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**Marine Directorate - Licensing Operations Team
Scoping Opinion (formerly Marine Scotland – Licensing
Operations Team)**

**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**

Cenos Offshore Windfarm

June 2023

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1. Introduction

1.1 Background

- 1.1.1 On 24 February 2023, the Scottish Ministers received a scoping report (“the Scoping Report”) from Flotation Energy Limited (“the Developer”) as part of its request for a scoping opinion relating to Cenos Offshore Windfarm (“the Proposed Development”). The Scottish Ministers considered the content of the Scoping Report to be 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”. Whilst the Scoping Report met the requirements of the EIA regulations, the Scottish Ministers consider that it lacked sufficient detail on the project design and methods of assessment to assist in refining the scope of the EIA Report.
- 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 in-house expertise and experience. This Scoping Opinion identifies the scope of impacts to be addressed and the method of assessment to be used in the Environmental Impact Assessment Report (“EIA Report”) for the Proposed Development.
- 1.1.3 The Scottish Ministers, in adopting this Scoping Opinion, have, in accordance with the EIA Regulations, taken into account the information provided by the Developer, in particular, information in respect of the specific characteristics of the Proposed Development, including its location and technical capacity and its likely impact on the environment. In addition, the Scottish Ministers have taken into account the representations made to them in response to the scoping consultation they have undertaken.
- 1.1.4 In examining the EIA Report, and any other environmental information, the Scottish Ministers will seek to reach an up-to-date reasoned conclusion on the significant effects on the environment from the Proposed Development. This reasoned conclusion will be considered as up to date if the Scottish Ministers are satisfied that current knowledge and methods of assessment have been taken account of. For the avoidance of doubt, this Scoping Opinion does not preclude the Scottish Ministers from requiring the Developer to submit additional information in connection with any EIA Report submitted with an application for consent under section 36 (“s.36 consent”) of The Electricity Act 1989 (“the 1989

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

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

2. The Proposed Development

2.1 Introduction

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

2.2 Description of the Proposed Development

2.2.1 The Proposed Development comprises an offshore generating station with a maximum generating capacity of approximately 1400 Megawatt ("MW"), the primary purpose of which is to facilitate the decarbonisation of the oil and gas industry through providing electricity to offshore oil and gas assets located within 100 kilometres ("km") of the windfarm. The Proposed Development has a generating capacity of greater than 50 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 and objects deposited in or over the sea, or on or under the seabed.

2.2.2 The location of the Proposed Development is approximately 185km east of the Aberdeenshire Coast in the central North Sea with a total array area of approximately 333 square km ("km²"). The Proposed Development is a floating offshore wind farm to facilitate decarbonisation of the oil and gas industry through the electrification of offshore oil and gas installations, while also providing renewable power to the National Grid. The Proposed Development is part of the Innovation and Targeted Oil and Gas ("INTOG") leasing process currently being undertaken by Crown Estate Scotland ("CES").

2.2.3 The export cable to the National Grid will run from an offshore electricity hub in the array area to shore via connection to the licensed NorthConnect interconnector cable. The Scoping Report includes three route options for the export cable between the offshore electricity hub and the NorthConnect interconnector cable at or beyond 12 nautical miles ("nm").

2.2.4 The Proposed Development will also connect to oil and gas assets for the purposes of electrification. The oil and gas assets are yet to be established and as such the Scoping Report does not include any cable infrastructure between the offshore electricity hub and the oil and gas assets.

2.2.5 The Proposed Development will include the construction and operation of offshore Wind Turbine Generators (“WTGs”) and all associated offshore infrastructure. The key components of the Proposed Development will depend on the final design but include:

- Between 70 to 100 floating WTGs each with a generating capacity of between 15MW and 20MW with;
 - An expected rotor blade diameter of between 220 metres (“m”) to 330m;
 - A maximum blade width of 15m;
 - A maximum height from top of substructure to hub of 187m;
 - A maximum blade tip height from top of substructure of 352m;
 - Minimum blade tip clearance of 22m.
- Consideration of the following foundation options: tension leg platforms; semi-submersible; spar; and barge.
- Up to six-point mooring with a maximum mooring line radius of 1000m, designs under consideration include: catenary; taut; semi-taut; and tension leg.
- Anchorage options including: drag embedment anchors; torpedo anchors; gravity-based anchors; suction piles; and suction embedded plate anchors.
- Up to 100 inter array cables of up to 2.2km each which will be used to arrange WTGs in strings of between four and six WTGs (totalling up to 360km).
- One Offshore Substation Platform (“OSP”) with a fixed jacket structure which will provide the marshalling point for inter array cables from the windfarm and offtake cables to the oil and gas assets. It will house the conversion transformers to enable the export of electricity to the oil and gas assets and to the offshore export cable.
- An export cable connecting to the NorthConnect interconnector cable, the length of which will be dependent on the final project design.

2.2.6 Construction of the Proposed Development is anticipated to start in 2027 and is estimated to take three years, with the majority of construction avoiding the winter periods. The Developer’s intent is to commission WTGs at the earliest opportunity to allow first power to be exported prior to completion of construction. Therefore, it is anticipated that first power will be exported in 2028 before construction of the Proposed Development is complete, which is anticipated to be 2030. The operational lifetime of the Proposed Development is 50 years, followed by a period of decommissioning. This is beyond the lifetime of the oil and gas assets and therefore it is proposed the windfarm will continue to operate and export all generated electricity to the National Grid.

2.3 The Scottish Ministers' Comments

Description of the Proposed Development

- 2.3.1 The Scottish Ministers highlight and mirror the concerns raised by NatureScot in relation to the quality of the Scoping Report prepared by the Developer. The lack of detail on the project and broad design envelope, statements of intention to scope out topics with little or no justification and lack of provision of impact assessment methodology or techniques have made it difficult to provide meaningful, site specific advice to assist in refining the scope of the EIA Report. The advice provided in this Scoping Opinion is proportionate to the level of detail provided in the Scoping Report.
- 2.3.2 The Scottish Ministers note that the layout of the windfarm is yet to be decided and that this will be informed by the outcome of geology and sediment baseline surveys and analysis of other factors such as WTG yield, cable length and other site constraints. The Scottish Ministers advise that the EIA Report must include a full and detailed description of the windfarm layout. If the WTG arrangement is not finalised at the time of submission of the EIA Report, the EIA Report must include a full and detailed description of all layout options being considered.
- 2.3.3 Table 2-4 in section 2.5.2 of the Scoping Report describes a number of floating substructure designs currently being considered for the Proposed Development. The Scottish Ministers advise that the EIA Report must include a full and detailed description of all floating substructure designs considered within the design envelope.
- 2.3.4 Table 2-5 in section 2.5.3 of the Scoping Report describes the mooring system designs currently being considered for the Proposed Development. The Developer further states in section 2.5.3 that the number of mooring lines and anchors will be dependent on the final design. The Scottish Ministers advise that the EIA Report must include a full and detailed description of the mooring system designs being considered within the design envelope.
- 2.3.5 Section 2.5.4 of the Scoping Report states that burial is the preferred option in relation to protection of the static portions of the inter-array cables but that where burial is not practicable, rock protection will be required. If there is potential for cable protection to be used, the Scottish Ministers advise that this must be assessed in the EIA Report and must include details regarding materials, quantities and location. In addition, any seabed levelling or removal of substance or objects from on or under the seabed, required for installation of both inter-array and export cables, will require consideration in the EIA Report and may require a marine licence.

- 2.3.6 Section 2.5.6 of the Scoping Report states that the oil and gas assets to be powered by the windfarm are yet to be identified and therefore as are the associated cable routes. The Scottish Ministers advise that, where known, the EIA Report consider the cable routes to the oil and gas assets that are to be connected to the windfarm. The Scottish Ministers further advise that if these are unknown at the time of application it may be necessary to submit a separate EIA Report to support a marine licence application for any cables required to connect the windfarm to an oil and gas asset.
- 2.3.7 The Developer proposes in section 2.5.7 of the Scoping Report that the export cable for the Proposed Development will connect to the NorthConnect interconnector cable. The Scottish Ministers advise that if this proposal changes the Developer must engage with the Scottish Ministers to seek further advice on the implications of any such change.
- 2.3.8 Section 2.7.3 of the Scoping Report states that a decommissioning programme will be prepared prior to construction but for the purposes of the Scoping Report, removal of floating substructure components, where practicable, with mooring lines, and piles to be cut just below seabed and removed has been assumed. The Scottish Ministers advise that the EIA Report must include an assessment of potential significant effects during the decommissioning phase. 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.
- 2.3.9 It is stated in section 5.3.1 of the Scoping Report that pre-construction surveys should identify locations of unexploded ordnance (“UXO”) and that appropriate plans for avoidance or controlled detonation can be made to minimise effects. The Scottish Ministers advise that the EIA Report must include assessment of the in-combination effects of pre-construction activities such as geophysical surveys and UXO clearance. The EIA Report must also include considerations of noise abatement methods for detonation of UXO and 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 in this regard.¹ Additionally, clearance of UXO must also be considered within a cumulative impact assessment in the EIA Report. Further to this, the potential presence of UXO and disposal sites should

¹ [Marine environment: unexploded ordnance clearance joint interim position statement](#)

also be assessed within the EIA Report with regards to the installation of cables and any other works that result in disturbance to the seabed.

- 2.3.10 The EIA Report must 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.
- 2.3.11 In line with advice provided by Transport Scotland, the Scottish Ministers advise that the EIA Report include an abnormal loads assessment report should WTG components require to be transported by road to ports prior to assembly. This should identify key pinch points on the trunk road network.
- 2.3.12 The Scottish Ministers advise that the Developer should consider the Norwegian Environment Agency advice regarding impacts of the Proposed Development on migratory bats. The Developer should engage further with the Norwegian Environment Agency on this advice.
- 2.3.13 Table 22-1 in section 22 of the Scoping Report summarises the receptors to be scoped in to and out of the EIA Report with the additional option of to be considered further. The Scottish Ministers advise that where further consideration is necessary, this would indicate a lack of information to enable that receptor to be scoped out of the EIA Report and as such must therefore be scoped into the EIA Report for further assessment.

Design Envelope

- 2.3.14 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 Chapter 2.4 of the Scoping Report. The Scottish Ministers acknowledge that the Developer will accord to Scottish Government guidance "Electricity Act 1989 – section 36 applications: guidance for applicants on using the design envelope".
- 2.3.15 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.

- 2.3.16 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.
- 2.3.17 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

- 2.3.18 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 2 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.
- 2.3.19 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 and the cable corridor options. 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 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 16 March 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:

4.1.2 Consultees

- *Aberdeen International Airport*
- **Aberdeenshire Council**
- Department for Business, Energy and Industrial Strategy
- Bellrock Offshore Wind
- **British Telecom (Radio Network Protection Team)**
- CampionWind Offshore Windfarm
- Civil Aviation Authority
- Central North Sea Electrification Project
- Communities Inshore Fisheries Alliance
- Crown Estate Scotland
- Cruising Association
- **Dee District Salmon Fishery Board (“District Salmon Fishery Board”)**
- Department for Business, Energy and Industrial Strategy (BEIS)
- Don District Salmon Fishery Board
- **Edinburgh Airport**
- Fisheries Liaison with Offshore Wind and West Renewables Group
- Fisheries Management Scotland
- Fishery Office – Aberdeen
- Fishery Office – Fraserburgh
- Fishery Office – Peterhead
- *Forth Ports*
- **Historic Environment Scotland (“HES”)**
- **Hywind**
- Joint Radio Company
- Marine Planning and Policy
- Marine Safety Forum
- **Maritime and Coastguard Agency (“MCA”)**
- **Ministry of Defence – Defence Infrastructure Organisation**
- Muir Mhòr Offshore Wind Farm
- National Trust for Scotland
- **National Air Traffic Services (“NATS”)**

- **Natural England**
- **NatureScot**
- **NorthConnect**
- North East and East Coast Regional Inshore Fisheries Group
- **Northern Lighthouse Board (“NLB”)**
- Northlink Ferries
- **North Sea Transition Authority (“NSTA”)**
- **Norwegian Environment Agency**
- Norwegian Water Resources and Energy Directorate
- Offshore Energies UK
- Ports and Harbours – Transport Scotland
- Royal National Lifeboat Institution
- **Royal Society for Protection of Birds Scotland (“RSPB”)**
- **Royal Yachting Association (“RYA”)**
- Scottish Creel Fishermen’s Association
- **Scottish Environment Protection Agency (“SEPA”)**
- **Scottish Fishermen’s Federation (“SFF”)**
- Scottish Fishermen’s Organisation
- Scottish Government Planning
- Scottish and Southern Electricity Networks
- **Scottish Water**
- Scottish Wildlife Trust
- Scottish White Fish Producers Association (“SWFPA”)
- Sport Scotland
- **UK Chamber of Shipping (“UKCoS”)**
- Ugie District Salmon Fishery Group
- *Whale and Dolphin Conservation Society*
- Ythan District Salmon Fishery Board

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

4.2 Responses received

4.2.1 From the list above a total of 24 responses were received. Advice was also provided by MD-SEDD, MAU and TS. The purpose of the consultation was to seek representations to aid the Scottish Ministers’ consideration of which potential effects should be scoped in or out of the EIA Report.

4.2.2 The Scottish Ministers are satisfied that the requirements for consultation have been met in accordance with the EIA Regulations. The sections below highlight issues which are of particular importance with regards to the EIA Report and the

s.36 consent and marine licence applications. The representations and advice received are attached in Appendix I and each must be read in full for detailed requirements from individual consultees.

5. Interests to be considered within the EIA Report

5.1 Introduction

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

5.2 Geology and Sediments

5.2.1 In Section 5.5 of the Scoping Report the Developer proposes to further consider geology and sediments within the EIA Report. The Scottish Ministers did not receive any representations regarding the geology and sediments receptor and therefore cannot provide any comment on the assessment to be undertaken in the EIA Report.

5.3 Water Quality

5.3.1 In Section 6.5 of the Scoping Report the Developer proposes to scope out water quality for consideration within the EIA Report unless seabed surveys identify contaminated sediments within the area of the Proposed Development. The Scottish Ministers recommend the Developer considers the advice in the SEPA representation.

5.4 Air Quality

5.4.1 The Scottish Ministers did not receive any representations regarding the air quality receptor and therefore cannot provide any comment on the assessment to be undertaken in the EIA Report.

5.5 Noise

5.5.1 In section 8 of the Scoping Report the Developer considers both in-air noise and underwater noise which may be associated with the Proposed Development. The Scottish Ministers did not receive any representations regarding noise and therefore cannot provide any comment on the assessment to be undertaken in the EIA Report.

5.6 Electromagnetic Fields ("EMF") and Heat

5.6.1 The Developer considers the impacts of EMF and heat in section 9 of the Scoping Report. The Scottish Ministers agree with the Developers proposal to further

consider the impact of EMF and heat and advise it must be scoped into the EIA Report for the operational phase of the Proposed Development.

- 5.6.2 The Scottish Ministers disagree that compass deviation can be scoped out and refer the Developer to the advice provided by the MCA specifically in relation to electromagnetic deviation on ships' compasses and advise that this must be fully addressed within the EIA Report.
- 5.6.3 The Scottish Ministers highlight the response from the NSTA in relation to the effect of EMF on pipelines and advise that this must be considered in the EIA Report.
- 5.6.4 For the avoidance of doubt, the Scottish Ministers advise that the impact of EMF and heat must be scoped into the EIA Report for the operational phase including the impact of EMF to compass deviation.

5.7 Biodiversity

- 5.7.1 The Developer considers the potential impacts from the Proposed Development on biodiverse receptors in Chapter 10 of the Scoping Report. Specifically, this includes consideration of potential effects on benthic ecology, fish and shellfish ecology, marine mammal ecology and offshore ornithology. The Scottish Ministers will consider these marine ecology receptors individually within this Scoping Opinion in chapters 5.8 through to 5.11.
- 5.7.2 The Scottish Ministers would again highlight that the advice provided via this Scoping Opinion in the proceeding chapters is reflective of the detail provided in the Scoping Report. The Scottish Ministers are unable to provide specific advice due to NatureScot as the statutory nature conservation body being unable to provide a representation due to the lack of information in relation to methodology and proposed approach to assessment.

5.8 Benthic Ecology

- 5.8.1 The Developer proposes in section 10.2.5 of the Scoping Report to scope in benthic ecology for all phases of the Proposed Development, the Scottish Ministers agree with this approach.
- 5.8.2 The Scottish Ministers advise that the Developer should consider the Natural England response regarding the Berwickshire and North Northumberland Coast SAC. The Scottish Ministers cannot provide any further, detailed advice in regards to this receptor.

5.9 Fish and Shellfish Ecology

5.9.1 The Developer considers the impacts on fish and shellfish ecology in chapter 10.3 of the Scoping Report. The Scottish Ministers advise that the Developer should consider the representation from the DSFB. The Scottish Ministers cannot provide any further, detailed advice in regards to this receptor.

5.10 Marine Mammal Ecology

5.10.1 The Developer considers the impacts to marine mammal receptors in section 10.4 of the Scoping Report. The Scottish Ministers advise that the Developer should consider the Natural England response regarding the Berwickshire and North Northumberland Coast SAC. The Scottish Ministers are unable to provide further, detailed advice in regards to this receptor.

5.11 Offshore Ornithology

5.11.1 The Developer considers the impacts to ornithological receptors in section 10.5 of the Scoping Report.

5.11.2 The Scottish Ministers direct the Developer to the [guidance notes](#) recently published by NatureScot on its website to assist Developers in assessing the impacts of offshore development. The ornithology guidance notes should be utilised to their full potential in the preparation of the EIA Report. The Developer should also consider the representation provided by RSPB.

5.11.3 The Scottish Ministers are unable to provide further, detailed advice for this receptor due to the lack of detail provided in the Scoping Report.

5.12 Seascape, Landscape and Visual Resources

5.12.1 The Developer considers the impacts to seascape, landscape and visual resources in section 11 of the Scoping Report.

5.12.2 The Developer should consider the representation by Aberdeenshire Council. The Scottish Ministers are unable to provide further, detailed advice due to a lack of information provided in the Scoping Report.

5.13 Shipping and Navigation

5.13.1 The Scottish Ministers are broadly content with the proposed study area and baseline data sources identified in section 12 of the Scoping Report. However, the Scottish Ministers direct the Developer to the representation from UKCoS and advise a wider study area out to 50nm would consider the impact on vessel

routing in relation to the Proposed Development in undertaking the cumulative impact assessment.

- 5.13.2 In line with the representation from UKCoS, the Scottish Ministers advise that in addition to the two separate 14 day periods of Automatic Identification System (“AIS”) data set out in the Scoping Report, AIS only data from 2022 should also be included in the EIA Report for seasonal variation. Additionally, the Scottish Ministers advise that the Marine Accident Investigation Branch spatial accident data included within the EIA Report must be increased from 10 years to 20 years to fully assess trends and historic incidents.
- 5.13.3 In Section 12.3 of the Scoping Report the Developer summarises the potential impacts to shipping and navigation identified during the different phases of the Proposed Development to be scoped into the EIA Report. The Scottish Ministers broadly agree with the impacts detailed and proposed to be scoped in, however, advise that for the construction and decommissioning phases, allision risk is scoped in and vessel to vessel collision risk is broken down into collision risk between third party vessels and collision risk between third party vessels and project vessels. Additionally, vessel displacement must be scoped in for all phases of the Proposed Development. This is in line with the UKCoS representation. Furthermore, the Developer is directed to representation by the MCA specifically the points in relation to navigational issues for commercial and recreational craft and advise that these are fully considered within the EIA Report. The Scottish Ministers note from section 12.4 of the Scoping Report that a Navigational Risk Assessment (“NRA”) will be undertaken and for the avoidance of doubt advise that this must be submitted in accordance with MGN 654. The Scottish Ministers note the intention to hold a hazard workshop to inform the NRA and advise that the MCA, NLB and RYA are included. Furthermore, the NRA should include the impact to recreational boat users in line with the representation from RYA.
- 5.13.4 With regards to cabling routes and cable burial, the Scottish Ministers advise that a Burial Protection Index study 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 regarding a 5% reduction in surrounding depths referenced to Chart Datum if cable protection measures are required.
- 5.13.5 In addition, the Scottish Ministers highlight the MCA representation regarding Search and Rescue (“SAR”), Emergency Response Co-operation Plans, 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.

- 5.13.6 For completeness, the Developer is directed to the representation from the MCA and advise that compliance with regulatory expectations on moorings for floating wind and marine devices, as stated in section 12.4 of the Scoping Report, is required and a Third-Party Verification of the mooring arrangements will be required.
- 5.13.7 Section 2.7.1.1 of the Scoping Report states that mooring lines may be installed and buoyed off temporarily until the WTG can be installed. The Scottish Ministers refer the Developer to the SFF representation and advise that the need for guard vessels should be considered in this regard.
- 5.13.8 The Scottish Ministers also advise that the cumulative effects of the Proposed Development in conjunction with both existing and other proposed developments within the vicinity is assessed with regards to shipping and navigation, this may be included in the Navigation Risk Assessment. This is a view supported by NLB, MCA and UKCoS.
- 5.13.9 Finally, within section 12.5 of the Scoping Report, the Developer has referenced MGN 372 (2008). The Scottish Ministers would like to note that the MCA have confirmed in its representation that this has been superseded by MGN 372 Amendment 1 (2021).

5.14 Commercial Fisheries

- 5.14.1 The Scottish Ministers draw the Developers attention to the MD-SEDD advice in relation to data sources to inform the baseline assessment and advise that this is fully considered and addressed by the Developer in the EIA Report.
- 5.14.2 The Scottish Ministers broadly agree with the impacts proposed to be scoped into the EIA Report in section 13 of the Scoping Report. However, advise that potential impacts to fish stocks are also scoped in. Additionally, the Scottish Ministers do not agree that the effects associated with reduced access, exclusion and displacement can be scoped out at this stage due to lack of refinement of the design envelope and advise that these potential impacts must be scoped in to the EIA Report for both the windfarm area and export cable routes and refer the Developer to MD-SEDD advice and the representation from SFF in this regard.
- 5.14.3 In section 13.3.2 of the Scoping Report, the Developer states that rock protection will be laid on areas of cable where burial depth cannot be achieved. In line with the MD-SEDD advice, the Scottish Ministers advise that the EIA Report clarify how the rock berms will be over trawlable in the absence of post-laid cable over-trawl survey.

- 5.14.4 The Scottish Ministers advise more detailed information in relation to decommissioning is required, in particular in relation to the potential safety hazard disused infrastructure left in the marine environment poses to commercial fishing in line with the SFF representation.
- 5.14.5 The Scottish Ministers note that the Developer has proposed to engage with the fishing community and have enlisted a Fishing Liaison Officer to this effect. In addition to the SFF, this should also include the SWFPA and the Regional Inshore Fisheries Groups, this is in line with MD-SEDD advice.

5.15 Marine Archaeology, Cultural Heritage and Geomorphology

- 5.15.1 The Scottish Ministers highlight the representation from Aberdeenshire Council in relation to the limitations of Canmore and advise that, in addition to the data sources listed in Table A-7 of Appendix A of the Scoping Report, the local authority Historic Environment Record should also be reviewed for undesignated assets. In relation to the study area, for the avoidance of doubt, the Scottish Ministers advise that this must include the cable routes as well as the windfarm area.
- 5.15.2 The Scottish Ministers advise that the baseline data presented is insufficient and as such impacts to marine archaeology, cultural heritage and geomorphology cannot be scoped out. The Scottish Ministers therefore advise that direct and indirect impacts must be scoped into the EIA Report for further assessment, this is in line with the representations made by HES and Aberdeenshire Council. The assessment must include the cable routes and consideration of indirect impacts on known remains in the vicinity of the Proposed Development. The Scottish Ministers also advise that cumulative impacts are scoped into the EIA Report for further assessment and direct the Developer to the HES representation in this regard.
- 5.15.3 The Scottish Ministers advise that the HES advice in relation to the Written Scheme of Investigation is implemented in full by the Developer.

5.16 Socio-economic

- 5.16.1 The Scottish Ministers advise that the Developer must undertake a full Socio-Economic Impact Assessment ("SEIA") and in completing this, advise the Developer to fully consider the guidance and principles detailed in Annex 1 of the MAU advice.
- 5.16.2 The Scottish Ministers note that the study area is yet to be defined and will be dependent on the location of ports, construction yards, operation centres and

other onshore epicentres. It is unclear if this will be known at the time of application. The Scottish Ministers expect primary data to be collected in the relevant areas and advise that the Developer fully address MAU advice in this regard.

- 5.16.3 With regards to the baseline characterisation, the Scottish Ministers advise that it is not appropriate to assume that host communities have the characteristics of Scotland as a whole. It is recommended that the SEIA includes detailed descriptions of the baseline and assumptions and includes details of primary data to fully assess the potential impact of the project at all phases of the Proposed Development. This is in line with MAU advice.
- 5.16.4 The Scottish Ministers broadly agree with the impacts to be scoped into the EIA Report as identified in Chapter 15 of the Scoping Report for the construction, operation and decommissioning phases of the Proposed Development. In addition, the Scottish Ministers advise that tourism and recreation, socio-cultural impacts and distributional impacts are also scoped into the EIA Report and direct the Developer to the MAU advice in this regard.
- 5.16.5 The Scottish Ministers note that the Scoping Report is lacking in detail as to the specific methodology that will be used to assess the economic impacts and advise that the EIA Report include a detailed description of the methodological approach taken also including key assumptions that underpin any estimates. This is in line with MAU advice.
- 5.16.6 Finally, in section 3.5.2 of the Scoping Report the Developer commits to developing a Project Communications Plan, the Scottish Ministers advise that a detailed engagement plan is included in the EIA Report and direct the Developer to MAU advice in this regard

5.17 Human Health

- 5.17.1 Section 16.3 of the Scoping Report considers the potential impacts of the Proposed Development on human health during all phases of the Proposed Development. In table 16-1 of the Scoping Report the Developer provides a description of each effect considered and its justification for scoping it out of the EIA Report.
- 5.17.2 The Scottish Ministers are content for human health to be scoped out of the EIA Report as a standalone chapter on the basis that the knock-on social impact to human health is fully considered in the SEIA and direct the Developer to MAU advice to this regard.

5.18 Major Accidents/Disasters

- 5.18.1 Section 17 of the Scoping Report considers the vulnerability of the Proposed Development to major accidents and disasters and it is proposed that this will be scoped out of the EIA for further assessment on the basis that identified risks will be further assessed within the relevant receptor chapter and/or mitigated against through project design. The Scottish Ministers do not consider that the Developer has provided sufficient information to justify scoping out the risk of major accidents and disasters. Consequently, it must be scoped in for further assessment in the EIA Report in respect of the construction, operation and decommissioning phases of the Proposed Development.
- 5.18.2 In doing so, the Developer should make use of appropriate guidance, including the IEMA 'Major Accidents and Disasters in EIA: A Primer', to better understand the likelihood of an occurrence and the Proposed Developments vulnerability to or ability to cause a potential accident or disaster.
- 5.18.3 The Scottish Ministers advise that existing sources of risk assessment or other relevant studies should be used to establish the baseline rather than collecting survey data and note the IEMA Primer provides further advice on this. This should include the review of the identified hazards from your baseline assessment, the level of risk attributed to the identified hazards and the relevant receptors to be considered.
- 5.18.4 The assessment must detail how significance has been defined and detail the inclusions and exclusions within the assessment. Any mitigation measures that will be employed to prevent, reduce or control significant effects should be included in the EIA Report.
- 5.18.5 In Table 17-1 of the Scoping Report the Developer considers the WTGs be a potential risk to low flying aircraft however do not propose to consider this further in the EIA Report. The Scottish Ministers advise that the potential impact of the Proposed Development on low flying aircraft must be considered in the EIA Report and direct the Developer to the representation by MOD in this regard. The Scottish Ministers have provided comment within this receptor chapter to reflect the Scoping Report however the Developer may wish to address this within an aviation chapter of the EIA Report.

5.19 Climate Change

- 5.19.1 The Scottish Ministers are broadly content with the elements proposed by the Developer to be scoped in for and out from further assessment in the EIA Report, as detailed within Chapter 18 of the Scoping Report. The Scottish Ministers

acknowledge the data sources included with the Scoping Report and highlight the IEMA Environmental Impact Assessment Guide “Assessing Greenhouse Gas Emissions And Evaluating Their Significance” (“IEMA GHG Guidance”), which states that “GHG emissions have a combined environmental effect that is approaching a scientifically defined environmental limit, as a such any GHG emissions or reductions from a project might be considered significant.” 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 are content that the GHG Assessment included within the EIA Report is to be based on a Life Cycle Assessment approach and notes that the IEMA GHG Guidance provides further insight on this matter. The Scottish Ministers highlight that this Assessment should consist of the pre-construction, construction, operation and decommissioning phases, as well as benefits beyond the life cycle of the Proposed Development.

5.20 Materials and Waste

5.20.1 The Scottish Ministers are content with the data sources and baseline information provided in section 19 of the Scoping Report and agree that materials and waste are scoped into the EIA Report for the construction, operation and decommissioning phases of the Proposed Development.

5.21 Aviation Consideration

5.21.1 The Developer considers the impact of the Proposed Development on aviation receptors in section 20 of the Scoping Report. The Scottish Ministers are content that aviation can be scoped out of the EIA Report for all phases of the Proposed Development. This view is supported by NATS and MOD in its representations. However, the Scottish Ministers advise that the impact of the Proposed Development on low flying aircraft is considered in the EIA Report and direct the Developer to [section 5.18.5](#) of this Scoping Opinion for further advice.

5.21.2 The Scottish Ministers refer the Developer to the representation by MOD and suggest that the advice provided is implemented.

5.22 Cumulative and Transboundary Effects

5.22.1 In table 21-1 within section 21 of the Scoping Report the Developer proposes the receptors to be considered in the EIA Report for cumulative and transboundary effects. Where the Scottish Ministers have been minded to advise on the inclusion of receptor specific assessment of cumulative impacts, this advice has been provided in the preceding receptor specific chapters. Further, detailed

advice cannot be provided due to the lack of detail contained within the Scoping 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 6 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017, 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. 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 Habitats Regulations Appraisal (“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: *“application for multi-stage consent” means an application for approval, consent or agreement required by a condition included in a regulatory approval where (in terms of the condition) that approval, consent or agreement must be obtained from the Scottish Ministers before all or part of the development permitted by the Electricity Act consent may be begun*”.
- 7.1.3 A s.36 consent or marine licences, if granted, by the Scottish Ministers for the Proposed Development, may have several conditions attached requiring approvals etc. which fall under this definition, for example the approval of a CMS. When making an application for multi-stage consent or regulatory approval the Developer must satisfy the Scottish Ministers that no significant effects have been identified in addition to those already assessed in the EIA Report.
- 7.1.4 If during the consideration of information provided in support of an application for multi-stage consent or regulatory approval the Scottish Ministers consider that the 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.

Jessica Malcolm

28 June 2023

Authorised by the Scottish Ministers to sign in that behalf.

Appendix I: Consultation Responses & Advice

Please refer to separate document provided alongside this Scoping Opinion.

Appendix II: Gap Analysis

Please refer to separate document provided alongside this Scoping Opinion.

Developer to complete:

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