

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

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

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

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

**and**

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

**Arven Offshore Wind Farm**

**5 September 2024**

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## 1. Introduction

### 1.1 Background

- 1.1.1 On 17 May 2024, the Scottish Ministers received a scoping report (“the Scoping Report”) from Arven Offshore Wind Farm Limited and Arven South Limited, both equally controlled equally by Ocean Winds and Mainstream Renewable Power (“the Developer”) as part of its request for a scoping opinion relating to the Arven Offshore Wind Farm (“the Proposed Development”). The Proposed Development will consist of two separate array areas and all associated infrastructure. 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 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 applications 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 comprises the Arven Array Area, extending over 360 square kilometres ("km<sup>2</sup>"), and the adjacent Arven South Array Area, extending over 100 km<sup>2</sup> ("the Array Areas") within the NE1 ScotWind lease area, covering a combined spatial footprint of 460 km<sup>2</sup>. The Proposed Development is located approximately 30 kilometres ("km") from the Shetland Mainland and 23 km from the Shetland Islands at its nearest point. The Proposed Development will have a 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 2009 Act and the 2010 Act, to permit any and all 'licensable marine activities' carried on for the Proposed Development.

2.2.2 The design envelope for the Proposed Development is broad and several design parameters are yet to be determined by the Developer given the frequent improvements in technology within the offshore wind sector. The technology in relation to the wind turbine generator ("WTG") foundations will consist of floating substructures, given the limitations of bottom-fixed foundations at the required depths.

2.2.3 The Proposed Development will have an installed capacity of 2.3 gigawatts ("GW") across the Array Areas. The Proposed Development includes the construction and operation of offshore WTGs and all associated offshore infrastructure. The key components of the Proposed Development will be refined through the key subsequent stages of the design and EIA process. The indicative maximum parameters for the WTG include:

- A maximum of 161 WTG;
- A maximum rotor blade diameter of up to 310 metres ("m");
- A maximum nacelle height above lowest astronomical tide ("LAT") of 204.1 m;
- A maximum blade tip height above LAT of 359.1 m;
- A maximum swept area of WTG of 7.32 km<sup>2</sup>, and

- An air gap above Mean High Water Springs (“MHWS”) between 22 and 35 m

- 2.2.4 The WTG will be supported by a floating foundation which consists of a floating platform with associated mooring and anchoring systems. The foundation types considered are barge, semi-submersible, spar, and tension-leg platform.
- 2.2.5 The Proposed Development has considered several anchoring solutions including drag embedment anchors, suction caissons, piles, and gravity-based anchors. The Array Areas are expected to have hard and shallow bedrock; therefore, based on ground conditions a single solution or a combination of the above anchoring solutions may be utilised.
- 2.2.6 The Proposed Development is considering the installation of either up to 7 smaller offshore substation platforms (“OSPs”) or up to 3 larger OSPs. The deployment of up to 9 subsea substations is also considered which would see the substation equipment located on the seabed. The OSPs are expected to be secured to the seabed with bottom-fixed foundations. Two bottom-fixed foundation options are considered for the OSPs, including suction caisson jacket and pin piled jacket concepts. Mudmats and/or suction piles are being considered for the subsea substations.
- 2.2.7 The Proposed Development considers inter-array cables with a combined maximum length of 650 km with a target burial depth of up to 3 m. Cable burial methods including jet trencher, mechanical trencher, and cable plough are considered. Secondary cable protection such as concrete mattresses, rock placement, cast iron shells, or grout bags on the seabed is considered as well as bend stiffeners and cable protection systems where cables enter/exit WTGs.
- 2.2.8 As multiple OSPs and/or subsea substations will be required the Proposed Development has considered the need for interconnector cables to connect OSPs/subsea substations to one another. A maximum of 6 cables is considered with a total cable length of 80 m. The cable burial depth and cable protection are equivalent to the inter-array cable, see Section 2.2.7 of this Scoping Opinion.
- 2.2.9 Up to 8 offshore export cables is considered with a maximum total cable length of 750 km, a target burial depth of 1 m, and a maximum voltage of 525 kV. Cable burial methods landward of Mean Low Water Springs (“MLWS”) include trenching, jetting, ploughing, cutting, horizontal directional drill, direct pipe, or other trenchless techniques. The cable burial method seaward of MLWS and cable protection are equivalent to the inter-array cable, see Section 2.2.7 of this Scoping Opinion.
- 2.2.10 Commencement of offshore construction for the Proposed Development is currently anticipated to begin in the early 2030s. The overall duration of

construction is anticipated to be approximately 4 years, although this is subject to change.

## **2.3 Onshore Planning**

2.3.1 The Scottish Ministers are aware the Developer has sought a separate scoping opinion from the Shetland Islands Council for the associated onshore infrastructure associated with the Proposed Development that continues landward from MHWS. 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 The Scottish Ministers note that the project design of the Proposed Development lacks detail at this stage but acknowledge that the project design will undergo further refinement as the project progresses. The advice provided in this Scoping Opinion is proportionate to the level of detail provided in the Scoping Report. For the avoidance of doubt, the Scottish Ministers advise that the EIA Report must include a full and detailed description of all options considered within the design envelope.

2.4.2 With regards to refining the project the Scottish Ministers note the range of scenarios and the level of detail currently included within the design envelope. By refining the range of scenarios presented, the number of complex models that would be required to assess the worst case would be reduced, adding to the clarity of the EIA Report. For those scenarios that are assessed and presented, the parameters should be very clearly defined within the EIA Report. This is in line with the NatureScot representation which draws attention to the need for refinement of the project design in relation to impacts on marine mammals, in particular, but is applicable across all receptor chapters within the EIA Report.

2.4.3 The Scottish Ministers acknowledge Section 2 of the Scoping Report which describes the key legislation and policy relevant to the Proposed Development. The Scottish Ministers note the Developers reference to the Zetland County Council Act 1974 in Section 2.3.6; however, has omitted reference to the Council's Works Licence Policy<sup>1</sup>, which must be considered in the application for the s.36 consent and marine licences and the accompanying EIA Report.

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<sup>1</sup> [shetland.gov.uk/downloads/file/2007/works-license-supplementary-guidance-2017](https://shetland.gov.uk/downloads/file/2007/works-license-supplementary-guidance-2017)



- 2.4.4 The Scottish Ministers acknowledge Section 3.4.1 of the Scoping Report which notes an indicative construction series outlining the key stages associated with the installation of the Proposed Development, including pre-construction Unexploded Ordnance (“UXO”) surveys and clearance activities. The Scottish Ministers advise that the EIA Report must include a 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 unless there is robust supporting evidence that can be presented to show the consistent performance of the preferred low-order or deflagration method. Additionally, the Scottish Ministers, in line with the MOD representation, advise that details should be provided in the EIA Report of the Developer’s approach to the detection of UXOs, particularly during the construction and decommissioning phases. The Scottish Ministers expect to see an assessment of potential impacts within the EIA Report, including mitigation.
- 2.4.5 Section 3.4.3 of the Scoping Report acknowledges the Developer’s requirement to provide a decommissioning programme in line with the Energy Act 2004. The Scoping Report does not provide specific details on decommissioning activities. The Scottish Ministers advise that any uncertainty on the impacts upon receptors during decommissioning should be clearly explained, along with the implications for the assessment of significant effects within the EIA Report.
- 2.4.6 Section 3.5.3.1 of the Scoping Report states that scour protection may be required to prevent the movement of seabed sediment around the WTG foundations. The Scottish Ministers advise that the use of scour protection must be assessed in the EIA Report including details on materials, quantities, and location.
- 2.4.7 The Scottish Ministers acknowledge that there is currently an ‘area of search’ with regards to the offshore export cable corridor (“ECC”). The location of the ECC will be identified and refined following the confirmation of onshore connection location(s) following the conclusion of the National Grid electricity system operator holistic network design follow up exercise. The Scottish Ministers advise it must be clear in the EIA Report which ECC route(s) are being considered within the design envelope .
- 2.4.8 The Scottish Ministers acknowledge Table 4.2 within the Scoping Report which proposes a number of ‘topics’ to be scoped out of further assessment. The topic “human health” is proposed to be considered within relevant technical chapters or within a specific “human health” chapter of the onshore scoping report. The Scottish Ministers, in line with the SIC representation, note that “human health”

should be covered both within the relevant technical chapters of the EIA Report and within a specific 'human health' chapter of the onshore scoping report.

- 2.4.9 The Scottish Ministers acknowledge Section 6.10.2 of the Scoping Report which notes geophysical survey campaigns within the Array Areas or along the ECC are not planned to inform the EIA Report given the availability of existing seabed survey data which will inform the assessment. Rather, a geophysical survey campaign will be undertaken post consent to further inform the final design. The Scottish Ministers, in line with the NatureScot representation, note that this approach may limit the refinement of the ECC. As such the Scottish Ministers advise that the Developer conducts site-specific geophysical surveys across the Array Areas and ECC before its marine licence applications and EIA Report submission.
- 2.4.10 The Scottish Ministers acknowledge Annex B within the Scoping Report, specifically part 6 Offshore Ornithology, which notes the use of wet storage areas during the construction and decommissioning phases of the project. The Scottish Ministers are considering their position on this topic and will advise of any impacts.
- 2.4.11 Appendix A within the Scoping Report lists the Developer's mitigation commitments. Several of these mitigation commitments reference post-consent plans. Where possible, and certainly where such plans are proposed as mitigation, these plans should be submitted alongside the marine licence applications and the EIA Report. The Scottish Ministers highlight that adherence to post-consent plans does not strictly constitute mitigation, rather it is the measures contained within the plan that will mitigate impacts. As such, the Scottish Ministers advise that the EIA Report must clearly articulate mitigation measures that are informed by the EIA, or the Habitats Regulations Appraisal ("HRA") and are necessary to avoid or reduce predicted significant adverse environmental effects of the Proposed Development. The Scottish Ministers advise that the full range of mitigation and monitoring measures, and published guidance, is considered and discussed within the EIA Report. Additionally, the Scottish Ministers advise the Developer to engage with relevant stakeholders, including but not limited to NatureScot, when developing such mitigation and monitoring measures.
- 2.4.12 With regard to the HRA Screening Report, 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.

### ***Design Envelope***

- 2.4.13 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 Section 3.3 of the Scoping Report.
- 2.4.14 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.
- 2.4.15 The Scottish Ministers will determine the applications based on the worst case scenario. The EIA Report 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.
- 2.4.16 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 many 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***

- 2.4.17 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 Development 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 note that the Developer's Scoping Report, with the exception of alternative fishing grounds and route to market, did not indicate any consideration of alternatives.

2.4.18 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 Areas, 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 throughout each receptor chapter, including but not limited to a Cable Plan ("CaP"), a Development Specification and Layout Plan, a CMS and an Operation and Maintenance Programme. As noted in Section 2.4.8 of this Scoping Opinion, 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.
- 3.3.2 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.
- 3.3.3 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.

- 3.3.4 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 Contrary to Table 4.2 within the Scoping Report, the Scottish Ministers note that the EIA Report must include a description and assessment of the likely significant effects (“LSE”) deriving from the vulnerability of the Proposed Development to major accidents and disasters. 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.
- 3.4.2 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.
- 3.4.3 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 30 May 2024. The following bodies were consulted, those marked in bold provided a response and those marked in italics sent nil returns or stated they had no comments:

- **Association of Shetland Community Councils representing:**
  - Bressay Community Council
  - Delting Community Council
  - Feltar Community Council
  - Gulberwick, Quarff and Cunningsburgh Community Council
  - Lerwick Community Council
  - Nesting and Lunnasting Community Council
  - Skerries Community Council
  - Tingwall, Whiteness and Weisdale Community Council
  - Whalsay Community Council
  - Yell Community Council
- Blueshell Mussels
- **British Telecom- Radio Protection Network (“BT”)**
- Civil Aviation Authority
- Cooke Aquaculture
- Crown Estate Scotland
- Cruise Association
- **Defence Infrastructure Organisation (“MOD”)**
- Department for Business, Energy and Industrial Strategy
- Fisheries Management Scotland
- **Historic Environment Scotland (“HES”)**
- Joint Radio Company
- Lerwick Port Authority
- Lerwick Boating Club
- Lerwick Fisheries Office
- *Marine Planning Partnership – Shetland*
- Marine Safety Forum
- **Maritime and Coastguard Agency (“MCA”)**
- National Trust for Scotland
- **NATS**
- **Natural England**
- **NatureScot**
- **Northern Lighthouse Board (“NLB”)**

- Northlink Ferries
- Nova Innovation
- Offshore Energies UK
- Royal National Lifeboat Institute
- **Royal Society for the Protection of Birds Scotland (“RSPB Scotland”)**
- **Royal Yachting Association**
- Scottish Canoe Association
- Scottish Creel Fishermen’s Federation
- **Scottish Fishermen’s Federation (“SFF”)**
- Scottish Government - Marine Planning and Policy
- Scottish Government - Planning
- Scottish Sea Farms Ltd
- **Scottish Southern Electricity Networks – Transmission**
- Scottish Surfing Federation
- **Scottish Water**
- Scottish White Fish Producers Association
- Scottish Wildlife Trust
- *Scottish Environmental Protection Agency (“SEPA”)*
- Shetland Anglers Association
- **Shetland Islands Council (“SIC”)**
- Shetland Islands Council ferry services
- Shetland Mussels Ltd
- Shetland Regional Inshore Fisheries Group
- Shetland Shellfish Management Organisation
- Sport Scotland
- Stoura Floating Windfarm (ESB Wind Development Limited)
- Sumburgh Airport
- Surfers Against Sewage
- **UK Chamber of Shipping (“UKCOS”)**
- Visit Scotland
- Whale and Dolphin Conservation

4.1.2 Specific advice was sought from Marine Directorate Science, Environment, Digital and Data (“MD-SEDD”) and Transport Scotland (“TS”).

## **4.2 Responses Received**

4.2.1 From the list above a total of 18 responses were received. Advice was also provided by MD-SEDD and TS. 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 MD-SEDD and TS 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.

5.1.2 The Scottish Ministers note that the Developer has presented several questions at the end of individual receptor chapters. Unless otherwise specified in this Scoping Opinion, the Scottish Ministers agree with the questions presented by the Developer in the following sections of its Scoping Report:

- Section 6.11
- Section 7.10
- Section 8.11
- Section 9.11
- Section 10.11
- Section 11.11
- Section 12.11
- Section 13.10
- Section 14.10
- Section 15.10
- Section 16.10
- Section 17.10
- Section 18.10
- Section 19.9

### 5.2 Marine Geology, Oceanography and Physical Process

5.2.1 The Scottish Ministers are broadly content with the data sources presented in Table 6.1 of the Scoping Opinion; however, note that more up-to-date survey information on the Pobie Bank Reef Special Area of Conservation ("SAC") has been carried out and can be found on the JNCC website<sup>2</sup>.

5.2.2 The Scottish Ministers note the the ECC may overlap with the Easter Rova Head Site of Special Scientific Interest ("SSSI"), Hawks Nest Geological Conservation Review site and/or The Ayres of Swinister SSSI, depending on the location of the landfall(s). If so, and if landfall is to be by direct burial and/or by horizontal directional drilling that exits within the intertidal zone, there could be significant adverse impacts on the geodiversity interests of the aforementioned sites. As

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<sup>2</sup> [MPA Mapper | JNCC - Adviser to Government on Nature Conservation](#)

such, the Scottish Ministers, in line with the NatureScot representation, advise that this should be scoped in as a potential construction-phase impact.

- 5.2.3 Section 6.7 of the Scoping Report sets out the potential impacts that are scoped in and scoped out of the marine geology, oceanography and physical processes assessment. The Scottish Ministers advise that impacts on seabed morphology due to indentations on the seabed from installation vessels during the construction and decommissioning phases should be scoped into in the EIA Report. This is supported by the JNCC in Appendix C of the NatureScot response. Additionally, the Scottish Ministers advise that aquaculture development in the context of other marine users and infrastructure and the impact of increases in suspended sediment concentrations should also be scoped into the EIA Report as consideration may be relevant depending upon the ultimate route of the cable connections. This is supported by SIC. Finally, the Scottish Ministers, in line with the MD-SEDD advice received on 16 July 2024, advise that the potential impact on stratification should be scoped in to the EIA Report.
- 5.2.4 Potential impacts to seabed morphology are considered in Table 6.3 within the Scoping Report. The Scottish Ministers note that numerical modelling is only proposed from construction activities. The Scottish Ministers, in line with the NatureScot representation, are content with this approach. However, the proposed assessment approach for “Modifications to the tidal regime, and associated impacts to morphological features” is unclear. The Scottish Ministers, in line with the NatureScot representation, suggest that combining the use of spreadsheet-based questions with consideration of findings for sufficiently analogous offshore windfarms may be adequate.
- 5.2.5 Section 6.5 within the Scoping Report notes the Developer’s understanding of the baseline marine and coastal processes that control the features, pathways, and receptors within the study area. The Scottish Ministers advise that the MD-SEDD advice received on 16 July 2024, specifically regarding tidal and water column processes, should be considered in full within the EIA Report.
- 5.2.6 Regarding cumulative impacts, the Scottish Ministers note that a list of impacts to be scoped in and scoped out of further assessment within the EIA Report has not been presented. The Scottish Ministers advise the Developer to engage with NatureScot when considering its cumulative assessment approach. The Scottish Ministers also note that the proposed Stoura Offshore Wind Farm is likely to make landfall in the same general area and may have a similar ECC route as the Proposed Development. Given the potential for cumulative impacts arising from both wind farms, the Scottish Ministers recommend that this, along with any potential collaborations, is considered further. This is supported by NatureScot.

- 5.2.7 The Scottish Ministers agree with the Developer that transboundary impacts can be scoped out from further consideration in the EIA Report.
- 5.2.8 The Scottish Ministers advise, in line with the JNCC representation, that if the Developer decides to site a cable through the Pobie Bank Reef SAC it should collect high resolution geophysical data along the proposed route to allow for an accurate assessment of impacts to this protected site and the Annex I Reef feature.
- 5.2.9 Regarding the HRA Screening Report, potential LSE cannot be ruled out in relation to physical habitat loss/disturbance and suspended sediment/deposition during the operation and maintenance phase. This is on the understanding that export cables require regular maintenance. As such, the Scottish Ministers advise that this is screened in and considered in the RIAA. This is supported by JNCC.
- 5.2.10 The Scottish Ministers advise that, in line with the JNCC representation, the Southern North Sea SAC can be screened out of further assessment due to no potential for LSE.

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

- 5.3.1 The Scottish Ministers are content with the data sources regarding marine water and sediment quality used by the Developer in Table 7.1 of the Scoping Report.
- 5.3.2 In Table 7.6 and Table 7.7 of the Scoping Report the Developer summarises the marine water and sediment quality impacts to be scoped in and scoped out of further assessment within the EIA Report. The Scottish Ministers agree with the impacts scoped in and scoped out of the EIA Report and provide no further comment.

With regards to compliance with the requirements of the Water Framework Directive the Scottish Ministers advise the Developer to engage with SEPA.

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

- 5.4.1 The Scottish Ministers are content with the study area for Benthic, Subtidal and Intertidal Ecology receptors as detailed in Section 8.2 of the Scoping Report. This is in line with the NatureScot consultation representation. The Scottish Ministers are also largely content with the proposed data sources and guidance documents considered in Section 8.3 of the Scoping Report. The Scottish Ministers highlight Section 8.10.1 of the Scoping Report which notes that the assessment of benthic and intertidal ecology receptors will also comply with several guidance documents, including the MarESA sensitivity assessment. The Scottish Ministers advise, in line with the NatureScot representation, that the Feature Activity

Sensitivity Tool should also be used. Additionally, in relation to the Pobie Bank Reef SAC, the most up-to-date survey information available on the JNCC website<sup>3</sup> should be used.

- 5.4.2 The Scottish Ministers note the Developer's intention to proceed without conducting further geophysical surveys at this stage. The Scottish Ministers highlight the importance of carrying out such site-specific geophysical surveys prior to submission of section 36 consent and marine licence applications to inform the EIA Report submission as noted in Section 2.4.7 of this Scoping Opinion. The Scottish Ministers advise that if site-specific geophysical surveys are not carried out before the submission of section 36 consent and marine licence applications and EIA Report, the Developer must provide a clear narrative of the uncertainty within the benthic ecology assessment in the EIA Report. This is in line with the JNCC advice found in appendix C of the NatureScot representation.
- 5.4.3 Section 8.7 of the Scoping Report sets out the potential impacts that are scoped in and scoped out of the benthic, subtidal and intertidal ecology assessment. The Scottish Ministers are broadly content with the impacts proposed to be scoped in and out; however, advise that impacts to benthic invertebrates due to thermal emissions from subsea electrical cables are considered in the EIA Report. This is supported by the SFF.
- 5.4.4 The Scottish Ministers are broadly content with the approach to assessment for benthic ecology; however, note Section 4.3.5 of the Scoping Report which states that negligible magnitude impacts will not be considered within the EIA Report and receptors of negligible sensitivity will not be considered further. The Scottish Ministers advise, in line with the NatureScot representation, that all impacts, regardless of sensitivity of magnitude, should be included in the EIA Report, to demonstrate that those impacts have been fully assessed and to show how the conclusions have been reached.
- 5.4.5 The Scottish Ministers have no comment to make on the use of sediment eDNA but highlight the NatureScot representation regarding collaboration on this subject.
- 5.4.6 The Scottish Ministers highlight the NatureScot representation in relation to a blue carbon assessment. The Scottish Ministers advise that consideration should be given to impacts on blue carbon as a result of the Proposed Development, as well as an expanded assessment for benthic ecology to focus on the potential impacts of marine sediments and coastal habitats.

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<sup>3</sup> [Pobie Bank Reef MPA | JNCC - Adviser to Government on Nature Conservation](#)

- 5.4.7 Regarding cumulative impacts, the Scottish Ministers note that only temporary increase in suspended sediment concentration and sediment deposition is scoped into the cumulative assessment. The Scottish Ministers advise that the cumulative assessment should include all impacts that may arise from the Proposed Development, including any impacts that could be identified as minimal but may have impacts when considered cumulatively. The Scottish Ministers advise that if micro siting through the Pobie Bank Reef SAC is considered, then the JNCC representation, appended to the NatureScot representation, regarding cumulative impacts to the Pobie Bank Reef SAC must be considered in full. The Scottish Ministers also advise, in line with the NatureScot that Electromagnetic Field (“EMF”) impacts should be assessed on a cumulative basis for benthic subtidal and intertidal ecology and refer the Developer to the NatureScot representation for further details.
- 5.4.8 With regards to transboundary impacts, the Scottish Ministers agree that these can be scoped out from further assessment in the EIA Report.
- 5.4.9 Regarding the HRA Screening Report for Annex I habitat features, the Scottish Ministers advise that, in line with the NatureScot representation, the Vadills SAC, and Hascosay SAC can be screened out of further assessment as there is no connectivity to the Proposed Development and no direct impact pathway.
- 5.4.10 The Scottish Ministers, however, draw the Developer’s attention to the JNCC advice in appendix C of the NatureScot representation on the Pobie Bank Reef SAC for the Annex I Habitat “Reefs” and request that this advice is fully considered in the RIAA.

## **5.5 Fish and Shellfish Ecology**

- 5.5.1 The study area noted in Section 9.2 of the Scoping Opinion is defined at three spatial scales. The Scottish Ministers are content with what is proposed, however, highlight that the study areas may need to be revised if modelling reveals a larger area of impact. This is supported by the NatureScot representation.
- 5.5.2 The Scottish Ministers are content with the proposed data sources and guidance notes referenced in Section 9.3 of the Scoping Report. The NatureScot representation provides additional publications and data sources omitted from this chapter. The Scottish Ministers advise the Developer to consider these additional sources as part of its EIA Report.
- 5.5.3 The Scottish Ministers are content that all the receptors related to fish ecology have been correctly identified within the Scoping Report. However, regarding designated sites, the Scottish Ministers note Section 9.5.5 of the Scoping Report which states that no sites designated for fish and shellfish features are present

in the fish and shellfish study area. In line with the NatureScot representation, the Scottish Ministers highlight the Mousa to Boddam Nature Conservation Marine Protected Area (“MPA”) which is located approximately 18 km south of the ECC search area. This is within the 60 km zone of influence for underwater noise impacts; therefore, consideration should be given to the sandeel qualifying feature for this site.

- 5.5.4 The Scottish Ministers are broadly content with the impacts scoped in and out of the assessment for fish and shellfish ecology; however, note in Table 9.6 of the Scoping Report that underwater noise as a result of operational turbines has been scoped out. The Scottish Ministers advise that underwater noise should be scoped in during the operational phase, as advised in the NatureScot representation.
- 5.5.5 The Scottish Ministers, in line with the representation made by SFF, also advise that the potential impact of the accidental release of pollutants on fish and shellfish ecology be scoped in to the EIA.
- 5.5.6 Regarding cumulative impacts, the Scottish Ministers are content with increased suspended sediment concentrations and underwater noise being considered for cumulative impacts. However, the Scottish Ministers note that EMF effects arising from cables during the operational phase have been scoped into the assessment for fish and shellfish ecology. The Scottish Ministers agree with this approach. In line with the NatureScot representation, the Scottish Ministers also advise that EMF impacts are considered in the cumulative assessment.
- 5.5.7 The Scottish Ministers are broadly content with the approach to assessment for fish and shellfish ecology but highlight the NatureScot representation regarding site-specific surveys, underwater noise modelling, and changes in prey availability which should be considered in full within the EIA Report.
- 5.5.8 Section 9.6 of the Scoping Report identifies the proposed embedded mitigation measures to reduce the potential environmental effects on fish and shellfish ecology. The Scottish Ministers, in line with the NatureScot representation, advise that the EIA Report must clearly articulate those mitigation measures that are informed by the EIA and are necessary to avoid or reduce predicted significant adverse environmental effects of the Proposed Development. In line with Section 2.4.8 of this Scoping Opinion, a full range of mitigation and monitoring measures, and published guidance, should be considered and discussed within the EIA Report.
- 5.5.9 The Scottish Ministers advise that any mitigation for marine mammals should also be applied to basking sharks.

- 5.5.10 The Scottish Ministers note that some commercially important fish species spawning and nursery ground overlap with the Proposed Developments ECC and the Array Areas. Therefore, the Scottish Ministers, in line with the SFF representation, advise the Developer to undertake any anticipated survey activities or other seabed disturbances outwith spawning and nursery periods to avoid juvenile fish mortality.
- 5.5.11 Additionally, with regards to spawning grounds, Section 9.5.3.1 of the Scoping Report notes that herring do not immediately interact with the Array Areas or the ECC. The Scottish Ministers, in line with the SFF representation, request clarification on this statement in the EIA Report.
- 5.5.12 The Scottish Ministers agree with the Developer that transboundary impacts can be scoped out from further consideration in the EIA Report.
- 5.5.13 With regards to the HRA Screening Report, based on the evidence currently available, it is not possible to carry out an assessment of diadromous fish to the level required under HRA. The Scottish Ministers therefore advise that diadromous fish species should be assessed through EIA only and not through HRA. This is in line with the NatureScot representation.

## **5.6 Marine Mammals**

- 5.6.1 The Scottish Ministers are largely content with the study area noted in Section 10.2 of the Scoping Opinion, and the Developer's approach using a regional scale study area encompassing Management Units ("MUs") for each species and a local study area based on the Digital Area Survey ("DAS"). However, the Scottish Ministers, in line with the NatureScot representation, advise that full MUs for species should be stated for context, but because these tend to be very large areas, an assessment of impacts should be made against the UK portion of the Inter-Agency Marine Mammal Working Group MUs.
- 5.6.2 The NatureScot representation provides additional publications and data sources omitted from this chapter. The Scottish Ministers advise the Developer to consider these additional sources as part of its EIA Report.
- 5.6.3 The Scottish Ministers note that SCANS IV does not cover every species in terms of density estimates for assessment. As such, in the absence of SCANS IV data, the Scottish Ministers advise the Developer to use SCANS III, unless DAS were to yield a higher estimate. The Scottish Ministers advise that the most precautionary density estimates should be used from the listed data sources for every marine mammal species possible. This is supported by the NatureScot representation.



5.6.4 The Scottish Ministers advise in addition to the species already included for assessment the following species should also be included for assessment:

- Bottlenose dolphin, *Tursiops truncatus*;
- Fin whale, *Balaenoptera physalus*;
- Long-finned pilot whale, *Globicephala melas*; and,
- Short-beaked common dolphin, *Delphinus delphis*.

Any other marine mammals identified within two full years of DAS data should also be screened in to the EIA. Where possible these should be assessed quantitatively otherwise, they may be assessed qualitatively. This is supported by the NatureScot representation.

5.6.5 The Scottish Ministers, in line with the NatureScot representation, do not support the assignment of sensitivity scoring to noise related impacts as negligible or low for marine mammals. The assessment of the magnitude of the effects is also disputed. The Scottish Ministers refer the Developer to the NatureScot representation for guidance as to how these assessments should be conducted.

5.6.6 The Scottish Ministers, in line with the NatureScot representation, are content with the Developer's approach to cumulative impacts. In addition to the proposed approach, the Scottish Ministers advise that the Developer utilises the Cumulative Effects Framework if it is available within the project timeframe. The Scottish Ministers remind the Developer to use the most up to date models available for the assessment. In particular, the iPCoD model should be used in the assessment as it relates to harbour porpoises and in the instance of the Cumulative Effects Framework not being available within the project timeframe

5.6.7 The Scottish Ministers, in line with NatureScot representation, also advise that consideration should be given to cumulative assessment regarding potential impacts from vessel collision, alongside the proposed assessment for underwater noise.

5.6.8 The Scottish Ministers note the potential for transboundary impacts discussed by the Developer in Section 10.9 of the Scoping Report. In line with the NatureScot representation Scottish Ministers are content with the Developer's proposed assessment of transboundary impacts as relates to marine mammals.

5.6.9 Section 8.6 of the Scoping Report identifies the proposed embedded mitigation measures to reduce the potential impacts on marine mammals. The Scottish Ministers, in line with the NatureScot representation, advise that the EIA Report must clearly articulate those mitigation measures that are informed by the EIA and are necessary to avoid or reduce predicted significant adverse environmental effects of the Proposed Development. In line with Section 2.4.8 of this Scoping Opinion, a full range of mitigation and monitoring measures, and

published guidance, should be considered and discussed within the EIA Report. The Scottish Ministers also refer the Developer to the NatureScot representation which signposts data sources, guidelines and good practice measures which may be used to inform additional mitigation.

- 5.6.10 With regards to the HRA Screening Report, the Scottish Ministers advise that the Southern North Sea SAC can be screened out of the RIAA due to the distance between the Proposed Development and the site precluding any impact on features within the site or the conservation objectives of the site. Similarly, the Moray Firth SAC can be screened out of the RIAA as it is unlikely that there would be connectivity with the bottlenose dolphin qualifying feature of the site. The Yell Sound Coast SAC and Mousa SACs are currently screened in to the RIAA by the Developer due to the likely significant impact on the harbour seal qualifying interest. NO SACs are screened in for grey seals. The Scottish Ministers are content with this position but advise that the Yell SAC should also be screened in for the otter qualifying interest and refer to the NatureScot and SIC representations for further detail.

## **5.7 Offshore Ornithology**

- 5.7.1 The Scottish Ministers are content with the study area as it refers to the Array Areas but consider the current ECC area too large to provide meaningful advice. The Scottish Ministers acknowledge that the ECC will be refined as the Proposed Development progresses through the EIA process and advise the Developer to continue with its engagement with NatureScot, particularly once the boundaries of the ECC and any buffer area have been determined.
- 5.7.2 With regards to the baseline characterisation, the Scottish Ministers largely agree with the data sources proposed by the Developer in Section 11.3 of the Scoping Report but note the additional data sources suggested in the NatureScot representation and advise the Developer to utilise such sources if they are available at the time the EIA is carried out.
- 5.7.3 The Scottish Ministers highlight the NatureScot and RSPB Scotland representations regarding the availability of DAS data. The recommendations provided within these representations should be considered in full within the EIA Report. The Scottish Ministers, drawing on the NatureScot and RSPB Scotland representations emphasise the importance of inclusion of all species unless information is available to justify scoping out. The Scottish Ministers advise the Developer to continue with its engagement with NatureScot and RSPB Scotland to accurately characterise the baseline conditions. Additionally, the Scottish Ministers advise the Developer to continue with its engagement with NatureScot and RSPB Scotland on the consideration of nocturnally active and crepuscular active seabirds.

- 5.7.4 The Scottish Ministers are content with the impact pathways scoped in and scoped out of the EIA Report as detailed in Section 11.7 of the Scoping Report and advise barrier effect and displacement do not need to be considered individually, in line with the NatureScot representation. In line with the RSPB Scotland and NatureScot representations, the Scottish Ministers are in agreement with the application of the precautionary principle particularly given the levels of uncertainty around potential impacts on these receptors.
- 5.7.5 The Scottish Ministers are content with the approach to assessment but note queries in the NatureScot representation around the long list of protected sites are raised and refer to the representation for further detail. raised concerns regarding the long list of designated sites presented in Section 11.5.3 of the Scoping Report. NatureScot supported the reported approach to this assessment but then noted that the list presented was not complete based on the stated method. The Scottish Ministers are in agreement with the position of NatureScot on this matter and refer the Developer to the representation for details as to how this may be approved upon.
- 5.7.6 The Developer considers the potential cumulative impacts of the Proposed Development in Section 11.8 of the Scoping Report. The Developer states its intention to scope out distributional responses during the construction and decommissioning phases of the Proposed Development as the likelihood of cumulative impact is considered to be small. In line with the NatureScot representation, the Scottish Ministers disagree with this position. As there are elements of the design that are yet to be determined, such as the ports and harbours to be utilised, at this stage it is not possible to scope out cumulative impacts during construction and decommissioning, and it should therefore be scoped in. The interaction of the Proposed Development with other developments and the timelines of construction and decommissioning will all have a bearing on potential cumulative impacts. If the Cumulative Effects Framework (“CEF”) is published within the project timeframe, then it should be used to undertake the cumulative assessment. If the CEF is not available, the Scottish Ministers advise the Developer to liaise with NatureScot regarding the assessment of potential cumulative effects.
- 5.7.7 The Scottish Ministers are broadly content with the Developer’s approach to the assessment of impacts on offshore ornithological interests as described in Section 11.10 of the Scoping Report. However, the Scottish Ministers direct the Developer to the NatureScot and RSPB Scotland representations which make several recommendations regarding the presentation of methods, and the use of modelling tools and guidance, of which the most up to date versions should be used. The Scottish Ministers advise that the NatureScot and RSPB Scotland recommendations should be considered in full within the EIA Report.

- 5.7.8 The Developer considers potential cumulative impacts of the Proposed Development in Section 11.8 of the Scoping Report. The Developer states its intention to scope out distributional responses during the construction and decommissioning phases of the Proposed Development as the likelihood of cumulative impact is considered to be small. In line with the NatureScot representation, the Scottish Ministers disagree with this position as uncertainties exist at this time which prevent these impacts being scoped out. The Developer is directed to the NatureScot representation for further information on how this issue should be addressed.
- 5.7.9 The Scottish Ministers are aware that the Proposed Development has the potential to result in cumulative impacts in combination with the proposed Berwick Bank Offshore Wind Farm (“Berwick Bank”) development. At the point of this Scoping Opinion, the outcome of the Berwick Bank consenting application is unknown. As such, the Scottish Ministers advise the Developer to conduct a population viability analysis for any seabird species which may be impacted by the Proposed Development based both on the scenario of Berwick Bank being consented and it not being consented.
- 5.7.10 The Scottish Ministers advise that, contrary to the Scoping Report, transboundary impacts during the breeding season should be scoped in as the Proposed Development is within the foraging range of various species that fall outside Scottish Waters. For the non-breeding season, Scottish Ministers, are content with the Developers approach to transboundary impacts as related to offshore ornithology. The Developer is directed to the NatureScot representation for further detail.
- 5.7.11 Section 11.6 of the Scoping Report identifies the proposed embedded mitigation measures to reduce the potential environmental effects on offshore ornithology. The Scottish Ministers, in line with the NatureScot representation, advise that the EIA Report must clearly articulate those mitigation measures that are informed by the EIA and are necessary to avoid or reduce predicted significant adverse environmental effects of the Proposed Development. In line with Section 2.4.8 of this Scoping Opinion, a full range of mitigation and monitoring measures, and published guidance, should be considered and discussed within the EIA Report. The Developer is also advised to consider the additional mitigation measures suggested in Appendix F of the NatureScot representation.
- 5.7.12 With regards to the HRA Screening Report, the Scottish Ministers are not able to provide comment on the intention to screen out any features until 2 full years of DAS data is available. In addition to the requirement for further survey data, the Scottish Ministers highlight the NatureScot representation which makes several recommendations, including improvements to the presentation of consideration

of impact pathways, the requirement for more detail relating to in-combination effects, increased clarity on the assessment process for migratory birds and notes more detail as to how marine SPAs should be considered in the non-breeding season. The Scottish Ministers advise the Developer to consider these suggestions in full within the EIA Report.

## **5.8 Seascape, Landscape and Visual Impact Assessment (“SLVIA”)**

- 5.8.1 The Scottish Ministers highlight the NatureScot representation in that the Proposed Development does not raise issues of National Interest in relation to SLVIA or cumulative effects. Despite no issues of National Interest being raised, significant landscape or visual impacts cannot be ruled out.
- 5.8.2 In Table 12.2 of the Scoping Report the Developer provides a proposed list of representative viewpoints. The Scottish Ministers broadly agree with the proposed list but highlight the SIC representation that the Noup of Noss viewpoint is also considered, either from the trig point or the view point at Rumble Wick.
- 5.8.3 Section 12.4.3.3 of the Scoping Report identifies the gardens and designed landscapes of Belmont House and Gardie House. The Scoping Report notes that due to the lack of theoretical visibility of the Proposed Development, there would be no effects on these designated areas and have therefore been scoped out of further consideration for SLVIA interests. The Scottish Ministers are content with this approach but recommend, in line with the HES representation, that this information is checked for cultural heritage interests. The Developer is reminded that SLVIA and cultural heritage assessments are different disciplines and the conclusions of one assessment cannot be taken as a proxy for the other. Further guidance on this is provided in Section 5.12.1 of this Scoping Opinion.

## **5.9 Commercial Fisheries**

- 5.9.1 In addition to the data sources detailed in Section 13.3 of the Scoping Report, the Scottish Ministers, in line with the advice from MD-SEDD dated 16 July 2024 and the SFF, highlight the following additional data sources which should be used to inform the assessment of potential impacts to commercial fisheries from the Proposed Development:
- EMODNet data<sup>4</sup>;
  - Fish plotter data available from fishers, federations and associations; and,
  - Fisheries data from the period prior to the UK’s departure from the European Union.

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<sup>4</sup> [Home | European Marine Observation and Data Network \(EMODnet\) \(europa.eu\)](https://europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&code=sdg-14.4.2&plugin=1) – data source found under “vessel density”

MD-SEDD also noted in its advice dated 16 July 2024 the reference to the Scotmap data from 2014 within the Scoping Report and has advised that this may be used to validate data from other sources but should not be relied upon in its own right to provide a baseline as it is outdated.

- 5.9.2 The Scottish Ministers advise, in line with the SFF representation, the Developer to consider one additional ICES rectangle, 50F0, in the assessment. The Scottish Ministers consider that the inclusion of this additional area and the full use of the data sources described above will enable the Developer to provide an adequate assessment of the baseline conditions and to fully consider the potential impacts of the Proposed Development on commercial fisheries receptors going forward.
- 5.9.3 The Scottish Ministers, in line with the SFF and SIC representations, acknowledge the importance the fishing industry has to the Shetland economy. As such, the Scottish Ministers advise the Developer to engage with fisheries organisations to add context to the data available and to have regard to the potential impacts on the industry.
- 5.9.4 The Scottish Ministers note the overlap of the Proposed Development footprint with fishing grounds for multiple fleets, in particular the demersal and pelagic fleets. The Scottish Ministers advise, in line with the MD-SEDD advice dated 16 July 2024, the Developer to consider this within a fisheries displacement assessment undertaken as part of the EIA process.
- 5.9.5 The Developer details a range of mitigation measures in Section 13.5 of the Scoping Opinion. The Scottish Ministers are content with the mitigation measures listed by the Developer, especially the production of a Fisheries Management and Mitigation Strategy (“FMMS”). The Scottish Ministers, in line with the SFF representation, recommend engagement with fishing industry representatives in the formulation of the FMMS.
- 5.9.6 The Scottish Ministers, in line with the MD-SEDD advice dated 16 July 2024, advise that the cumulative impacts assessment should consider any nearby MPA and other areas with restricted fishing activity as potential projects that could cause cumulative effects for commercial fisheries.

## **5.10 Aviation and Radar**

- 5.10.1 The Scottish Ministers are content with the study area proposed in Section 14.2 of the Scoping Report. Additionally, the Scottish Ministers are content with the data sources identified, and the characterisation of the baseline conditions noted within the Scoping Report.

- 5.10.2 The Scottish Ministers are content with the Developer’s list of aviation and radar receptors to be scoped in and scoped out of the EIA Report. With regards to scoping in military low-flying, practice, and exercise areas the Scottish Ministers note that the Proposed Development has the potential to create physical obstructions to low flying military aircraft. To mitigate any potential impact the Scottish Ministers, advise, the Developer to continue to refine the project envelope, and where possible, provide commencement dates for construction, maximum turbine heights, and the longitude and latitude of each turbine within the EIA Report. This is to allow accurate charting of the Proposed Development for safety reasons. The Scottish Ministers also highlight the MOD representation with regard to the safety lighting that is to be fitted to the WTGs. The Scottish Ministers advise that these mitigation measures should be detailed in the EIA Report.
- 5.10.3 The Scottish Ministers highlight the MOD representation that notes turbines within the Array Areas would be visible to the RRH Saxa Vord air defence radar. The Scottish Ministers advise the Developer to engage with the MOD on this topic to propose suitable technical mitigation against this issue. The Scottish Ministers expect to see an assessment of this situation and details of proposed mitigation within the EIA Report.

## **5.11 Shipping and Navigation**

- 5.11.1 The Scottish Ministers are broadly content with the study area noted in Section 15.2 of the Scoping Report but note that the study area for the ECC has not yet been defined. As a result, the Developer intends that once the ECC area is determined, this, plus a 2 nautical miles (“nm”) buffer zone around it, will be considered within a Navigational Risk Assessment (“NRA”).
- 5.11.2 In addition to the data sources detailed in Section 15.9 of the Scoping Report, the Scottish Ministers, in line with the representations from UKCoS, the MCA and the RYA highlight the following additional data sources that should be used to inform the assessment of potential impacts to shipping and navigation from the Proposed Development:
- 12 months Automatic Identification System (“AIS”) only data to detect any seasonal variation of any other unusual traffic which may not be included in the 2 x 14 day surveys;
  - The Scotland Marine Plan<sup>5</sup> and Sectoral Marine Plan for Offshore Wind Energy<sup>6</sup> with particular reference to lifeline ferry services;
  - NASH Maritime Report for ORE Catapult;
  - The UK Coastal Atlas of Recreational Boating;

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<sup>5</sup> <https://www.gov.scot/publications/scotlands-national-marine-plan/documents/>

<sup>6</sup> <https://www.gov.scot/publications/sectoral-marine-plan-offshore-wind-energy/documents/>

- The Orkney and Shetland volume of the Clyde Cruising Club, *Sailing Directions and Anchorages* (2020); and,
- PIANC and Nautical Institute guidance.

- 5.11.3 The Scottish Ministers are content with the Developer's characterisation of the baseline conditions and acknowledge this will be developed further in the NRA. The Scottish Ministers are content with the Developer's commitment to carrying out an NRA and note that this should be conducted in accordance with Marine Guidance Note ("MGN") 654 (and MGN 372 Amendment 1), as published by the MCA, and with the MCA's 'Methodology for Assessing Marine Navigation Safety and Emergency Response Risks of Offshore Energy Installations' ("OREI"). The NRA should be accompanied by a detailed MGN 654 checklist<sup>7</sup>.
- 5.11.4 The Scottish Ministers, in line with the MCA representation, advise that attention must be paid to traffic routing in the area to prevent vessels having to make large scale deviations to achieve safe passage. The altered passage of vessels must be considered in the NRA and in particular the relocation of vessel traffic into deeper water where there is greater risk from adverse weather conditions. Additionally, the Scottish Ministers advise the Developer to consider the re-routing of vessels transiting to and from the Sullom Voe Terminal. This is supported by SIC.
- 5.11.5 In Table 15.2 of the Scoping Report the Developer summarises the shipping and navigation impacts to be scoped in for further assessment within the EIA Report. The Scottish Ministers agree with the impacts scoped in; however, highlight the MCA representation which advises that consideration should be given to the risk of allision during the construction and decommissioning phases. Additionally, the Scottish Ministers, in line with the NLB representation, advise that the additional risks posed by a wreck, either a turbine or a vessel, may have on navigation should be scoped in for further assessment in the EIA Report. Finally, the Scottish Ministers advise that the risks to shipping and navigation posed by loss of station during the construction and decommissioning phases should be scoped in. This is supported by the SFF.
- 5.11.6 The Developer considers mitigation measures on shipping and navigation in Section 15.5 of the Scoping Report. The Scottish Ministers acknowledge the measures specified but understand that additional measures may be required following the production of the NRA. The Scottish Ministers highlight the UKCoS representation in that stationing of emergency towing vessels in proximity to the Array Areas to prevent dangers presented by the potential loss of station of wind farm assets should be considered in the EIA Report.

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<sup>7</sup> <https://www.gov.uk/guidance/offshore-renewable-energy-installations-impact-on-shipping>



- 5.11.7 The Scottish Ministers encourage the Developer to continue to liaise with the MCA whilst the design of the Proposed Development is being refined. This follows from the MCA representation regarding matters such as turbine layout and cable routing, burial, and protection.
- 5.11.8 Section 15.7 of the Scoping Report notes the Developer's approach to assessing potential cumulative effects. The Scottish Ministers are content with the approach described; however, note that the Scoping Report does not detail the scale of the study for cumulative impacts. The Scottish Ministers advise the Developer to consider using a 50 nm buffer from the Array Areas. This is in line with the UKCoS representation.
- 5.11.9 The Scottish Ministers, in line with the SIC representation, advise that the cumulative impacts of the Proposed Development and other developments, such as the Saxavord Space Centre, should be assessed with reference to the Sullom Voe bound tanker traffic as there is a risk of this traffic being 'hemmed in' smaller channels.
- 5.11.10 The cumulative impacts of other wind farms in close proximity have the potential to impact shipping routing. The Scottish Ministers advise the Developer to consider such impacts to ensure established shipping routes can continue safely without unacceptable deviations. This is in line with the MCA representation.

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

- 5.12.1 Within Section 16.1 of the Scoping Report, the Developer notes the relevance of SLVIA to cultural heritage. The Scottish Ministers broadly agree with this conclusion; however, have concerns about how impacts on setting will be appropriately assessed. The reference to the usefulness of SLVIA information in considering setting impacts on cultural heritage assets could be misread as an indication that this topic will be addressed in the SLVIA, which would not be appropriate. Although the two disciplines share common elements, they require vastly different background knowledge and skill sets. As such, the Scottish Ministers advise that setting impacts should be assessed by a suitable and experienced historic environment consultant. This is in line with the HES representation. Furthermore, setting should be considered a direct impact, rather than an indirect impact, within the EIA Report.
- 5.12.2 The Scottish Ministers are content with the proposed study area for physical impacts on marine heritage; however, as a result of the omission of setting impacts within the Scoping Report, the study area proposed for cultural heritage is not adequate. The Scottish Ministers advise a study area for setting impacts should be identified and implemented using Zone of Theoretical Visibility ("ZTV") mapping.

- 5.12.3 The Scottish Ministers acknowledge that there are currently no known submerged prehistoric assets within the study area; however, would expect to see more information on assessing whether there are prehistoric marine landscapes that could potentially be at risk from the Proposed Development. The Scottish Ministers recommend this assessment be comprised of both desk-based assessments and also a sub-sea approach. This is in line with the SIC representation.
- 5.12.4 The Scottish Ministers broadly agree with the data sources provided in Table 16.1 of the Scoping Report which have been used to inform marine archaeology and cultural heritage; however, note that the list does not include the HES database of designated assets<sup>8</sup>. The Scottish Ministers advise that this information must be considered in the EIA Report. This is in line with the HES representation.
- 5.12.5 The Scottish Ministers, in line with the HES representation, highlight the following legislation, policy, and guidance notes which were omitted from the Scoping Report. These should be used to inform the consideration of cultural heritage interests in the EIA Report:
- The Ancient Monuments and Archaeological Areas Act 1979<sup>9</sup>;
  - The Protection of Military Remains Act 1986<sup>10</sup>;
  - Historic Environment Policy for Scotland (HEPS)<sup>11</sup>; and,
  - Managing Change in the Historic Environment: Setting<sup>12</sup>.
- 5.12.6 The Scottish Ministers are broadly content with the embedded mitigation measures outlined in Section 16.5 of the Scoping Report. The Scottish Ministers highlight the HES representation which considers additional mitigation comments which are relevant to cultural heritage interests and should be considered within the EIA Report.
- 5.12.7 Section 16.4.5 of the Scoping Report identifies two designated assets within the cable corridor study area; the wrecks of the Kennemerland and the Wrangels Palais which together form the Out Skerries Historic MPA. The Scottish Ministers would expect any potential impacts from the Proposed Development to these assets to be mitigated through design. This is in line with the HES representation.
- 5.12.8 The Scottish Ministers advise the Developer to use a ZTV at a scale suitable for identifying any monuments likely to be affected by the Proposed Development and to assess the likely impact of the turbines on setting. Due to the limited information currently available, the Scottish Ministers have not been able to

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<sup>8</sup> [Loch Eye enclosures on submerged shoreline \(SM3490\) \(historicenvironment.scot\)](https://historicenvironment.scot/loch-eye-enclosures-on-submerged-shoreline-sm3490)

<sup>9</sup> [Ancient Monuments and Archaeological Areas Act 1979 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/1979/24)

<sup>10</sup> [Protection of Military Remains Act 1986 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/1986/12)

<sup>11</sup> [Historic Environment Policy for Scotland | Historic Environment Scotland](https://historicenvironment.scot/historic-environment-policy-for-scotland)

<sup>12</sup> [Managing Change in the Historic Environment: Setting | HES | History](https://historicenvironment.scot/managing-change-in-the-historic-environment-setting-hes-history)

identify any specific scheduled monuments or listed buildings that should be included for assessment. Any assessment of such assets should consider key views towards the assets as well as views from them, including any visual relationship with the sea and maritime routeways.

### **5.13 Other Marine Users and Infrastructure**

- 5.13.1 Section 17.5 of the Scoping Report identifies several mitigation measures being considered by the Developer. A CaP is proposed which will confirm planned cable routing, burial, and cable protection. The information within the CaP has the potential to have significant impacts on other marine users and infrastructure; therefore, the Scottish Ministers advise the Developer to continue its engagement with the SIC and other relevant stakeholders it deems appropriate to manage such impacts.
- 5.13.2 The Scottish Ministers are content with the other marine users and infrastructure study area shown in Figure 17.1 of the Scoping Report; however, note that the study area has several existing interconnector power cables and subsea cables. The Scottish Ministers, in line with the SIC representation, advise the Developer to consider the location of these cables and sufficient mitigation measures, as impacts to connectivity and power supply to island communities can have major negative impacts on the health and wellbeing of residents and businesses.
- 5.13.3 Section 17.7 within the Scoping Report notes the potential for the Proposed Development to interact with other proposed projects or infrastructure which could cause cumulative impacts. The Scottish Ministers, in line with the MCA representation, advise that the proximity to other offshore wind farms will need to be fully considered in the EIA Report, with an appropriate assessment of the distances between OREI boundaries and shipping routes as per MGN 654.

### **5.14 Socioeconomics, Tourism and Recreation**

- 5.14.1 For the majority of potential impacts the study area identified by the Developer at this stage, Shetland, is satisfactory but will benefit from refinement as the proposal progresses and the design envelope narrows. Currently, the port location and supply chain hubs have not been identified, therefore the Scottish Ministers, in line with the advice from MD-SEDD dated 25 June 2024, recommend the inclusion of a short list of potential epicentres of impact. Prior to the identification of the specific communities that may be affected, the Scottish Ministers are content with the Developer's suggestion to undertake scenario planning for hypothetical area(s) of impact, however, where possible primary research should be carried out with stakeholders and communities. With regards to economic impacts, Scottish Ministers are content that these will be considered at the Scottish or UK level.

- 5.14.2 The Scottish Ministers consider the Developer's characterisation of baseline conditions which frames the socioeconomic statistics of Shetland within the context of Scotland as a whole to be acceptable.
- 5.14.3 The Scottish Ministers note that primary social research is the preferred data source for the assessment of socio-economic impacts. The Scottish Ministers refer the Developer to the MD-SEDD advice dated 25 June 2024 for advice on how this should be conducted.
- 5.14.4 The Scottish Ministers agree with the Developer's proposed approach to assessing socioeconomic impacts and with the receptors scoped in to the EIA Report. However, Scottish Ministers disagree with the Developer's decision to scope out socio-cultural impacts and therefore this topic should be scoped in to the EIA Report. The Scottish Ministers also refer the Developer to the MD-SEDD advice dated 25 June 2024 regarding data gathering and expect to see the outcome of primary research presented in the EIA Report.
- 5.14.5 The Scottish Ministers draw the Developer's attention to the SIC representation regarding potential impacts on the aquaculture industry in the vicinity of the site. SIC highlights the value and significance of this industry and states that full and proper consideration of impacts be delivered in the EIA Report. The Scottish Ministers are content with this position and advise that the EIA Report should take into account the economic, social, and community importance of this industry.

## **5.15 Climate Change and Greenhouse Gas**

- 5.15.1 The Scottish Ministers are broadly content with the Developer's approach in assessing climate change and greenhouse gases ("GHG") in Section 19 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 Developers, 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 the significant effects of the Proposed Development on climate. The Scottish Ministers therefore advise that the GHG Assessment should include the pre-construction, construction, operation, and decommissioning phases, as noted in Table 19.2 of the Scoping Report, 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 costs must be fully addressed by the Developer in the EIA Report.

- 5.15.2 The Scottish Ministers refer to Section 5.3.1 within this Scoping Opinion to highlight its advice that consideration should be given to impacts on blue carbon as a result of the Proposed Development, as well as an expanded assessment for benthic ecology to focus on the potential impacts of marine sediments and coastal habitats.

## **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 The Scottish Ministers note the need to carry out an assessment under the Conservation of Offshore Marine Habitats and Species Regulations 2017. This assessment must be coordinated with the EIA accordance with the EIA Regulations.
- 6.1.3 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 s.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 Proposed 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.

Ben Walker

5 September 2024

Authorised by the Scottish Ministers to sign in that behalf.

**Appendix I: Consultation Responses & Advice**

*Please refer to separate document provided alongside Scoping Opinion*



**Appendix II: Gap Analysis**

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