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

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

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

and

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

Culzean Floating Wind Pilot Project

20 July 2023

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1. Introduction

1.1 Background

- 1.1.1 On 14 April 2023, the Scottish Ministers received a scoping report (“the Scoping Report”) from TotalEnergies E&P UK Limited (“the Developer”) as part of its request for a scoping opinion relating to the Culzean Floating Wind Pilot Project (“the Proposed Development”). The Scottish Ministers considered the content of the Scoping Report as sufficient and in accordance with regulation 14 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“2017 MW Regulations”) and Schedule 4 of The Marine Works (Environmental Impact Assessment) Regulations 2007 (“2007 MW Regulations”), collectively referred to as “the EIA Regulations”.
- 1.1.2 This scoping opinion is adopted by the Scottish Ministers under the EIA Regulations (“Scoping Opinion”) in response to the Developer’s request and should be read in conjunction with the Scoping Report. The matters contained in the Scoping Report have been carefully considered by the Scottish Ministers and use has been made of professional judgment, based on expert advice from stakeholders and the Marine Directorate, formally known as Marine Scotland, in-house expertise, and experience. This Scoping Opinion identifies the scope of impacts to be addressed and the method of assessment to be used in the Environmental Impact Assessment Report (“EIA Report”) for the Proposed Development.
- 1.1.3 The Scottish Ministers, in adopting this Scoping Opinion, have, in accordance with the EIA Regulations, taken into account the information provided by the Developer, in particular, information in respect of the specific characteristics of the Proposed Development, including its location and technical capacity and its likely impact on the environment. In addition, the Scottish Ministers have taken into account the representations made to them in response to the scoping consultation they have undertaken.
- 1.1.4 In examining the EIA Report, and any other environmental information, the Scottish Ministers will seek to reach an up to date reasoned conclusion on the significant effects on the environment from the Proposed Development. This reasoned conclusion will be considered as up to date if the Scottish Ministers are satisfied that current knowledge and methods of assessment have been taken account of. For the avoidance of doubt, this Scoping Opinion does not preclude the Scottish Ministers from requiring the Developer to submit additional information in connection with any EIA Report submitted with an application for marine licences under The Marine (Scotland) Act 2010 (“the 2010 Act”) and The Marine and Coastal Access Act 2009 (“the 2009 Act”).

- 1.1.5 In the event that the Developer does not submit applications for marine licences under the 2010 Act and the 2009 Act for the Proposed Development within 12 months of the date of this Scoping Opinion, the Scottish Ministers strongly recommend that the Developer seeks further advice from them regarding the validity of the Scoping Opinion.

- 1.1.6 The Scottish Ministers advise that as more than one set of environmental impact assessment regulations apply the most stringent requirements must be adhered to in terms of, for example, consultation timelines and public notice requirements.

2. The Proposed Development

2.1 Introduction

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

2.2 Description of the Proposed Development

2.2.1 The Proposed Development comprises an offshore floating Wind Turbine Generator ("WTG") located in the central north sea, approximately 222 kilometres ("km") east of Aberdeen. The Proposed Development will have a maximum capacity of 3 Megawatts ("MW") and therefore does not require the Scottish Ministers' consent under Section 36 of the Electricity Act 1989, to allow its construction and operation. The Proposed Development will, however, require a marine licence granted by the Scottish Ministers under the 2009 Act, to permit all 'licensable marine activities' carried out for the Proposed Development.

2.2.2 The Proposed Development will be situated within Innovation and Targeted Oil and Gas ("INTOG") lease area E-a, located to the west of the Culzean Field, an existing oil and gas platform. The Culzean Field comprises a Well Head Platform, a Central Processing Facility Platform ("CPF"), and a separate Utilities and Living Quarter Platform. The WTG will be connected to the CPF via a 2km export cable and does not require a grid connection to shore.

2.2.3 The area in which the WTG is to be located is termed the Array Area and is approximately 2km, with a water depth of circa 90 metres ("m").

2.2.4 The design envelope for the Proposed Development presents the maximum design scenarios. Certain design details are unknown at this stage such as the number of mooring lines, the anchor dimensions, and the export cable parameters. The key components of the Proposed Development include:

- A single WTG with a total installation capacity of 3MW.
- A rotor diameter of 112m.
- An upper tip height of 134m and a hub height of 78m.
- Minimum blade clearance from sea level of 22m.
- A single OCG-WIND semi-submersible floating substructure, with a total height of 23m and covering an area of approximately 2500 square metres.

- Up to five mooring lines are being considered at a length of 589m, and a mooring radius of circa 600m around the floater centre.
- Three drag anchors with the anchor dimensions are to be finalised.
- Pin piling is also being considered as a contingency should drag anchors be unsuitable.
- One export cable with a total length of 2500m.

2.2.5 Commencement of construction is currently anticipated to begin in Quarter 3 of 2024 for one month. The Proposed Development may apply for a 500m safety zone granted by Scottish Ministers under the Energy Act 2004 for offshore construction activities.

2.2.6 It is not confirmed when the Proposed Development is expected to generate its first power; however, it will remain operational for approximately ten years, with the possibility of an extension to the operational lifetime of the project should the infrastructure be in an acceptable condition after the ten years.

2.3 The Scottish Ministers' Comments

Description of the Proposed Development

2.3.1 The advice provided in the Scoping Opinion is proportionate to the level of detail provided in the Scoping Report. Section 3.1 of the Scoping Report states a total of four locations were evaluated and scored against the following parameters: environmental, consenting and stakeholder, technical, safety, and commercial. Out of the four locations, one was narrowed down for the Scoping Report. The EIA Report must include a full and detailed description of the chosen location within the design envelope.

2.3.2 The Scottish Ministers acknowledge that the mooring and anchoring systems to connect the floating substructure to the seabed are subject to further design review and the number of moorings and anchors is to be determined. The Scottish Ministers advise that it must be clear in the EIA Report which anchor, and mooring design options are being considered within the design envelope.

2.3.3 Section 3.7 of the Scoping Report references unscheduled maintenance and major component replacement/repairs. The Scottish Ministers note that to alter or improve works in the Scottish marine area is a 'licensable marine activity' and therefore would require a marine licence. Any such activity, unless clearly authorised by the marine licence for the construction of works, may require further marine licences. It is therefore advised that the Developer considers activities that may require further licences and includes such activities in the application.

- 2.3.4 Section 3.8 of the Scoping Report states that a draft of the Decommissioning Programme will be submitted prior to the construction of the Proposed Development. The Scottish Ministers expect that decommissioning programmes should be submitted for approval no later than six months in advance of construction, and that the first drafts should be submitted about 18 months in advance.
- 2.3.5 Throughout the Scoping Report, Scoping Opinion, and the representations reference is made to several plans, either proposed as suspensive conditions or to accompany the EIA Report. Such plans include but are not limited to; an Emergency Co-operation Plans (“ERCoP”), a Lighting and Marking Plan (“LMP”), a Design Specification and Layout Plan, a Construction Environmental Management Plan, and a Navigational Safety Plan. Where possible, and certainly where such plans are proposed as mitigation, these plans should be submitted alongside the marine licence application and the EIA Report.

Design Envelope

- 2.3.6 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 confirmed in section 3.2 of the Scoping Report.
- 2.3.7 The Scottish Ministers advise that the Developer must make every attempt to narrow the range of options. Where flexibility in the design envelope is required, this must be defined within the EIA Report and the reasons for requiring such flexibility clearly stated. At the time of application, the parameters of the Proposed Development should not be so wide-ranging as to represent effectively different projects. To address any uncertainty, the EIA Report must consider the potential impacts associated with each of the different scenarios. The criteria for selecting the worst case and the most likely scenario, together with the potential impacts arising from these, must also be described. The parameters of the Proposed Development must be clearly and consistently defined in the application for the marine licences and the accompanying EIA Report.
- 2.3.8 The Scottish Ministers will determine the marine licence application based on the worst case scenario. The EIA will reduce the degree of design flexibility required and the detail may be further refined in a Construction Method Statement (“CMS”) to be submitted to the Scottish Ministers, for their approval, before works commence. Please note however, the information provided in Section 7 below regarding multi-stage regulatory approval. The CMS will

'freeze' the design of the project and will be reviewed by the Scottish Ministers to ensure that the worst case scenario described in the EIA Report is not exceeded.

Alternatives

- 2.3.9 The EIA Regulations require that the EIA Report include 'a description of the reasonable alternatives (for example in terms of project design, technology, location, size, and scale) studied by the Developer, which are relevant to the proposed works and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects'. The Scottish Ministers acknowledge section 3.1 of the Developer's Scoping Report setting out the parameters which were considered as part of the selection process for site location, however, note that alternative considerations were not discussed in detail.
- 2.3.10 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. 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 4 of this Scoping Opinion.

3.2 EIA Scope

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

3.3 Mitigation and Monitoring

- 3.3.1 Any embedded mitigation relied upon for the purposes of the assessment should be clearly and accurately explained in detail within the EIA Report. The likely efficacy of the mitigation proposed should be explained with reference to

residual effects. The EIA Report must identify and describe any proposed monitoring of significant adverse effects and how the results of such monitoring would be utilised to inform any necessary remedial actions.

- 3.3.2 The EIA Report should clearly demonstrate how the Developer has had regard to the mitigation hierarchy, including giving consideration to the avoidance of key receptors. The Scottish Ministers advise that where the mitigation is envisaged to form part of a management or mitigation plan, the EIA Report must set out these plans or the reliance on these in sufficient detail so the significance of the residual effect can be assessed and evaluated. This should also include identification of any monitoring and remedial actions (if relevant) in the event that predicted residual effects differ to actual monitored outcomes. Commitment to develop plans without sufficient detail is not considered to be suitable mitigation in itself.
- 3.3.3 The EIA Report must include a table of mitigation which corresponds with the mitigation identified and discussed within the various chapters of the EIA Report and accounts for the representations and advice attached to the Scoping Opinion.
- 3.3.4 Where potential impact on the environment have been fully investigated but found to be of little or no significance, it is sufficient to validate that part of the assessment by detailing in the EIA Report, the work that has been undertaken, the results, what impact, if any, has been identified and why it is not significant.

3.4 Risks of Major Accidents and/or Disasters

- 3.4.1 The EIA Report must include a description and assessment of the likely significant effects deriving from the vulnerability of the Proposed Development to major accidents and disasters. The Developer should make use of appropriate guidance, including the recent Institute of Environmental Management and Assessment (“IEMA”) ‘Major Accidents and Disasters in EIA: A Primer’, as noted within section 5.6.2 of the Scoping Report, to better understand the likelihood of an occurrence and the Proposed Development susceptibility to potential major accidents and hazards. The description and assessment should consider the vulnerability of the Proposed Development to a potential accident or disaster and also the Proposed Development potential to cause an accident or disaster.
- 3.4.2 The Scottish Ministers advise that existing sources of risk assessment or other relevant studies should be used to establish the baseline rather than collecting survey data and note the IEMA Primer provides further advice on this. This should include the review of the identified hazards from your baseline assessment, the level of risk attributed to the identified hazards and the relevant receptors to be considered.

- 3.4.3 The assessment must detail how significance has been defined and detail the inclusions and exclusions within the assessment. Any mitigation measures that will be employed to prevent, reduce, or control significant effects should be included in the EIA Report.

4. Consultation

4.1 The Consultation Process

4.1.1 Following receipt of the Scoping Report, the Scottish Ministers, in accordance with the EIA Regulations, initiated a 30 day consultation process, which commenced on 5 May 2023. Following consultation extensions, the last response was received on 16 June 2023. The following bodies were consulted, those marked in bold provided a response and those marked in italics sent nil returns or stated they had no comments:

- **Aberdeen International Airport**
- Aberdeen Fishery Office
- Business, Energy & Industrial Strategy
- BP
- **British Telecom (“BT”)**
- *Cruising Association*
- Civil Aviation Authority
- CENOS
- Crown Estate Scotland
- CNSE
- DIO
- *Edinburgh Airport*
- **Historic Environment Scotland (“HES”)**
- Joint Radio Company
- Marine Planning and Policy
- Marine Safety Forum
- Marine Scotland – Compliance (Peterhead Fishery Office)
- **Maritime and Coastguard Agency (“MCA”)**
- **Ministry of Defence (“MOD”)**
- National Grid
- **NATS**
- **NatureScot**
- **Northern Lighthouse Board (“NLB”)**
- Oil & Gas UK
- Planning
- *RSPB Scotland*
- **Royal Yachting Association (“RYA”)**
- Scottish Creel Fishermen’s Federation
- Scottish Fishermen’s Organisation
- Scottish Wildlife Trust
- **Scottish Environment Protection Agency**

- **Scottish Fishermen’s Federation (“SFF”)**
- Shell Energy
- SSEN
- ***Tampnet***
- UK Chamber of Shipping
- Visit Scotland
- Whale and Dolphin Conservation

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

4.2 Responses received.

4.2.1 From the list above a total of 18 responses were received. Advice was also provided by MSS and TS. The purpose of the consultation was to seek representations to aid the Scottish Ministers’ consideration of which potential effects should be scoped in or out of the EIA Report.

4.2.2 The Scottish Ministers are satisfied that the requirements for consultation have been met in accordance with the EIA Regulations. The sections below highlight issues which are of particular importance with regards to the EIA Report and the marine licence application. The representations and advice received are attached in Appendix I and each must be read in full for detailed requirements from individual consultees.

5. Interests to be considered within the EIA Report

5.1 Introduction

5.1.1 This section contains the Scottish Ministers' opinion on whether the impacts identified in the Scoping Report are scoped in or out of the EIA Report. The Scottish Ministers advise that the representations from consultees and advice from MAU, 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.

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

- Section 6.1.11
- Section 6.2.11
- Section 7.1.11
- Section 7.2.11
- Section 7.3.11
- Section 7.4.13
- Section 8.1.11
- Section 8.2.6
- Section 8.3.11
- Section 8.4.11
- Section 8.5.10
- Section 8.6.10
- Section 8.7.11
- Section 8.8.11
- Section 8.9.10

5.2 Marine Physical Processes

5.2.1 This Scottish Ministers are content with the study area as defined in section 6.1.3 of the Scoping Report, which comprised the project area and a buffer of 5km.

5.2.2 In Table 6-3 of the Scoping Report, the Developer proposed to scope out potential scour. The reasoning for this is unclear, especially as the embedded mitigation proposed in Table 6-2 of the Scoping Report refers to minimising cable protection, suggesting a level of protection may be required. As such, the Scottish Ministers advise that the potential introduction of scour is scoped in. The Developer should also consider secondary scour around any installed scour protection within the EIA Report. This is supported by the NatureScot representation.

- 5.2.3 The Scottish Ministers welcome the Developers embedded mitigation measures as proposed in Table 6-2 of the Scoping Report.
- 5.2.4 Regarding cumulative impacts on marine physical processes, the Scottish Ministers agree with the proposed approach considered by the Developer in sections 5.4 and 6.1.8 of the Scoping Report. The Scottish Ministers agree with the Developer that transboundary impacts can be scoped out from further consideration in the EIA Report. This is supported by the NatureScot representation.

5.3 Water and Sediment Quality

- 5.3.1 The Scottish Ministers are content with the baseline data sources regarding water and sediment quality used by the Developer in section 6.2.4 of the Scoping Report. The Scottish Ministers welcome the consideration of blue carbon storage as noted in section 7.1.5 of the Scoping Report, and in line with the NatureScot representation, are content for the potential for significant effects to blue carbon storage to be scoped out for further assessment. However, the Developer must fully address the representation from NatureScot in the EIA Report. The Scottish Ministers are otherwise content with the approach to the baseline environment.
- 5.3.2 Table 6-9 of the Scoping Report the Developer summarises the potential impact on water and sediment quality during the different phases of the Proposed Development. The Scottish Ministers agree with this approach. The Scottish Ministers also agree with the impacts scoped in and out of the EIA Report and provide no further comments.

5.4 Benthic Ecology

- 5.4.1 The Scottish Ministers are broadly content with the key legislation, policy, and guidance considered in section 7.1.2 of the Scoping Report; however, recommend the Developer to include Pearce and Kimber (2020) in case *Sabellaria* reefs are identified during the surveys.
- 5.4.2 The Scottish Ministers are content with the relevant baseline datasets and the appropriate summary of existing data and baseline characterisation presented within Table 7-1 and section 7.1.5 of the Scoping Report retrospectively.
- 5.4.3 Section 7.1.10 of the Scoping Report sets out the proposed approach to the impact assessments. The Scottish Ministers are content with the level of detail noted within the approach and support the inclusion of Priority Marine Features (“PMF”).

- 5.4.4 The Scottish Ministers are content with the embedded mitigation measures presented in Table 7-3 of the Scoping Report. The Scottish Ministers acknowledge the SFF representation regarding Electromagnetic Fields (“EMF”) and the request for this to be scoped in to the EIA Report. However, the Scottish Ministers are content for this to be scoped out of the EIA Report. The Scottish Ministers, along with the NatureScot representation, welcome the Developer’s intention to support a research proposal that focuses on visualising EMF by providing an EMF recorder around the Proposed Development.
- 5.4.5 Sections 5.4 and 7.1.8 of the Scoping Report outline the cumulative impact approach. The Scottish Ministers are content with this approach. The Scottish Ministers agree that transboundary impacts can be scoped out for further consideration in the EIA Report.

5.5 Fish and Shellfish Ecology

- 5.5.1 The Scottish Ministers, in line with the NatureScot representation, are content that the International Council for the Exploration of the Seas rectangle that the Proposed Development is located within is used as the study area.
- 5.5.2 The Scottish Ministers are broadly content with the key datasets and reports summarised within Table 7-5 of the Scoping Report. In addition to those already included, the Scottish Ministers advise the Developer to include the recently published [Essential Fish Habitat Maps for Fish and Shellfish Species in Scotland](#) report developed by the Scottish Marine Energy Research (“ScotMer”) programme.
- 5.5.3 In line with [section 5.4.3](#) of this Scoping Opinion, the Scottish Ministers welcome the inclusion of PMFs but highlight an error in section 8.2.5.5 of the Scoping Report which references ‘Primary’ instead of ‘Priority’.
- 5.5.4 The Scottish Ministers, in line with the NatureScot representation, advise that increased sediment concentrations should be scoped in for fish and shellfish interests, as the eggs of certain fish species may be sensitive to smothering and/or burial. Additionally, the Scottish Ministers advise that effects on fish and shellfish ecology due to ‘accidental release of pollutants’ and ‘subsea noise from wind turbine operation impacting fish and shellfish receptors’ during operation and maintenance should be scoped in and monitored. This is supported by the SFF.
- 5.5.5 The Scottish Ministers are content with the proposed mitigation and monitoring presented in Table 7-7 of the Scoping Report. As mentioned in Table 6-2, the

Scottish Ministers acknowledge that the requirements for scour protection will be included in the Construction Method Statement.

- 5.5.6 The Scottish Ministers are content with the cumulative impact approach presented in sections 5.4 and 7.2.8 of the Scoping Report. Additionally, the Scottish Ministers agree with the Developer that transboundary impacts can be scoped out from further consideration in the EIA Report.

5.6 Marine Mammals

- 5.6.1 The Scottish Ministers, in line with the NatureScot representation, are content with the study area and proposed use of the appropriate species Management Units and the site specific survey area for an indication of local densities of the marine mammal's species, as detailed in section 7.3.3 of the Scoping Report.
- 5.6.2 Table 7-9 of the Scoping Report summarises the key datasets and reports used to inform the marine mammal baseline. The Scottish Ministers advise, in line with the NatureScot representation, that SCANS IV, a campaign to examine the abundance and distribution of cetaceans in European Atlantic waters, is expected to report later this year and, if available, should be included in the EIA Report.
- 5.6.3 The Scottish Ministers are content with the species identified in section 7.3.5 of the Scoping Report; however, should any additional species be identified during the surveys, such results should be used to inform the species list.
- 5.6.4 The Scottish Ministers are broadly content with the proposed mitigation measures listed in Table 7-11; however, should piling be required, the [2010 Joint Nature Conservation Committee \("JNCC"\) protocol for minimising the risk of injury to marine mammals from piling noise](#) should be included. Furthermore, only the JNCC (2017) guidelines for minimising the risk of injury to marine mammals from geophysical surveys are required, rather than the JNCC (2010) guidelines for minimising the risk of injury or disturbance from seismic surveys. This is supported by the NatureScot representation.
- 5.6.5 The Scottish Ministers, in line with the NatureScot response, are content with the impacts to be scoped in to the EIA Report as noted in Table 7-12 as well as the proposed assessment approach to underwater noise modelling detailed in section 7.3.10 of the Scoping Report. Furthermore, the Scottish Ministers support the proposed use of the Cumulative Effect Framework and, in line with section 7.3.9 of the Scoping Report, agree that transboundary impacts should be further assessed.

5.7 Ornithology

- 5.7.1 Section 7.4.1 of the Scoping Report provides information on the scope of the study area, with a focus on the foraging ranges of seabirds during breeding season only. The Scottish Ministers advise the Developer to consider the inclusion of the non-breeding season, as well as other marine bird species. This is in line with the NatureScot representation.
- 5.7.2 The Scottish Ministers agree with the approach detailed in section 7.4.5 of the Scoping Report to use the mean-maximum range of +1 Standard Deviation to obtain theoretical connectivity and highlight the [NatureScot guidance note 3](#) which specifies the recommended foraging range values, as well as the three key exceptions to the recommended ranges.
- 5.7.3 The Scottish Ministers are broadly content with the data sources in Table 7-13 however, advise the Developer to include additional reports identified by NatureScot in its representation. Once available, the Developer should also utilise the updated Wildfowl and Wetlands Trust and MacArthur Green (2014) report and the stochastic migration collision risk modelling (“CRM”) tool and undertake quantitative assessment of risks to migratory special protection area (“SPA”) species. However, if there is no overlap in migration fronts, the quantitative migratory CRM is not required and can instead be assessed qualitatively. This is supported by the NatureScot representation.
- 5.7.4 Regarding baseline characterisation, the Scottish Ministers advise the Developer to consider the NatureScot representation. Additionally, concerning establishing SPA connectivity, the NatureScot representation must be fully addressed by the Developer in the EIA Report. The Developer should prepare and submit a Habitats Regulations Appraisal to determine theoretical connectivity prior to submission of the EIA Report, for consideration by NatureScot and the Scottish Ministers.
- 5.7.5 The Scottish Ministers, in line with the NatureScot representation, broadly agree with the impacts proposed to be scoped in and out of the assessment, as detailed in Table 7-16 of the Scoping Report. However, in the absence of 12 months of digital aerial surveys, the Scottish Ministers advise that vessel activity, construction noise, lighting, and the presence of the WTG leading to the disturbance or displacement of species cannot be scoped out of the EIA report and must be scoped in.
- 5.7.6 The Scottish Ministers further advise that the transboundary impacts should remain scoped in to the EIA Report, in line with the NatureScot representation.
- 5.7.7 The Scottish Ministers, in line with the NatureScot representation, are content with the cumulative impact approach outlined in 7.4.10 of the Scoping Report and encourage the use of the Cumulative Effects Frameworks.

- 5.7.8 Regarding the impact assessment approach, the Scottish Ministers advise that the impact on seabird populations in Scotland from Highly Pathogenic Avian Influenza is still under review and the impact from the mass mortality cannot yet be quantified. In line with the NatureScot representation, NatureScot will be able to provide more detail and advice on this as it develops.
- 5.7.9 The Scottish Ministers, in line with the NatureScot representation, are content with the mitigation measures outlined in Table 7-15 of the Scoping Report, however, advise that further details on these should be provided in the EIA Report.

5.8 Commercial Fisheries

- 5.8.1 In regards to data sources, the Scottish Ministers advise in line with MSS advice, that AIS data from the European Marine Observation and Data Network, found in the [Good Practice Guidance](#), should be used. Additionally, the Scottish Ministers further advise using vessel track data from the previous five years, rather than only the 2019 data.
- 5.8.2 The Scottish Ministers highlight the broken link to the data source referenced in Table 8-1, "Fishing - tonnage, effort and value change - Shellfish, Pelagic and Demersal (also with vessels of 10 m length) from 2017 – 2021". The Scottish Ministers request that in the EIA Report, the data source is clarified.
- 5.8.3 In addition to using the Vessel Monitoring System ("VMS") dataset to produce the average VMS value, the Scottish Ministers advise that VMS data should be used to calculate figures presenting the fishing effort (kilowatt per hour) for vessels. The outputs, providing additional information on the commercial fisheries baseline, as well as fisheries displacement, must be presented in the EIA Report.
- 5.8.4 With regards to impact pathways, in addition to those identified in the Scoping Report, the Scottish Ministers advise that impacts on the safety of fishing vessels during the operation and maintenance and fisheries displacement during construction and decommissioning must be scoped in to the EIA Report. Additionally, the Developer should consider the MSS advice regarding impacts from obstruction of regular fishing vessel transit routes and in line with this advice, should the baseline change and indicate higher fishing activity then this impact pathway must also be scoped in the EIA Report for further assessment.
- 5.8.5 The Scottish Ministers advise that the Developer considers the SFF representation in regard to safety of fishing vessels, cable protection and

boulder clearance.

5.9 Seascape and Landscape Visual Impact Assessment (“SLVIA”)

5.9.1 The Scottish Ministers agree with the conclusions set out in section 8.2 of the Scoping Report in that there is no potential for significant impacts throughout the various stages of the project. Given that distance from the coast and its entirety offshore, the Scottish Ministers are content for SLVIA to be scoped out of the EIA Report. This is supported by the NatureScot and RYA representations.

5.10 Shipping and Navigation

5.10.1 Section 8.3.3 of the Scoping Report defines the shipping and navigation Study Area as 10 Nautical Miles (“NM”) (18.5km) around the Proposed Development. The Scottish Ministers are content with the Study Area and the list of scoped impacts in Table 8-7 of the Scoping Report. This is supported by the RYA and MCA representations.

5.10.2 The Scottish Ministers note, in section 8.3.10 of the Scoping Report, the intention to carry out a vessel traffic survey in line with MGN 654 guidance. The Scottish Ministers advise, in line with the MCA representation, that the surveys are vessel based using AIS, radar, and visual observations to ensure all vessels navigating in the study area are captured.

5.10.3 As detailed in Chapter 8.3 of the Scoping Report, a Navigational Risk Assessment (“NRA”) is to be undertaken for the Proposed Development using Marine Guidance Note (“MGN”) 654. The Scottish Ministers advise, in line with the MCA representation, carrying out the NRA in accordance with MGN 372 Amendment 1 (2021), rather than MGN 372 (2008) as referenced in section 8.3.12 of the Scoping Report. Furthermore, the [MCA’s Methodology for Assessing the Marine Navigation Safety & Emergency Response Risks of Offshore Renewable Energy Installations](#) should be used to inform the NRA and the NRA should be accompanied by a detailed MGN 654 Checklist.

5.10.4 The Scoping Report specified that the lighting and marking of the Proposed Development during the offshore construction phase will align with the requirements of the International Association of Marine Aids to Navigation and Lighthouse Authorities, and the International Association of Lighthouse Authorities (“IALA”) Recommendation O-139. Table 8-6 of the Scoping Report references IALA 2013; however, the Scottish Ministers highlight that this should be updated to the latest version of the guidance published in 2021. This is in line with the NLB and MCA representations.

- 5.10.5 The Scottish Ministers advise engaging with the MCA, prior to the commencement of construction, on the layout of the Proposed Development to minimise the risks to surface vessels, including rescue boats, and Search and Rescue (“SAR”) aircraft(s) that may operate within the area. Early engagement will further allow the MCA to advise on any additional navigation safety and SAR requirements. This is supported by the MCA representation.
- 5.10.6 Table 8-7 scopes in the reduction of emergency response capability due to increased incident rates and/or reduced access for SAR responders. The Scottish Ministers advise that the Developer must address the MCA representation in regard to implication of the size and located on SAR resources and ERCoP and appropriate mitigation in the EIA Report.
- 5.10.7 The Scottish Ministers acknowledge the Developer’s intention to carry out a cable burial risk assessment and request a Burial Protection Index study is completed. Subject to the volume of traffic, an anchor penetration study may also be necessary. Should cable protection measures be required, a 5% reduction in surrounding depths referenced to Chart Datum is acceptable.

5.11 Other Sea Users

- 5.11.1 The Scottish Ministers, in line with the BT representation, are content that the Proposed Development should not interfere with any current or planned radio network. The Developer must inform BT of the grid reference coordinates and number of WTGs once confirmed.

5.12 Offshore Air Quality and Airborne Noise

- 5.12.1 Section 8.5 of the Scoping Report states the offshore air quality and airborne noise receptor is proposed to be scoped out of the EIA Report. The Scottish Ministers agree with the relevant legislation, policy and guidance documents identified by the Developer and agree that all offshore air quality and airborne noise impacts, including cumulative effects and transboundary impacts, can be scoped out of the EIA Report.
- 5.12.2 Furthermore, the Scottish Ministers are content with the study area identified for the offshore air quality, airborne noise, and vibration study and agree with the proposed mitigation measures listed in Table 8-15 of the Scoping Report.

5.13 Climate Change

- 5.13.1 The Scottish Ministers note some aspects of climate change effects have been addressed in section 8.6 of the Scoping Report, but recommend, in line with the NatureScot representation, that further consideration is given to such impacts as it will be of potential use in terms of evaluating this Proposed

Development overall.

- 5.13.2 The Scottish Ministers recommend early consideration of potential inclusion of positive effects for biodiversity as well as nature inclusive design. The Scottish Ministers note that this is not a policy requirement; however, as part of the need to address both the climate and biodiversity crises, advise the Developer to consider this as part of its application. This is supported by the NatureScot representation.
- 5.13.3 The Scottish Ministers acknowledge the data sources included with the Scoping Report and highlight the IEMA Environmental Impact Assessment Guide “Assessing Greenhouse Gas Emissions And Evaluating Their Significance” (“IEMA GHG Guidance”), which states that “GHG emissions have a combined environmental effect that is approaching a scientifically defined environmental limit, as a such any GHG emissions or reductions from a project might be considered significant.” The Scottish Ministers have considered this together with the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 and the requirement of the EIA Regulations to assess the significant effects from the Proposed Development on climate. The Scottish Ministers are content that the GHG Assessment included within the EIA Report is to be based on a Life Cycle Assessment approach and note that the IEMA GHG Guidance provides further insight on this matter. The Scottish Ministers highlight that this Assessment should consist of the pre-construction, construction, operation, and decommissioning phases, as well as benefits beyond the life cycle of the Proposed Development.

5.14 Marine Archaeology

- 5.14.1 The Scottish Ministers agree that the desk-based sources to be examined for the EIA marine archaeology and cultural heritage baseline characterisation, which are noted in section 8.7.4 of the Scoping Report are adequate. The Scottish Ministers note that Table 8-20 within the Scoping Report recommends an archaeological assessment of available marine geophysical survey datasets is carried out. It is unclear if this survey coverage would include all areas where there is a potential risk of direct or indirect impacts on known or unknown cultural heritage assets. Therefore, the Scottish Ministers advise that all areas where there is a potential risk of impact, both within and outwith the proposal, must be surveyed using techniques that will produce data appropriate for archaeological assessment.
- 5.14.2 The Scottish Ministers are content with the impacts proposed to be scoped in and out of the EIA Report as noted in Table 8.21 of the Scoping Report. The Scottish Ministers, along with the HES representation, welcome the Developer’s findings that an area of debris consistent with a potential wreck

was located close to the Proposed Developments leasing area. Where appropriate, the Developer should produce an assessment of any potential impact from the Proposed Development on this potential wreck should be noted in the EIA Report.

5.14.3 In addition to the proposed mitigation and monitoring measures presented in section 8.7.6 of the Scoping Report, the Scottish Ministers recommend a Written Scheme of Investigation is produced and embedded to form an umbrella document for all archaeological survey, investigation, and assessment required for the Proposed Development. This is supported by the HES representation.

5.15 Aviation

5.15.1 The Scottish Ministers are content that the use of airspace for defence purposes in the Proposed Development, as well as the aviation and radar systems that may be affected by the Proposed Development, have been correctly identified and considered. This is supported by the MOD representation.

5.15.2 The Scottish Ministers are content with the impacts scoped in and out of the EIA Report, in line with the MOD representation. The Developer should consider the MOD advice regarding lighting of turbines.

5.16 Socio-economics

5.16.1 Section 8.9 of the Scoping Report states the socio-economic receptor is proposed to be scoped out of the EIA Report. The Scottish Ministers agree with the relevant legislation, policy and guidance documents identified by the Developer and agree that all socio-economic impacts, including cumulative impacts, can be scoped out of the EIA Report.

5.16.2 The Scottish Ministers agree, in line with the Transport Scotland response, that due to the size and location of the Proposed Development, it is unlikely to have a negative impact on the trunk road network.

6. Application and EIA Report

6.1 General

- 6.1.1 The EIA Report must be in accordance with the EIA Regulations and the Scottish Ministers draw your attention in particular to, regulation 6 of the 2017 MW Regulations and regulation 12 of the 2007 MW Regulations. In accordance with the EIA Regulations, the Scottish Ministers advise that the EIA Report must be based on this Scoping Opinion.
- 6.1.2 The Scottish Ministers note the need to carry out an assessment under The Conservation (Natural Habitats, &c.) Regulations 1994. This assessment must be coordinated with the EIA in accordance with the EIA Regulations.
- 6.1.3 The Scottish Ministers strongly advise the production of a HRA screening report for the Proposed Development and recommend that this should be submitted for comment at the earliest opportunity and in advance of the submission of the EIA Report in order to fully inform the HRA advice for the Proposed Development.
- 6.1.4 A gap analysis template is attached at Appendix II to record the environmental concerns identified during the scoping process. This template should be completed and used to inform the preparation of the EIA Report. As part of the submission of the EIA Report the Scottish Ministers advise that the Developer must provide confirmation of how this Scoping Opinion is reflected in the EIA Report.

7. Multi-Stage Regulatory Approval

7.1 Background

- 7.1.1 The 2017 MW Regulations contain provisions regulating the assessment of environmental impacts. A multi-stage approval process arises where an approval procedure comprises more than one stage; one stage involving a principal decision and one or more other stages involving implementing decision(s) within the parameters set by the principal decision. While the effects which works may have on the environment must be identified and assessed at the time of the procedure relating to the principal decision, if those effects are not identified or identifiable at the time of the principal decision, assessment must be undertaken at the subsequent stage.
- 7.1.2 The definition in the 2017 MW Regulations is as follows: “*application for multi-stage regulatory approval*” means an application for approval, consent or agreement required by a condition included in a regulatory approval where (in terms of the condition) that approval, consent or agreement must be obtained from the Scottish Ministers before all or part of the works permitted by the regulatory approval may be begun”.
- 7.1.3 A marine licence, if granted, by the Scottish Ministers for the Proposed Works, may have several conditions attached requiring approvals etc. which fall under this definition, for example the approval of a CMS. When making an application for multi-stage approval the Applicant must satisfy the Scottish Ministers that no significant effects have been identified in addition to those already assessed in the EIA Report.
- 7.1.4 If during the consideration of information provided in support of an application for multi-stage regulatory approval the Scottish Ministers consider that the works 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 2017 MW Regulations, and procedures for consultation, public participation, public notice and decision notice of additional information will apply.

Jessica Malcolm

20 July 2023

Authorised by the Scottish Ministers to sign in that behalf.

Appendix I: Consultation Responses & Advice

Please refer to separate document provided alongside the Scoping Opinion

Appendix II: Gap Analysis

Please refer to separate document provided alongside the Scoping Opinion