

marinescotland



Scottish Government
Riaghaltas na h-Alba
gov.scot

E: MS.MarineRenewables@gov.scot

Marine Scotland – Licensing Operations Team

Scoping Opinion adopted by the Scottish Ministers under:

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

and

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

Pentland Floating Offshore Wind Farm

28 September 2021

Contents

1. Introduction.....	3
1.1 Background	3
2. The Proposed Development	5
2.1 Introduction.....	5
2.2 Background	5
2.3 Description of the Proposed Development	6
2.4 Onshore/ Planning.....	7
2.5 The Scottish Ministers' Comments	8
3. Contents of the EIA Report.....	12
3.1 Introduction.....	12
3.2 EIA Scope	12
3.3 Mitigation and Monitoring	12
3.4 Risks of Major Accidents and/or Disasters	12
3.5 Climate and Greenhouse Gases	13
4. Consultation.....	15
4.1 The Consultation Process	15
4.2 Representations Received	17
5. Interests to be considered within the EIA Report.....	18
5.1 Introduction.....	18
5.2 Marine Physical Processes	18
5.3 Water and Sediment Quality.....	18
5.4 Benthic Ecology.....	19
5.5 Fish and Shellfish Ecology	20
5.6 Marine Mammals and Other Megafauna	22
5.7 Ornithology	23
5.8 Commercial Fisheries.....	26
5.9 Shipping and Navigation.....	28
5.10 Aviation and Radar.....	29
5.11 Seascape, Landscape and Visual Impact Assessment.....	30
5.12 Offshore and Onshore Archaeology and Cultural Heritage	32
5.13 Other Users of the Marine Environment.....	32
5.14 Socio-economics, Recreation and Tourism.....	33
5.15 Geology, Physical Processes and Land Use	35
5.16 Terrestrial Ornithology.....	36

5.17	Terrestrial Ecology	37
5.18	Air Quality.....	38
5.19	Landscape and Visual Amenity	39
5.20	Traffic and Transport.....	39
5.21	Other Issues.....	40
6.	Application and EIA Report	42
6.1	General.....	42
7.	Multi-Stage Consent and Regulatory Approval.....	43
7.1	General.....	43
	Appendix I – Consultation Representations & Advice.....	44
	Appendix II – Gap Analysis	45

1. Introduction

1.1 Background

- 1.1.1 On 16 December 2020, the Scottish Ministers received a scoping report (“the Scoping Report”) from Highland Wind Limited (“the Developer”) as part of its request for a scoping opinion relating to Pentland Floating Offshore Wind Farm and associated offshore and onshore infrastructure (“the Proposed Development”). The Scottish Ministers considered the content of the Scoping Report as both sufficient and in accordance with regulation 14 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 and regulation 12 of The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, collectively referred to as “the EIA Regulations”.
- 1.1.2 This scoping opinion (“the Scoping Opinion”) is adopted by the Scottish Ministers under the EIA Regulations in response to the Developer’s request and should be read in conjunction with the Scoping Report. The matters contained in the Scoping Report have been carefully considered by the Scottish Ministers and use has been made of professional judgment, based on expert advice from stakeholders and Marine Scotland in-house expertise and experience. The Scoping Opinion identifies the scope and level of detail of information to be provided in the Environmental Impact Assessment Report (“EIA Report”) for the Proposed Development.
- 1.1.3 The Scottish Ministers, in adopting the 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, the Scoping Opinion does not preclude the Scottish Ministers from requiring the Developer to submit additional information in connection with any Environmental Impact Assessment 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”).
- 1.1.5 In the event that the Developer does not submit applications for a s.36 consent, to construct and operate a generating station, under the 1989 Act and/or marine licences, to carry on such ‘licensable marine activities’ as are required for the construction of the Proposed Development under the 2010

Act 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 (“EIA”) 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 Background

2.2.1 The Proposed Development is an update to the Dounreay Tri Floating Wind Demonstration Project (“the Dounreay Tri Project”) which was granted consent under the 1989 Act in 2017 but not constructed. The Scottish Ministers granted a s.36 consent under the 1989 Act with deemed planning permission under section 57(2) of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”) for the construction and operation of the Dounreay Tri Project, including a declaration under section 36A of the 1989 Act, on 16 March 2017. The Scottish Ministers also granted two marine licences under the 2010 Act for the construction of the offshore generating station and offshore transmission infrastructure on 16 March 2017. Both marine licences were subsequently varied on 23 July 2019 and again on 8 June 2021.¹

2.2.2 The Dounreay Tri Project infrastructure, which is included in the s.36 consent and/or the marine licences, consists of:

- Up to two wind turbine generators with a maximum installed capacity of up to 12 megawatts (“MW”);
- A single floating, semi-submersible, column stabilised platform;
- A single export cable to bring the power to shore immediately to the West of the Dounreay Nuclear Site fence line;
- Associated scour protection; and
- Associated onshore electrical infrastructure to connect at, or near, the existing Dounreay 132/33/11 kilivolt (“kV”) substation (subject to a connection offer from Scottish and Southern Energy Power Distribution).

2.2.3 The Developer is currently exploring the option of utilising the existing s.36 consent with deemed planning permission, the section 36A declaration and the marine licences for the Dounreay Tri Project to construct and operate the Pentland Floating Offshore Wind Demonstrator Project (“the Demonstrator”) in advance of the Proposed Development. The Developer has stated that the Demonstrator and the Proposed Development will be consented and constructed separately. However, the Demonstrator will ultimately form part of the Proposed Development. The Demonstrator is anticipated to be constructed and operational by mid-2023.

¹ [Dounreay Tri Floating Wind Demonstration Project | Marine Scotland Information](#)

2.3 Description of the Proposed Development

2.3.1 The Proposed Development will comprise of an offshore generating station with an installed capacity of up to 100MW and will be located within 12 nautical miles (“nm”), approximately 6 kilometres (“km”) off the coast of Dounreay, Caithness on the North coast of Scotland. The onshore elements of the Proposed Development are located directly adjacent to the western side of the Naval Reactor Test Establishment (“NRTE”) Vulcan site and extend out to the eastern edge of Sandside Bay. The aim of the Proposed Development is to test and demonstrate a technology solution for floating offshore wind in Scotland.

2.3.2 The key components of the Proposed Development include:

- 6 to 10 wind turbine generators each with a maximum blade tip height of 270 metres (“m”) above Highest Astronomical Tide, minimum blade clearance from sea level of 22m, maximum hub height of 150m, maximum rotor diameter of 240m, maximum rotor tip height of 270m;
- 6 to 10 floating substructures (the floating substructure designs being considered are a spar, barge/semi-submersible and a tension-leg platform and the maximum anticipated base dimensions considered is 124m by 124m with a height of 54.25m);
- Anchors and moorings securing the substructures to the seabed (it is anticipated 3 to 6 will be required per substructure). The mooring options being considered are a spread or single point mooring and the anchor design types being considered are gravity, drag embedment, vertical load, drilled piles, suction bucket or screw piles;
- Inter-array cables up to 25 km (dynamic and static);
- Up to 2 export cables totalling 25 km; and
- Scour protection for the anchors, inter-array cables and export cables (the options considered are concrete mattresses, rock placement, sand/grout filled bags and/or artificial seaweeds).
- Cable connection to the grid at Dounreay either to the existing 132kV substation or the Scottish Hydro Electric Transmission (“SHE-T2) 275kV Dounreay West substation which is consented, but is yet to be constructed;
- Horizontal directional drilling between Sandside Bay and Dounreay nuclear facility or pinning the cable to the disused Dounreay cooling water intake are the two options being considered for the export cable landfall ;
- A cable joint transition bay ;
- Cable joint bays;
- Onshore export cables (anticipated to be no longer than 2km). The installation methods considered are open-cut trenching or HDD;
- An onshore substation compound or switchgear (it is anticipated that the maximum area is likely to be 100m x 60m);
- Temporary construction compound; and
- Access routes.

- 2.3.3 As the Proposed Development will have an installed capacity of up to 100MW² it requires the Scottish Ministers' consent under s.36 of the 1989 Act to allow its construction and operation. Any proposal to construct or operate a generating station situated in the Scottish territorial sea (out to 12nm from the shore), with a generating capacity of 1MW³, requires the Scottish Ministers consent under section 36 of the 1989 Act. The construction of the Proposed Development will also require marine licences granted by the Scottish Ministers under the 2010 Act, to permit any and all 'licensable marine activities'.
- 2.3.4 The Proposed Development is in the same location as the previously consented and licensed Dounreay Tri Project, with the exception of a small extension to the export cable corridor area in the nearshore area and an extension to the onshore area in the West, as shown in figure 3-1 in the Scoping Report. The Developer has advised that the extension to these areas is to avoid the SHE-T 275kV Dounreay West substation and the SHE-T Orkney to Caithness transmission connection cable, in order to minimise any cable crossings and potential cumulative impacts.
- 2.3.5 The construction of the Proposed Development is anticipated to begin in 2026 and take 6 months to complete, as detailed in section 5.4 and figure 5-14 of the Scoping Report. The operational lifetime of the Proposed Development is expected to be a minimum of 25 years.
- 2.3.6 It is noted that the Scoping Report details the 'Proposed Development' but does not clearly establish all activities for which 'regulatory approval'⁴ will be sought. Regulatory approvals will be required for all construction activities, whether as part of the original construction or any subsequent alteration or improvement including decommissioning, 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 the Scoping Opinion should be taken, as appropriate, to include all activities in connection with the construction, operation, maintenance (including 'change-outs' of components) and decommissioning of the 'Proposed Development' for which a regulatory approval will be needed.

2.4 Onshore/ Planning

- 2.4.1 In the Scoping Report the Developer proposes not to submit a separate planning application to the Highland Council for the onshore transmission infrastructure associated with the Proposed Development. The Developer suggests that its intention is to seek a direction from the Scottish Ministers under section 57(2) of the 1997 Act that planning permission for the onshore

² The Scoping Report explains that the Proposed Development including the Demonstrator will not exceed an installed capacity of up to 100MW.

³ The Electricity Act 1989 (Requirement of Consent for Offshore Generating Stations) (Scotland) Order 2002 modified section 36(2) of the 1989 Act.

⁴ Regulatory approval is defined as a 'marine licence' in The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017

transmission infrastructure be deemed to be granted as part of the s.36 consent application.

- 2.4.2 On granting a s.36 consent the Scottish Ministers may give a direction that planning permission to be deemed to be granted, subject to any conditions as may be specified in the direction, for any development ancillary to the operation to which the s.36 consent relates.
- 2.4.3 The Developer has not sought a separate scoping opinion from the Highland Council for the associated onshore transmission works therefore, the Scoping Opinion concerns both offshore and onshore infrastructure associated with the Proposed Development.

2.5 The Scottish Ministers' Comments

Description of the Proposed Development

- 2.5.1 As the Proposed Development includes both onshore and offshore elements all infrastructure located below mean high water springs ("MHWS") will be referred to as the "Offshore Proposed Development" and all infrastructure and works located above mean low water springs ("MLWS") will be referred to as the "Onshore Proposed Development" in the Scoping Opinion. For the avoidance of doubt the Offshore Proposed Development, must include both the wind turbine generator site and the export cable corridor area, as outlined in red and hatched in purple, green and blue in Figure 3-1 of the Scoping Report ("the Offshore Study Area"). The Onshore Proposed Development, must include the onshore cable search area, cable jointing infrastructure and the substation site, as outlined in orange in Figure 10-1 of the Scoping Report ("the Onshore Study Area"). It is unclear from Figure 10-1 if this area extends down to mean low water springs ("MLWS"). The Onshore Study Area must include down to MLWS. Should the Developer opt to submit a separate planning application for the Onshore Proposed Development, terrestrial and marine aspects should be clearly identified in the EIA Report to ensure a more straightforward process in terms of splitting the impacts associated with the offshore and onshore infrastructure.
- 2.5.2 The Scottish Ministers note that marine licensing covers the marine area up to MHWS and terrestrial planning control extends down to MLWS. As there is an overlap of consenting regimes in the inter-tidal zones, for some activities there may be a need for both a marine licence and planning permission.
- 2.5.3 Section 5.2.2 of the Scoping Report suggests that "any final design may vary significantly from current estimates" for the floating substructures. It is noted that Table 5-2 aims to outline the maximum anticipated dimensions for each of the floating technologies considered based on the larger wind turbine generator scenario. The EIA Report should include a full and detailed description of all floating substructure options for the Proposed Development.

- 2.5.4 Table 5-3 of the Scoping Report indicates that there will be 3 to 6 number of mooring lines and anchors per structure. The EIA Report should include a full and detailed description of the moorings and anchors for the Proposed Development and must assess the total worst case scenario.
- 2.5.5 The Scoping Report identifies the need for cable joint bays to connect the onshore cables. It is suggested that these are “typically required every 500 – 1,000m”. The Developer should identify a worst-case scenario for the number of jointing pits that may be required and consider their impact in the EIA Report .
- 2.5.6 Table 5-6 of the Scoping Report indicates that 20 percent of the inter-array cables will be buried “if deemed a requirement” and that “typically” the trench depth will be 1 to 1.5 metres. Table 5-7 of the Scoping Report indicates that 80 to 100 percent of the export cables will be “buried/protected” and that “typically” the trench depth will be 1 to 1.5 metres. It is unclear whether the percentage for the export cable refers to the percentage of burial or protection. The EIA Report must be clear on this including the range of burial depths that have been considered as part of the assessment. 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.
- 2.5.7 In the Scoping Report it is indicated that there may be a requirement to install scour protection on the anchors, inter-array and export cables however, no indicative maximum quantity or location of the scour protection has been provided. For the export cables it is suggested that cable protection may be concrete mattresses or rock placement, however “other options will be considered where appropriate.” All options must be fully described and assessed in the EIA Report and the indicative location and maximum quantities of the scour protection must also be included.
- 2.5.8 Section 5.2.7.4 of the Scoping Report states that “pre-lay surveys of proposed cable corridors will be undertaken to identify any requirements for obstacle removal” for the inter-array cables and section 5.2.7.5 of the Scoping Report proposes that “debris clearance” may be required prior to the installation of the export cables. Any requisite seabed preparation required for the Proposed Development, including both the inter-array and export cables, should be described and fully assessed in the EIA Report. Should seabed clearance or 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. Any seabed levelling or removal of substances from on or under the seabed (including dredging and ‘grapnel runs’) will require consideration in the EIA Report and may require a marine licence.

- 2.5.9 Section 5.5 of the Scoping Report sets out an overview of the estimated decommissioning activities and the Developer's proposed decommissioning approach. The EIA Report should include the rationale in support of the 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. The Scottish Ministers note that there is no consideration of the decommissioning of the Onshore Proposed Development in the Scoping Report and this should also be considered and addressed in the EIA Report.
- 2.5.10 The Scottish Ministers recommend that the Developer submits a Habitats Regulations Appraisal ("HRA") screening report at the earliest opportunity and prior to the submission of the EIA Report. The Scottish Ministers note that it is the Developer's intention to carry out an HRA alongside the EIA Report however, advise that this is submitted as soon as possible taking into account the representations provided by the consultees at the scoping stage. The Scottish Ministers highlight that any application should incorporate a full HRA, further guidance can be provided on this iterative process if required by the Developer.

Design Envelope

- 2.5.11 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 5.1.1 of the Scoping Report. The Scottish Ministers note that it is the Developer's intention to further refine and develop the 'Design Envelope' during the EIA process. The Scottish Ministers advise that the Developer must make every attempt to narrow the range of options.
- 2.5.12 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.
- 2.5.13 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.
- 2.5.14 The Scottish Ministers will determine the applications based on the worst case scenario. The EIA should reduce the degree of design flexibility required and the detail must 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 of this Scoping Opinion below regarding multi-stage consent or regulatory approval. The CMS must '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.

- 2.5.15 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

- 2.5.16 The EIA Regulations require that the EIA Report includes 'a description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects'. The Scottish Ministers advise that these considerations must include how decommissioning has been taken into account within the design options. The Scottish Ministers advise that decommissioning considerations must be based on the presumption of as close to full removal of all infrastructure and assets as possible and should consider the methods and processes of doing so.
- 2.5.17 The Scottish Ministers acknowledge section 3 of the Developer's Scoping Report which sets out a brief consideration on site selection for the Proposed Development however, advise that further consideration on other aspects, not just regarding site selection must be included in the EIA Report. The Scottish Ministers recognise that at this stage the exact siting and final design of the Proposed Development has yet to be decided by the Developer.
- 2.5.18 For the avoidance of doubt, the Scottish Ministers advise that the EIA Report must include an up to date consideration of the reasonable alternatives studied as the parameters of the Proposed Development have been refined. This includes but is not limited to the identification of the potential wind turbine layouts within the array area, the parameters of the export cables, the floating substructure designs, mooring and anchoring systems, the cable corridor options, the landfall location and decommissioning considerations. 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 Applicant 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 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 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 Applicant 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's 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's potential to cause an accident or disaster.

- 3.4.2 The Scottish Ministers note that the risks of major accidents and disasters has been considered in relation to the Onshore Study Area.
- 3.4.3 The Scottish Ministers advise that existing sources of risk assessment or other relevant studies should be used to establish the baseline rather than collecting survey data and note the IEMA Primer provides further advice on this.
- 3.4.4 The assessment must detail how significance has been defined and detail the inclusions and exclusions within the assessment. Any mitigation measures that will be employed to prevent, reduce or control significant effects should be included in the EIA Report.

3.5 Climate and Greenhouse Gases

- 3.5.1 The Scoping Report does not propose to include a standalone topic or chapter on climate. The Scottish Ministers recognise that in section 12.3 of the Scoping Report the Developer acknowledges that as well as the potential for a positive environmental impact with regard to carbon saving and avoidance of Greenhouse Gas ("GHG") emissions there will also be a carbon cost on account of the Proposed Development activities therefore, it is proposed that this will be considered within the Air Quality chapter in the EIA Report.
- 3.5.2 The Scottish Ministers are mindful that GHG emissions from all projects contribute to climate change. In this regard, the Scottish Ministers 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 therefore advise that the EIA Report must include a GHG Assessment which should be based on a Life Cycle Assessment ("LCA") approach and note that the IEMA GHG Guidance provides further insight on this matter. The Scottish Ministers highlight however that this 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 extent to which the carbon cost of the wind farm (including supply chain) is offset through the production of green energy should also be addressed in the EIA Report, as per the representation received from NatureScot. The impact of climate change effects should be considered,

both in future proofing the project design and how certain climate stressors may work in combination with potential effects from the proposed wind farm.

- 3.5.3 The Scottish Ministers highlight NatureScot's representation regarding assessment approach. In addition to discrete individual receptor assessments, NatureScot highlights the need to understand potential impacts holistically at a wider ecosystem scale. Assessment in the EIA Report should therefore focus on potential impacts across key trophic levels particularly in relation to the availability of prey species to enable a better understanding of the consequences (positive or negative) of any potential changes in prey distribution and abundance from the development of the wind farm on seabird and marine mammal (and other top predator) interests and what influence this may have on population level impacts.

4. Consultation

4.1 The Consultation Process

4.1.1 Following receipt of the Scoping Opinion, the Scottish Ministers, in accordance with the EIA Regulations, initiated a 42 day consultation process which commenced on 21 December 2020. The following bodies were consulted, those marked in bold provided a response, those marked in italics sent nil returns or stated they had no comments:

- *Aberdeen and Glasgow Airports*
- Angling Orkney
- Aquatera – on behalf of Brims Tidal Array Ltd
- Bettyhill, Strathnaver and Altnaharra Community Council
- Birsay Community Council
- **British Telecom (Radio Network Protection Team) (“BT”)**
- Caithness and Sutherland Visitor Attractor Group
- Caithness Chamber of Commerce
- **Caithness District Salmon Fishery Board (“Caithness DSFB”)**
- Caithness Kayak Club
- Caithness West Community Council
- Castletown Community Council
- Civil Aviation Authority
- Community Inshore Fishery Alliance
- Crown Estate Scotland
- **Defence Infrastructure Organisation (Ministry of Defence) (“MOD”)**
- Develop Durness Group
- Dounreay Site Restoration Limited
- Dounreay Stakeholder Group
- Dunnet and Canisbay Community Council
- Durness Community Council
- **Fisheries Management Scotland (“FMS”)**
- Graemsay, Hoy and Walls Community Council
- Harray and Sandwick Community Council
- **Highland Council**
- **Highlands and Islands Airport Limited (“HIAL”)**
- Highlands and Islands Enterprise
- **Historic Environment Scotland (“HES”)**
- **Joint Radio Company (“JRC”)**
- Marine Safety Forum
- Marine Scotland – Compliance (Scrabster Fishery Office)
- **Maritime and Coastguard Agency (“MCA”)**
- Melvich Community Council
- *National Air Traffic Services*
- National Trust for Scotland
- **NatureScot (operating name of Scottish Natural Heritage) (“NatureScot”)**

- **North and East Coast Regional Inshore Fishery Group (“NECRIFG”)**
- North Shore Surf Club
- **Northern District Salmon Fishery Board (“Northern DSFB”)**
- **Northern Lighthouse Board (“NLB”)**
- NorthLink Ferries
- Nuclear Decommissioning Authority
- Orkney Council
- Oil and Gas UK
- Orkney Ferries
- Orkney Fisheries Association
- Orkney Harbours
- Orkney Islands Sea Angling Association
- Orkney Management Group
- Orkney Sailing Club
- Outer Hebrides Regional Inshore Fishery Group
- Pentland Firth Yacht Club
- Port Authority - The Highland Council
- Reay Golf Club
- **Royal Society for the Protection of Birds Scotland (“RSPB Scotland”)**
- **Royal Yachting Association Scotland (“RYA Scotland”)**
- Scottish Canoe Association
- Scottish Creel Fishermen’s Federation
- Scottish Environment Protection Agency (“SEPA”)
- **Scottish Fishermen’s Federation (“SFF”)**
- Scottish Fishermen’s Organisation
- Scottish Forestry
- Scottish Government Planning
- Scottish Hydro Electric Transmission plc
- Scottish Pelagic Fishermen's Association
- Scottish Sea Farms
- Scottish Sub Aqua Club
- Scottish Surfing Federation
- **Scottish Water**
- Scottish Wildlife Trust
- Scrabster Harbour Authority
- Seafish
- Shetland Shellfish Management Organisation
- SIMEC Atlantis Energy – on behalf of MeyGen Tidal Energy Project.
- Sports Scotland
- Strathy & Armadale Community Council
- Stromness Community Council
- Surfers Against Sewage
- The Fisheries Liaison with Offshore Wind and Wet Renewables Group
- Thurso Community Council
- *Tongue Community Council*

- Transport Scotland Ports and Harbours
- UK Chamber of Shipping
- Visit Scotland
- West Coast Regional Inshore Fishery Group
- Whale and Dolphin Conservation
- Wick Harbour

4.1.2 Specific advice was sought from Marine Scotland Science (“MSS”), the Marine Scotland – Marine Analytical Unit (“MAU”), Marine Scotland – Marine Planning and Policy and Transport Scotland (“TS”).

4.2 Representations Received

4.2.1 From the list above a total of 17 representations were received. Advice was also provided by the MAU, MSS and TS. The purpose of the consultation was to seek representations to aid 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 regard to the EIA Report and any 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. The Scottish Ministers highlight that two separate responses were provided by MSS as part of its advice and these are attached within Appendix I. In addition, three separate responses from NatureScot were received, all of which are attached within Appendix I.

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, MSS 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. For the avoidance of doubt, where the Developer refers to potential impacts during decommissioning "as construction" in the scoping report, any impacts that the Scottish Ministers advise are scoped in for construction must also be scoped in for decommissioning unless otherwise advised by the Scottish Ministers in this Scoping Opinion.

5.2 Marine Physical Processes

- 5.2.1 The Scottish Ministers broadly agree with the receptors and potential impacts for physical processes detailed in Table 7-1 of the Scoping Report however, advise that impacts on the Sandside Bay site of special scientific interest ("SSSI") must be scoped in if the option of pinning the cable to the disused water intake is within the extended landfall corridor. If the extended landfall corridor area is proposed to only be used for the horizontal directional drilling landfall option then the Scottish Ministers is content that this can be scoped out. This view is supported by both NatureScot and MSS representations.
- 5.2.2 The Scottish Ministers agree with NatureScot and MSS that for the increase in suspended sediments impacts, the assessment methodology must include the potential use of specific analysis, for example modelling, in order to adequately assess the impacts. In addition, the Scottish Ministers advise that for impacts on local sediment transport, scour protection must be included in the project elements to be considered and these impacts should also be scoped in during the construction phase in Table 13-1.
- 5.2.3 The Scottish Ministers direct the Developer to the additional sources of information provided by MSS in its representation and advise that these sources are considered within the assessment for bathymetry, water level and currents in the EIA Report.

5.3 Water and Sediment Quality

- 5.3.1 Within Table 7-3 the Developer summarises all potential impacts identified during the different phases of the Offshore Proposed Development, including potential cumulative impacts, which it proposes to scope in and out for assessment within the EIA Report. The Scottish Ministers agree with most of the potential impacts identified to be scoped in and out; however, advise that consideration must also be given to the risk of invasive non-native species settlement and distribution and risks to water environment from

operational cleaning and from paints and painting operations of the Offshore Proposed Development in the EIA Report.

- 5.3.2 Whilst SEPA has not provided representation, the Scottish Ministers advise that the Developer should seek to engage with SEPA when producing the EIA Report.

5.4 Benthic Ecology

- 5.4.1 The Scottish Ministers advise that the Developer must consider the potential impacts of the Offshore Proposed Development on species and habitats listed as Priority Marine Features (“PMFs”) in the EIA Report. Both NatureScot and MSS agree that PMFs are an important consideration as part of the assessment of potential impacts on benthic ecology. The Scottish Ministers further advise that key Annex 1 habitats of conservation importance should be considered in the EIA Report, per the NatureScot representation.
- 5.4.2 The Scottish Ministers broadly agree with the Developer on the impacts proposed to be scoped in however, advise that additional impacts must also be scoped in. Firstly, the Scottish Ministers agree with NatureScot and MSS that the introduction of marine non-native species must be considered and assessed in the EIA Report. The Scottish Ministers further recommend that proposed mitigation measures and monitoring should also be considered in the EIA Report in relation to marine invasive non-native species. The Scottish Ministers highlight the MSS recommendation that an assessment of the risk of marine non-native species while adhering to the protocols provided in the International Convention for the Control and Management of Ships’ Ballast Water and Sediments is undertaken.
- 5.4.3 With regards to the impact of colonisation of subsea infrastructure, scour protection and support structures, the Scottish Ministers advise that this must be scoped in. The Scottish Ministers highlight the importance of this when considering the spread of marine invasive non-native species and direct the Developer to the specific comments in the NatureScot and MSS representations on this. The Scottish Ministers agree that the long-term effects of the introduction of hard structures must be carefully considered in the EIA Report. The Scottish Ministers highlight the NatureScot recommendation to use a more targeted placement method where protective material cannot be avoided and minimising the amount of hard substrate material used during the operations and maintenance. The Scottish Ministers agree with NatureScot that a worst-case quantity should be included and assessed for the lifetime of the Offshore Proposed Development in the EIA Report and further agree with both MSS and NatureScot that consideration is given to the choice of materials and how they can be recovered during decommissioning.
- 5.4.4 The Scottish Ministers further advise that impacts to benthic communities from any thermal load or electromagnetic field (“EMF”) arising from the cable during operation are scoped in. The Scottish Ministers agree with MSS

advice that impacts of thermal load or EMF should be considered for cables when buried in addition to those that are not buried, for example free-hanging or surface-laid cables and direct the Developer to the specific comments from MSS on what the EIA Report should include in this regard. In addition, the Scottish Ministers advise that increased sedimentation and smothering on benthic infauna and epifauna impacts must also be scoped in to the EIA Report and should be assessed specifically for benthic habitats and species found within the vicinity of the Offshore Proposed Development. This view is supported by the MSS advice.

- 5.4.5 With regards to the method of assessment for benthic ecology, the Scottish Ministers highlight key questions recommended by NatureScot to be answered by the pre-construction baseline surveys. The Scottish Ministers agree with NatureScot that the EIA Report must clearly present the main biotopes identified within the site of the Offshore Proposed Development and that a biotopes/habitat map should be used by the Developer to inform the finalised design. In addition, the Scottish Ministers advise that consideration is given to indirect impacts on birds, fish and marine mammals, where appropriate, as per NatureScot's representation.
- 5.4.6 For the avoidance of doubt, all impacts listed during the construction phase, including the additional impacts recommended above should also be scoped in during the decommissioning phase. The Scottish Ministers advise that both MSS and NatureScot's recommendations are fully addressed within the EIA Report.

5.5 Fish and Shellfish Ecology

- 5.5.1 With regards to the baseline data, the Scottish Ministers are broadly content with the existing data on fish and shellfish resources listed in the Scoping Report however, highlight the additional studies, reports and current datasources available as recommended by MSS, FMS, Caithness DSFB and Northern DSFB. The Scottish Ministers advise that these must be included and fully considered in the EIA Report. In addition, the Scottish Ministers highlight the recommendation by MSS regarding the presentation of some of the data. Please note that diadromous fish will now be considered separately from marine fish and the Scottish Ministers advice is detailed in paragraphs 5.5.7 to 5.5.10.
- 5.5.2 Within Table 8-3 of the Scoping Report, the Developer identifies marine fish species which are proposed to be considered within the EIA Report for further assessment. The Scottish Ministers agree with the species identified and direct the Developer to MSS advice that Table 8-3 is updated to reflect those species which are PMFs. The EIA Report must include quantification, where possible, of the likely impacts to key PMFs (those that are important prey for marine predators such as seabirds and marine mammals including, but not limited to, herring, sandeels and sprat) and consider whether this could lead to a significant impact on their national status and the implications for predator/prey interactions. This view is supported by both NatureScot and MSS representations.

- 5.5.3 Potential impacts on fish and shellfish ecology receptors during all phases of the Offshore Proposed Development are considered by the Developer within Table 8-4 of the Scoping Report. The Scottish Ministers agree with the potential impacts which have been identified for marine fish and shellfish ecology however, advise that the potential impacts from EMF from subsea and dynamic cables; fish aggregation around floating structures and associated infrastructure; and habitat loss and disturbance must also be scoped in and fully addressed by the Developer in the EIA Report. The representations from MSS and NatureScot both agree with this view.
- 5.5.4 With regards to impacts from EMF, the Scottish Ministers highlight the MSS advice that consideration must also be given to pelagic fish species that may come into contact with dynamic cables which are free hanging in the water column.
- 5.5.5 In relation to habitat disturbance, the Scottish Ministers agree with NatureScot that both temporary and long term habitat loss and disturbance from the Offshore Proposed Development on prey species is a key impact that must be considered across their life history stages. In addition, the Scottish Ministers advise that the Developer considers technical designs that minimise seabed disturbance and footprint, such as the shared anchor point and steep wave mooring system in the EIA Report, as highlighted by MSS.
- 5.5.6 Within Table 8-5 the Developer details the principle methods of assessment to be employed within the EIA Report. With regards to the proposed assessment to be undertaken to identify suitable habitat for sandeel spawning and nursery grounds, the Developer proposes a desk based assessment to review seabed images collected in the Offshore Study Area. The Scottish Ministers agree that further confirmation and refinement of sandeel spawning and nursery grounds is required; however, direct the Developer to the MSS advice that seabed images to determine suitability of sediments present for sandeel spawning is not an accurate method. Therefore, the Scottish Ministers recommend that the Developer must undertake surveys and use sediment analysis as a more accurate method to determine whether spawning is likely within an area in line with the MSS advice.
- 5.5.7 The Scottish Ministers agree with the Developer that the main diadromous fish likely to occur at the site are Atlantic salmon, sea trout and eel. With regards to the proposed study area, the Scottish Ministers highlight the MSS advice that diadromous fish should be considered over a larger study area than defined in Section 8.3.5 of the Scoping Report. The Scottish Ministers agree and advise that the Developer must consider and include the potential impacts of the salmon populations of the Rivers Borgie, Naver and Thurso Special Area of Conservation (“SACs”) within the EIA Report.
- 5.5.8 MSS advised that the matter of adequacy of knowledge of diadromous fish populations from SAC rivers which could be impacted should be considered in the EIA Report as well as the HRA. The Scottish Ministers agree with MSS

and request that an assessment is included in the EIA Report as well as the HRA.

- 5.5.9 For the avoidance of doubt, all additional impacts scoped in above in paragraph 5.5.3 for marine fish and shellfish must also be scoped in for diadromous fish. With regards to the impact of fish aggregation, the Scottish Ministers agree with MSS that this must be expanded on in relation to diadromous fish to include the potential for the structures to attract and offer shelter and favourable predation opportunities to predatory birds, mammals and larger fish. This must be considered in the EIA Report. Furthermore, the Scottish Ministers advise that all types of marine renewables development are considered in the cumulative assessment, in addition to those developments listed in Table 8-4 of the Scoping Report.
- 5.5.10 Finally, the Scottish Ministers highlight the representations by Northern DSFB, Caithness DSFB and FMS and request the Developer fully considers these comments in the EIA Report. For the avoidance of doubt, barrier effects do not require to be scoped in to the EIA Report. The Scottish Ministers note that the EIA Report must evidence consultation input from the local fishery board(s), where relevant, in line with the representation from the Highland Council. In this respect, the Scottish Ministers highlight MSS advice that the Association of Salmon Fishery Boards is now Fisheries Management Scotland and that the Developer should consult Orkney Trout Fishing Association in relation to the sea trout rod fishery in Orkney waters.

5.6 Marine Mammals and Other Megafauna

- 5.6.1 With regards to the proposed study area, the Scottish Ministers assume that the Developer intended to refer to the study area as the Offshore Study Area rather than "*the Marine Licence area...*" and that this was done in error.
- 5.6.2 With regards to the baseline information, the Scottish Ministers is broadly content with the key resources identified however, highlight the additional reports and updated references recommended by NatureScot and MSS. These reports must be included in the review of the baseline data and fully considered in the EIA Report. The Scottish Ministers recommend further discussion with NatureScot and MSS regarding correction factors for availability bias and data analysis for baseline studies.
- 5.6.3 The Scottish Ministers agree with MSS and advise that the Developer must review and refine the cetacean species to be considered in the EIA report following completion of the bird and mammal surveys.
- 5.6.4 Within Table 8-7, the Developer summarises the potential impacts on marine mammals and basking sharks during the different phases of the Offshore Proposed Development. The Scottish Ministers broadly agree with the impacts to be scoped in to the EIA Report however, advise the additional impacts identified in the MSS and NatureScot advice regarding pre-construction noise impacts, entanglement risk, long-term habitat change,

alternative methods for installing the anchors and disturbance from vessel activity must be fully considered and assessed in the EIA Report. In addition, cumulative impacts from construction and decommissioning noise must also be scoped in to the EIA Report.

- 5.6.5 The Scottish Ministers advise that the EIA Report must assess all phases of the Offshore Proposed Development from pre-construction to decommissioning to allow assessment of the Offshore Proposed Development as a whole. Pre-construction activities which can emit significant underwater noise, such as potential unexploded ordnance clearance and geophysical surveys must be considered and assessed in the EIA Report. As highlighted by both MSS and NatureScot these impacts will also require to be considered under European Protected Species licensing and potentially in combination with other noisy activities.
- 5.6.6 The Scottish Ministers highlight MSS advice that taut lines would represent a lower risk of entanglement. The Scottish Ministers agree with MSS that the potential for entanglement in debris caught up on the mooring lines must be included in the EIA Report and that strategies to minimise or remove such debris must also be considered.
- 5.6.7 Within Table 8-8, the Developer summarises the principle methods of assessment to be employed within the EIA Report. MSS in its advice highlight that it is unclear how the initial twelve months of aerial surveys will address the potential for long-term changes to habitat. The Scottish Ministers highlight MSS's recommendation that the Developer refers to the surveys mentioned in the benthic, fish and shellfish and commercial fisheries sections which constitute a more appropriate methodology to evidence this impact pathway. For the avoidance of doubt, long-term habitat change should be scoped in for the operation phase and decommissioning phase, as supported by the MSS representation.
- 5.6.8 With regards to the methodology and approach to underwater noise modelling, population consequences and assessment of cumulative effects the Scottish Ministers advise that these must be discussed and agreed with MSS and NatureScot. The Scottish Ministers direct the Developer to NatureScot's representation in which initial advice has been provided on marine mammal densities and population modelling and highlight the reports, data sources and models referenced.
- 5.6.9 In relation to mitigation and monitoring, the Scottish Ministers advise that where impact pathways have been identified, the full range of mitigation techniques and published guidance is considered fully and discussed in the EIA Report. NatureScot supports this recommendation.

5.7 Ornithology

- 5.7.1 With regard to the proposed study area, the Scottish Ministers advise that the EIA Report must include sufficient justification for the use and appropriateness of a 2 km buffer area in light of the emerging standing

guidance for a 4 km buffer. The Developer should also undertake a baseline characterisation of the export cable landfall area and proposed export cable corridor in line with MSS advice. In addition, the Scottish Ministers assume that the Developer intended to refer to the proposed study area as the Offshore Study Area rather than “*the Marine Licence area...*” and that this was done in error.

5.7.2 With regard to the baseline surveys, the Scottish Ministers highlight the representations by NatureScot, RSPB Scotland and MSS and advise that the Developer must provide a sufficient and scientifically robust justification for deviating from the normal best practice approach to not undertake two full years of surveys. The Scottish Ministers highlight the MSS advice that the site may have adequate historical data that could be sufficient to inform the assessment and agree that a decision on the requirement of data to inform assessment should be made upon presentation of all of these data in an informative assessment. The Scottish Ministers advise that the Developer must set out how the datasets will be combined for analysis and further discuss this with NatureScot, RSPB Scotland and MSS. In addition, the Scottish Ministers highlight that Marine Scotland best practice recommendations on combining datasets is to be published soon and recommend that this is considered.

5.7.3 The Scottish Ministers advise that recommendations from NatureScot, RSPB Scotland and MSS regarding key species, Special Protection Area (“SPA”) connectivity, seabird sensitivity, reference populations and additional data sources required for HRA and EIA must be fully implemented by the Developer. The Scottish Ministers agree with NatureScot that the focus of the ornithology assessment will cover impacts affecting qualifying SPA and pSPA features, including migratory species. The Scottish Ministers highlight the NatureScot advice that there is still a need to complete the long list process despite the preceding ornithological assessment undertaken for the Dounreay Tri Demonstration Project. MSS are in agreement and advise that the completion of a long-list process at HRA screening will provide a clearer indication on the species to be considered. In relation to SPA connectivity, the Scottish Ministers highlight the RSPB Scotland recommendation regarding the additional SPA sites to be assessed and advise that the Developer adopt a precautionary approach to identifying relevant sites for seabirds with a clear methodology on exclusion of sites and species set out in the EIA Report. The Scottish Ministers advise that SPA connectivity is derived primarily using the mean-max + 1 SD from Woodward et al. 2019, as detailed in the NatureScot representation. Where there was insufficient data for Woodward et al. (2019) to derive a mean-max + 1 SD (i.e. where there is greater uncertainty in inferring potential for likely connectivity with a breeding site), the Scottish Minister recommend further discussion and agreement with MSS and NatureScot with respect to a suitable precautionary approach regarding alternative metrics.

5.7.4 Within Table 8-13 the Developer summarises the potential impacts during different phases of the Proposed Developed upon ornithological features proposed to be scoped in and out of the assessment in the EIA Report. The

Scottish Ministers broadly agree with the impacts proposed to be scoped in and out however, advise that all additional impacts identified in the NatureScot, RSPB Scotland and MSS representations are also scoped in and fully addressed in the EIA Report. For the avoidance of doubt, these are summarised in the following paragraphs.

- 5.7.5 The Scottish Ministers advise that impacts associated with the installation of the export cables must be scoped in and considered in relation to the overlap with the North Caithness Cliffs SPA. The Scottish Ministers recommend that an assessment of the cable route and activities must be included and justified in the HRA and the EIA Report in line with NatureScot's representation and MSS advice. The Scottish Ministers recommend that impacts of entanglement of foraging birds with debris, such as fishing gear that snags on mooring lines must also be scoped in and considered in the EIA Report, as supported by MSS advice.
- 5.7.6 In addition, the Scottish Ministers advise that impacts for Procellariiform species (petrels, shearwaters and fulmars) should also be scoped in in terms of their nocturnal activity and collision risk. It is recommended that the Developer seek clarification on how to approach this assessment of these impacts in discussion with NatureScot, RSPB Scotland and MSS. Furthermore, the Scottish Ministers advise that impacts of attraction to structures and vessels due to artificial light and subsequent risks of collision or stranding should be scoped in and considered qualitatively for shearwater and petrel species, in line with the RSPB Scotland representation and the MSS advice.
- 5.7.7 The Scottish Ministers agree that pollution impacts are scoped out; however, recommend that more detail is provided in the EIA Report regarding embedded mitigation to reduce this impact during construction and operation. The viewpoint is also supported by the RSPB Scotland representation and the MSS advice.
- 5.7.8 The Scottish Ministers note that disturbance from noisy pre-construction activities, such as unexploded ordnance detonation and geophysical surveys have not been considered. The Scottish Ministers broadly agree with NatureScot that mitigation measures necessary to reduce impacts to marine mammals species will help reduce any impacts to diving seabirds however, advise that the mitigation measures taken for marine mammals could be broadened to reduce the risk to birds as recommended in the MSS advice.
- 5.7.9 With regard to the proposed methods of assessment the Scottish Ministers advise that the Developer must fully consider the representations from NatureScot, RSPB and the MSS advice. In addition, the Scottish Ministers strongly recommend further discussion with NatureScot, RSPB Scotland and MSS regarding displacement and barrier effects, collision risk, apportioning and population consequences and to agree the appropriate approaches and methods to use in the assessment.

- 5.7.10 With regard to the cumulative assessment, the Scottish Ministers advise that this should include other consented wind farms in the Moray Firth. For the breeding season, the cumulative assessment should consider projects within the mean-max foraging range of the colony SPA under consideration, using Woodward *et al.* (2019). This view is supported by the representation from NatureScot and the MSS advice. For the non-breeding season, the cumulative assessment should include all relevant developments within the region defined for the species, either by Biologically Defined Minimum Population Scales or other agreed approach, in line with the representation from NatureScot. The Scottish Ministers advise that if species such as common scoter and red and black-throated divers, associated with terrestrial SPAs, are encountered by surveys during the breeding seasons then in-combination impacts with onshore wind farm developments should also be considered. RSPB Scotland agrees with this view and the Scottish Ministers direct the Developer to the list of onshore developments listed in the RSPB Scotland representation to be considered in the assessment if this is the case. The Scottish Ministers recommend further discussion with NatureScot, RSPB Scotland and MSS to reach agreement on the ultimate list of relevant developments to be included upon provision of the HRA screening document.
- 5.7.11 With regard to mitigation, the Scottish Ministers direct the Developer to the MSS advice on embedded mitigation and advise that the 'air gap' is considered when refining the design envelope as, generally, a project with fewer turbines and larger 'air gaps' will lead to reduced collision risk. This view is also supported by the RSPB Scotland representation. In addition, the Scottish Ministers advise that where significant impact pathways have been identified, the full range of mitigation techniques and published guidance is considered and discussed in the EIA Report as referenced in the NatureScot representation.
- 5.7.12 With regard to climate change and ecosystem effects, the Scottish Ministers advise that the impacts of how certain climate stressors may work in combination with potential effects from the proposed wind farm is assessed in the EIA and recommend further discussion with MSS and NatureScot on how to assess this with respect to ornithology.

5.8 Commercial Fisheries

- 5.8.1 With regards to the available information proposed by the Developer to be used to inform the commercial fisheries baseline assessment, the Scottish Ministers highlight the MSS advice and advise that the most up to date fisheries statistics must be used. The Scottish Ministers recommend that all the data and guidance detailed in the MSS advice, including the MSS good practice guidance for assessing fisheries displacement once published, are fully considered in the EIA Report.
- 5.8.2 The Developer summarises all potential impacts on commercial fisheries during different phases of the Offshore Proposed Development within Table 9-1 of the Scoping Report. All impacts identified by the Developer are

proposed to be scoped in for assessment within the EIA Report. The Scottish Ministers agree all potential impacts must be scoped in however, advise that the representations from the SFF and NECRIFG together with the MSS advice must also be fully considered and addressed by the Developer. The Scottish Ministers highlight the MSS representation that as final design of the floating substructure, mooring system, anchor type and wind farm configuration have not been confirmed this has not allowed a full assessment of the potential impacts on commercial fisheries.

- 5.8.3 With regards to impacts on crab, lobster and scallop fisheries, the Scottish Ministers highlight the comments from NECRIFG that there are active shellfish areas within the Offshore Proposed Development and the SFF representation that indicates there is a high chance of scallop and creel fishing, especially crab fishing on the proposed export cable corridor route. The Scottish Ministers advise that impacts on these fisheries must be scoped in and considered within the EIA Report. The Scottish Ministers further highlight the SFF representation which suggests that there may also be a latent squid fishery and a haddock fishery within the wider area. The Scottish Ministers advise that impacts on squid and haddock fisheries must also be scoped in and considered in the EIA Report.
- 5.8.4 The Scottish Ministers advise that a fisheries displacement assessment must be carried out to estimate displacement levels. This assessment must include, but not be limited to, consideration of minimum operating space requirements for the range of fishing activities (deploying and hauling gear), vessel manoeuvrability and over trawlability. In addition, the assessment must include permanent loss and displacement in relation to the potential for damage or loss of fishing gear due to entanglement and snagging on floating and subsea structures and must consider the impact of displaced fishing on surrounding areas and other marine users. The MSS advice supporting this view must be fully implemented by the Developer.
- 5.8.5 With regards to mitigation, the Scottish Ministers direct the Developer to the MSS representation and recommend that consideration of the types of fishing that takes place in the area, their minimum operating space requirements and vessel manoeuvrability are factored into the wind farm layout, configuration and turbine spacing, where possible, from an early design process stage. The Scottish Ministers strongly recommend continued engagement and consultation with fisheries stakeholders throughout all stages of the application process. The Scottish Ministers highlight the MSS advice that the Developer must consult fisheries stakeholders on the feasibility of the proposed rock protection measures to avoid the risk of fishing gear snagging on cable protection measures. This view is also supported by the SFF. The Scottish Ministers further highlight the NECRIFG representation regarding engagement with fisheries stakeholders on the cable route and over trawl surveys.
- 5.8.6 In relation to decommissioning, the Developer has stated in the Scoping Report that cables and scour protection may be left in situ. The Scottish Ministers advise that the MSS, SFF and NECRIFG representations on

decommissioning are fully considered and highlight that full removal is the default position for the decommissioning of offshore renewable energy infrastructure in line with the relevant government guidance⁵ and that exceptions from full removal will be considered in line with the standards set by the International Maritime Organisation (“IMO”) in 1989⁶, only on presentation of compelling evidence that removal would create unacceptable risks to personnel or to the marine environment, be technically unfeasible or involve extreme costs. The IMO exception for ‘extreme cost’ is not normally expected to be accepted where it is the sole reason being cited for partial decommissioning.

5.9 Shipping and Navigation

- 5.9.1 With regards to the legislation and guidance listed in section 9.3.3 within the Scoping Report, the Scottish Ministers highlight the MCA representation that certain guidance documents are under review by the MCA and expected to be published in March 2021. The Scottish Ministers advise that the Developer must ensure the most up to date guidance is taken into consideration in the assessment in the EIA Report.
- 5.9.2 In relation to baseline data, the Scottish Ministers highlight the RYA Scotland advice that the best source of data on the movements of recreational vessels in this area is the UK Coastal Atlas of Recreational Boating. The Scottish Ministers advise that this dataset is considered in the baseline assessment in the EIA Report.
- 5.9.3 The Developer summarises potential impacts and cumulative impacts on shipping and navigation during the different phases of the Offshore Proposed Development in Table 9-3 of the Scoping Report. The Scottish Ministers agree with the Developer that all proposed impacts identified must be scoped in however, advise that the representations from RYA Scotland, MCA, NLB and MOD must be fully addressed by the Developer.
- 5.9.4 With regards to the potential cumulative and in combination effects, the Scottish Ministers highlight the MCA representation in relation to shipping routes. The Scottish Ministers advise that the likely cumulative impacts on shipping routes must be considered and assessed in the EIA Report. The Scottish Ministers advise that a vessel traffic study must also be undertaken and direct the Developer to the MCA representation for further details regarding this. An anchor penetration survey may also be required depending on traffic volumes and cable burial depth.
- 5.9.5 The Scottish Ministers highlight the MCA representation that a Navigational Risk Assessment and Detailed Marine Guidance Note Checklist will need to

⁵https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/916912/decommissioning-offshore-renewable-energy-installations-energy-act-2004-guidance-industry_1_.pdf

⁶ <https://cil.nus.edu.sg/wp-content/uploads/formidable/18/1989-Guidelines-and-Standards-for-the-Removal-of-Offshore-Installations-and-Structures-on-the-Continental-Shelf-and-in-the-Exclusive-Economic-Zone.pdf>

be submitted in line with the relevant guidance. In relation to the possible impact on navigational issues for both commercial and recreational craft, the Scottish Ministers direct the Developer to the specific comments from MCA listing what the EIA Report should supply detail on.

- 5.9.6 In addition, the Scottish Ministers highlight the MCA representation regarding Search and Rescue (“SAR”), Emergency Response Co-operation Plans, radar surveillance, Automatic Identification System and shore-based VHF radio coverage. The Scottish Ministers advise the MCA comments are fully addressed within the EIA Report and that a SAR checklist must be completed by the Developer in consultation with the MCA.
- 5.9.7 In relation to mitigation, the Scottish Ministers highlight RYA Scotland representation with regards to effective ways to communicate with recreational sailors and advise the Developer considers this within the EIA Report.
- 5.9.8 The Scottish Ministers highlight the MOD representation regarding the impact of marine traffic associated with all phases of the Proposed Development on the MOD. The Developer must assess this within the EIA Report to ensure Vulcan NRTE operations are not affected.

5.10 Aviation and Radar

- 5.10.1 Within Table 9-6 of the Scoping Report the Developer summarises the potential impacts associated with aviation and radar during the different phases of the Proposed Development. The Scottish Ministers agree with the impacts proposed to be scoped in however, advise that the representations from the Highland Council, MOD, HIAL, and BT must be fully addressed by the Developer.
- 5.10.2 The Scottish Ministers advise that as the construction process has the potential to impact the Instrument Flight Procedures for Wick Airport this must be scoped in during the construction phase and refer the Developer to HIAL’s representation for details on the approved organisations for undertaking these assessments. In addition, as surveillance is proposed to be introduced to Wick Airport this must also be scoped in and considered once the type and location of surveillance is defined. This view is supported by HIAL.
- 5.10.3 With regards to the impact on interference with military low flying operations, the Scottish Ministers highlight the recommendation from the MOD and request that the Proposed Development is fitted with MOD accredited aviation safety lighting in accordance with the Civil Aviation Authority, Air Navigation Order 2016, in the interests of air safety. HIAL also supports this recommendation.
- 5.10.4 The Scottish Ministers highlight the BT representation that the offshore area will not have any impact on its network however, if there are any new on land at height structures (i.e. buildings) these should be checked for interference.

- 5.10.5 With regards to the community assets and aviation interests set out the Highland Council's representation, the Developer should demonstrate what interests it has identified and the results of consultations with the relevant authorities, including those identified by the Highland Council, in the EIA Report and explain how the conclusion was reached.

5.11 Seascape, Landscape and Visual Impact Assessment

- 5.11.1 With regards to the study area, as defined in figure 9-12 of the Scoping Report, the Scottish Ministers advise that a minimum 50km study area is acceptable to assess the seascape, landscape and visual impacts for the Offshore Proposed Development. Both the Highland Council and NatureScot agree with this view. The Scottish Ministers highlight that NatureScot is content to accept a 50km study area on the basis that further details may be requested should a very sensitive receptor/context become apparent.
- 5.11.2 The Developer sets out the preliminary appraisal of the potential effects of the Offshore Proposed Development on coastal character within Table 9-9 of the Scoping Report. The Scottish Ministers agree with the representation of NatureScot that the four regional coastal character areas identified by the Developer are scoped in to the detailed assessment within the seascape, landscape and visual impact assessment ("SLVIA"). The Scottish Ministers highlight the NatureScot representation that there is potential for significant effects on local coastal character areas ("LCCAs") in particular between Strathy and Strathy Point to Ness of Litter. The Scottish Ministers note that the Developer proposes to reference LCCAs in the SLVIA and advises that the LCCAs highlighted by NatureScot are scoped in and fully considered.
- 5.11.3 The Developer sets out the preliminary appraisal of the potential effects of the Offshore Proposed Development on landscape character within Table 9-10 of the Scoping Report. The Scottish Ministers agree with the NatureScot that effects on the landscape character types listed in its representation must be considered in the SLVIA. Halladale Landscape Character Unit ("LCU") and Strathy LCU can be scoped out of the assessment.
- 5.11.4 In Table 9-11 of the Scoping Report, the Developer considers the potential effects of the Offshore Proposed Development in respect of all landscape designations. The Scottish Ministers agree with the Developer that Farr Bay, Strathy and Portskerra Special Landscape Area ("SLA") and Dunnet Head SLA are included in the detailed assessment; however, advise that a precautionary approach is taken and effects on the special qualities of Kyle of Tongue National Scenic Area ("NSA") and Hoy and West mainland NSA must also be assessed within the SLVIA. In addition, cumulative effects and effects of aviation lighting must also be included in the scenic qualities assessment. This view is supported by NatureScot.
- 5.11.5 In Table 9-12 of the Scoping Report, the Developer summarises the preliminary appraisal of Wild Land Areas. The Scottish Ministers agree that East Halladale Flows Wild Land Area ("WLA") (39) is included in the

assessment; however, advise that Hoy WLA (41) is also scoped in to the SLVIA. Both assessments must take into account the effects of aviation lighting on the wildness qualities. This view is supported by NatureScot.

- 5.11.6 With regards to the viewpoints proposed in figure 9-7 and visual receptors proposed noted in section 9.5.14 of the Scoping Report, these must be agreed with the Highland Council as set out in its representation. The Scottish Ministers highlight the NatureScot advice that individual viewpoints should be micro-sited to show the worst case scenario. When assessing the impact on recreational routes, the Developer should ensure that all core paths, the national cycle network, long distance trails, and the North Coast 500 are assessed in line with the Highland Council's representation.
- 5.11.7 In relation to the lighting assessment, the Scottish Ministers advise that an assessment of the effect of hub-height and navigational lighting must be carried out from all viewpoints and sensitive receptors, as outlined in the Highland Council representation. NatureScot provides further details in its representation on what this assessment should consider. The Scottish Ministers note that Developer does not propose to undertake a lighting assessment for remote views in the hours of darkness; however, highlight NatureScot advice that a suitable viewpoint, possibly proposed viewpoint 1 Beinn Ratha, should be included in the East Halladale Flows WLA. The Scottish Ministers request this should be fully considered in the SLVIA.
- 5.11.8 With regards to the cumulative assessment, the Scottish Ministers advise that this must assess the impact of the Proposed Development as a whole, including supporting infrastructure, and include all relevant offshore and onshore energy-related developments and other large-scale developments in the study area, including onshore wind farm developments at the scoping stage. The Scottish Ministers agree with NatureScot that the cumulative impacts with proposals coming forward for the ScotWind N1 plan option will require careful consideration. Further, the Scottish Ministers agree with the Highland Council and consider the list of projects proposed to be considered in the cumulative assessment to be too limited. The Scottish Ministers advise the Highland Council's online interactive wind turbine map, is used to identify any other relevant projects to be considered. The Scottish Ministers advise the Developer fully considers the NatureScot and Highland Council comments in relation to the cumulative assessment in the EIA Report.
- 5.11.9 For the avoidance of doubt, the Scottish Ministers advise that the worst case design envelope parameters should be used in the visualisations. The Scottish Ministers direct the Developer to the representations from the Highland Council and NatureScot in relation to the standards and specifications for the presentation of the visual material and request that these are followed. The Highland Council highlight that separate visualisations should be prepared to both the Highland Council standards and NatureScot guidance.

- 5.11.10 Finally, the Scottish Ministers advise the Developer considers all sources and guidance referred to in both the NatureScot and Highland Council representations to assist the SLVIA.

5.12 Offshore and Onshore Archaeology and Cultural Heritage

- 5.12.1 Within Table 9-14 and Table 12-1 of the Scoping Report, the Developer summarises potential impacts on archaeology and cultural heritage throughout the different phases of the Proposed Development. The Scottish Ministers broadly agree with the impacts scoped in and out however, advise that the Developer addresses both the Highland Council and HES representations in the EIA Report.
- 5.12.2 The Scottish Ministers advise that a detailed assessment is undertaken to understand if any scheduled monuments in the vicinity of the Proposed Development (onshore and offshore assets) may be impacted and highlight Historic Environment Scotland's suggestion to undertake more systematic approach to the scoping assessment, such as by scoping in or out assets within 5km, 10km or 20km of the Proposed Development. The Scottish Ministers recommend that the Developer agrees this approach with HES. If no impacts are assessed, the reasoning behind this must be included in the EIA Report.
- 5.12.3 The Scottish Ministers highlight the Highland Council representation that the EIA Report must identify all designated sites that might be affected, either directly or indirectly, by the Proposed Development and that any assessment must contain a full appreciation of the setting on the historical environment assets and the likely impact in their settings. If the assessment finds that significant effects are likely, the Scottish Ministers agree with the Highland Council that appropriate visualisations should be provided in the EIA Report, including visualisations illustrating views from the asset towards the Proposed Development and views towards the asset with the Proposed Development in the background.
- 5.12.4 The Scottish Ministers agree with Historic Environment Scotland that the impacts on archaeology and cultural heritage from the offshore infrastructure versus the impacts from the onshore infrastructure should be clearly defined in the EIA Report and an explanation given on how these have been identified as likely to be impacted as opposed to other assets. The Scottish Ministers advise that if the Developer requires further clarity on the required details of assessment it should engage with Historic Environment Scotland and the Highland Council's Historic Environment Team.
- 5.12.5 Finally, the Scottish Ministers recommend that the Developer liaises with the Highland Council's Historic Environment Team on the scope of the archaeological assessments

5.13 Other Users of the Marine Environment

- 5.13.1 The Developer considers potential impacts upon other users of the marine environment during the different phases of the Offshore Proposed Development within Table 9-15 of the Scoping Report. The Scottish Ministers agree with the impacts proposed to be scoped in and out of the assessment in the EIA Report and provide no further comments. The Scottish Ministers acknowledge that other human receptors in the marine environment such as commercial fisheries, shipping and navigation and socio-economics, recreation and tourism are addressed in other specific chapters.

5.14 Socio-economics, Recreation and Tourism

- 5.14.1 The Developer considers socio-economics, recreation and tourism impacts within Table 9-17 of the Scoping Report. The Developer has scoped in all potential impacts identified during the different phases of the Proposed Development including potential cumulative impacts. In section 12.1 the Developer has considered it not possible to separate socio-economic impacts for the onshore and offshore environment therefore has combined this assessment.
- 5.14.2 It is unclear in the Scoping Report how the Onshore Study Area has been considered as there is only reference to the Offshore Study Area within section 9.8. The Scottish Ministers agree that the socio-economic impacts from onshore and offshore activities should be considered together however, highlight that this must be clear in the EIA Report.
- 5.14.3 The Scottish Ministers direct the Developer to the representations from the Highland Council and the advice from the Marine Analytical Unit (“MAU”) with regards to the socio-economics, recreation and tourism impacts and advise that these must be fully addressed.
- 5.14.4 The Scottish Ministers highlight the Highland Council advice that the EIA Report should estimate who may be affected by the Development, which may require individual households, local communities or wider socio-economic groupings to be identified. The Scottish Ministers agree with the Highland Council that the EIA Report must include relevant economic information connected with the project, including the potential number of jobs and economic activity associated with the procurement, construction, operation and decommissioning of the Proposed Development.
- 5.14.5 With regards to the baseline data, the Scottish Ministers agree with MAU that it is not sufficient to solely rely on desk-based assessments and existing datasets. The Scottish Ministers advise that primary data must be collected through fieldwork to allow for a more accurate assessment including engagement with local communities and stakeholders. A description of the methods and data collection must be included in the EIA Report. The Scottish Ministers also direct the Developer to consider the additional datasets and reports identified in the MAU advice.
- 5.14.6 The Scottish Ministers advise that the assessment of potential social and economic impacts is too narrow and must be widened. MAU are in

agreement and expect to see a comprehensive assessment of the impacts included within the EIA Report. MAU further provide specific considerations for potential economic impacts such as supply chain impacts, employment, gross value added, displacement, substitution and additionality. The Scottish Ministers advise that a full socio-economic assessment must be included in the EIA Report and direct the Developer to the MAU advice for guidance on this. In addition, the Scottish Ministers advise that impacts at local, regional and national levels must be clearly identified in the EIA Report. Both potential positive and negative impacts must also be assessed and there must be sufficient evidence provided if the Proposed Development is assessed to only have a positive impact on the economy. The Scottish Ministers also direct the Developer to the SFF representation which highlights that Table 9.7 in the Scoping Report is very positive regarding tourism and socio-economic and requests this is assessed in the future to verify the assumptions.

- 5.14.7 With regards to section 9.8.8 of the Scoping Report, the Developer references other sections in the Scoping Report which address certain impacts identified. The Scottish Ministers recommend that these matters should be addressed within the socio-economics, recreation and tourism chapter to ensure they are appropriately considered.
- 5.14.8 The Scottish Ministers recommend that consideration and identification of potential mitigation measures are addressed through the socio-economic assessment process within the EIA Report. The Scottish Ministers advise that stakeholders and impacted communities are involved in the process of identifying impacts and agreeing on mitigation measures. The Scottish Ministers recommend a description of any proposed efforts to monitor social and economic impacts and to mitigate any negative impacts must be included in the EIA Report. The Scottish Ministers further direct the Developer to the Highland Council advice that any mitigation proposed must also address impacts on the regional and local economy.
- 5.14.9 The Scottish Ministers recommend further discussion and agreement with the MAU on the description of methods, data collection and the overall approach to the socio-economic impact assessment including how stakeholder engagement will be carried out and how relevant groups will be represented.
- 5.14.10 The Scottish Ministers agree with the Developer that direct impacts on tourism and recreation are scoped in, however highlight the MAU advice that there is no consideration of the potential impact on local people and the way that they enjoy the outdoors. The Scottish Ministers request that this is fully considered and addressed in the EIA Report.
- 5.14.11 The Scottish Ministers request that an Access Management Plan is submitted along with the EIA Report as advised by the Highland Council that is in line with the policies and provisions of the Highland-wide Local Development Plan. The Scottish Ministers direct the Developer to the

Highland Council advice on further details of what should be considered within the Access Management Plan.

- 5.14.12 Finally, the Scottish Ministers direct the Developer to the representation received from the SFF which lists haddock, squid, scallop and creel fishing as operating in the wider area. The Scottish Ministers advise that the value of the listed fisheries is recognised within the EIA Report.

5.15 Geology, Physical Processes and Land Use

- 5.15.1 Within Table 10-2 of the Scoping Report, the Developer summarises the potential impacts and cumulative impacts on geology, physical processes and land use on the Onshore Study Area. The Scottish Ministers broadly agree with the impacts the Developer proposes to scope in and scope out of the assessment however, advise that the Highland Council, MOD, NatureScot and Scottish Water representations are fully addressed by the Developer within the EIA Report. The Scottish Ministers note that not all of the potential impacts detailed in table 10-2 are considered in table 10-3 on principle methods of assessment and assume that this was in error.
- 5.15.2 With regards to the impact on peat, this must be scoped in to the EIA Report and a full assessment of the Onshore Proposed Development on peat including a comprehensive peat slide risk assessment must be undertaken by the Developer. The Scottish Ministers direct the Developer to the Highland Council recommendations for further details and guidance on what must be included within this assessment. The Scottish Ministers agree that carbon balance calculations should be undertaken and included in the EIA Report with a summary of the results provided focussing on the carbon payback period for the wind farm as suggested by the Highland Council.
- 5.15.3 In addition, the Scottish Ministers agree with the Highland Council that the EIA Report must fully describe the likely significant effects of the Onshore Proposed Development on the local geology including both direct and indirect effects.
- 5.15.4 The Scottish Ministers highlight the Highland Council representation that the Developer should demonstrate construction practices that help to minimise the use of raw materials and maximise the use of secondary aggregates and recycled or renewable materials for the Onshore Proposed Development. In addition, the Scottish Ministers further highlight the Highland Council representation that existing land uses affected by the Onshore Proposed Development should be recognised and advise that the Developer fully considers existing land uses in the EIA Report. The Scottish Ministers advise that this must be considered in line with the relevant guidance and policies highlighted in the Highland Council representation.
- 5.15.5 With regards to the impact on water quality, the Scottish Ministers direct the Developer to the Highland Council representation in relation to the water environment and request that these comments are fully considered in the EIA Report. Whilst SEPA has not provided representation, the Scottish

Ministers advise that the Developer should seek advice from SEPA on flood risk and water quality when producing the EIA Report.

- 5.15.6 With regards to impacts on land use, the Scottish Ministers direct the Developer to the MOD representation and advise that as the onshore activities and construction works will take place near to the Vulcan NRTE facility, impacts on the MOD must be considered and fully assessed in the EIA Report. The Scottish Ministers advise that the Developer must consider impacts on existing power capacity on the current and future operations at the Vulcan NRTE in the EIA Report. In addition, the Scottish Ministers highlight the MOD comments that the sea water inlet is under control of MOD and not Dounreay Site Restoration Limited and may not be available as an option for the cable due to decommissioning of the site. The Scottish Ministers strongly advise the Developer has further consultation with the MOD once details on the onshore components are finalised, in order to determine any impacts, including nuclear qualification and seismic justification of any Vulcan NRTE site facilities.

5.16 Terrestrial Ornithology

- 5.16.1 With regards to baseline data, the Scottish Ministers highlight the RSPB Scotland representation and advise that the Highland Raptor Study Group should be contacted for up to date records for peregrine to inform the baseline for this species.
- 5.16.2 Within Table 11-2 the Developer provides details of statutory designations of European importance for ornithological features in the vicinity of the Onshore Study Area. The Scottish Ministers advise that recommendations from NatureScot and RSPB Scotland regarding onshore SPA connectivity must be fully implemented by the Developer. The Scottish Ministers advise that the Developer adopt a precautionary approach to identifying relevant sites for ornithological receptors with a clear methodology on exclusion of sites and species set out in the EIA Report.
- 5.16.3 Within Table 11-3 of the Scoping Report, the Developer summarises the potential impacts on terrestrial ornithology during the different phases of the Onshore Proposed Development. The Scottish Ministers agree that all impacts identified in Table 11-3 are scoped in to the assessment in the EIA Report however, advise that the Highland Council, NatureScot and RSPB Scotland representations must be fully addressed in the EIA Report.
- 5.16.4 With regards to cumulative impacts, the Scottish Ministers highlight the RSPB Scotland recommendation that additional developments and projects must be included in this assessment and advise that the Developer must consider these in the cumulative impact assessment. The Scottish Ministers welcome the Developer's approach that the final cumulative methodologies will be subject to further discussion and agreement with the regulatory bodies for both offshore and onshore ornithology.

- 5.16.5 In addition, the Scottish Ministers advise that an assessment of the impacts to birds through collision, disturbance and displacement from foraging, breeding and roosting habitat must be scoped in and assessed for both the Onshore Proposed Development and in combination with other proposals. The Highland Council supports this recommendation.
- 5.16.6 The Developer omitted to provide any details with regards to the terrestrial ornithological surveys proposed to be undertaken in 2021. The Scottish Ministers highlight the RSPB Scotland advice that the ornithological surveys undertaken by Caledonian Conservation Ltd in 2015 must be repeated as per standard methodology guidance for wintering wildfowl (foraging and roosting), breeding bird surveys (primarily for waders), as well as breeding seabird and raptor surveys in 2021. The Scottish Ministers agree with the RSPB Scotland that these surveys must be undertaken as part of the 2021 surveys. For the avoidance of doubt, all surveys carried out in 2015 must also be carried out in 2021 and must follow the standard guidance for survey timings and methodologies. The Scottish Ministers recommend the methodologies undertaken for the 2021 surveys are clearly described within the EIA Report.
- 5.16.7 For the avoidance of doubt, the considerations required in the EIA Report in respect of effects on seabirds from the Proposed Development are considered in section 5.7 of this Scoping Opinion above.

5.17 Terrestrial Ecology

- 5.17.1 With regards to the baseline assessment, the Scottish Ministers highlight the representation by the Highland Council that the EIA Report must provide a baseline survey of the birds and animals (mammals, reptiles, amphibians, etc.) and the ecology present within the Onshore Proposed Development, including an account of the habitats present to understand which species are present and where and determine the presence of any rare or threatened species. The Scottish Ministers agree and request that the Developer fully addresses the Highland Council representation within the EIA Report; however, transboundary effects can be scoped out.
- 5.17.2 With regards to the key sources and available information proposed to be used to inform the assessment, the Scottish Ministers highlight the recommendation by the RSPB Scotland that data should be requested from the Bumblebee Conservation Trust given the north Caithness coast contains important, localised great-yellow bumblebee population. In addition, the Scottish Ministers highlight the MOD representation that access to the Vulcan NRTE site for ecological surveys would not be permitted, but data collected from ecological surveys carried out to assist the EIA for the proposed Phase 3 decommissioning of the Vulcan NRTE site can be provided if requested by the Developer. The Scottish Ministers advise that these data sources should be requested and, if provided, must be considered in the EIA Report. In addition, the Scottish Ministers direct the Developer to the NatureScot representation in relation to its standing advice available on protected species.

- 5.17.3 The Developer should also note the comments provided by NatureScot on the Sandside Bay SSSI. Although the scoping report states that there will be no overlap between the onshore works and the Sandside Bay SSSI, NatureScot highlighted that the location of some of the elements has not been finalised. The Scottish Ministers agree with NatureScot that potential impacts on the Sandside Bay SSSI must be considered in the EIA Report.
- 5.17.4 In relation to the methods of assessment, the Scottish Ministers highlight the Highland Council representation that an assessment of the effects on Ground Water Dependent Terrestrial Ecosystems must be included in the EIA Report.
- 5.17.5 Within Table 11-7 of the Scoping Report, the Developer summarises the potential impacts on terrestrial ecology during the different phases of the Onshore Proposed Development. The Scottish Ministers broadly agree with the impacts proposed to be scoped in and scoped out however, advise the impacts identified in the Highland Council representation are fully addressed in the EIA Report.
- 5.17.6 The Scottish Ministers agree with the Highland Council and advise that the EIA Report must address whether or not the Onshore Proposed Development could assist or impede delivery of elements relevant to Biodiversity Action Plans.
- 5.17.7 Finally, the Scottish Ministers direct the Developer to the NatureScot and the Highland Council representations on mitigation. For the avoidance of doubt, any proposed mitigation measures to avoid or reduce impacts must be considered and outlined within the EIA Report.

5.18 Air Quality

- 5.18.1 Within Table 12-4 of the Scoping Report, the Developer summarises the potential impacts proposed to be scoped in to the assessment in the EIA Report on air quality during the different phases of the Proposed Development. The Scottish Ministers agree that all impacts proposed by the Developer should be scoped in.
- 5.18.2 With regards to the carbon cost and carbon cost saving impacts, the Scottish Ministers refer the Developer to section 3.5 of this Scoping Opinion for further advice regarding this assessment.
- 5.18.3 In relation to the dust impacts, the Scottish Ministers highlight the Highland Council advice that depending on the proximity of the working area for the onshore elements to houses etc. the Developer may be required to submit a scheme for the suppression of dust during construction.
- 5.18.4 In addition, the Scottish Ministers request that the EIA Report addresses existing air quality and the general qualities of the local environment including background noise, sunlight and prevailing wind. The expected

impacts of the Proposed Development should then be identified and likely impacts for each phase of development including construction, operation and decommissioning should be recognised. Issues such as dust, air borne pollution and/or vapours, noise, shadow-flicker can then be highlighted. The Highland Council agree with this viewpoint. With regards to shadow flicker, the Scottish Ministers highlight the Highland Council comments that if there are no properties within 11 rotor diameters, the matter of shadow flicker will not require detailed assessment but should still be addressed in the EIA Report.

5.19 Landscape and Visual Amenity

- 5.19.1 The Scottish Ministers broadly agree with the receptors and potential impacts for landscape and visual amenity detailed in table 12-6 of the Scoping report however advise that all advice in the Highland Council representation as regards landscape and visual amenity must be fully implemented by the Developer. The Scottish Ministers advise the Developer considers all relevant sources and guidance referred to in both the NatureScot and Highland Council representations to assist the Landscape and Visual Impact Assessment.
- 5.19.2 With regards to the cumulative assessment, the Scottish Ministers advise that this must assess the impact of the Proposed Development as a whole, including supporting infrastructure, and include all relevant offshore and onshore energy-related developments and other large-scale developments in the study area, including onshore wind farm developments at the scoping stage.
- 5.19.3 Finally, the Scottish Ministers recommend that if the Developer requires further clarity on the details of the Landscape and Visual Impact Assessment they should engage and discuss further with NatureScot and the Highland Council.

5.20 Traffic and Transport

- 5.20.1 Within Table 12-12 of the Scoping Report, the Developer summarises the potential impacts from traffic and transport proposed to be scoped in or scoped out of the assessment in the EIA Report. The Scottish Ministers broadly agree that all impacts, with the exception of the potential cumulative impacts, are scoped out of the EIA Report however, advise that the Highland Council, Transport Scotland and MOD representations are fully addressed by the Developer.
- 5.20.2 As the Onshore Study Area is located adjacent to the MOD Vulcan NRTE facility, the Scottish Ministers agree with the MOD that impacts on the Vulcan NRTE operations are scoped in throughout all phases of the Proposed Development.
- 5.20.3 In relation to the Transport Assessment/Statement, the Scottish Ministers highlight the representation from the Highland Council. The Scottish

Ministers advise that the Transport Assessment/Statement must be included in the EIA Report and direct the Developer to the matters to be included in this assessment in the Highland Council representation. In addition, the Scottish Ministers highlight the Highland Council recommendation that prior to preparation of the Transport Assessment/Statement and advise that the Developer should carry out a detailed scoping exercise in consultation with the Highland Council and Transport Scotland.

5.20.4 The Scottish Ministers agree with the Highland Council and advise that implications on the Trunk Road network are scoped in to the assessment in the EIA Report.

5.20.5 The Scottish Ministers agree with Transport Scotland that as there is a potential for abnormal load deliveries, a full Abnormal Loads Assessment report should therefore be undertaken and provided within the EIA Report. The Abnormal Loads Assessment must identify key pinch points in the trunk road network and swept path analysis must also be undertaken.

5.21 Other Issues

Electric and Magnetic Fields

5.21.1 The Scottish Ministers agree that the assessment on EMF in relation to the Onshore Study Area can be scoped out of the EIA Report.

Major Accidents and Disasters

5.21.2 The Developer considers major accidents and disasters associated with the construction and operation of the Onshore Proposed Development. The Scottish Ministers agree that the assessment in relation to major accidents and disasters in relation to the Onshore Proposed Development can be scoped out of the EIA Report. However, the Scottish Ministers request that the Developer considers major accidents and disasters associated with the Offshore Proposed Development. Further details regarding this are provided in section 3.4 of this Scoping Opinion.

Onshore Noise

5.21.3 Within section 12.6.4 of the Scoping Report, the Developer considers the potential effects of the Proposed Development in relation to both construction and operational noise. The Scottish Ministers note that the proposed study area includes both the Onshore Study Area and the Offshore Study Area.

5.21.4 Within Table 12-6 of the Scoping Report, the Developer summarises the potential impacts from onshore noise scoped in and out of the assessment during the different phases of the Proposed Development. The Scottish Ministers broadly agree with the impacts scoped in and out however, advise that the Highland Council representation is fully addressed by the Developer.

- 5.21.5 The Scottish Ministers highlight the Highland Council representation regarding the requirement for an operational, cumulative and construction noise assessment. The Scottish Ministers request that the Developer considers the relevant guidance and good practice guidance outlined by the Highland Council to assist with these assessments. In addition, the Scottish Ministers direct the Developer to the Highland Council advice regarding background noise measurements, amplitude modulation and noise exposure.

Issues not covered in Scoping Report

- 5.21.6 The Scottish Ministers highlight the RSPB Scotland representation that the EIA Report should consider the overall carbon payback period for the Proposed Development, including any impacts on “blue carbon” from habitats affected by the Proposed Development. The Scottish Ministers agree and advise that this must be considered in the EIA Report.
- 5.21.7 In addition, the Scottish Ministers direct the Developer to the MOD representation which highlight the MOD concerns with the proposed wind turbines in relation to the proximity to Vulcan NRTE and its surrounding sea approaches in terms of security. The Scottish Ministers advise that this must be considered in the EIA Report and recommend that the Developer must further consult with the MOD in relation to the Onshore Proposed Development.

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 (“the 2017 MW Regulations”) and regulation 5 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 EW 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 1994 Habitats Regulations. This assessment must be coordinated with the EIA in accordance with 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 Developer must provide confirmation of how this Scoping Opinion is reflected in the EIA Report.

7. Multi-Stage Consent and Regulatory Approval

7.1 General

- 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 a project 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 an Electricity Act consent 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, are likely to 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 the information provided is within the parameters of what has already been assessed in the EIA Report.
- 7.1.4 If during the consideration of information provided in support of an application for multi-stage consent or regulatory approval, the Scottish Ministers consider that the development may have significant environmental effects which have not previously been identified in the EIA Report (perhaps due to revised construction methods or updated survey information), then information on such effects and their impacts will be required. This information will fall to be dealt with as additional information under the EIA Regulations, and procedures for consultation, public participation, public notice and decision notice of additional information will apply.

Signed

Rebecca Bamlett
28 September 2021
Authorised by the Scottish Ministers to sign in that behalf

Appendix I – Consultation Representations & 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.