

Marine Directorate - Licensing Operations Team Scoping Opinion

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

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

and

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

Bellrock Wind Farm Development Area

08 August 2024

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1. Introduction

1.1 Background

- 1.1.1 On 22 March 2024, the Scottish Ministers received a scoping report (“the Scoping Report”) from Bellrock Offshore Wind Farm Limited (“the Developer”) as part of its request for a scoping opinion relating to the Bellrock Wind Farm Development Area (“the Proposed Development”). The Scottish Ministers considered the content of the Scoping Report as sufficient and in accordance with 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”), collectively referred to as “the EIA Regulations”.
- 1.1.2 This scoping opinion (“Scoping Opinion”) is adopted by the Scottish Ministers under the EIA Regulations 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 a marine licence under The Marine and Coastal Access Act 2009 (“the 2009 Act”).

- 1.1.5 In the event that the Developer does not submit application(s) for a s.36 consent under the 1989 Act and a marine licence under 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.
- 1.1.7 The Developer submitted a Habitats Regulations Appraisal (“HRA”) screening report (“HRA Screening Report”) alongside the Scoping Report on 22 March 2024 in relation to the Proposed Development. The Scottish Ministers response to the HRA Screening Report is contained within the relevant receptor chapters of this Scoping Opinion.

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 120 kilometres ("km") east of Stonehaven in the North Sea. 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 a marine licence granted by the Scottish Ministers under the 2009 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 there are a number of design parameters which are yet to be determined by the Developer. The technology in relation to the Wind Turbine Generator ("WTG") foundations will consist of floating substructures with fixed bottom substructures also being explored. The area of the Proposed Development in which the WTGs, inter-array cables, Station Keeping Systems ("SKS") and subsea cable hub(s) are located is termed the Array Area and is within the E1 ScotWind Plan Option. The Array Area is approximately 280 square kilometres.

2.2.3 The Proposed Development will have an installed capacity of approximately 1.2 Gigawatts ("GW"). The Proposed Development includes the construction and operation of offshore WTGs and all associated offshore infrastructure within the Array Area. The key components of the Proposed Development will be further refined once more detailed engineering studies have been undertaken but include:

- A maximum of 80 WTGs, all with floating foundations anchored to the seabed by either SKS or fixed bottom substructures.
- Each WTG will have an anticipated capacity range of 15 – 28 MW.
- Maximum rotor diameter of 330 metres ("m").
- Maximum blade tip height of 400m above Lowest Astronomical Tide ("LAT").
- Minimum blade tip clearance of 22m above the water line.

- Five floating WTG foundation options are being considered: semi-submersible, tension leg platform, barge, buoy and semi-spar.
- Three fixed bottom WTG foundation options are being considered: piled jacket structure, suction caisson jacket structure and cable supported monopile.
- Three mooring configurations are considered: catenary, semi taut, taut and tension mooring lines.
- Inter-array cable protection includes cable burial methods and external cable protection such as concrete mattresses and rock placement.
- A subsea cable hub(s) to consolidate multiple WTG inter-array cables into one hub before onward transition to an offshore substation. The number of subsea cables and their footprint will be defined by the Developer in the EIA Report.

2.2.4 The construction of the Proposed Development is anticipated to take up to four years, as detailed in Section 3.9.3 of the Scoping Report, with the operational lifetime of the Proposed Development to be 50 years, followed by a period of decommissioning or repowering. Repowering will be subject to the relevant consenting and licensing requirements at that time as is not covered by this Scoping Opinion.

2.3 Onshore Planning/ Transmission Works

2.3.1 The Scottish Ministers note that the Scoping Report only describes the wind farm development area components of the Proposed Development and that the Developer seeks to obtain separate Scoping Opinions from Aberdeenshire Council, for the associated onshore transmission infrastructure, and MD-LOT, for the associated offshore transmission works, at a later date. It is therefore essential that sufficient information concerning proposed offshore export cable works and onshore works is included in the EIA Report to understand the cumulative impacts of the Proposed Development. This will ensure that as much information as possible relating to the project as a 'whole' is presented.

2.4 The Scottish Ministers' Comments

Description of the Proposed Development

2.4.1 Section 3.2 of the Scoping Report states that Project Design Envelope will be further refined once more detailed engineering studies have been undertaken. Although an indicative design envelope has been provided in Tables 3.2 to 3.7 and 3.10 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 approach is set out in Sections 2.4.20 to 2.4.23 of the Scoping Opinion below.

- 2.4.2 Section 3.3.2 of the Scoping Report states that the final WTG design will be defined post consent. The Scottish Ministers advise that the EIA Report must include a full and detailed description of all WTG parameters considered within the design envelope.
- 2.4.3 Section 3.4 of the Scoping Report states that a number of substructure designs are currently being reviewed for the Proposed Development including floating and fixed bottom substructures. A design envelope has been provided in Tables 3.3 and 3.4 of the Scoping Report. The Scottish Ministers advise that the EIA Report must include a full and detailed description of all substructure designs considered within the design envelope.
- 2.4.4 Section 3.5 of the Scoping Report states different mooring and anchor solutions may be used across the Proposed Development and will be dependent on site characteristics such as ground conditions which will be determined during the design development. A design envelope has been provided in Tables 3.5 and 3.6 of the Scoping Report. The EIA Report must provide details of the anchor and mooring design options being considered within the design envelope. In section 3.8 of the Scoping Report the Developer outlines that scour protection may be used as required to mitigate scour around the foundations. For the avoidance of doubt, the use of scour protection must be assessed in the EIA Report including details on materials, quantities and location.
- 2.4.5 Section 3.7.1 of the Scoping Report outlines that both static and dynamic inter-array cables are under consideration for the Proposed Development. Dynamic inter-array cables with auxiliary cable items, such as buoyancy modules and bend stiffeners, are likely to be required to allow cables to be deployed in various configurations in the water column to help reduce fatigue and protect the cable. Section 3.7.2 also outlines that inter-array cables will either be buried below the seabed (the method of which is yet to be determined) or will utilise external cable protection such as rock placement and concrete mattresses once cabling becomes static on the seabed. The EIA Report must provide an estimate of the anticipated likelihood of suitable burial along cable routes and be clear on the range of burial depths that have been considered as part of the assessment. Clear narrative must be provided within the EIA Report to show how this has been estimated prior to the further geophysical and geotechnical surveys being undertaken. Where reliance is placed on a subsequent cable plan or cable burial risk assessment as mitigation, the EIA Report must 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. It is recommended that such plans are included alongside the EIA Report.

- 2.4.6 Any cable protection to be used to protect the inter-array cables must be assessed in the EIA Report including details on materials, quantities and location. In addition, any seabed levelling or removal of substances or objects from on or under the seabed, required for installation of inter-array cables will require consideration in the EIA Report and may 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, this should include supporting characterisation of the new or existing deposit sites.
- 2.4.7 Section 3.7.7 of the Scoping Report states that the Proposed Development will include the use of subsea cable hub(s) to consolidate multiple WTG inter-array cables into one hub before onward transition to an offshore substation. The Developer outlines that the number of subsea cable hub(s) and their footprints is subject to further engineering studies and will be defined in the EIA Report. The Scottish Ministers advise that the EIA Report must include a full and detailed description of all subsea cable hub(s) options being considered including the design, size and foundations.
- 2.4.8 Section 3.9.2 of the Scoping Report outlines that boulders may be present at the site of the Proposed Development. The EIA Report must provide the anticipated estimate of boulders to be cleared (including how much uncertainty may be associated with the figures presented). Clear narrative must be provided within the EIA Report to show how this has been estimated.
- 2.4.9 Section 3.9 of the Scoping Report provides an overview of the proposed development phases. There is brief mention of pre-construction surveys and site investigations including geophysical surveys and unexploded ordnance (“UXO”) surveys within Section 3.9.2. The Scottish Ministers advise that the EIA Report must describe and assess the environmental effects, including in-combination effects, of the range of surveys which may be required such as geophysical and geotechnical survey activities and UXO clearance. The EIA Report must also include 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 consistent performance of the preferred low order or deflagration method. The Scottish Ministers refer to the Joint

Statement – Marine environment: unexploded ordnance clearance¹ in this regard.

- 2.4.10 Section 3.9.4 of the Scoping Report details that operation and maintenance activities will be considered within the EIA Report. The Scottish Ministers advise that the EIA Report must provide a full description and consideration of the nature and scope of these 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 a marine licence issued for the Proposed Development, unless an exemption applies.
- 2.4.11 Section 3.9.5 of the Scoping Report confirms a decommissioning programme will be prepared and submitted to Scottish Ministers in line with the Energy Act 2004 and that further details will be provided in the EIA Report. The EIA Report must include an assessment of potentially significant effects during the decommissioning phase of the Proposed Development. 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.
- 2.4.12 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.
- 2.4.13 The Scottish Ministers were content to consult on the Scoping Report without coordinates included. However, the coordinates must be included alongside the EIA Report detailing the outline of the offshore turbine array.
- 2.4.14 The Scottish Ministers 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 potential impacts should be given consideration across key trophic levels, particularly in relation to the availability of prey species. Detailed advice on assessment of across trophic levels is provided in the receptor chapters in Section 5 of the Scoping Opinion.
- 2.4.15 A number of consultees have provided advice in relation to ‘wet storage’, including NatureScot which has identified it as a potentially significant impact

¹ <https://www.gov.uk/government/publications/marine-environment-unexploded-ordnance-clearance-joint-interim-position-statement>

pathway. The Scottish Ministers are considering their position on this topic and will advise of any updates.

- 2.4.16 Regulatory approvals will be required for licensable 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.
- 2.4.17 With regards to the HRA Screening Report, the Scottish Ministers highlight that the representations provided by consultees should be taken into account in the HRA Report to be submitted alongside the EIA Report. Detailed advice is provided in the receptor chapters in Section 5 of this Scoping Opinion.
- 2.4.18 The Sectoral Marine Plan for Offshore Wind ("the Plan") identified that for E1, where the Development is proposed, further regional-level survey and research work and assessment was required in order to identify and assess potential impacts. The Scottish Ministers acknowledge that the Developer is contributing to regional ornithological surveys to satisfy the requirements of the Plan. Development in this location may require the consideration / submission of a derogation package under the Habitats Regulations with identification of suitable compensation measures as well as evidence of meeting all the required tests. The Developer should continue to liaise with the Marine Directorate on this point going forward.
- 2.4.19 The Plan assessed a potential maximum realistic development for the E1 site of up to 3 GW of generating capacity. The Scottish Ministers note that the Developer is targeting a capacity of 1.2 GW for the Proposed Development (alongside the additional capacity proposed by other E1 site developers, totalling over 4 GW). The Scottish Ministers are undertaking a reassessment of the Plan, this may identify further impacts and mitigation given the increased capacity proposed at the E1 site in addition to the wider potential for increased cumulative impacts given the scale of lease option agreements awarded through the ScotWind leasing round. The outcome of this re-assessment and updated Plan will be relevant to decision making.

Design Envelope

- 2.4.20 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 4.4.1 of the Scoping Report.
- 2.4.21 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.
- 2.4.22 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.
- 2.4.23 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

- 2.4.24 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 3 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.

- 2.4.25 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 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 Vessel Management Plan, Fisheries Management and Mitigation Strategy, a Marine Pollution Contingency Plan and a Marine Mammal Mitigation Protocol. A Mitigation Register, as Appendix 3 to the Scoping Report, summarises the mitigation and monitoring commitments for each receptor. 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.

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 28 day consultation process, which commenced on 10 April 2024. Following consultation extensions, the last response was received on 06 June 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:

- **Aberdeen Airport**
- Bowdun Offshore Wind Farm
- **British Telecom (“BT”) (Radio Network Protection Team)**
- Campion Offshore Wind Farm
- Civil Aviation Authority
- Community Councils:
 - *Arbroath Community Council*
 - Berwick Upon Tweed Town Council
 - Boddam and District Community Council
 - Broughty Ferry Community Council
 - Buchan East Community Council
 - Burntisland Community Council
 - Carnoustie Community Council
 - Cruden Community Council
 - Dalgety Bay and Hillend Community Council
 - Deer Community Council
 - Fraserburgh Community Council
 - Invercairn Community Council
 - King Edward and Gamrie Community Council
 - Kingsbarns Community Council
 - Longside Community Council
 - Mintlaw Community Council
 - New Aberdour, Tyrie and Pennan Community Council
 - North Berwick Community Council
 - Peterhead Community Council
 - Prestonpans Community Council
 - Rathen, Memsie and Cortes Community Council
 - Rosehearty Community Council
 - Slains and Collieston Community Council
 - Strichen and District Community Council
 - Tranent & Elphinstone Community Council
- Communities Inshore Fisheries Alliance

- Crown Estate Scotland
- Cruising Association (“CA”)
- **Department of Agriculture and Rural Development of Northern Ireland (“DAERA”)**
- Dee District Salmon Fishery Board (“Dee DSFB”)
- Don DSFB
- *Edinburgh Airport*
- Esk DSFB
- Fisheries Management Scotland
- Forth DSFB
- *Forth Ports*
- **Historic Environment Scotland (“HES”)**
- **Inshore Fisheries Group- North & East Coast Regional**
- **Joint Radio Company (“JRC”)**
- Local Authorities:
 - *Aberdeen City Council*
 - Aberdeenshire Council
 - *Angus Council*
 - City of Edinburgh Council
 - *Dundee Council*
 - East Lothian Council
 - *Fife Council*
 - *Northumberland County Council*
 - *Scottish Borders Council*
- Marine Directorate – Compliance (Anstruther Fishery Office)
- Marine Directorate – Compliance (Eyemouth Fishery Office)
- Marine Directorate – Compliance (Fraserburgh Fishery Office)
- Marine Directorate – Compliance (Peterhead Fishery Office)
- Marine Planning & Policy
- Marine Safety Forum
- **Maritime and Coastguard Agency (“MCA”)**
- **Ministry of Defence (“MOD”) - Defence Infrastructure Organisation (“DIO”)**
- Montrose Port
- Morven Offshore Wind
- Muir Mhor Offshore Wind Farm
- **National Air Traffic Services (“NATS”)**
- National Trust for Scotland
- **Natural England**
- **Natural Resources Wales**
- **NatureScot**
- **North Coast Regional Inshore Fisheries Group**

- North Sea Renewables Grid (Cerulean Winds Ltd)
- **North Sea Transition Authority (“NSTA”)**
- **Northern Lighthouse Board (“NLB”)**
- Offshore Energies UK
- Ossian Offshore Wind Farm
- Port Authority – Fraserburgh Harbour Commissioners
- Port Authority – Peterhead
- Rosehearty Harbour Inshore Fisherman’s Association
- Royal National Lifeboat Institution
- *Royal Society for the Protection of Birds (“RSPB”) Scotland*
- **Royal Yachting Association (“RYA”)**
- **Scottish and Southern Electricity Networks (“SSEN”)**
- Scottish Canoe Association
- Scottish Creel Fishermen’s Federation
- *Scottish Environmental Protection Agency (“SEPA”)*
- **Scottish Fishermen’s Federation**
- Scottish Fishermen’s Organisation
- Scottish Government Planning
- Scottish Surfing Federation
- Scottish Water
- Scottish Wildlife Trust
- *Sports Scotland*
- Surfers Against Sewage
- Tay DSFB
- Transport Scotland Ports and Harbours
- Tweed DSFB
- **UK Chamber of Shipping**
- Visit Scotland
- Whale and Dolphin Conservation Society

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

4.2 Responses Received

4.2.1 From the list above a total of 30 responses were received. Advice was also provided by MD-SEDD 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 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 Geology, Oceanography and Physical Processes

5.2.1 The Scottish Ministers are content with the proposed study area described in Section 5.4.1.

5.2.2 The Scottish Ministers are also broadly content with the proposed data sources used to characterise the baseline in Section 5.4.2, however, highlight the MD-SEDD advice regarding 3D model use to characterise the water column structure including stratification and request that this must be fully addressed and implemented in the EIA Report.

5.2.3 Table 5.5 summarises the impacts to be scoped in and out of the assessment. The Scottish Ministers broadly agree with the impacts proposed to be scoped in. However, in line with advice from MD-SEDD, advise that water column stratification and mixing, and the potential influence on nutrient fluxes and primary production is also scoped in due to consistent seasonal stratification. The Scottish Ministers highlight the references provided by MD-SEDD on this topic and advise that they should be considered within the EIA Report.

5.2.4 The Scottish Ministers are content with the approach to the assessment set out in Section 5.7 of the Scoping Report.

5.2.5 The Scottish Ministers are content with the mitigation set out in Section 5.5.1 of the Scoping Report. In line with the representation from NatureScot, the Scottish Ministers advise that the full range of mitigation measures, published guidance, and monitoring requirements are discussed in the EIA Report.

5.2.6 Potential cumulative effects are summarised in Section 5.6.3 of the Scoping Report and the Scottish Ministers are content with this approach.

5.2.7 The Scottish Ministers are in agreement that transboundary impacts can be scoped out of the EIA for Marine Geology, Oceanography and Physical Processes, as discussed in Section 5.6.4 of the Scoping Report.

5.3 Benthic Ecology

- 5.3.1 The Scottish Ministers, in line with Nature Scot, are content with the proposed study area described in Section 6.4.1 and the approach that the buffer may be refined based on the distance of one tidal ellipse.
- 5.3.2 The Scottish Ministers are also broadly content with the proposed data sources used to characterise the baseline in Section 6.4.2, however, highlight the additional source referenced by NatureScot in its representation and request that this is considered in the EIA Report.
- 5.3.3 In line with the representation from NatureScot, the Scottish Ministers broadly agree with the impacts to be scoped in and out as summarised in Table 6.6 of the Scoping Report. The Scottish Ministers highlight the representation made by NatureScot regarding introduction of invasive non-native species from any source, not just marine traffic, and advise that this is fully considered across all phases within the EIA Report. Additionally, the Scottish Ministers highlight the representation made by SFF relating to impacts to benthic invertebrates due to thermal emissions from subsea electrical cables and advise that consideration is given to this in the EIA Report.
- 5.3.4 With regard to the approach to the assessment set out in Section 6.7, the Scottish Ministers are content.
- 5.3.5 The Scottish Ministers note that the Mitigation Register (Appendix 3) includes relevant plans and biosecurity measures. In line with the NatureScot representation, the Scottish Ministers advise that best practice measures should be considered within the EIA Report.
- 5.3.6 Section 6.6.3 of the Scoping Report considers potential cumulative impacts. In line with the NatureScot representation, the Scottish Ministers advise that the Cumulative Effects Assessment for benthic ecology should consider all impacts which may arise from the development and not be limited to the three impacts highlighted in paragraph 467 of the Scoping Report. Additionally, the Scottish Ministers advise that the impacts of electromagnetic field ("EMF") are also considered in the cumulative assessment in line with advice from NatureScot.
- 5.3.7 The Scottish Ministers are in agreement that transboundary impacts can be scoped out of the EIA for Benthic Ecology, as discussed in Section 6.6.4 of the Scoping Report.
- 5.3.8 The Scottish Ministers, in line with the NatureScot representation, agree with the conclusion of the HRA Screening Report that no sites with Annex 1 habitat features need to be taken forward to HRA assessment.

5.4 Fish and Shellfish Ecology

- 5.4.1 The Scottish Ministers are broadly content with the two proposed study areas described in Section 7.4.1, in line with the NatureScot representation, on the basis that the northern boundary of the ICES rectangles is beyond the maximum tidal excursion.
- 5.4.2 With regards to the baseline information described in Section 7.4.2 of the Scoping Report, the Scottish Ministers are broadly content with the proposed data sources proposed, but highlight the representation made by NatureScot regarding clarity relating to use of eDNA and aerial surveys. Additionally, the Scottish Ministers highlight the additional data sources recommended by NatureScot and advise that these are included in the EIA Report.
- 5.4.3 The impact pathways proposed to be scoped in and out of the EIA are summarised in Table 7.8 of the Scoping Report. The Scottish Ministers are broadly content, subject to the following comments. NatureScot highlight that impacts from pre-construction works may also require consideration alongside construction phase impacts and the Scottish Ministers request that this is considered in the EIA Report. The Scottish Ministers highlight the comments made in the representation by NatureScot regarding fish aggregation around WTGs and other hard structures, and also comments regarding noise from the movement of mooring and anchoring cables and advise that these must be scoped in for assessment in the EIA Report. The Scottish Ministers also request that the comments from NatureScot on potential impacts during the decommissioning phase of the Proposed Development are fully considered by the Developer. Additionally, The Scottish Ministers highlight the representation made by NatureScot regarding changes in prey species availability and the requirement for clear linkages between assessments and advise that this is fully considered and implemented in the EIA Report. The Scottish Ministers also highlight the representation made by SFF regarding the scoping in of “accidental release of pollutants.”
- 5.4.4 The Scottish Ministers are broadly content on the approach to the assessment as detailed in Section 7.7, however advise the Developer to fully consider the comments from NatureScot regarding Priority Marine Features and Sensitivity. Additionally, the Scottish Ministers draw attention to the NatureScot representation regarding underwater noise modelling and request that this is fully implemented in the EIA Report.
- 5.4.5 The Scottish Ministers note that Section 7.5.4 of the Scoping Report covers ‘Embedded Mitigation Measures’ and are broadly content with the examples provided. However, the Scottish Ministers highlight the representation made by NatureScot regarding migratory fish and effects of underwater noise during

construction, operation and decommissioning and advise that this is implemented in the EIA Report.

- 5.4.6 Cumulative impacts are considered in Section 7.6.3 of the Scoping Report. The Scottish Ministers are broadly content with the proposed approach.
- 5.4.7 The Scottish Ministers advise that the impacts of EMF are also considered in the cumulative assessment in line with advice from NatureScot.
- 5.4.8 The Scottish Ministers are in agreement that transboundary impacts can be scoped out of the EIA for fish and shellfish, as discussed in Section 7.6.4.
- 5.4.9 With regards to designated site receptors, the Scottish Ministers agree with the NatureScot representation that all Special Areas of Conservation (“SACs”) designated for fish and shellfish species can be scoped out due to distance from the proposed development, as well as the Southern Trench nature conservation Marine Protected Area (“ncMPA”).
- 5.4.10 Additionally, in line with the advice within the NatureScot representation, the Scottish Ministers advise that migratory fish should currently be assessed only through the EIA process and not through the HRA process. However, the Developer should engage with the Scottish Ministers and NatureScot in regard to any change in how diadromous fish should be assessed through EIA and HRA as a result of ongoing research in this area.

5.5 Marine Mammals

- 5.5.1 The Scottish Ministers are content with the study areas as described in Section 8.4.1 of the Scoping Report and highlight the advice included in the representation from NatureScot regarding reference populations and Management Units which should be used in the EIA Report.
- 5.5.2 The Scottish Ministers are content with the data sources presented in Section 1.3 and Table 1.2 of Appendix 4 – Marine Mammals Existing Environment, however would like to highlight the additional data source as suggested within the NatureScot representation which should be included within the EIA.

With regard to the baseline information discussed in Section 8.4 of the Scoping Report, the Scottish Ministers draw attention to the advice provided by NatureScot in relation to where species are recorded in low numbers and their request that this is implemented by the Developer in the EIA Report. In addition, the Scottish Ministers would highlight NatureScot comments regarding reference populations and density estimates which should be fully implemented within the EIA Report.

- 5.5.3 In line with the representation from NatureScot, the Scottish Ministers generally agree with the impacts to be scoped in and out as detailed in Sections 8.6.1 and 8.6.2 in the Scoping Report, however, would agree with the NatureScot representation that potential impacts from pre-construction works may also require consideration alongside construction phase impacts. The Scottish Ministers draw attention to the representation from NatureScot on entanglement and indirect impacts from EMF on prey availability and request the Developer fully considers these comments and they are implemented in the EIA Report.
- 5.5.4 The Scottish Ministers are content with the approach to assessment as detailed in the Scoping Report and highlight the advice included in the representation from NatureScot with regards to sensitivity scoring. The Scottish Ministers request that this must be fully considered and implemented in the EIA Report.
- 5.5.5 In terms of mitigation and monitoring, the Scottish Ministers have reviewed Section 8.5.1 in the Scoping Report which presents embedded mitigation measures and advise the full range of mitigation measures and published guidance must be included in the EIA Report along with further information on proposed marine mammal monitoring. The Scottish Ministers advise that geophysical surveys (and appropriate mitigation) must be included in the EIA Report. This is in line with the NatureScot representation.
- 5.5.6 With regard to the approach to the cumulative assessment as described in Section 8.7.6 of the Scoping Report, the Scottish Ministers are broadly content. However, the Scottish Ministers draw attention to the NatureScot representation regarding use of Interim Population Consequences of Disturbance (“iPCoD”) and use of Natural Resource Wales guidance and request that this must be fully addressed in the EIA Report. Scottish Ministers recommend in order to assess cumulative impacts, the Developer uses the Cumulative Effects Framework when compiling the EIA Report.
- 5.5.7 The Scottish Ministers have reviewed Section 8.6.4 in the Scoping Report in regard to potential transboundary effects. The Developer has proposed to scope in transboundary effects for assessment in the EIA Report for marine mammal receptors. The Scottish Ministers disagree with this approach and, in line with the NatureScot representation, consider that, provided the assessment is carried out against the UK marine mammal MUs, transboundary effects can be scoped out for marine mammals at this stage.
- 5.5.8 In regard to the MPA Screening Report, the Scottish Ministers refer to the representation from NatureScot and are generally content with the proposed impacts to be scoped in and out for minke whale.

5.5.9 In regard to the HRA Screening Report, the Scottish Ministers refer to the representation from NatureScot regarding Moray Firth SAC; Berwickshire & North Northumberland Coast and Isle of May SAC; and Firth of Tay and Eden Estuary SAC and advise that these comments are fully addressed in the EIA Report. The Scottish Ministers also refer the Developer to the representation from Natural England who confirm that they do not expect to provide further comments or advice on marine mammal receptors unless the project changes substantially. The Developer should also note the standing advice provided by Natural England.

5.6 Offshore Ornithology

5.6.1 The Scottish Ministers have reviewed Section 9.4.1 of the Scoping Report regarding study areas of offshore ornithology and are broadly content with the defined approach as outlined and this view is supported by the NatureScot representation.

5.6.2 With regard to the data sources presented in Section 9.4.2 and Table 9.3 of the Scoping Report, the Scottish Ministers are broadly content with the information provided. The Scottish Ministers refer to the representation of NatureScot who have noted the data presented refers to the period between March 2022 and February 2023 inclusive. NatureScot have advised receipt of a full second year of a completed Digital Aerial Survey covering two full breeding and non-breeding season should provide a sufficient baseline, and further advice will be provided once the full baseline characterisation report is received. This should be submitted prior to application to ensure any issues, including those highlighted in the NatureScot representation, can be discussed and resolved in advance.

5.6.3 The Developer presents the impacts proposed to be scoped into the assessment in Section 9.6.1 and Table 9.5 of the Scoping Report, with a description of additional supporting analyses required to enable a full assessment of the impacts. The Scottish Ministers are generally content with the impacts proposed which is in agreement with Natural England, however agree with NatureScot that consideration must be taken regarding vessel movements having potential to impact various species, including those sensitive to disturbance. Additionally, in regard to nocturnal species, potential impacts from lighting should be considered; as well as impact on ornithological receptors due to "Wet Storage". These issues will require further discussion pre-application to agree on assessment and resolution requirements. The Scottish Ministers are broadly content with the impacts proposed to be scoped out as described in Section 9.6.2 of the Scoping Report.

5.6.4 The Scottish Ministers are broadly content in the proposed approach to the assessment and request that the NatureScot representation regarding correction

factors for guillemot and razorbill, apportioning, density estimates, collision risk modelling, population viability assessment and Highly Pathogenic Avian Influenza (“HPAI”) must be fully implemented in the EIA Report.

- 5.6.5 In regard to mitigation and monitoring, the Scottish Ministers are broadly content with the measures as provided in Section 9.5.1 and the Mitigation Register (appendix 3) of the Scoping Report. However, the Scottish Ministers agree with the NatureScot representation that the measures in the EIA Scoping Report are minimal given the early stage of the project. The full range of mitigation, monitoring and published guidance should be considered and included within the EIA Report.
- 5.6.6 The Scottish Ministers are largely content with the approach to the potential cumulative impacts, as outlined in Section 9.6.3 of the Scoping Report. The Scottish Ministers highlight the representation from NatureScot who agree that if the Cumulative Effects Framework is published within the project timeframe, then it should be used to undertake the cumulative assessment. Additionally, the comments on cumulative and in-combination effects within the representation from Natural England should be fully considered within the EIA Report.
- 5.6.7 The Scottish Ministers are in agreement with the representation from NatureScot that potential transboundary impacts described in Section 9.6.4 of the Scoping Report are limited and therefore recommend the Developer should engage further with NatureScot and MD-LOT on such impacts prior to finalisation of the EIA Report.
- 5.6.8 In regard to the HRA Screening Report, the Scottish Ministers are generally content, however wish to highlight a number of comments raised in the representation from NatureScot.
- 5.6.9 Regarding connectivity in the breeding season, NatureScot do not recommend screening out of any sites/features prior to the full two years survey work being available. They do support the statement that conclusions will be subject to review following the completion of the second year of the offshore ariel survey programme. The Developer is also directed to the comment regarding seabird assemblages and should ensure that this is reflected in the EIA Report.
- 5.6.10 Additionally, with regard to likely significant effects during all phases of the Proposed Development, potential effects of lighting on ornithological receptors, as well as disturbance from vessel movements should be considered as an impact pathway.
- 5.6.11 The Scottish Ministers highlight the representation from NatureScot recommending inclusion of identification of breeding seabird qualifying features

in Table 8.1, as was included in Table 7.2, and request that this be considered as part of the RIAA to aid consultees in their review.

- 5.6.12 For the avoidance of doubt, the Scottish Ministers do not expect the Developer to carry out two separate offshore ornithological assessments and expect that the NatureScot guidance is followed, although the Scottish Ministers highlight 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 and NatureScot should be acknowledged when compiling the EIA Report and RIAA.

5.7 Commercial Fisheries

- 5.7.1 The Scottish Ministers are broadly content with the proposed study area shown in Figure 10.4.1 of the Scoping Report.
- 5.7.2 The Scottish Ministers are also broadly content with the data sources used to characterise the baseline as detailed in Table 1.3. However, the Scottish Ministers highlight that AIS fishing vessel tracks over at least a five year period must be used in the EIA Report, as detailed in the advice on commercial fisheries from MD-SEDD. Additionally, the Scottish Ministers highlight the representation made by the SFF with regards to the use of pre-Brexit data to ensure a realistic baseline of fishing activity and the collection of fishing plotter data from fisheries organisations and specific data from smaller vessels and request that this is fully considered in the EIA Report.
- 5.7.3 Table 10.4 of the Scoping Report summarises the impacts proposed to be scoped in, whilst Table 10.5 summarises those proposed to be scoped out of the assessment in the EIA Report for commercial fisheries. The Scottish Ministers, whilst broadly in agreement with the impacts scoped in and out, draw attention to the MD-SEDD commercial fisheries advice and SFF representation regarding additional steaming time during all phases of the project being scoped in and advise that this must be scoped in for assessment in the EIA Report. Additionally, for the avoidance of doubt the Scottish Ministers advise that “physical presence of infrastructure and potential exposure of that infrastructure leading to gear snagging” must be scoped in for all phases of the Proposed Development. The Scottish Ministers also draw attention to the representation made by SFF regarding human casualties and gear snagging and request that this is fully considered in the EIA Report. In addition, the Scottish Ministers highlight the SFF representation relating to boulder clearance and the risk of vessel to structure collision for consideration.
- 5.7.4 In terms of mitigation, the Scottish Ministers highlight the representation from the SFF which includes comments on Fisheries Management and Mitigation

Strategy (“FMMS”) and Navigational Safety Plan (“NSP”) commitments included in Section 10.5.1 of the Scoping Report, as well as proposals on disruption payments, Offshore Fisheries Liaison Officer (“OFLO”) and mitigation measures once operational, which the Scottish Ministers recommend are considered.

- 5.7.5 The Scottish Ministers direct the Developer to the SFF representation regarding design aspects of the Proposed Development, including WTG foundations, inter-array cables, cable burial and protection and pre-construction works. The Scottish Ministers advise that these must be fully considered by the Developer when finalising the design parameters for the Proposed Development.
- 5.7.6 The Scottish Ministers are content with the cumulative impacts considered in Section 10.6.3.

5.8 Shipping and Navigation

- 5.8.1 The Scottish Ministers are broadly content with the study area identified in Section 11.4.1 of the Scoping Report.
- 5.8.2 With regards to the shipping and navigation baseline, in line with the representation from the MCA and UKCoS, the Scottish Ministers are content that that the two separate 14 day periods of Automatic Identification System (“AIS”) data set out in the Scoping Report meets the standard MGN 654. In addition, the Scottish Ministers are content that the traffic surveys will be supported by a 12-month AIS analysis in line with MCA and UKCoS representations. The Scottish Ministers advise that Marine Accident Investigation Branch data included in the EIA Report should cover a 20-year period to fully assess trends and historic incidents in line with UKCoS representation. Finally, the Scottish Ministers highlight the SFF representation relating to WTG spatial footprint for consideration.
- 5.8.3 Table 11.4 of the Scoping Report summarises the potential impacts on shipping and navigation proposed to be scoped in and out for each phase of the Proposed Development. The Scottish Ministers broadly agree with the impacts scoped into the EIA Report, however, advise that loss of station should be scoped into the EIA Report during construction and decommissioning phases, in line with the UKCoS and SFF representations. Additionally, the Scottish Ministers advise that if floating turbines are used, wet storage should be considered in terms of navigational risk in line with representations from MCA and UKCoS. For the avoidance of doubt, the Developer must ensure that each of the possible impacts on navigational issues, including routing and effects on shipping, outlined in the MCA representation are addressed within the EIA Report. The Scottish Ministers highlight the RYA representation around failure of Aids to Navigation marking the devices and delays around sharing of information which should be fully

addressed in the EIA Report. Finally, the Scottish Ministers, in line with NLB representation, request that consideration is given to the potential impact a wreck could have upon navigation.

- 5.8.4 With regards to approach to assessment, the Scottish Ministers confirm that, in line with the MCA representation, the Developer will be required to submit a Navigational Risk Assessment in accordance with MGN 654, accompanied by a detailed MGN 654 checklist. Hydrographic surveys should fulfil the requirements set out in Annex 4 of MGN 654. In addition, the MCA, NLB and UKCoS representations regarding the Design Specification and Layout Plan and Lighting and Marking Plan should be addressed by the Developer in the EIA Report. Finally, the Scottish Ministers direct the Developer to the representation from the UKCoS and advise that the additional documentation highlighted should be considered when assessing the impact on shipping and navigation from the Proposed Development.
- 5.8.5 The Scottish Ministers highlight the MCA representation regarding Search and Rescue (“SAR”), Emergency Response Co-operation Plans, levels of radar surveillance, AIS and shore-based VHF radio coverage. The Scottish Ministers advise that the MCA representation must be fully addressed within the EIA Report and that a SAR checklist must be completed by the Developer in consultation with the MCA.
- 5.8.6 With regards to cabling routes and cable burial, the Scottish Ministers advise that a Burial Protection Index should be completed and, subject to the traffic volumes, an anchor penetration study may be necessary. The Scottish Ministers advise that this should be fully addressed in the EIA Report and highlight the MCA advice on a maximum 5% reduction in surrounding depth referenced to Chart Datum if cable protection measures are required. Finally, the Scottish Ministers highlight the SFF representation relating to cable burial and protection for consideration.
- 5.8.7 In line with the representation from the MCA, the Developer should note that compliance with regulatory expectations for floating infrastructure, as stated in Appendix 3 Table 1.1, is required and Third-Party Verification of the mooring arrangements will also be required.
- 5.8.8 The Scottish Ministers highlight, in line with MCA representation, that the development area carries a moderate amount of traffic and several important commercial shipping routes to/from UK ports and the North Sea. This requires that careful attention is paid to routing, particularly in heavy weather, so that vessels can continue to make safe passage without large-scale deviations.
- 5.8.9 With regard to potential cumulative effects summarised in Section 7.2.8 of the Scoping Report, the Scottish Ministers are broadly content with the approach

proposed and highlight the MCA requirement for an appropriate assessment of the distances between the neighbouring offshore renewable project boundaries and shipping routes in line with MGN Standard 654 which must be addressed in the EIA Report. This view is supported by the NLB. The Scottish Ministers additionally note the representation from UKCoS which recommends a wider routing study area of 50 nautical miles when considering the cumulative impact assessment with regards to routing impacts in combination with other developments and advise that this is implemented within the EIA Report.

5.8.10 The Scoping Report states that the impact assessment for the Proposed Development, both in isolation and cumulatively, will consider vessel routing to and from international ports by international operators. Therefore, the Developers consider that the impacts proposed to be scoped in and out of assessment in the EIA Report may be relevant at a transboundary level. The Scottish Ministers are content with this approach.

5.9 Aviation and Radar

5.9.1 The Scottish Ministers are broadly content with the study area as defined in Section 12.4.1 of the Scoping Report and that the baseline data gathered for the assessment is appropriate.

5.9.2 In Table 12.3 of the Scoping Report the Developer summarises the potential impacts to Aviation, Military and Communications during the different phases of the Proposed Development. The Scottish Ministers largely agree with the impacts scoped in to and out of the EIA Report.

5.9.3 The Scottish Ministers highlight the representation from NATS which predicts that the Proposed Development is likely to generate false primary plots and also a reduction in the probability of Perwinnes RADAR to detect real aircraft. NATS has also advised that the Proposed Development will likely have unacceptable impacts to Prestwick Air Traffic Control ("ATC"), Military ATC and Aberdeen ATC. This view is supported in the representation from Aberdeen Airport with regard to aerodrome safety in the safeguarding area for Aberdeen in relation to construction and maintenance activities associated with the Proposed Development. The Scottish Ministers therefore recommend the Developer engage further with NATS on these points and advise that these impacts must be assessed, and appropriate mitigation proposed, in the EIA Report.

5.9.4 The Scottish Ministers highlight the representation from MOD DIO, which acknowledges the potential for the proposed development to impact the operation and capability of the Air Defence Radars at Remote Radio Head Buchan. The Scottish Ministers, in line with MOD DIO advice, therefore advise

that these impacts must be assessed, and appropriate mitigation proposed, in the EIA Report.

5.10 Marine Infrastructure and Other Users

- 5.10.1 The Scottish Ministers are broadly content with the study area as defined in Section 13.4.1 of the Scoping Report.
- 5.10.2 Baseline data sources are considered in Section 13.4.2. The Scottish Ministers consider the baseline data gathered for the assessment is appropriate.
- 5.10.3 Table 13.3 of the Scoping Report presents the impacts the Developer proposes to scope in to and out of the EIA Report during the different phases of the Proposed Development. The Scottish Ministers are broadly content with the impacts scoped in and out for assessment in the EIA Report.
- 5.10.4 The Scottish Ministers note the representation from SSEN Transmission which outlines nearby licensed and future subsea transmission infrastructure. The Scottish Ministers request that the Developer fully considers the SSEN Transmission representation and its nearby transmission infrastructure in the EIA Report.
- 5.10.5 The Scottish Ministers emphasise the importance of engaging with other marine users, including developers of ScotWind and INTOG projects, during all phases of the Proposed Development.
- 5.10.6 The Scottish Ministers agree with the approach to cumulative assessment and agree that transboundary effects can be scoped out of assessment in the EIA Report.

5.11 Marine Archaeology and Cultural Heritage

- 5.11.1 The Scottish Ministers are broadly content with the study area as defined in Section 14.4.1 of the Scoping Report and that the baseline data gathered for the assessment is appropriate. This view is supported by HES.
- 5.11.2 The Scottish Ministers are broadly content with the impact pathways scoped into the EIA as outlined in Table 14.3 of the Scoping Report, however in line with HES representation, request that the Developer considers assessing potential impacts out with the Proposed Development site boundary for the assessment of indirect physical impacts on marine archaeology. In addition, the Scottish Ministers highlight the advice from HES regarding the potential for adverse effects on marine archaeology and note that detailed assessment has not yet been undertaken to identify these effects and their significance.

- 5.11.3 The Scottish Ministers recommend that the Developer provides the Written Scheme of Investigation, Archaeological Desk Based Assessment and Protocol for Archaeological Discoveries to HES to ensure that the assessments and any mitigation measures proposed are appropriate.
- 5.11.4 The methodology, as outlined in Section 14.7, is acceptable to the Scottish Ministers which is in agreement with the HES representation.
- 5.11.5 The Scottish Ministers are content that the mitigation measures outlined in Section 14.5.1 of the Scoping Report are sufficient to manage and mitigate impacts on the marine historic environment, however note that these may change as an outcome of the above discussions still to take place.
- 5.11.6 The Scottish Ministers agree with the proposed approach to cumulative impact assessment and transboundary impacts.

5.12 Seascape, Landscape and Visual Impact

- 5.12.1 The Scottish Ministers agree with NatureScot's representation that the Seascape, Landscape and Visual Impacts for the offshore elements of the Proposed Development can be scoped out of the EIA Report.

5.13 Socioeconomics, Tourism and Recreation

- 5.13.1 The Scottish Ministers are broadly content with the study areas as detailed in Section 16.4.1 of the Scoping Report, however in line with MD-SEDD socioeconomics advice, advise that the assessment of socio-economic impacts would benefit from the inclusions of a short list of potential epicentres of impact. In addition, the MD-SEDD socioeconomics advice in relation to scenario mapping must be fully addressed in the EIA Report.
- 5.13.2 The Scottish Ministers advise that the most up to date data sources must be used for all analysis and direct the Developer to the MD-SEDD socioeconomics advice in this regard.
- 5.13.3 In line with the MD-SEDD socioeconomics 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 draw attention to Annex 1 of the MD-SEDD socioeconomics advice which may be of assistance when developing the SEIA.
- 5.13.4 In Table 16.5 of the Scoping Report the Developer summarises the potential impacts to Offshore Socio-Economics during the different phases of the

Proposed Development. The Scottish Ministers broadly agree with the impacts scoped in and out however, advise that socio-cultural impacts, tourism and recreation must be scoped in and fully assessed in the EIA Report. This is in line with the MD-SEDD socioeconomics advice.

- 5.13.5 In relation to social impacts, the Scottish Ministers advise that their current position is that the Developer should consider potential impacts on local communities as a result of the Proposed Development and outline how baseline data will be collected to assess impacts in the future. The Scottish Ministers are considering this position and, should this develop or change, the Developer will be notified.
- 5.13.6 In relation to economic impacts, the Scottish Ministers are broadly content with the proposed assessment approach as detailed in Section 16.7 of the Scoping Report, however, recommend that the Developer include additional analysis regarding potential job creation in comparison to existing jobs in the study area, as outlined in the MD-SEDD socioeconomics advice. In addition, the Scottish Ministers agree with the MD-SEDD socioeconomics advice that a detailed description of the methodology used to assess economic impacts must be included in the EIA, outlining the methodological approach taken and any key assumptions that underpin any estimates.

5.14 Climate Change

- 5.14.1 The Scottish Ministers are largely content with the Developer's approach in assessing Green House Gases ("GHG") and climate change effects within Section 17 of the Scoping Report, noting that the IEMA Environmental Impact Assessment Guide "Assessing Greenhouse Gas Emissions And Evaluating Their Significance" provides further insight on this matter. 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 highlight 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 NatureScot representation regarding climate change and carbon costs should be fully addressed by the Developer within the EIA Report.
- 5.14.2 The Scottish Ministers direct the Developer to the NatureScot representation in relation to 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 focusing on potential impacts on marine sediments.

5.15 Offshore Air Quality

- 5.15.1 The Scottish Ministers agree with the Developer's view that Offshore Air Quality for the offshore elements of the Proposed Development can be scoped out of the EIA Report.

5.16 Major Accidents and Disasters

- 5.16.1 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 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.
- 5.16.2 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.
- 5.16.3 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.

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 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 in 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

7.1 Background

- 7.1.1 The EIA Regulations contain provisions regulating the assessment of environmental impacts. A multi-stage consent 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 principle decision, assessment must be undertaken at the subsequent stage.
- 7.1.2 The definition in the 2017 EW Regulations is as follows: *“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 licence, 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 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 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.

Emma Lees

08 August 2024

Authorised by the Scottish Ministers to sign in that behalf.

Appendix I: Consultation Responses & Advice

Please refer to separate document provided alongside the Scoping Opinion

Appendix II: Gap Analysis

Please refer to separate document provided alongside the Scoping Opinion