

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

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

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

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

**and**

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

**Buchan Offshore Wind Farm**

**20 December 2023**

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## 1. Introduction

### 1.1 Background

- 1.1.1 On 20 September 2023, the Scottish Ministers received a Scoping Report (“the Scoping Report”) from Buchan Offshore Wind Limited (“the Developer”) as part of its request for a Scoping Opinion relating to Buchan Offshore Wind (“the Proposed Development”). The Scottish Ministers considered the content of the Scoping Report as sufficient and in accordance with regulation 14 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“2017 MW Regulations”), regulation 12 of The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“2017 EW Regulations”) and Schedule 4 of The Marine Works (Environmental Impact Assessment) Regulations 2007 (“2007 MW Regulations”), all collectively referred to as “the EIA Regulations”.
- 1.1.2 This Scoping Opinion is adopted by the Scottish Ministers under the EIA Regulations (“Scoping Opinion”) in response to the Developer’s request and should be read in conjunction with the Scoping Report. The matters contained in the Scoping Report have been carefully considered by the Scottish Ministers and use has been made of professional judgment, based on expert advice from stakeholders and Marine Directorate in-house expertise and experience. This Scoping Opinion identifies the scope of impacts to be addressed and the method of assessment to be used in the Environmental Impact Assessment Report (“EIA Report”) for the Proposed Development.
- 1.1.3 The Scottish Ministers, in adopting this Scoping Opinion, have, in accordance with the EIA Regulations, taken into account the information provided by the Developer, in particular, information in respect of the specific characteristics of the Proposed Development, including its location and technical capacity and its likely impact on the environment. In addition, the Scottish Ministers have taken into account the representations made to them in response to the scoping consultation they have undertaken.
- 1.1.4 In 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 application(s) for a s.36 consent under the 1989 Act and marine licences under the 2010 Act and the 2009 Act for the Proposed Development within 12 months of the date of this Scoping Opinion, the Scottish Ministers strongly recommend that the Developer seeks further advice from them regarding the validity of the Scoping Opinion.
- 1.1.6 The Scottish Ministers advise that as more than one set of environmental impact assessment regulations apply the most stringent requirements must be adhered to in terms of, for example, consultation timelines and public notice requirements.

## 2. The Proposed Development

### 2.1 Introduction

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

### 2.2 Description of the Proposed Development

2.2.1 The Proposed Development is comprised of an offshore generating station located approximately 75 kilometres ("km") north off the Aberdeenshire coast 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 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 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. The area of the Proposed Development in which the WTGs, inter-array cables, inter-connector cables and Offshore Substation Platforms ("OSPs") are located is termed the Array Area and is within the NE8 ScotWind Plan Option. The Array Area is approximately 330km<sup>2</sup>.

2.2.3 The Proposed Development will have an installed capacity of approximately 1GW. 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 but include:

- A maximum of 70 WTGs, all with floating foundations.
- Floating foundation WTGs with water depths ranging from 73 to 108 metres ("m"). The preferred type of floating foundation is a novel square ring-shaped hull, however floating semi-submersible, spar buoy and tension leg platform designs are also considered. Catenary mooring has been identified as the preferred mooring concept, however taut and semi-taut mooring options are also considered depending upon the WTG foundation design being progressed.
- A rotor diameter between 236 – 310m.
- Maximum blade tip height of 355m and hub height from 148 – 185m.

- Minimum blade tip clearance of 30m above mean sea level.
- The Proposed Development is considering up to three OSPs, with both High Voltage Alternating Current (“HVAC”) and High Voltage Direct Current (“HVDC”) transmission options under consideration. Foundation options under consideration include driven piles and a combination of driven piles and suction piles.
- The HVAC OSP topsides will be up to 40m x 25m x 20m in dimension. The dimensions of an Offshore HVDC substation will be up to 150 m long by 100 m wide and 50 m high. If HVDC transmission is selected, only one of the possible three offshore substations will be an HVDC station. The remaining two will be HVAC stations.
- One Intermediate Reactive Compensation (IRC) platform with topside dimensions of 40m x 25m x 20m. Foundation designs under consideration include a single monopile or a jacket consisting of up to four legs.
- Up to three export cables with a target burial depth of up to 2m or surface laid if in contact with the seabed, and secondary protection such as concrete mattresses, rock / grout bags and protective cable shells will be used where the cables cannot be buried.

2.2.4 Commencement of offshore construction for the Proposed Development is currently anticipated to begin in 2028. The overall duration of construction is anticipated to be between three to five years.

## **2.3 Onshore Planning**

2.3.1 The Scottish Ministers are aware the Developer has sought a separate Scoping Opinion from Aberdeenshire Council for the associated onshore transmission infrastructure. It is essential that the EIA Report concerning onshore works will be available at the time that the EIA Report for the Proposed Development is being considered so that all the information relating to the project as a ‘whole’ is presented. The EIA Report for the Proposed Development must consider the cumulative impacts with the onshore works.

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

### *Description of the Proposed Development*

2.4.1 Section 3.3 of the Scoping Report states that Project Design Envelope refinement has been informed by site surveys, design, engineering and feasibility studies as well as identifying mitigation options, but will be subject to further refinement throughout the EIA process. Although an indicative design envelope has been provided in Tables 3.2 to 3.7 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 2.4.17 to 2.4.20 of the Scoping Opinion below.

- 2.4.2 Section 3.6.1 of the Scoping Report states that the final WTG design will be selected post-application with the final number dependent on the capacity of individual WTGs as well as environmental and engineering studies. 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 3.6.1.2 of the Scoping Report states that a preferred design of the floating substructure has been identified for the Proposed Development, with maximum design parameters provided in Table 3.3 of the Scoping Report. The Scottish Ministers advise that the EIA Report must include a full and detailed description of the preferred design of the floating substructure along with any alternative designs considered within the design envelope.
- 2.4.4 Section 3.6.1.2 of the Scoping Report states that the type and number of anchors and moorings required will be dependent on the size of the floating substructures, metocean conditions and water depths. The EIA Report must provide details of the anchor and mooring design options being considered within the design envelope. In Section 3.6.3 of the Scoping Report the Developer has acknowledged that scour protection will 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. The EIA Report must also clearly describe the export cable area including the width, length, and location of each Export Cable Corridor (“ECC”).
- 2.4.5 Section 3.6.2 of the Scoping Report states that Proposed Development will include a maximum of three OSPs and one Intermediate Reactive Compensation (“IRC”) platform. The Scottish Ministers note that the OSP parameters are detailed within sections 3.6.2.1 and 3.6.2.2 and the IRC platform within section 3.6.2.5 of the Scoping Report and advise that the EIA Report must include a full and detailed description of all OSP and IRC platform options being considered including the design, size and foundations.
- 2.4.6 Section 3.6.1.3 of the Scoping Report states that dynamic inter-array cables with buoyancy modules are likely to be required in order to minimise hull motion induced stresses upon the cable and adopt a ‘lazy-s’ configuration in the water column. Section 3.6.1.3 also outlines that inter-array cables will either be buried below the seabed or surface laid and will utilise external cable protection such as rock placement and concrete mattresses, with maximum design parameters provided in Table 3.5 of the Scoping Report. Section 3.6.2.4 of the Scoping Report states that depending on the characteristics of the site, the burial technique of the offshore export cables includes trenching, ploughing, jetting and



mechanical cutting. The Scoping Report also outlines that, where burial depths cannot be achieved, export cables may be surface laid and will utilise external cable protection such as rock placement and concrete mattresses. 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.

- 2.4.7 Any cable protection to be used to protect the export and 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 either the export or 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.
- 2.4.8 Section 3.2.2 of the Scoping Report outlines an ECC Search Area, a Preferred ECC, and provisional Landfall Area. The EIA Report must clearly detail each landfall location and state the site-specific considerations for each option. The EIA Report must also outline the steps taken to mitigate any environmental impacts resulting from the cable landfall.
- 2.4.9 The Scoping Report within Table 11.3 identifies 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.
- 2.4.10 Section 3.7 of the Scoping Report provides an overview of the Proposed Development phases. There is brief mention of pre-construction surveys and site investigations including unexploded ordnance (“UXO”) surveys within Section 3.6. 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 SNCB/DEFRA/MS statement – Marine environment: unexploded ordnance clearance<sup>1</sup> in this regard, although highlight that this is currently being refreshed per the representation from NatureScot.

- 2.4.11 Section 3.7.3 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.
- 2.4.12 Section 3.7.4 of the Scoping Report confirms a decommissioning programme will be prepared and submitted to Scottish Ministers in line with section 105 of the Energy Act 2004. The EIA Report must include an assessment of potentially significant effects during the decommissioning phase of the Proposed 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.
- 2.4.13 The EIA Report should provide an estimate of expected residues and emissions, for example drill cuttings, where considered in the design envelope. Specific reference should be made to water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases where relevant. This information should be provided in a clear and consistent fashion and may be integrated into the relevant aspect assessments.
- 2.4.14 The Scottish Ministers were content to consult on the Scoping Opinion without coordinates included. However, the coordinates must be included alongside the EIA Report detailing the outline of the offshore turbine array.

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

- 2.4.15 Section 3.6.4 of the Scoping Report identifies the potential that ‘wet storage’ may be needed to facilitate construction of the Proposed Development. A number of consultees have provided advice in relation to ‘wet storage’, including NatureScot which has identified it as a potentially significant impact 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 The Scottish Ministers acknowledge that the Developer is currently undertaking a Habitats Regulations Appraisal (“HRA”) Report in accordance with HRA Regulations. The Scottish Ministers recommend that the Developer submits an HRA screening report at the earliest opportunity and before the submission of the EIA Report. The Scottish Ministers also advise that the Developer must identify how habitats of conservation value can be avoided through micro-siting of wind farm components, inclusive of all cabling, in the EIA Report as the effects on European site integrity cannot be ruled out.
- 2.4.18 The Proposed Development is in a location which 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 Marine Directorate on this point going forward.

### *Design Envelope*

- 2.4.19 The Scottish Ministers note the Developer’s intention to apply a ‘Design Envelope’ approach. Where the details of the Proposed Development cannot be defined precisely, the Developer will apply a worst case scenario, as set out in Section 3.3 of the Scoping Report.
- 2.4.20 The Scottish Ministers advise that the Developer must make every attempt to narrow the range of options. Where flexibility in the design envelope is required, this must be defined within the EIA Report and the reasons for requiring such

flexibility clearly stated. At the time of application, the parameters of the Proposed Development should not be so wide-ranging as to represent effectively different projects. To address any uncertainty, the EIA Report must consider the potential impacts associated with each of the different scenarios. The criteria for selecting the worst case and the most likely scenario, together with the potential impacts arising from these, must also be described. The parameters of the Proposed Development must be clearly and consistently defined in the application for the s.36 consent and marine licences and the accompanying EIA Report.

- 2.4.21 The Scottish Ministers will determine the applications based on the worst case scenario. The EIA will reduce the degree of design flexibility required and the detail may be further refined in a Construction Method Statement (“CMS”) to be submitted to the Scottish Ministers, for their approval, before works commence. Please note however, the information provided in Section 7 below regarding multi-stage consent and regulatory approval. The CMS will ‘freeze’ the design of the project and will be reviewed by the Scottish Ministers to ensure that the worst case scenario described in the EIA Report is not exceeded.
- 2.4.22 It is a matter for the Developer, in preparing the EIA Report, to consider whether it is possible to robustly assess a range of impacts resulting from a large number of undecided parameters. If the Proposed Development or any associated activities materially change prior to the submission of the EIA Report, the Developer may wish to consider requesting a new Scoping Opinion.

### *Alternatives*

- 2.4.23 The EIA Regulations require that the EIA Report include ‘a description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the Developer, which are relevant to the proposed works and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects’. The Scottish Ministers acknowledge Section 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.
- 2.4.24 For the avoidance of doubt, the Scottish Ministers advise that the EIA Report must include an up to date consideration of the reasonable alternatives studied as the parameters of the Proposed Development have been refined. This includes but is not limited to the identification of the potential wind turbine layouts

within the array area, the parameters of the export cables, the cable corridor options and the landfall location or locations. The Scottish Ministers expect this to comprise a discrete section in the EIA Report that provides details of the reasonable alternatives studied across all aspects of the Proposed Development and the reasoning for the selection of the chosen option(s), including a comparison of the environmental effects.

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

#### **3.1 Introduction**

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

#### **3.2 EIA Scope**

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

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

- 3.3.1 The Developer has committed to several mitigation plans, including but not limited to a Fisheries Management and Mitigation Strategy, a Marine Pollution Contingency Plan, and a Marine Mammal Mitigation Protocol. 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 The Scottish Ministers note that risks of major accidents and/or disasters has been scoped out, however, it is advised that this is scoped into the EIA Report. 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.
- 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 04 October 2023. 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 City Council*
- **Aberdeen International Airport**
- **Aberdeenshire Council**
- Boddam and District Community Council
- Broadshore Offshore Windfarm
- **British Telecom (“BT”) Radio Network Protection Team**
- Buchan East Community Council
- Civil Aviation Authority (“CAA”)
- Caledonia Offshore Wind Farm
- Cenos Offshore Wind Farm
- Communities Inshore Fisheries Alliance
- Crown Estate Scotland
- *Cruden Community Council*
- Cruising Association
- **Dee District Salmon Fishery Board (“DSFB”)**
- Don DSFB
- *Edinburgh International Airport*
- Esk DSFB
- Fisheries Management Scotland
- Forth DSFB
- Fraserburgh Community Council
- Fraserburgh Harbour Commissioners
- **Green Volt Offshore Wind Ltd (“Green Volt”)**
- **Historic Environment Scotland (“HES”)**
- Hywind Scotland Pilot Project Park
- Inshore Fisheries Group - North and East Coast Regional
- Invercairn Community Council
- **Joint Radio Company (“JRC”)**
- King Edward and Gamrie Community Council
- Marine Directorate – Compliance – Fraserburgh Fishery Office
- Marine Directorate – Compliance – Peterhead Fishery Office
- Marine Planning & Policy
- Marine Safety Forum
- **Maritime and Coastguard Agency (“MCA”)**
- Marramwind Offshore Wind Farm
- Ministry Of Defence (“MOD”) Defence Infrastructure Organisation (“DIO”)



- *Moray Council*
- Muir Mhor Offshore Wind Farm
- **National Air Traffic Services (“NATS”)**
- National Trust for Scotland
- **NatureScot**
- New Aberdour, Tyrie and Pennan Community Council
- **North Sea Transition Authority**
- **Northern Lighthouse Board (“NLB”)**
- **NorthLink Ferries**
- Offshore Energies UK
- Peterhead Community Council
- Peterhead Port Authority
- Rathen, Memsie and Cortes Community Council
- *Royal National Lifeboat Institution*
- Rosehearty Community Council
- Rosehearty Harbour Inshore Fisherman’s Association
- **Royal Yachting Association (“RYA”)**
- **Royal Society for the Protection of Birds (“RSPB”) Scotland**
- **Salamander Offshore Wind Farm**
- Scottish Canoe Association
- Scottish Creel Fishermen’s Federation
- **Scottish Fishermen’s Federation (“SFF”)**
- Scottish Fishermen’s Organisation
- *Scottish and Southern Electricity Network*
- Scottish Surfing Federation
- **Scottish Water**
- Scottish White Fish Producers Association
- Scottish Wildlife Trust
- **Scottish Environment Protection Agency**
- *Sport Scotland*
- Stromar Offshore Wind Farm
- Slains and Collieston Community Council
- Surfers Against Sewage
- Tay DSFB
- **UK Chamber of Shipping (“UK CoS”)**
- Visit Scotland
- Whale and Dolphin Conservation

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 28 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 Physical and Coastal Processes**

5.2.1 The Scottish Ministers are broadly content with the study area defined in Section 6.4 of the Scoping Report and the data sources, as outlined in Section 6.5.1 of the Scoping Report, and welcome the Developer's commitment to include further datasets and reports within the EIA Report. In regard to the baseline, the Scottish Ministers draw the Developer's attention to the MD-SEDD advice on physical processes dated 30 November 2023 ("the MD-SEDD physical processes advice") relating to use of 3D modelling in order to characterise stratification in the study area and advise that this must be fully addressed and implemented in the EIA Report.

5.2.2 Table 6.3 of the Scoping Report presents the impacts the Developer proposes to scope in and out of assessment for physical processes. The Scottish Ministers broadly agree with the impacts to be scoped in and out of the EIA report.

5.2.3 The Scottish Ministers are broadly content with the proposed approach to assessment, as outlined in Section 6.10.2 of the Scoping Report, however highlight the MD-SEDD physical processes advice relating to coastal processes and, as it is not clear what processes are considered to be important and how they will be assessed, advise that this must be fully addressed and implemented in the EIA Report.

5.2.4 In regard to mitigation and monitoring, the Scottish Ministers agree with the proposed approach considered by the Developer in Section 6.6 of the Scoping Report.

5.2.5 In regard to potential cumulative impacts summarised in Section 6.8 of the Scoping Report, the Scottish Ministers are broadly content with the approach proposed.

5.2.6 The potential for transboundary impacts has been considered in Section 6.9 of the Scoping Report. The Scottish Ministers agree that transboundary impacts can be scoped out of further consideration in the EIA Report for this receptor.

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

- 5.3.1 The marine water and sediment quality study area is defined in Section 7.4 of the Scoping Report as the spatial extent of the Proposed Development with an 'appropriate' buffer. The Scottish Ministers are content with the study area.
- 5.3.2 The Scottish Ministers are content with the data sources as outlined in Table 7.2 of the Scoping Report. Additionally, the Scottish Ministers are content with the baseline characterisation as outlined in Section 7.5 of the Scoping Report.
- 5.3.3 The Developer has proposed to scope out all marine water and sediment quality impacts from the EIA Report and provides justification for this in Table 7.6. Additionally, the Developer proposes that there is no potential for significant cumulative or transboundary effects from any stage of the project. The Scottish Ministers are content with the Developer's proposal to scope out marine water and sediment quality from the EIA Report on the basis that the impacts from this receptor will be considered under specific receptor topics.

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

- 5.4.1 The Scottish Ministers are content with the study area as described in Section 8.4 and shown in Figure 8.1 of the Scoping Report. Two study areas have been defined, the local study area and the regional study area. The Scottish Ministers note that the proposed local study area may be refined post-scoping.
- 5.4.2 The Scottish Ministers are content with the proposed approach of carrying out a desk-based review of existing benthic subtidal ecology data, focusing on sourcing data that has been collected within or near to the study area. The Scottish Ministers are further content with the list of datasets as described in Table 8.2 and note that this will be supplemented by site-specific survey data obtained from geophysical and environmental surveys. In regard to the baseline environment, the Scottish Ministers highlight NatureScot representation regarding the incorrect categorisation of Sabellaria reefs.
- 5.4.3 In regard to potential impacts, the Scottish Ministers are content that all relevant pathways, receptors and potential impacts have been identified, as summarised in Table 8.5 and Appendix B - Impacts Pathway Register. The Scottish Ministers do however, highlight SFF representation regarding impacts to benthic invertebrates for the Developer's consideration. The Scottish Ministers also agree with the impacts scoped in and out for benthic and intertidal ecology as shown in Table 8.5 and Appendix B - Impacts Pathway Register. The Scottish Ministers also highlight the representation from Dee DSFB regarding disturbance and degradation of the benthic environment and advise these representations should be considered by the Developer.

- 5.4.4 The Scottish Ministers are content with the proposed assessment approach as set out in Section 8.10.2 of the Scoping Report.
- 5.4.5 In regard to cumulative impacts, the Scottish Ministers are content with the assessment methodology for benthic ecology interests, as described in Section 8.8 of the Scoping Report.
- 5.4.6 In regard to mitigation and monitoring, the Scottish Ministers refer the Developer to NatureScot representations regarding minimum target cable burial depth and advise this must be fully implemented. The Scottish Ministers further highlight NatureScot comment regarding the monitoring for benthic ecology, and advise this must be fully considered by the Developer and addressed in the EIA Report.
- 5.4.7 The Scottish Ministers agree, as per Section 8.9 of the Scoping Report, that transboundary impacts can be scoped out from further consideration for benthic ecology.

## **5.5 Fish and Shellfish Ecology**

- 5.5.1 Section 9.4 of the Scoping Report presents the two study areas defined for fish and shellfish ecology: the Array Area and the Export Cable Corridor search area. The Scottish Ministers are broadly content with both of the study areas presented by the Developer. The Scottish Ministers advise that the NatureScot representation regarding noise modelling outputs and suspended sediment modelling outputs are considered when determining the boundary during further refinement of the project envelope.
- 5.5.2 Regarding baseline characterisation, the Scottish Ministers advise that the additional technical guidance, baseline data sets, and data sources identified by NatureScot should be used in the assessment in the EIA Report.
- 5.5.3 In Table 9.6 of the Scoping Report the Developer summarises the impact pathways to be scoped in for fish and shellfish ecology for each phase of the Proposed Development. The Scottish Ministers advise that underwater noise from export cable operation and maintenance should be scoped out, in line with NatureScot representation. Additionally, the Scottish Ministers highlight NatureScot's, MD-SEDD advice on commercial fisheries dated 03 November 2023 ("the MD-SEDD commercial fisheries advice") and Dee DSFB representations on Electromagnetic Field ("EMF") and advise that such impacts relating to export cables should be scoped in for the operation and maintenance phase of the Proposed Development. The Scottish Ministers highlight the representation from SFF which considers further impacts and suggests that the impact of the Proposed Development to seasonal stratification of the water column be scoped in due to limited scientific evidence in this area which the Scottish Ministers request is given consideration by the Developer in the EIA

Report. The Scottish Ministers also highlight the MD-SEDD physical processes advice which may be relevant in this regard.

- 5.5.4 In terms of the approach to assessment set out in Section 9.10 of the Scoping Report, the Scottish Ministers are broadly content, however with regards to changes in prey species availability, consideration must be given in the EIA Report to ensure that impacts to key prey species and their habitats are considered for the Proposed Development and cumulatively with other offshore wind farm developments. The Scottish Ministers direct the Developer to NatureScot's advice in this regard and advise that this must be fully addressed and implemented in the EIA Report.
- 5.5.5 The Scottish Ministers are broadly content with the designed mitigation measures described in Section 9.6 of the Scoping Report and advise that the full range of mitigation measures and published guidance are considered in the EIA Report. Information on proposed fish and shellfish monitoring should be outlined in the EIA Report. This is a view supported by NatureScot and the Developer is directed to the further guidance provided within the NatureScot representation. In addition, for any infrastructure which will be micro-sited, identified sensitive seabed habitats should be expanded to include sandeel and herring spawning habitats.
- 5.5.6 In regard to potential cumulative impacts summarised in Section 4.4 and 9.8 of the Scoping Report, the Scottish Ministers are broadly content with the approach proposed, in line with NatureScot representation.
- 5.5.7 The Developer considers potential transboundary impacts in Section 9.9 of the Scoping Report. The Scottish Ministers agree with the conclusions of the Developer's assessment, in line with the NatureScot representation.
- 5.5.8 The Scottish Ministers agree with NatureScot's view that migratory fish should currently be assessed through the EIA process and not through the HRA process. However, the Developer should continue to engage with the Scottish Ministers and NatureScot regarding any change in how diadromous fish should be assessed through EIA and HRA as a result of ongoing research in this area.

## **5.6 Offshore and Intertidal Ornithology**

- 5.6.1 The Scottish Ministers are content with the proposed study area as defined in Section 10.4 and Figure 10.1 of the Scoping Report. In regard to the site-specific Digital Aerial Surveys ("DAS"), the Scottish Ministers highlight NatureScot representation regarding survey coverage being at the lower end of the scale for the Developer's consideration. In regard to the ECC, the Scottish Ministers refer the Developer to NatureScot comments regarding advice previously provided on

the ornithology methodology strategy document submitted in April 2023. The Scottish Ministers advise the Developer to engage with NatureScot and ensure the further requested information about the methodology is available with the assessment.

- 5.6.2 The Scottish Ministers are broadly content with the data sources listed in Sections 10.5 and 10.10 of the Scoping Report. However, in addition to the data sources included in Table 10.2 the Scottish Ministers highlight the additional reference provided by NatureScot to be considered as a baseline data source. Further to the above, the Scottish Ministers highlight RSPB Scotland comments regarding data listed in Section 10.5 of the Scoping Report for consideration of the Developer.
- 5.6.3 The Scottish Ministers note that the first year of DAS data has been used to develop the preliminary list of key species, as shown in Table 10.3 and discussed throughout Section 10.5.2.1. The Scottish Ministers agree with NatureScot that no species should be scoped out on the basis of incomplete DAS survey data and that all survey work should be completed prior to deciding which species are taken forward for assessment. The Scottish Ministers highlight RSPB Scotland representation regarding species such as Manx shearwater and European storm petrel which are unlikely to be fully accounted for using DAS alone and advise the Developer gives consideration to the request. The Scottish Ministers also highlight the NatureScot representation regarding auk species being reported but with no reference to auk ID rates. The Scottish Ministers advise that in order to assess the EIA and HRA application, a clear audit of the proportion of identified and unidentified auks should be provided.
- 5.6.4 In regard to the calculation of abundance and density estimates, the Scottish Ministers agree with NatureScot that the method for accounting for records not identified to species level, as described in Section 10.10.2, is appropriate and in line with industry standard, however highlight NatureScot comments regarding the appropriateness of this approach depending on the identification rates from the survey. The Scottish Ministers advise that NatureScot representation regarding this must be fully considered by the Developer. The Scottish Ministers agree with NatureScot that availability bias will require correction using species specific correction factors. The Scottish Ministers refer the Developer to NatureScot comments regarding this and highlight the anticipated report regarding availability bias for guillemot and razorbill which may require future discussion.
- 5.6.5 In regard to collision risk modelling, the Scottish Ministers refer the Developer to NatureScot representation regarding current guidance and Option 3 models and also avoidance rates. Further to the above, the Scottish Ministers advise that deterministic outputs for each collision risk species as well as stochastic outputs

for Option 2 should be included in the EIA Report. In addition, the Scottish Ministers highlight NatureScot comments regarding semi-submersible floating wind turbines potentially providing suitable roosting or resting areas for birds, which could increase the risk of collisions. The Scottish Ministers advise this must be considered in within the EIA Report.

- 5.6.6 In regard to displacement analysis, the Scottish Ministers are content with the approach to defining the species list for the Collision Risk Model and displacement analysis, as outlined in Section 10.10.2.
- 5.6.7 In regard to assessment of migratory birds, the Scottish Ministers agree with NatureScot representation that potential collision risk to migratory species should be assessed following the updated review of migratory routes and vulnerabilities across the UK and advise the NatureScot representation in regard to this must be fully considered and implemented by the Developer including the use of the mCRM tool.
- 5.6.8 In regard to definitions of seasons and regional population estimates, the Scottish Ministers refer the Developer to NatureScot representation regarding this and advise this representation must be fully considered by the Developer and implemented into the EIA Report as necessary.
- 5.6.9 In regard to Population Viability Analysis (PVA) the Scottish Ministers support the intention to use Natural England PVA tool as well as the intention to undertake PVA where baseline mortality will increase by 0.02%. The Scottish Ministers are further content that demographic rates will be derived from Horswill and Robinson (2015)<sup>2</sup> and modelling will be undertaken for 25, 50 and 60 years, with both the counterfactual of growth rate and the counterfactual of population size presented. The Scottish Ministers highlight NatureScot comments regarding great black-backed gull and herring gull and advise these must be fully considered and implemented by the Developer.
- 5.6.10 The Scottish Ministers refer the Developer to the NatureScot representation regarding Highly Pathogenic Avian Influenza and advise the representation regarding this must be fully considered and implemented in the EIA Report.
- 5.6.11 The Scottish Ministers highlight the representation from Cruden Community Council in relation to consideration of gannets at Troup Head and advise that this is considered within the EIA Report.
- 5.6.12 In regard to the scoping in and out of impact pathways in relation to offshore and intertidal ornithology, the Scottish Ministers agree with NatureScot that in general

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<sup>2</sup> Horswill, C. & Robinson R. A. 2015. Review of seabird demographic rates and density dependence. JNCC Report No. 552. Joint Nature Conservation Committee, Peterborough



terms, the standard pathways of collision, disturbance, displacement and barrier effects have been captured within Section 10.7 of the Scoping Report. The Scottish Ministers further agree with NatureScot that disturbance from vessels moving from port to array area during construction should be considered, should they be expected to transit through an SPA. This should be considered within the assessment for ornithology. The Scottish Ministers highlight RSPB Scotland representation regarding secondary and cumulative impact pathways for the consideration of the Developer. In addition to this, the Scottish Ministers agree with NatureScot that the impacts of lighting on ornithological receptors is not considered sufficiently within the Scoping Report and advise NatureScot representation regarding this must be fully considered and addressed in the EIA Report. Finally, the Scottish Ministers highlight the representation from Aberdeenshire Council regarding the list of designated sites outlined in Section 10.5.2.4 of the Scoping Report and request that this is considered by the Developer.

- 5.6.13 In regard to cumulative impacts, the Scottish Ministers welcome the intention to use the Cumulative Effects Framework (“CEF”) if available within the assessment timeframe. The Scottish Ministers advise that the final list of projects to be considered for inclusion within the Cumulative Effects Assessment (“CEA”) should be agreed with MD-LOT and clearly articulated in the EIA Report. The Scottish Ministers also refer the Developer to NatureScot comments regarding the Berwick Bank application for and advise that this should be fully implemented in the EIA Report. Further to the above, the Scottish Ministers refer the Developer to RSPB Scotland comments regarding a number of developments being omitted from the list of potential cumulative projects. The Scottish Ministers advise RSPB Scotland representation regarding this must be fully considered by the Developer.
- 5.6.14 In regard to mitigation and monitoring, the Scottish Ministers agree with NatureScot that the proposed measures seem appropriate, but these should be kept under review as the assessment and development progresses. The Scottish Ministers further agree that the full range of mitigation measures, published guidance and proposed ornithological monitoring should be considered and discussed in the EIA Report.
- 5.6.15 The Scottish Ministers agree with NatureScot that due to the foraging ranges, transboundary impacts are likely to be negligible during the breeding season. However, clear justifications to any conclusions must be set out in the EIA Report. Finally, the Scottish Ministers welcome the intention to consider transboundary impacts within the EIA for those non-UK colonies with connectivity.

## **5.7 Marine Mammals and Other Megafauna**

- 5.7.1 In regard to the proposed study area, the Scottish Ministers refer the Developer to NatureScot representation and definitions regarding the array marine mammal study area and advise that this should be defined by the array site boundary plus a 4km buffer as used in the site-specific digital aerial survey campaign. The Scottish Ministers further highlight NatureScot comments regarding the regional marine mammal study area and advise that this should be a much wider area of the North Sea, defined by relevant species Management Units (“MU”), including Celtic and Greater North Sea MU; North Sea MU; and relevant SCANS-IV block.
- 5.7.2 In regard to the baseline characterisation, the Scottish Ministers broadly agree with the list of guidance documents as identified in Section 11.2.3 of the Scoping Report, however refer the Developer to NatureScot representation regarding further guidance documents to be considered. Further to the above the Scottish Ministers refer the Developer to NatureScot comments regarding reference populations and advise this should be fully addressed in the EIA Report.
- 5.7.3 In regard to potential impacts, the Scottish Ministers agree with the impacts to be scoped in and out as summarised in Section 11.7.
- 5.7.4 In regard to the approach to assessment, specifically density estimates, the Scottish Ministers agree with NatureScot that the approach suggested in Section 11.11.1 for harbour porpoise should be followed for each species. The Scottish Ministers further advise that unless the sites specific DAS density estimate is calculated to be a higher value, data from SCANS IV should be used for the density estimates for each species. In regard to underwater noise, the Scottish Ministers refer the Developer to NatureScot representation regarding this and advise this representation must be fully considered by the Developer and implemented in the EIA Report.
- 5.7.5 In regard to cumulative effects, the Scottish Ministers welcome the proposed use of interim Population Consequences of Disturbance where likely significant effects cannot be ruled out through non population modelling approaches. The Scottish Ministers also agree with NatureScot that the Cumulative Effects Framework should be used if published prior to an application submission. The Scottish Ministers refer the Developer to NatureScot representation regarding Section 11.8 of the Scoping Report, and advise, as per that representation that the Developer’s approach should consider cumulative impacts in the context of spatial and temporal scales. As such, this may mean a different list of projects to be included in the cumulative assessment than currently identified. The NatureScot representation regarding this must be fully considered and addressed by the Developer. Further to this, and also in agreement with NatureScot representation, the Scottish Ministers advise that consideration of

cumulative effects should be extended to incorporate the export cable corridor (construction and decommissioning phases), specifically within the Southern Trench MPA with respect to potential impacts to minke whale, as well as nearshore waters for consideration of impacts to bottlenose dolphins which are a qualifying interest of Moray Firth SAC and known to commute along the east coast. The Scottish Ministers advise that agreement on projects to be considered cumulatively with Buchan Offshore Wind Farm should be agreed with MD-LOT.

- 5.7.6 In regard to transboundary impacts, the Scottish Ministers advise as per NatureScot representation, that as cetaceans are highly mobile and long ranging transboundary effects should be covered, albeit qualitatively. Transboundary effects or at least cross border should be scoped in for further consideration in the EIA Report. The Scottish Ministers are content with the proposed approach to consider impacts to the Southern Trench ncMPA within a separate MPA assessment, as noted in Section 11.12 and Section 20.2 of the Scoping Report. The Scottish Ministers also note that further consideration of minke whale, a protected feature of the Southern Trench MPA, is referred to within Section 11.10.
- 5.7.7 In regard to mitigation and monitoring, the Scottish Ministers note the commitment to considering mitigation measures throughout the design process as proposed in Section 11.6 of the Scoping Report. The Scottish Ministers acknowledge that some of this detail is likely to be included within post consent plans, however advise that the details of any proposed mitigation should be included within the draft plans included as part of the EIA Report. The Scottish Ministers highlight NatureScot comments regarding collaboration around the planning and routing of the export cable to landfall, and advise these comments should be considered by the Developer. In addition to collaborating on planning and routing, the Scottish Ministers also highlight NatureScot comments regarding monitoring of minke whale, which should be fully considered. The Scottish Ministers agree with NatureScot regarding the collaborative monitoring opportunities and this should be considered by the Developer. Finally, the Scottish Ministers highlight NatureScot comments regarding engaging with the fishing and oil and gas industries as well as oceanographers, to consider researching secondary entanglement of marine megafauna on mooring lines.

## **5.8 Commercial Fisheries**

- 5.8.1 The Scottish Ministers are content with the study area for commercial fisheries as outlined by the Developer in Section 12.4 of the Scoping Report. The Scottish Ministers are also broadly content with the data sources presented in Section 12.5.1. However, the Scottish Ministers direct the Developer to the MD-SEDD commercial fisheries advice regarding the usage of gridded fisheries data and Automatic Identification System (“AIS”) data to supplement the data used to inform the EIA. Additionally, the Scottish Ministers highlight representation from

the SFF regarding the accuracy of data.

- 5.8.2 The Scottish Ministers are mostly content with the impact pathways scoped into the EIA Report regarding commercial fisheries receptors. However, Scottish Ministers advise the Developer to fully consider representation from the SFF regarding the burial of inter-array cables and crossing of cables and pipelines. The Scottish Ministers also highlight the representation from the SFF regarding seeking input from the fishing industry on the placement and type of OSPs and IRC Platform. The Scottish Ministers note the MD-SEDD advice on socioeconomics dated 03 November 2023 (“the MD-SEDD socioeconomics advice”) regarding the socio-economic effects of impacts on commercial fisheries and advise that this is considered in the socio-economic assessment.
- 5.8.3 The Developer presents the proposed method of assessment in Section 12.10.2 of the Scoping Report. In line with MD-SEDD commercial fisheries advice, the Scottish Ministers advise the Developer to undertake a commercial fisheries displacement assessment as part of the EIA.
- 5.8.4 In regard to mitigation outlined in the Scoping Report the Scottish Ministers highlight the SFF representation regarding further mitigation measures for consideration by the Developer. The Scottish Ministers advise that in identifying appropriate mitigation measures, the Developer must consider the different types of fishing that take place within the Proposed Development and engage with the wider fishing industry to seek broad agreement on measures proposed. The Scottish Ministers advise that when detailing the mitigation measures the Developer must clearly state commitments and explain any caveats to these commitments, such as EIA significance, so that stakeholders can easily understand the actual commitment(s) made.
- 5.8.5 The Scottish Ministers advise that the Developer must adopt a clear position on whether it will be content for fishing to continue over the Proposed Development after construction is complete and whether overtrawl trials will be included as a mitigation measure. This position must be adopted prior to the fisheries displacement assessment so the implications from this can be included in the assessment.

## **5.9 Shipping and Navigation**

- 5.9.1 The Scottish Ministers are content with the study area identified in Section 13.5 of the Scoping Report. The Scottish Ministers highlight SFF representation relating to the fishing activity in Figure 13.7 for consideration.
- 5.9.2 In regard to baseline characterisation, the Scottish Ministers are content that that the two separate 14 day periods of AIS data set out in the Scoping Report meets the standard MGN 654., The Scottish Ministers highlight the representation from

the RYA regarding the limitations of AIS data for smaller craft which should be taken into consideration in the EIA Report. The Scottish Ministers also direct the Developer to the representation from the MCA who highlight that 2023 MGN 654 compliant summer surveys are not presented in the Scoping Report and note that these need to be included in the EIA Report as well as the Navigational Risk Assessment.

- 5.9.3 Table 13.9 of the Scoping Report summarises the potential impacts to shipping and navigation for each phase of the Proposed Development which the Developer proposed to scope into and out of the EIA Report. The Scottish Ministers broadly agree with the impacts scoped in and out however, advise that loss of station of turbines risk should be scoped in for the operation and maintenance phase. This is in line with the UKCoS representation. Additionally, 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. Finally, the Scottish Ministers highlight the RYA representation around failure of Aids to Navigation marking the devices which should be fully addressed in the EIA Report.
- 5.9.4 In regard to approach to assessment, the Scottish Ministers confirm that, in line with NLB and MCA representations, 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.
- 5.9.5 The Scottish Ministers also highlight the MCA representation regarding 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.
- 5.9.6 In regard to cabling routes and cable burial, the Scottish Ministers confirm that a Burial Protection Index should be completed, and, subject to traffic volumes, an anchor penetration study may also 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 and where depths are decreasing towards the shore.
- 5.9.7 The Scottish Ministers advise that the Developer must give consideration within the EIA Report for the potential effect of electromagnetic deviation on ships' compasses should High-Voltage Direct Current transmission infrastructure be installed. The Scottish Ministers highlight the advice from the MCA a three-

degree deviation for 95% of the cable route would be acceptable, and that for the remaining 5% of the cable route, no more than five degrees will be attained.

- 5.9.8 In regard to the proposed mitigation in Section 13.7 of the Scoping Report, the Scottish Ministers highlight the representation from the RYA regarding its objection to operational safety zones, which should be taken into consideration when finalising the proposed designed in measures. The MCA, NLB and UKCoS representations regarding the Navigational Risk Assessment, Lighting and Marking Plan and Design Specification and Layout Plan should be fully addressed by the Developer in the EIA Report.
- 5.9.9 In regard to potential cumulative effects summarised in Section 13.9 of the Scoping Report, the Scottish Ministers are broadly content with the approach proposed, however note the representation from the UKCoS which recommends a wider routeing study area of 50 nautical miles when considering the cumulative impact assessment. The Scottish Ministers also 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. The Scottish Ministers also highlight the advice from NLB and NorthLink Ferries who note their concern with regards to the installation of an IRC platform and the cumulative impact, as a result of multiple IRC platforms being installed by other Developer's, to navigational safety. The Scottish Ministers advise that the NLB and NorthLink Ferries representations must be fully addressed within the EIA Report.
- 5.9.10 In line with the representation from the UKCoS, the Scottish Ministers note that Section 13.10 of the Scoping Report states that potential transboundary effects will be examined, however it is unclear how this will be assessed during the EIA and therefore it is requested that this is outlined clearly within the EIA Report.

## **5.10 Marine Archaeology and Cultural Heritage**

- 5.10.1 The Scottish Ministers are broadly content with the study area as defined in Section 14.4 of the Scoping Report and that the baseline data gathered for the assessment is appropriate. This view is supported by Aberdeenshire Council and HES.
- 5.10.2 In line with advice from HES and Aberdeenshire Council, the Scottish Ministers are broadly content with the impact pathways scoped into the EIA as outlined in Table 14.5 of the Scoping Report. However, the Scottish Ministers recommend that the Written Scheme of Investigation and Protocol for Archaeological Discoveries are developed as part of the EIA process as represented by HES.
- 5.10.3 The methodology, as outlined in Section 14.10.2, is acceptable to the Scottish

Ministers which is in agreement with the HES representation.

- 5.10.4 The Scottish Ministers are content that the mitigation measures outlined in Section 14.6 of the Scoping Report are sufficient to manage and mitigate impacts on the marine historic environment in line with the HES representation.

## **5.11 Military and Civil Aviation**

- 5.11.1 The Developer outlines the impacts to Military and Civil Aviation proposed to be scoped in and out of the EIA Report during the various stages of the Proposed Development in Section 15 of the Scoping Report. The Scottish Ministers are unable to provide advice regarding Military Aviation as final representation from the MOD has not been received. However, in the interim response received from the MOD, they note that they have concerns the development will affect radar line of sight from Remote Radar Head Buchan. The Scottish Ministers therefore advise the Developer to engage with the MOD directly prior to submission of the EIA Report to determine the acceptability of the approach proposed in the Scoping Report.

## **5.12 Seascape Landscape and Visual Impact**

- 5.12.1 The Scottish Ministers agree with NatureScot's and Aberdeenshire Council representations 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 Socio-Economics, Tourism and Recreation**

- 5.13.1 The Scottish Ministers are broadly content with the study areas as detailed in Section 17.4 of the Scoping Report. 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.
- 5.13.2 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.
- 5.13.3 In Table 17.5 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 tourism needs to be scoped in and fully assessed in the EIA report. This is in line with the MD-SEDD socioeconomics

advice.

- 5.13.4 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.
- 5.13.5 In relation to economic impacts, the Scottish Ministers are broadly content with the proposed assessment approach as detailed in Section 17.10.2 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. The Scottish Ministers advise that should any knock-on socio-economic effects be identified when assessing the Proposed Development's effect on commercial fisheries, these should also be included in the economic assessment in line with 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 Infrastructure and Other Users**

- 5.14.1 The Scottish Ministers are content with the study area as proposed in Section 18.4 of the Scoping Report. The Scottish Ministers advise the Developer to re-check the data used in, for example, Section 18.5.2.2 and Table 18.7 of the Scoping Report as per representation from the NSTA who highlighted that some information does not align with their records.
- 5.14.2 The Scottish Ministers are broadly content with the impact pathways to be scoped in and out of the EIA as shown in Table 18.11.
- 5.14.3 The Scottish Ministers agree with Aberdeenshire Council's representation regarding the beach at Rattray which is well used for walking and horse-riding. The impact of the proposal on general recreational use within the intertidal area should be included for consideration in the EIA.
- 5.14.4 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.



## **5.15 Climate Effects**

- 5.15.1 The Scottish Ministers are largely content with the Developer’s approach in assessing climate change effects and Green House Gases (“GHG”) within Section 19 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.
- 5.15.2 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.

## **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 (Natural Habitats, &c.) Regulations 1994 and 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 The Scottish Ministers strongly advise the production of a HRA screening report for the Proposed Development and recommend that this should be submitted for comment at the earliest opportunity and in advance of the submission of the EIA Report in order to fully inform the HRA advice for the Proposed Development.
- 6.1.4 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 principle decision, assessment must be undertaken at the subsequent stage.
- 7.1.2 The definition in the 2017 EW Regulations is as follows (the definition in the 2017 MW Regulations provides for the same but in relation to “regulatory approvals”): *“application for multi-stage consent” means an application for approval, consent or agreement required by a condition included in a regulatory approval where (in terms of the condition) that approval, consent or agreement must be obtained from the Scottish Ministers before all or part of the development permitted by the Electricity Act consent may be begun*”.
- 7.1.3 A section 36 consent or marine licences, if granted, by the Scottish Ministers for the Proposed Development, may have several conditions attached requiring approvals etc. which fall under this definition, for example the approval of a CMS. When making an application for multi-stage consent or regulatory approval the Developer must satisfy the Scottish Ministers that no significant effects have been identified in addition to those already assessed in the EIA Report.
- 7.1.4 If during the consideration of information provided in support of an application for multi-stage consent or regulatory approval the Scottish Ministers consider that the development may have significant environmental effects which have not previously been identified in the EIA Report (perhaps due to revised construction methods or updated survey information), then information on such effects and their impacts will be required. This information will fall to be dealt with as additional information under the EIA Regulations, and procedures for consultation, public participation, public notice and decision notice of additional information will apply.

Kirsty Black

20 DECEMBER 2023

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*