point. Moreover, the Scottish Ministers request that, in addition to being screened in for distributional responses, gannet at St Kilda Special Protection Area should be screened in for collision risk. These views are supported by the NatureScot representation.

- 5.7.12 Specifically regarding seabird assemblage, the Scottish Ministers highlight the NatureScot representation and request that this is fully considered and implemented by the Developer in the HRA.
- 5.7.13 The Scottish Ministers additionally draw the Developer's attention to the RSPB representation regarding the density of birds with crepuscular and nocturnal flight tendencies, as well as storm petrel, Leach's petrel and manx shearwater and advise that these must be considered in the RIAA.

## **5.8 Commercial Fisheries**

- 5.8.1 The definition of the term 'commercial fisheries', as a receptor group in this context is given in Section 13.1 of the Scoping Report. The Scottish Ministers are content with this definition as it will be applied to the assessment process.
- 5.8.2 Section 13.2 of the Scoping Report contains a description of the study area within which potential impacts on commercial fisheries shall be assessed. The Scottish Ministers are broadly content with this and note that in addition to the local study area close to the Proposed Development there is also a wider area in which the potential impacts of displacement shall be considered.
- 5.8.3 Table 13.1 of the Scoping Report contains a list of the data sources used in the compilation of the Scoping Report and which will be carried forward to inform the EIA. With reference to the list of data sources the Scottish Ministers direct the Developer to the advice provided by MD-SEDD. This states that Scotmap 2014 data should not be used to inform the EIA as this is out of date. This should only be used to validate data obtained from other sources such as liaison with fisheries organisations. Recommended additional data sources include heatmaps for fishing activities of vessels of 12 m or more in length, available on the Scottish Government's NMPi website and Automatic Identification System data available from EMODNet under the 'vessel density' tab. MD-SEDD also advised utilisation of Marine Management Organisation, Vessel Monitoring System ("VMS") datasets to present both the average VMS value and the fishing effort in kilowatts per hour as value does not necessarily equate to effort.
- 5.8.4 The Scottish Ministers note the Developer's commitment to supplement the current list of data sources with additional datasets and information gathered through consultation with fisheries stakeholders. With the changes advised above, per the MD-SEDD advice, the Scottish Ministers are broadly in agreement with this approach.
- 5.8.5 Characterisation of the baseline conditions in the study area is provided in the Section 13.3 of the Scoping Report. The Scottish Ministers are generally content with the detail provided in this characterisation.
- 5.8.6 The Developer lists the potential impacts to be scoped in to the EIA Report in Table 13.3 of the Scoping Report. In paragraph 13.7.6 the Developer states that no potential impacts are to be scoped out. The Scottish Ministers are generally in

agreement with this approach but wish to draw the Developer's attention to the MD-SEDD advice which specifically includes consideration of potential impacts arising from cable protection and boulder removal.

- 5.8.7 The Developer's method of assessment is outlined in Section 13.10 of the Scoping Report. The Scottish Ministers are generally content with the methodology provided and note the additional data sources and guidance notes which will be referred to, contained therein. Additionally, the Scottish Ministers, in accordance with the MD-SEDD advice, note that a fisheries displacement assessment should be undertaken in line with guidance available from the Scottish Government<sup>1</sup>.
- 5.8.8 Although the SFF declined to provide comment on the content of the Scoping Report, the Scottish Ministers note concerns raised in its representation regarding communication between the Developer and fisheries representatives. The Scottish Ministers wish to emphasise the need for effective communication with industry stakeholders in the approach to this chapter of the EIA Report.
- 5.8.9 The Scottish Ministers are content with the list of embedded mitigation measures provided in Table 13.2 and Appendix A: Embedded Mitigation, and note that the list of measures is likely to evolve as the EIA Report progresses and in response to stakeholder feedback.
- 5.8.10 With reference to the assessment of potential cumulative effects, the Scottish Ministers are broadly content with the approach outlined in Section 13.8. In addition to the approach detailed however, in line with MD-SEDD advice, the Scottish Ministers note that this should include any MPA or other management areas with restricted fisheries activity, as these may contribute to cumulative effects for commercial fisheries.
- 5.8.11 The Scottish Ministers are also broadly content with the approach to consideration of potential transboundary effects as outline in Section 13.9.

## **5.9 Shipping and Navigation**

- 5.9.1 In line with the MCA representation the Scottish Ministers are broadly content with the study area for potential impacts to shipping and navigation receptors as described in Section 14.2.1, and illustrated in Figure 14.1, of the Scoping Report. The Scottish Ministers note the Developer's commitment to the highlighting and description of features outwith the study area which may be contextually relevant to or affect routing through the study area.
- 5.9.2 The Developer lists the key data sources used to inform the Scoping Report in Table 14.1. The Developer goes on to provide further data sources which may be referred to in the EIA in Table 14.4. and details guidance documents which shall be adhered to, in Section 14.9.2. The Scottish Ministers are broadly content with the documents listed but are in agreement with, and direct the Developer to, the MCA representation

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<sup>1</sup> 'Good practice guidance for assessing fisheries displacement by other licensed marine activities' (Scottish Government, 2022)

with regards to additional data gathered from a vessel traffic survey. This survey must be carried out in line with MGN 654. The Developer is also referred to the comments in the RYA representation regarding data sources for the movements of recreational vessels.

- 5.9.3 Characterisation of the baseline conditions is described in Sections 14.3.3 to 14.3.25 of the Scoping Report.. The Scottish Ministers are broadly content with the information and level of detail provided.
- 5.9.4 The Developer lists potential impacts to be scoped into this chapter in Table 14.3 of the Scoping Report. No impacts are proposed to be scoped out of this assessment. The Scottish Ministers are generally content with the impacts to be scoped in and additionally request that the list of potential impacts on commercial and recreational craft noted in the MCA representation is fully considered in the EIA Report. The Developer is also directed to the NLB representation regarding scoping in of the potential impacts a wreck, either that of a vessel or WTG, on navigation and to the RYA representation regarding possible impacts resulting from loss of station of buoyage. The Scottish Ministers request that the NLB and RYA representations are fully considered in the EIA Report.
- 5.9.5 The Scottish Ministers are in agreement with the RYA and MCA representations that a Navigational Risk Assessment should be submitted. This should be conducted in accordance with MGN 654 and accompanied by a detailed MGN 654 checklist which may be found at: <https://www.gov.uk/guidance/offshore-renewable-energy-installations-impact-on-shipping>
- 5.9.6 The Scottish Ministers are in agreement that any hydrographic studies should be conducted to Order 1a standard and the findings reported appropriately, as described in the MCA representation, to which the Developer is referred for details.
- 5.9.7 The Scottish Ministers are in agreement with the MCA representation that consideration should be given to potential impacts to Search and Rescue services including impacts on all communications and surveillance equipment.
- 5.9.8 The Scottish Ministers broadly concur with the Developer's assessment methodology as described in Sections 14.9.3 to 14.9.9 and note the Developer's commitment to ongoing contact with relevant stakeholders to inform the assessment and adherence to published guidelines such as those produced by the MCA.
- 5.9.9 With regards to embedded mitigation, the Scottish Ministers are generally in agreement with the measures given in Table 14.2 of the Scoping Report.
- 5.9.10 The Developer describes its approach to the assessment of potential cumulative effects in Section 14.7 including adherence to MGN 654. The Developer is referred to the MCA representation regarding the study area for the assessment of cumulative effects. The Developer intends to use a 30 nautical mile ("nm") radius around the Proposed Development which it suggests is the industry standard. However, both the MCA and UKCoS note that this is more usually a 50 nm radius. In

this instance the MCA are content to accept this area due to the Developer's stated commitment to considering other developments in the wider North Sea. The Scottish Ministers are in agreement with this position.

- 5.9.11 The Developer confirms in Section 14.8 that there is potential for transboundary impacts arising from the Proposed Development. The Scottish Ministers, in line with the RYA representation, are content with the Developer's position on the assessment of both potential cumulative effects and transboundary impacts.

## **5.10 Military and Civil Aviation**

- 5.10.1 The Developer presents the study area and baseline environment in Sections 15.2 and 15.4 of the Scoping Report, respectively. The Scottish Ministers agree with the study area proposed and the categorisation of the baseline. This view is supported by the MOD representation.
- 5.10.2 The Developer presents the impacts to military and civil aviation proposed to be scoped in to and out of assessment in the EIA Report during different phases of the Proposed Development in Tables 15-3 and 15-4 respectively of the Scoping Report. The Scottish Ministers are broadly content with the impacts proposed to be scoped in and out. This view is in line with the MOD representation.

## **5.11 Seascape, Landscape and Visual Impact**

- 5.11.1 The Developer sets out its approach to seascape, landscape and visual impacts in Chapter 16 of the Scoping Report. The Scottish Ministers are content that this adequately defines the study area for this receptor group and provides sufficient characterisation of the baseline environment.
- 5.11.2 The Developer concludes in the Scoping Report that seascape, landscape and visual impacts can be screened out of the EIA. The includes potential cumulative impacts and transboundary impacts. Based on the evidence presented in this Chapter the Scottish Ministers are in agreement with the NatureScot representation that, due to the location of the Proposed Development and its distance from shore, this topic can be scoped out of the EIA.

## **5.12 Marine Archaeology and Cultural Heritage**

- 5.12.1 The Scottish Ministers broadly agree with the study area for marine archaeology outlined in Section 17.2 of the Scoping Report.
- 5.12.2 In line with the HES representation, the Scottish Ministers welcome the Developer's proposal to assess impacts on cultural heritage using the HES EIA Handbook.
- 5.12.3 The Scottish Ministers are content with the impacts proposed to be scoped in for further assessment in the EIA Report as outlined by the Developer in Table 17-3 of the Scoping Report, the proposed approach to assessment presented in Section 17.9 of the Scoping Report, and the embedded mitigation outlined by the Developer

in Section 17.5 of the Scoping Report. This view is supported by the Aberdeenshire Council representation.

- 5.12.4 The Scottish Ministers note that potential setting impacts on terrestrial assets from the Proposed Development have not been included in the Scoping Report. In line with the HES representation, the Scottish Ministers agree that any potential setting impacts from the array area on terrestrial cultural heritage assets can be scoped out from further assessment in the EIA Report due to the distances involved.

### **5.13 Socioeconomics, Tourism and Recreation**

- 5.13.1 The Developers presents the relevant study area for socioeconomics, tourism and recreation in Section 18.2 of the Scoping Report. The Scottish Ministers are largely content with the study area outlined, however draw attention to the MAU advice in this regard and request that it is fully considered in the EIA Report. The Scottish Ministers also advise that the most up-to-date data sources must be used for all analysis. The Scottish Ministers additionally advise that MAU's points regarding the use of consultation, stakeholder engagement, and primary data collection must be fully considered by the Developer in the EIA Report.
- 5.13.2 In line with the MAU advice, the Scottish Ministers advise that a full Socio-Economic Impact Assessment ("SEIA") must be included with the EIA Report and should be transparent in its methodological choices for assessment of socioeconomic impacts. The Scottish Ministers highlight Annex 1 of the MAU advice which may be of assistance to the Developer in developing the SEIA.
- 5.13.3 Table 18-9 of the Scoping Report outlines the impacts the Developer proposes to scope in for further assessment in the EIA Report for different phases of the Proposed Development, while Table 18-10 presents the impact proposed to be scoped out. The Scottish Ministers broadly agree with the impacts proposed to be scoped in, however disagree with the scoping out of socio-cultural impacts and instead advise that these must be scoped in for further assessment in the EIA Report during all phases of the Proposed Development. This view is supported by the MAU advice.
- 5.13.4 In terms of social impacts, the Scottish Ministers advise that their current position is that the Developer should consider potential local communities as a result of the Proposed Developments and outline how baseline data will be collected to assess impacts in future. The Scottish Ministers are considering this position and, should this develop or change in future, the Developers will be notified.
- 5.13.5 In relation to economic impacts, the Scottish Ministers are broadly content with the proposed approach to assessment as detailed in Section 18.9 of the Scoping Report and agree with the Developer's proposal to include direct, indirect and induced impacts for all phases of the Proposed Development. The Scottish Ministers direct the Developer further to the MAU advice and recommend that this is fully considered when compiling the EIA Report.



- 5.13.6 The Scottish Ministers additionally direct the Developer to the MAU advice in terms of employment impacts and the methodology used to assess economic impacts and request that this is fully considered and implemented by the Developer in the EIA Report.

#### **5.14 Climate**

- 5.14.1 The Scottish Ministers broadly content with the Developer's approach assessing climate in Section 19.10 of the Scoping Report and note that the Institute of Environmental Management and Assessment ("IEMA") Environmental Impact Assessment Guide "Assessing Greenhouse Gas Emissions And Evaluating Their Significance", referenced by the Developer, provides further insight in these matters. The Scottish Ministers have considered this together with the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 and the requirement of the EIA Regulations to assess significant effects from the Proposed Development on climate. The Scottish Ministers therefore advise that the GHG Assessment should include the pre-construction, construction, operation and decommissioning phases, including consideration of the supply chain as well as benefits beyond the life cycle of the Proposed Development. The representation from NatureScot regarding climate change and carbon cost must be fully addressed by the Developers in the EIA Report.
- 5.14.2 Alongside the GHG assessment, the Scottish Ministers highlight the NatureScot representation in relation to blue carbon assessment and request that this is fully considered by the Developer. The Scottish Ministers advise that consideration should be given to whether or not a blue carbon assessment can be undertaken as part of the EIA Report.

#### **5.15 Infrastructure and Other Marine Users**

- 5.15.1 The Developer notes that the chapter concerning potential impacts on infrastructure and other marine users should be read in conjunction with a number of individual receptor chapters within the scoping report. The Scottish Ministers are content with this position as there are other marine users that may have been given adequate consideration in their own receptor chapters, for example shipping and navigation or commercial fisheries.
- 5.15.2 The Developer provides details of the study area which will be considered in its assessment of potential impacts on the receptor group of infrastructure and other marine users in Section 20.2 of the Scoping Report. It goes on to detail the data sources used for this assessment in Section 20.3. The Scottish Ministers are content to accept both of these elements of the Scoping Report.
- 5.15.3 In the remainder of Section 20.3 the Developer provides a characterisation of the baseline conditions within the study area and identifies a number of potential receptors from a wide range of receptor sub-groups, such oil and gas infrastructure

or recreational users. The Scottish Ministers are broadly content with the approach outlined by the Developer but refer the Developer to representations received from other developers in the vicinity and from SSEN. These encourage the Developer to be mindful of other projects and to ensure appropriate communication is maintained, for example when agreement is required with regards to cable crossings. The SSEN representation advises the Developer to consult the SSEN Transmission Project Map<sup>2</sup> for details of any developing SSEN Transmission projects.

- 5.15.4 The impacts intended to be scoped in to the EIA are listed in Table 20.4 and those to be scoped out are listed in Table 20.5. The Scottish Ministers are broadly in agreement with these lists.
- 5.15.5 The Scottish Ministers concur with the assessment methodology as provided by the Developer in Section 20.9 and note the list of guidance documents the Developer intends to follow.
- 5.15.6 Proposed embedded mitigation measures are contained within Table 20.3. The Scottish Ministers are content with the measures detailed but note that this list refers to measures embedded in the design phase and therefore may be supplemented as the project progresses.
- 5.15.7 The Developer gives consideration to the assessment of potential cumulative impacts in Section 20.7 of the Scoping Report. Generally the Scottish Ministers are content with the approach.
- 5.15.8 Transboundary effects are considered in Section 20.8. The Scottish Ministers are broadly content with the consideration given to transboundary effects and agree that these may be scoped out of the EIA.

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<sup>2</sup> <https://www.ssen-transmission.co.uk/projects/project-map/>

## **6. Application and EIA Report**

### **6.1 General**

- 6.1.1 The EIA Report must be in accordance with the EIA Regulations and the Scottish Ministers draw your attention in particular to, regulation 6 of the 2017 MW Regulations, regulation 5 of the 2017 EW Regulations and regulation 12 of the 2007 MW Regulations. In accordance with the EIA Regulations, the Scottish Ministers advise that the EIA Report must be based on this Scoping Opinion.
- 6.1.2 A gap analysis template is attached at Appendix II to record the environmental concerns identified during the scoping process. This template should be completed and used to inform the preparation of the EIA Report. As part of the submission of the EIA Report the Scottish Ministers advise that the Developer must provide confirmation of how this Scoping Opinion is reflected in the EIA Report.

## **7. Multi-Stage Consent and Regulatory Approval**

### **7.1 Background**

- 7.1.1 The EIA Regulations contain provisions regulating the assessment of environmental impacts. A multi-stage consent or regulatory approval process arises where an approval procedure comprises more than one stage; one stage involving a principal decision and one or more other stages involving implementing decision(s) within the parameters set by the principal decision. While the effects which works may have on the environment must be identified and assessed at the time of the procedure relating to the principal decision, if those effects are not identified or identifiable at the time of the principal decision, assessment must be undertaken at the subsequent stage.
- 7.1.2 The definition in the 2017 EW Regulations is as follows (the definition in the 2017 MW Regulations provides for the same but in relation to “regulatory approvals”): *“application for multi-stage consent” means an application for approval, consent or agreement required by a condition included in a regulatory approval where (in terms of the condition) that approval, consent or agreement must be obtained from the Scottish Ministers before all or part of the development permitted by the Electricity Act consent may be begun*”.
- 7.1.3 A section 36 consent or marine licences, if granted, by the Scottish Ministers for the Proposed Development, may have several conditions attached requiring approvals etc. which fall under this definition, for example the approval of a CMS. When making an application for multi-stage consent or regulatory approval the Developer must satisfy the Scottish Ministers that no significant effects have been identified in addition to those already assessed in the EIA Report.
- 7.1.4 If during the consideration of information provided in support of an application for multi-stage consent or regulatory approval the Scottish Ministers consider that the development may have significant environmental effects which have not previously been identified in the EIA Report (perhaps due to revised construction methods or updated survey information), then information on such effects and their impacts will be required. This information will fall to be dealt with as additional information under the EIA Regulations, and procedures for consultation, public participation, public notice and decision notice of additional information will apply.

Signed

Jessica Malcolm

12 May 2025

Authorised by the Scottish Ministers to sign in that behalf.

**Appendix I: Consultation Responses & Advice**

*Please refer to separate document issued alongside Scoping Opinion.*

## **Appendix II: Gap Analysis**

*Please refer to separate document issued alongside Scoping Opinion.*