

Marine Directorate - Licensing Operations Team Scoping Opinion

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

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

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

and

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

Cenos Offshore Windfarm

September 2024

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1. Introduction

1.1 Background

- 1.1.1 On 8 April 2024, the Scottish Ministers received a scoping report (“the Scoping Report”) from Cenos Offshore Windfarm Ltd (“the Developer”) as part of its request for a scoping opinion relating to Cenos Offshore Windfarm (“the Proposed Development”). The Scottish Ministers considered the content of the Scoping Report as sufficient and in accordance with regulation 14 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“2017 MW Regulations”), regulation 12 of The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“2017 EW Regulations”) and Schedule 4 of The Marine Works (Environmental Impact Assessment) Regulations 2007 (“2007 MW Regulations”), all collectively referred to as “the EIA Regulations”.
- 1.1.2 This scoping opinion is adopted by the Scottish Ministers under the EIA Regulations (“Scoping Opinion”) in response to the Developer’s request and should be read in conjunction with the Scoping Report. The matters contained in the Scoping Report have been carefully considered by the Scottish Ministers and use has been made of professional judgment, based on expert advice from stakeholders and Marine Directorate in-house expertise and experience. This Scoping Opinion identifies the scope of impacts to be addressed and the method of assessment to be used in the Environmental Impact Assessment Report (“EIA Report”) for the Proposed Development.
- 1.1.3 The Scottish Ministers, in adopting this Scoping Opinion, have, in accordance with the EIA Regulations, taken into account the information provided by the Developer, in particular, information in respect of the specific characteristics of the Proposed Development, including its location and technical capacity and its likely impact on the environment. In addition, the Scottish Ministers have taken into account the representations made to them in response to the scoping consultation they have undertaken.
- 1.1.4 In examining the EIA Report, and any other environmental information, the Scottish Ministers will seek to reach an up to date reasoned conclusion on the significant effects on the environment from the Proposed Development. This reasoned conclusion will be considered as up to date if the Scottish Ministers are satisfied that current knowledge and methods of assessment have been taken account of. For the avoidance of doubt, this Scoping Opinion does not preclude the Scottish Ministers from requiring the Developer to submit additional information in connection with any EIA Report submitted with an application for consent under section 36 (“s.36 consent”) of The Electricity Act 1989 (“the 1989 Act”) and marine licences under The Marine (Scotland) Act

2010 (“the 2010 Act”) and The Marine and Coastal Access Act 2009 (“the 2009 Act”).

- 1.1.5 In the event that the Developer does not submit applications for a s.36 consent under the 1989 Act and marine licences under the 2010 Act and the 2009 Act for the Proposed Development within 12 months of the date of this Scoping Opinion, the Scottish Ministers strongly recommend that the Developer seeks further advice from them regarding the validity of the Scoping Opinion.
- 1.1.6 The Scottish Ministers advise that as more than one set of environmental impact assessment regulations apply the most stringent requirements must be adhered to in terms of, for example, consultation timelines and public notice requirements.
- 1.1.7 The Developer submitted a Habitats Regulations Appraisal (“HRA”) screening report (“HRA Screening Report”) separate to the Scoping Report on 14 May 2024 in relation to the Proposed Development. The Scottish Ministers’ response to the HRA Screening Report is contained within the relevant receptor chapters of this Scoping Opinion.

2. The Proposed Development

2.1 Introduction

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

2.2 Description of the Proposed Development

2.2.1 The Proposed Development is a floating offshore windfarm with a maximum generating capacity of up to 1,350 megawatts ("MW"). The primary purpose of this windfarm is to facilitate decarbonisation of the UK oil and gas industry by supplying electrical power to offshore oil and gas installations within 100 kilometres ("km") of the site. The windfarm will also supply surplus renewable electricity to the National Grid and will pioneer large-scale floating wind in the UK. The Proposed Development is part of the Innovation Targeted Oil and Gas ("INTOG") leasing round. The Proposed Development will have a capacity of greater than 50 Megawatts ("MW") and therefore requires the Scottish Ministers' consent to allow its construction and operation. The Proposed Development will also require marine licences granted by the Scottish Ministers under the 2009 Act and the 2010 Act, to permit any and all 'licensable marine activities' carried on for the Proposed Development.

2.2.2 The Proposed Development comprises an array area, approximately 333 square km ("km²") situated in the central North Sea, approximately 185km east of Aberdeen. The generation assets along with elements of the transmission assets, including a maximum of two Offshore Substation and Converter Platforms ("OSCP") shall be located within the array area.

2.2.3 The Proposed Development also includes import/export cables running between the OSCP(s) and Mean High Water Springs ("MHWS") at the landfall location at Long Haven between the villages of Longhaven and Boddam. The Export Cable Corridor ("ECC") is approximately 230km in length and one km wide. Electricity will be exported to the grid by two bi-directional High Voltage Direct Current ("HVDC") cables plus one fibre-optic cable either bundled and laid in one trench or laid in two separate trenches.

2.2.4 The Developer continues to liaise with NorthConnect Limited regarding the ECC area from MHWS to the 12 nautical mile ("nm") territorial boundary as the route for the ECC in this area is the same as that licensed for NorthConnect. The intention is that only one of these will be built out, it is currently unknown whether construction will be undertaken by NorthConnect

or under a licence secured by the Developer as part of the Proposed Development.

2.2.5 In addition to the connection to the grid, the Proposed Development will also connect to oil and gas assets for the purposes of electrification. The oil and gas assets to be connected are yet to be agreed upon and as such the Scoping Report does not include any cable infrastructure between the OSCP(s) and oil and gas assets.

2.2.6 The Proposed Development will include the construction and operation of offshore Floating Turbine Units (“FTU”), comprising of substructure, Wind Turbine Generators (“WTGs”) and moorings systems, and all associated offshore infrastructure. The key components of the Proposed Development are to be determined but the project design envelope (“PDE”) includes:

- Between 68 and 95 floating three blade horizontal axis WTGs with generating capacity equal to or greater than 15 MW each with:
 - Hub height (to the centre of the hub) between 140 metres (“m”) and 180m above Lowest Astronomical Tide (“LAT”);
 - Maximum rotor diameter of 280m;
 - Maximum blade tip height above LAT up to 320m (depending on design selected); and
 - Minimum blade clearance above mean sea level 22 m in operational conditions.
- Both semi-submersible and Tension Leg Platform (“TLP”) foundation designs are being considered;
- Up to nine mooring lines per platform with a mooring line radius of up to approximately 850m. These will be made of steel chain, steel rope, polymer rope, steel tubes or a combination of different types;
- Mooring systems included in the PDE are catenary, taut, semi-taut and tension;
- Anchorage options under consideration include driven or drilled piles, suction piles and drag embedment anchors;
- Up to 330km total length of inter-array cables, up to 500mm in diameter: Inter-array cables will be used to arrange WTGs in groups of between three and six depending on design.
- Rock placement, concrete mattresses, cable protection systems, gabions, Uraduct or cast iron shells may be required.
- Two OSCP design options are currently being considered. Option 1 is a single integrated platform incorporating both the HVDC equipment needed to connect to the grid and the High Voltage Alternating Current (“HVAC”) equipment needed to connect the WTGs and the oil and gas assets. However, if these cannot be integrated into a single platform the PDE also allows for having 2 adjacent bridge linked platforms (“BLP”). The smaller of

these shall transfer power from the WTGs to the oil and gas assets and the larger platform, which shall be connected to the smaller one via HVAC interconnecting cabling, shall convert energy generated by the WTGs to HVDC for efficient export to MHWS for ongoing grid connection via the import/export cables. All platforms comprising the OSCP shall be fixed jacket structures which will require small scale pin piles (approximately 3.5m diameter) to secure the jacket to the sea floor.

- 2.2.7 Construction of the Proposed Development is anticipated to start in 2029 and is estimated to take up to five years. The Developer's intent is to commission WTGs at the earliest opportunity to allow for electricity generated to be provided to oil and gas assets or exported to the National Grid, prior to completion of construction. Therefore, it is anticipated that first power will be generated in 2030, which will prioritise oil and gas customers, and that construction of the Proposed Development will be completed in 2033. The operational lifetime of the Proposed Development is 50 years, followed by a period of decommissioning. This is beyond the lifetime of the oil and gas assets and therefore it is proposed the windfarm will continue to operate and export all generated electricity to the National Grid.

2.3 Onshore Planning

- 2.3.1 The Scottish Ministers note that the Developer intends to utilise planning approval granted in September 2015 by Aberdeenshire Council to NorthConnect for the associated onshore works. Planning Application Reference Number APP/2015/1121 refers. The EIA Report for the Proposed Development must consider the cumulative impacts with the onshore works.

2.4 The Scottish Ministers' Comments

Description of the Proposed Development

- 2.4.1 The Scottish Ministers remain unclear on the consenting strategy in relation to the export cable, a concern that is mirrored by NatureScot and JNCC, particularly in relation to the 'one set of infrastructure' and a scenario where the NorthConnect infrastructure is consented and not utilised. The Scottish Ministers advise that the Developer should clearly set out its proposed consenting and licensing strategies in relation to the export cable corridor, in particular, the options with or without NorthConnect. If the proposal is to utilise NorthConnect infrastructure, the relationship with NorthConnect must be explicitly detailed. If an alternative grid connected cable route to NorthConnect is selected this must be fully assessed in the EIA Report and any proposed change to the grid connection discussed with the Scottish Ministers prior to finalising the EIA Report and application submission.

Additionally, the Scottish Ministers note that the Developer states that the onward connections from the OSCP to the oil and gas assets will not form part of the application and will be assessed only within the cumulative effects assessment.

- 2.4.2 The Scottish Ministers strongly advise that the Developer consider submitting one EIA Report for the Proposed Development, including the onward connections to oil and gas installations, in order that the impacts from the project can be assessed holistically. This view is supported by NatureScot and JNCC in its joint representation. The Developer is directed to the joint NatureScot and JNCC representations in regard to the above matters and it must engage further with the Scottish Ministers, NatureScot and JNCC on this before finalising the EIA Report. The Developer is required to submit an EIA Report for any cables in relation to a renewable energy project to the Scottish Ministers.
- 2.4.3 Section 3.5.1 of the Scoping Report states that two options are currently being considered relative to the design of the OSCP(s). The first option, as the base case, is expected to be a single integrated platform. The second option is two platforms connected by a BLP. The Scottish Ministers advise that the EIA Report must include a full and detailed description of all options being considered within the design envelope. Further information on the design envelope approach is set out in sections 2.4.28 to 2.4.31 of the Scoping Opinion below. Furthermore, the worst case scenario must be assessed in relation to the environmental impact when undertaking the EIA. The Scottish Ministers highlight to the Developer the JNCC representation regarding potential impacts on the East of Gannet and Montrose Fields NCMPA which should be considered when identifying the worst case scenario.
- 2.4.4 The Scottish Ministers note from section 3.5.2.6 of the Scoping Report that the layout of the windfarm will be determined post consent and that this will be influenced by environmental, technical, commercial and safety factors. The Scottish Ministers advise that if the WTG arrangement is not finalised at the time of submission of the EIA Report, the EIA Report must include a full and detailed description of all layout options being considered.
- 2.4.5 Section 3.5.2.4 of the Scoping Report states that specific WTG details cannot be provided at this time. The Scottish Ministers note that the WTG parameters included in the design envelope are included in table 3-1 of the Scoping Report and advise that the EIA Report must include a full and detailed description of all WTG parameters considered within the PDE.
- 2.4.6 Table 3-2 of the Scoping Report states that a number of floating substructures for the WTGs are being considered including semi-submersible and TLP

designs. The Scottish Ministers advise that the EIA Report must include a full and detailed description of all substructure types considered within the PDE.

- 2.4.7 Section 3.5.2.13 of the Scoping Report states that multiple mooring lines are being considered, including catenary, taut moorings, semi-taut moorings and tension moorings. The Scottish Ministers advise that the EIA Report must include a full and detailed description of all mooring lines considered within the PDE.
- 2.4.8 Section 3.5.2.15 of the Scoping Report states that multiple anchor types are currently being considered, including driven or drilled piles, suction piles and drag embedment anchors, although other options cannot be ruled out at this stage. The Scottish Ministers advise that the EIA Report must include a full and detailed description of all anchor types considered within the PDE. The Scoping Report further states that scour protection around the anchors is unlikely to be required. For the avoidance of doubt, the use of scour protection must be assessed in the EIA Report including details on materials, quantities and location.
- 2.4.9 Section 3.5.2.22 states that arrangement of inter-array cabling is yet to be determined as it is dependent on the final design and arrangement of the WTGs. Section 3.5.3 of the Scoping Report states that two HVDC cables will be laid in up to two trenches, either bundled and laid in one trench or laid separately in two trenches. The Scottish Ministers note that the Developer's preference is to bury cables wherever practicable, but rock protection may be required where depth of burial cannot be achieved. The EIA Report must provide an estimate of the anticipated likelihood of suitable burial along cable routes and be clear on the range of depths that have been considered as part of the assessment. Clear narrative must be provided within the EIA Report to show how this has been estimated. Where reliance is placed on a subsequent cable plan or cable burial risk assessment as mitigation, the EIA Report must explain how this measure will mitigate the effects, what measures are proposed for inclusion and the effectiveness and degree of confidence that can be placed on such measure. It is recommended that such plans are included alongside the EIA Report.
- 2.4.10 Any cable protection to be used to protect inter-array, inter-connector and export cables must be assessed in the EIA Report including details on materials, quantities, and location. In addition, any seabed levelling or removal of substances or objects from on or over the seabed, required for the installation of inter-array or inter-connector cables will require consideration in the EIA Report and may also require a marine licence. Should seabed preparation involve dredging, the EIA Report must identify the quantities of dredged material and identify the likely location for deposit. The Developer

may also be required to submit pre-dredge sample analysis, this should include supporting characterisation of the new and existing deposit sites.

- 2.4.11 The Developer states in section 3.5.1.6 of the Scoping Report that the onward connections from the OSCP to the oil and gas assets for the purposes of electrification will not form part of the application. The Scottish Ministers reiterate its concerns regarding this consenting strategy and the need for further discussion on this point as detailed in paragraph 2.4.2 of this scoping opinion, but advise the following in relation to both consenting scenarios.
- 2.4.12 If the EIA Report includes an assessment of the onward connections, this may be used to support associated marine licence applications should they be submitted independently. This will be dependent on the passage of time between completion of the EIA Report and submission of the subsequent marine licence applications. Taking this into consideration, the Developer may wish to consider how the EIA Report is presented in relation to the Proposed Development and onward connections to ensure the relevant information is accessible for the different regulators and respective consultees.
- 2.4.13 If the EIA Report does not include an assessment of the onward connections, the applicant is advised to engage with the Scottish Ministers in relation to EIA screening of any proposed works for each marine licence application in relation to the onward connections. Additionally, should the EIA Report not include an assessment of the onward connections, it is essential that the EIA Report does consider these as part of the assessment of cumulative impacts.
- 2.4.14 In relation to the regulatory boundaries of the project, the Developer is advised that the Scottish Ministers will have regulatory responsibilities for any marine licence application for a cable from the OSCP(s) to the oil and gas assets (including within the 500m safety zone) up until the point that it meets the riser of the asset, unless the cable is related to oil and gas activities.
- 2.4.15 It is stated in section 3.7.1.4 of the Scoping Report that prior to constructions seabed preparation activities such as unexploded ordnance (“UXO”) inspection and clearance where required will be undertaken. The Scottish Ministers advise that the EIA Report must include assessment of the in-combination effects of pre-construction activities such as geophysical surveys and UXO clearance. The EIA Report must also include considerations of noise abatement methods for detonation of UXO and must include a worst case scenario of high order detonation in terms of impact and mitigation, unless there is robust supporting evidence that can be presented to show consistent performance of the preferred low order or deflagration method. The Scottish Ministers refer to the Joint SNCB/DEFRA/MS statement – Marine

environment: unexploded ordnance clearance in this regard.¹ Additionally, clearance of UXO must also be considered within a cumulative impact assessment in the EIA Report. Further to this, the potential presence of UXO and disposal sites should also be assessed within the EIA Report with regards to the installation of cables and any other works that result in disturbance to the seabed.

- 2.4.16 In relation to the potential requirement for boulder clearance, the Scottish Ministers advise that the EIA Report must provide the anticipated estimate of boulders to be cleared (including how much uncertainty may be associated with the figures presented). Clear narrative must be provided within the EIA Report to show how this has been estimated.
- 2.4.17 Section 3.7.2 of the Scoping Report details the expected operations and maintenance activities associated with the Proposed Development. The Scottish Ministers advise that the EIA Report must provide a full description and consideration of the nature and scope of these activities, including the types of activity, their frequency, how activities will be carried out for the Proposed Development and any anticipated cumulative impacts with neighbouring developments. Such proposed activities may require to be permitted by a marine licence issued for the Proposed Development, unless an exemption applies.
- 2.4.18 The Scottish Ministers highlight the requirements of Crown Estate Scotland's three stage lease approach as outlined in – INTOG Leasing Offer Document and INTOG Leasing Guidance Notes.²
- 2.4.19 Section 3.7.3 of the Scoping Report states that a decommissioning programme will be prepared in line with the requirements of section 105 the Energy Act 2004 and details assumptions for the removal of infrastructure. The Scottish Ministers advise that the EIA Report must include an assessment of potential significant effects during the decommissioning phase. Any uncertainty on the impacts upon receptors from activities during decommissioning should be clearly explained, along with the implications for the assessment of significant effects.
- 2.4.20 The EIA Report must provide an estimate of expected residues and emissions, for example drill cuttings, where considered in the design envelope. Specific reference should be made to water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases, where relevant. This

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

² <https://www.crownstatescotland.com/scotlands-property/offshore-wind/intog-leasing-round>

information should be provided in a clear and consistent fashion and may be integrated into the relevant aspect assessments.

- 2.4.21 The Developer proposes to scope out storage of turbines within the marine environment as detailed in section 3.7.1.6 on the basis that this will be assessed as part of the application process for the relevant port. A number of consultees have provided advice in relation to turbine storage and highlighted this as a significant impact pathway. The Scottish Ministers are considering their position on this topic and will advise the Developer of any updates.
- 2.4.22 In line with advice provided by Transport Scotland, the Scottish Ministers advise that the EIA Report should assess the potential impact of the transport of materials on the trunk road network and include an abnormal loads assessment report should WTG components require to be transported by road to ports prior to assembly. This should identify key pinch points on the trunk road network.
- 2.4.23 The Scottish Ministers recommend early consideration of nature inclusive design aspects in line with the NatureScot representation. The Scottish Ministers direct the Developer to the NatureScot and RSPB representations on the need to understand potential impacts holistically at a wider ecosystem scale, rather than as discrete individual receptor assessments. The Scottish Ministers therefore advise that potential impacts should be given consideration across key trophic levels, particularly in relation to the availability of prey species.
- 2.4.24 The Scottish Ministers highlight Crown Estate Scotland's three stage INTOG lease process and requirements as outlined in – INTOG
- 2.4.25 The Scottish Ministers were content to consult on the scoping opinion without coordinates included. However, the coordinates must be included alongside the EIA Report detailing the outline of the offshore turbine array.
- 2.4.26 Regulatory approvals will be required for licensable activities including all construction activities, whether as part of the original construction or any subsequent alteration or improvement, any deposit on, or removal from on or under, the seabed of substances, any dredging and deposit, and any use of explosive substances. Any reference to the 'Proposed Development' in this Scoping Opinion should be taken, as appropriate, to include all activities in connection with the construction, alteration, improvement (including 'changeouts' of components) and decommissioning of the Proposed Development for which a regulatory approval will be needed. The Developer should give consideration to all activities related to the Proposed Development which require regulatory approval and ensure that these are applied for as appropriate.

2.4.27 With regard to the HRA Screening Report submitted by the Developer on 14 May 2024. The Scottish Ministers highlight that the representations provided by consultees should be taken into account in the HRA Report to be submitted alongside the EIA Report. Detailed advice is provided in the receptor chapters in section 5 of this Scoping Opinion.

Design Envelope

2.4.28 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 3.4 of the Scoping Report.

2.4.29 The Scottish Ministers advise that the Developer must make every attempt to narrow the range of options. Where flexibility in the design envelope is required, this must be defined within the EIA Report and the reasons for requiring such flexibility clearly stated. At the time of application, the parameters of the Proposed Development should not be so wide-ranging as to represent effectively different projects. To address any uncertainty, the EIA Report must consider the potential impacts associated with each of the different scenarios. The criteria for selecting the worst case and the most likely scenario, together with the potential impacts arising from these, must also be described. The parameters of the Proposed Development must be clearly and consistently defined in the application for the s.36 consent and marine licences and the accompanying EIA Report.

2.4.30 The Scottish Ministers will determine the applications based on the worst case scenario. The EIA will reduce the degree of design flexibility required and the detail may be further refined in a Construction Method Statement ("CMS") to be submitted to the Scottish Ministers, for their approval, before works commence. Please note however, the information provided in Section 7 below regarding multi-stage consent and regulatory approval. The CMS will 'freeze' the design of the project and will be reviewed by the Scottish Ministers to ensure that the worst case scenario described in the EIA Report is not exceeded.

2.4.31 It is a matter for the Developer, in preparing the EIA Report, to consider whether it is possible to robustly assess a range of impacts resulting from a large number of undecided parameters. If the Proposed Development or any associated activities materially change prior to the submission of the EIA Report, the Developer may wish to consider requesting a new scoping opinion.

Alternatives

- 2.4.32 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 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 acknowledge chapter 4 of the Developer’s Scoping Report setting out the consideration of alternatives to date together with the planned activities that are proposed to inform the EIA Report further. The Scottish Ministers advise however that these considerations must include how decommissioning has been taken into account within the design options. The Scottish Ministers advise that this must be based on the presumption of as close to full removal as possible of all infrastructure and assets and should consider the methods and processes of doing so.
- 2.4.33 For the avoidance of doubt, the Scottish Ministers advise that the EIA Report must include an up to date consideration of the reasonable alternatives studied as the parameters of the Proposed Development have been refined. This includes but is not limited to the identification of the potential wind turbine layouts within the array area, the parameters of the export cables, the cable corridor options and the landfall location or locations. The Scottish Ministers expect this to comprise a discrete section in the EIA Report that provides details of the reasonable alternatives studied across all aspects of the Proposed Development and the reasoning for the selection of the chosen option(s), including a comparison of the environmental effects. The Developer may wish to consider including further narrative within the EIA Report regarding the site selection process relative to the decision to situate the Proposed Development within the East of Gannet and Montrose Fields NCMPA.

3. Contents of the EIA Report

3.1 Introduction

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

3.2 EIA Scope

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

3.3 Mitigation and Monitoring

3.3.1 The Scoping Report states that where possible embedded mitigation has already been considered throughout the design development and further states that as impacts and effects are identified consideration shall be given to potential changes which may be made to the design parameters to reduce the severity of effect and where that is not possible mitigation and monitoring measures may be adopted in the development, operation and decommissioning of the Proposed Development. The Developer states that embedded mitigation will include avoidance, best practice and design commitments and have avoidance of negative effects as the primary objective.

3.3.2 The Developer states that following assessment of potential significant effects of the Proposed Development, in the EIA, any further mitigation measures will be included in the relevant receptor chapters. The Developer commits to the inclusion of a 'Commitments Register' which will record embedded mitigation measures and the mechanism for securing them. The Commitments Register will also record what monitoring measures are to be applied as part of the mitigation strategy.

3.3.3 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.

3.3.4 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.

- 3.3.5 The EIA Report must include a table of mitigation which corresponds with the mitigation identified and discussed within the various chapters of the EIA Report and accounts for the representations and advice attached in Appendix I.
- 3.3.6 Where potential impact on the environment have been fully investigated but found to be of little or no significance, it is sufficient to validate that part of the assessment by detailing in the EIA Report, the work that has been undertaken, the results, what impact, if any, has been identified and why it is not significant.

4. Consultation

4.1 The Consultation Process

4.1.1 Following receipt of the Scoping Report, the Scottish Ministers, in accordance with the EIA Regulations, initiated a 30 day consultation process, which commenced on 24 April 2024. The following bodies were consulted, those marked in bold provided a response and those marked in italics sent nil returns or stated they had no comments:

- Aberdeen Airport
- *Aberdeen City Council*
- **Aberdeenshire Council**
- Angus Council
- Bellrock Offshore Wind
- Boddam Community Council
- Bowdun Offshore Windfarm
- **British Telecom (Radio Network Protection Team)**
- Broadshore, Scaraben and Sinclair
- Buchan Offshore Wind
- Buchanhaven Harbour Trust
- ChampionWind Offshore Windfarm
- Civil Aviation Authority
- Central North Sea Electrification Project
- Cerulean Winds
- Crown Estate
- Cruden Community Council
- Cruise Association
- Culzean Floating Wind (Total Energies)
- Dee District Salmon Fishery Board (“DSFB”)
- **Defence Infrastructure Organisation DIO (“MOD”)**
- Department for Energy Security & Net Zero
- Don DSFB
- Dundee City Council
- *Edinburgh Airport*
- Fisheries Management Scotland
- Fishery Office - Aberdeen
- Fishery Office - Fraserburgh
- Fishery Office - Peterhead
- Forth Ports
- Highland Council
- **Historic Environment Scotland (“HES”)**

- Hywind (Scotland) Limited
- **Joint Radio Company (“JRC”)**
- Marine Planning & Policy
- Marine Safety Forum
- **Maritime and Coastguard Agency (“MCA”)**
- Marram Wind
- Morven Offshore Wind Limited
- Muir Mhòr Offshore Wind Farm
- **National Air Traffic Services (“NATS”)**
- National Trust for Scotland
- **NatureScot (“NS”)**
- **North and East Regional Inshore Fishery Group**
- North Sea Transition Authority
- NorthConnect
- **Northern Lighthouse Board (“NLB”)**
- Northlink Ferries
- **Norwegian Environment Agency**
- Offshore Energies UK
- Ossian Wind
- Peterhead Community Council
- Planning
- Ports and Harbours
- Royal National Lifeboat Institution
- **Royal Society for Protection of Birds (“RSPB”) Scotland**
- **Royal Yachting Association (“RYA”)**
- **Salamander Offshore Wind Farm**
- Scottish and Southern Electricity Networks
- Scottish Canoe Association
- Scottish Creel Fishermen’s Federation
- **Scottish Environment Protection Agency (“SEPA”)**
- **Scottish Fishermen’s Federation (“SFF”)**
- Scottish Fishermen’s Organisation
- **Scottish Hydro Electric Transmission (“SHET”)**
- Scottish Surfing Federation
- **Scottish Water**
- Scottish White Fish Producers Association
- Scottish Wildlife Trust
- *Sport Scotland*
- Surfers Against Sewage
- The Fisheries Liaison with Offshore Wind and Wet Renewables Group
- **Ugie District Salmon Fishery Group**

- **UK Chamber of Shipping**
- Visit Scotland
- Whale and Dolphin Conservation
- Ythan DSFB

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

4.2 Responses received

4.2.1 From the list above a total of 20 responses were received. Advice was also provided by MD-SEDD, MAU and TS. The purpose of the consultation was to seek representations to aid the Scottish Ministers’ consideration of which potential effects should be scoped in or out of the EIA Report.

4.2.2 The Scottish Ministers are satisfied that the requirements for consultation have been met in accordance with the EIA Regulations. The sections below highlight issues which are of particular importance with regards to the EIA Report and the s.36 consent and marine licence applications. The representations and advice received are attached in Appendix I and each must be read in full for detailed requirements from individual consultees.

5. Interests to be considered within the EIA Report

5.1 Introduction

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

5.2 Marine and Coastal Processes

5.2.1 The Developer considers the impact of the Proposed Development on physical marine and coastal processes in chapter 7 of the Scoping Report. The study area is defined in section 7.3 of the Scoping Report. A 30km Zone of Influence ("ZOI") is proposed with the intention to refine this within the EIA. The Scottish Ministers advise that this should be refined pre-application. Furthermore, the Scottish Ministers advise that the protected features of the East of Gannet and Montrose Fields Nature Conservation Marine Protected Area ("NCMPA") are offshore deep sea muds and ocean quahog aggregations (including sands and gravels as their supporting habitat), this must be correctly reflected in the EIA Report. The Developer is directed to the NatureScot and JNCC representation in this regard. The Scottish Ministers highlight the MD-SEDD advice with regard to the data sources listed in table 7-4 of the Scoping Report and advise that this is fully considered.

5.2.2 The Scottish Ministers are broadly content with the potential likely significant effects scoped in as summarised in table 7-8 of the Scoping Report however, the subtidal sand and gravels in the East of Gannet and Montrose Fields NCMPA should also be considered in relation to potential modifications to sediment transport pathways. The potential effects on the Quaternary of Scotland protected feature of the Southern Trench NCMPA should also be scoped in for assessment. Additionally, the Scottish Ministers agree that "potential changes to wave and tidal regime" can be scoped out of the EIA Report relative to the areas out with the array area and that "modifications to stratification and frontal features" can also be scoped out for the construction and decommissioning phases of the Proposed Development. This is in line with the NatureScot representation and MD-SEDD advice.

5.2.3 The Developer is directed to the advice provided by MD-SEDD with regard to the approach to the assessment of "modifications to stratification and frontal feature" as outlined in table 7-8 of the Scoping Report, and advised that this is given full consideration in producing the EIA Report.

- 5.2.4 In relation to the proposed method of assessment as described in section 7.11 of the Scoping Report. Further to the advice above to scope in the Quaternary of Scotland protected feature of the Southern Trench NCMPA, the Scottish Ministers advise that no further assessment is required if the cable route avoids the landforms. The assessment should be a qualitative assessment against the relevant conservation objectives of the NCMPA. The Developer is directed to the NatureScot representation in this regard.
- 5.2.5 The Scottish Ministers note the embedded mitigation measures detailed in section 7.7 of the Scoping Report and advise that further mitigation may be required following assessment should impacts be predicted. This is in line with the NatureScot representation.
- 5.2.6 With regard to the cumulative impact assessment, the Developer is advised to engage with the offshore petroleum regulator OPRED to ensure that all relevant projects and activities are included in the assessment relative to the East of Gannet and Montrose Fields NCMPA.
- 5.2.7 The Scottish Ministers agree that transboundary impacts on marine and coastal processes can be scoped out of the EIA Report. This is a view supported by NatureScot in its representation.

5.3 Marine Water and Sediment Quality

- 5.3.1 The Developer considers the impact of the Proposed Development on marine water and sediment quality within chapter 8 of the Scoping Report. The Scottish Ministers are content with the study area and baseline characterisation as described in sections 8.3 and 8.5 of the Scoping Report respectively.
- 5.3.2 Table 8.7 of the Scoping Report sets out the impacts proposed to be scoped in and out of the EIA Report. The Scottish Ministers are content with this approach and direct the Developer to the standing advice provided by SEPA and advise that this is fully considered in the EIA Report.³
- 5.3.3 The Scottish Ministers note that the Developer has committed to undertaking further consultation with MD-LOT and MD-SEDD on marine water and sediment quality. The Scottish Ministers advise that any advice received should be reflected in the EIA Report.
- 5.3.4 The Scottish Ministers agree that cumulative effects is scoped in and transboundary effects can be scoped out of the EIA Report.

³ [lups-gu13-standing-advice-on-marine-consultations.pdf \(sepa.org.uk\)](https://www.sepa.org.uk/lups-gu13-standing-advice-on-marine-consultations.pdf)

5.4 Benthic Ecology

- 5.4.1 The Developer considers the potential impact of the Proposed Development on benthic ecology receptors in chapter 9 of the Scoping Report. The Scottish Ministers are content with the study area as set out in section 9.3 of the Scoping Report.
- 5.4.2 Data sources are listed in table 9.3 of the Scoping Report, the Scottish Ministers refer the Developer to the NatureScot representation for an additional data source to be used in the EIA Report. With regard to surveys in relation to ocean quahog, the Scottish Ministers advise that any survey strategy must be agreed with NatureScot and JNCC prior to commencing and refer the Developer to the joint NatureScot and JNCC representation in this regard.
- 5.4.3 The Developer sets out the potential impacts to be scoped in and out of the EIA Report in table 9-6 of the Scoping Report. The Scottish Ministers advise that temporary impacts to the seabed and benthic habitats, longterm impacts to the seabed and benthic habitats and introduction of hard substrate in a predominantly sedimentary environment should be scoped in for all phases of the Proposed Development. Additionally, the Scottish Ministers advise that removal of hard structures during decommissioning resulting in loss of colonised surfaces should be scoped in for assessment in the EIA Report and remediation of mooring and anchor depressions should also be assessed in the EIA Report as a permanent impact. In relation to potential for landfall works to disturb intertidal habitats and species, the Scottish Ministers agree that this can be scoped out provided Horizontal Directional Drilling (“HDD”) is the installation method and there are no other activities that have the potential to impact the intertidal region. Furthermore, the Scottish Ministers direct the Developer to the advice provided by NatureScot in its representation in relation to sources for introduction of invasive non-native species and advise that this is taken forward into the EIA Report. This advice is in line with the joint NatureScot and JNCC representation and the Developer is directed to this representation, particularly in relation to scoping of impacts, and advised that this is given full consideration in the EIA Report.
- 5.4.4 The Scottish Ministers are content with the proposed approach to assessment as set out in section 9.11 of the Scoping Report. The Developer acknowledges in section 9.6 of the Scoping Report that scour protection may be required around the foundations, the Scottish Ministers advise that this must be considered in the EIA Report in relation to the resulting impact that scour protection will have on the East of Gannet and Montrose Fields NCMFA. Furthermore, the Scottish Ministers advise that the EIA Report include a standalone assessment of the East of Gannet and Montrose Fields NCMFA. This must be a comprehensive assessment considering the features of the

site and their conservation objectives and include consideration of all relevant activities within the NCMPA. Assessment of potential impacts must be against each designated feature within the NCMPA. The Scottish Ministers note that JNCC intend to publish a new conservation advice package imminently and this must be considered in the assessment. To allow for a clearer understanding of the potential impact to the NCMPA, the Scottish Ministers advise any maps identify the NCMPA boundary. If significant effects on the conservation objectives of the NCMPA are identified then the Developer should consider proposing potential Measures of Equivalent Environmental Benefit to be submitted alongside the EIA Report. The Scottish Ministers advise that the Developer engage fully with NatureScot and JNCC regarding its approach to the assessment.

- 5.4.5 With regard to mitigation, the Scottish Ministers acknowledge the embedded mitigations measures as outlined in table 9-5 of the Scoping Report and agree that this is suitable for managing and mitigating effects of the Proposed Development on benthic ecology receptors. However, further mitigation may be required dependent on the outcome of the assessment in the EIA Report. This is in line with the NatureScot representation.
- 5.4.6 In relation to the cumulative impact assessment, the Scottish Ministers advise that this should include all impacts which may arise from the Proposed Development and also impacts which could be identified as minimal for the Proposed Development alone but may have a greater impact when considered cumulatively. An example of such is Electro-Magnetic Field (“EMF”) impacts which the Scottish Ministers advise must be scoped into the cumulative impact assessment and refer the Developer to the joint JNCC and NatureScot representation in this regard.
- 5.4.7 The Scottish Ministers agree with the Developer’s proposal to scope out benthic ecology for assessment of transboundary impacts.
- 5.4.8 With regard to the HRA Screening Report, the Scottish Ministers are content with the identification of a single site, Buchan Ness to Collieston Coast SAC, designated for Annex 1 habitats, as having connectivity to the Proposed Development and agree with the conclusion reached by the Developer that there is no potential for Likely Significant Effect (“LSE”) on the qualifying feature of this site from the Proposed Development. This is in line with the NatureScot representation.

5.5 Marine Mammals

- 5.5.1 The Developer considers the potential impact of the Proposed Development on marine mammals in chapter 10 of the Scoping Report. The Scottish Ministers are satisfied with the study area presented in section 10.3 of the

Scoping Report and that the data sources listed in table 10-4 are sufficient to inform the baseline characterisation, however, for the avoidance of doubt, this should also include Carter *et al.* (2022) as highlighted by NatureScot in its representation.

- 5.5.2 The Scottish Ministers are broadly content with the impacts proposed to be scoped in and out of the EIA Report as detailed in table 10-8 of the Scoping Report with the following additions. Changes to prey resources should be scoped in for the operation and maintenance phase of the Proposed Development. The Scottish Ministers do not agree with the proposal to scope out secondary entanglement and advise that this must be scoped in for the operation and maintenance phase of the Proposed Development and direct the Developer to the NatureScot representation in this regard.
- 5.5.3 Section 10.11 of the Scoping Report sets out the Developer's proposed approach to assessing the potential significant effects to marine mammals as a result of the Proposed Development. In line with the NatureScot representation, the Scottish Ministers advise the use of population estimates for the UK portion of the Inter-Agency Marine Mammal Working Group Management Units ("MU") for species with very large MUs. However, the entire MU should be used in the assessment for species with smaller MUs such as bottlenose dolphin and seals.
- 5.5.4 The Scottish Ministers direct the Developer to the NatureScot representation in relation to the use of density estimates from SCANS-IV or Digital Aerial Survey ("DAS") data and advise that the appropriate approach is implemented in the EIA Report. For impacts within the cable route, block NS-D estimates should be used.
- 5.5.5 In relation to the approach to underwater noise assessment, the Scottish Ministers are unable to provide specific advice and advise that the Developer further engage with NatureScot to agree the assessment methodology.
- 5.5.6 The Scottish Ministers note the embedded mitigation measures detailed in section 10.7 of the Scoping Report and advise that further mitigation may be required following assessment should impacts be predicted. This is in line with the NatureScot representation.
- 5.5.7 The Scottish Ministers agree with the Developer's proposal to scope in cumulative effects on marine mammals. However, highlight the NatureScot representation in relation to the potential requirement to consider more than the immediate ZOI in undertaking the cumulative effects assessment on marine mammals.

5.5.8 In section 10.10 of the Scoping Report, the Developer proposes to scope in transboundary effects on marine mammals. The Scottish Ministers agree with this approach.

5.5.9 With regard to the HRA Screening Report, the Scottish Ministers are content with the Developers approach to screening, the list of sites identified and the potential impact pathways to be screened in and out, and the Developer's approach to assessing in-combination effects. This is in line with the NatureScot and Natural England representations.

5.6 Ornithology

5.6.1 The Developer considers the impacts on ornithological receptors in chapter 11 of the Scoping Report. The Scottish Ministers are content with the study area as described in section 11.3 of the Scoping Report, however, direct the Developer to NatureScot's guidance note 3 in relation to foraging ranges for guillemot, razorbill and gannet and advise that this is applied in the EIA.⁴

5.6.2 The Scottish Ministers direct the Developer to Annex I of the NatureScot representation in relation to the DAS, specifically in relation to the significantly lower numbers of guillemot presented in the 2021 survey results which may not provide representative data. The Developer is advised to engage with NatureScot in relation to addressing this issue and provide an outcome to this in the EIA Report.

5.6.3 The Scottish Ministers are satisfied that the species scoped in for assessment reflect the species found most abundantly in the DAS. Furthermore, the Scottish Ministers are broadly content with the potential impacts proposed to be scoped in and out of the EIA Report as described in table 11-8 of the Scoping Report. However, the Scottish Ministers advise that temporary disturbance and displacement during construction of the HDD should be scoped into the EIA Report as insufficient information has been provided to enable the impact to be scoped out at this stage. Secondary entanglement from subsea mooring systems must also be scoped in for assessment due to the high uncertainty of the potential impact. The Developer is directed to the NatureScot representation in this regard and advised that it is fully considered in the EIA Report.

5.6.4 The Scottish Ministers are content that the assessment methodology presented in the Scoping Report is appropriate. The Scottish Ministers advise that the Developer utilise NatureScot's guidance note on Collision Risk

⁴ [Guidance Note 3: Guidance to support Offshore Wind applications: Marine Birds - Identifying theoretical connectivity with breeding site Special Protection Areas using breeding season foraging ranges | NatureScot](#)

Modelling (“CRM”) to develop the CRM approach.⁵ Whilst the guidance is awaiting update, the Scottish Ministers direct the Developer to the NatureScot representation for the key changes to be implemented and advise that this is taken into consideration in the EIA Report. Additionally, the Scottish Ministers direct the Developer to the recently published Strategic Review of Birds on Migration in Scottish Waters to assist in informing the decision process in relation to species to be included in the assessment.⁶ Furthermore, the Scottish Ministers are content, in line with the NatureScot representation that collision risk modelling is not undertaken for fulmar.

- 5.6.5 In relation to addressing impacts of Highly Pathogenic Avian Influenza (“HPAI”), the Developer, in undertaking the EIA, must consider the impact of HPAI on colonies as detailed in the NatureScot and RSPB representations.
- 5.6.6 The Scottish Ministers advise that the Developer should use Option 2 (as described in section 11.11.2.10 of the Scoping Report) to derive guillemot non-breeding season breeding populations, using the UK North Sea and Channel Waters Biologically Defined Minimum Population Scales (“BDMPS”) population as the main approach taken in the assessment and should be used for Population Viability Analysis.
- 5.6.7 In relation to non-breeding season apportioning, the Scottish Ministers advise use of colony counts from the BDMPS in line with the NatureScot representation.
- 5.6.8 With regard to mitigation, the Scottish Ministers acknowledge the embedded mitigations measures as outlined in section 11.7 of the Scoping Report and agree that this is suitable for managing and mitigating effects of the Proposed Development on ornithological receptors. However, further mitigation may be required dependent on the outcome of the assessment in the EIA Report. This is in line with the NatureScot representation.
- 5.6.9 The Scottish Ministers agree with the Developer’s proposal as set out in section 11.9 of the Scoping Report to scope in distributional responses and collision risk during operation as part of the cumulative impact assessment.
- 5.6.10 The Scottish Ministers agree with the Developer’s proposal as set out in section 11.10 of the Scoping Report to scope in transboundary effects.
- 5.6.11 With regard to the HRA Screening Report as it applies to ornithological interests, the Scottish Ministers refer the Developer to the representations

⁵ [Guidance Note 7: Guidance to support Offshore Wind Applications: Marine Ornithology - Advice for assessing collision risk of marine birds | NatureScot](#)

⁶ [Summary - Offshore wind - birds on migration in Scottish waters: strategic review - gov.scot \(www.gov.scot\)](#)

made by NatureScot, Natural England and RSPB and advise that the Developer fully review and address these.

- 5.6.12 In particular, the Developer is directed to the NatureScot representation and advised to review the list of sites and species selected and to ensure that the foraging ranges and data sources used to inform site and species selection are the most appropriate and up to date.
- 5.6.13 The Developer is also referred to the NatureScot representation regarding potential impact pathways and in particular the reference made to consideration of direct disturbance due to construction within the Buchan Ness to Collieston Coast SPA. There is potential for any works related to the ECC to impact on the qualifying seabird features at this site and so this should be discussed fully within the Report to Inform the Appropriate Assessment (“RIAA”).
- 5.6.14 The Scottish Ministers advise that the Developer use Woodward et al (2019) foraging ranges for kittiwake in its assessment and direct the Developer to the NatureScot representation for further guidance.
- 5.6.15 NatureScot and RSPB disagree with the Developer’s conclusion of no LSE for all species for the impact pathway ‘changes in prey availability and behaviour’. The Scottish Ministers agree with NatureScot and RSPB representations that the Developer has provided insufficient justification for this position and advise that this impact must be screened into the RIAA for all sites and species.
- 5.6.16 With regards to the gannet qualifying interest of the Flamborough and Filey Coast SPA the Developer is referred to the response, and subsequent clarifications, provided by Natural England. This states that Natural England are content with the Developer’s justification for there being no LSE on the gannet qualifying interest of the Flamborough and Filey Coast SPA. The Scottish Ministers are in agreement with this and are content that this site can be screened out of the RIAA.
- 5.6.17 In line with the Natural England representation, the Scottish Ministers advise that the Proposed Development may have LSE on kittiwake seabird assemblage as a qualifying interest of the Farne Islands SPA and so must be screened in to the RIAA.
- 5.6.18 The Scottish Ministers highlight the guidance provided in the NatureScot representation regarding assessment of in-combination effects and advise that this should be fully addressed by the Developer within the RIAA. The Developer should follow the NatureScot guidance notes as referenced in its response for screening projects into the in-combination assessment. For the

avoidance of doubt, built and operational windfarms must be included in the in-combination assessment to ensure that these impacts are fully addressed.

5.7 Fish Ecology

- 5.7.1 The Developer considers the impacts on fish ecology in chapter 12 of the Scoping Report. The Scottish Ministers advise that the study area as described in section 12.3 of the Scoping Report may need to be extended dependent on the underwater noise modelling, the Developer is directed to the NatureScot representation in this regard.
- 5.7.2 In relation to the baseline characterisation, the Scottish Ministers are generally content with the data sources listed in table 12-4 of the Scoping Report to be used to inform the baseline, however highlight that the desk-based study should be supplemented by benthic sampling and eDNA surveys. This is a view supported by NatureScot in its representation.
- 5.7.3 The Scottish Ministers are broadly content with the impacts proposed to be scoped in and out of the EIA Report in table 12-11 of the Scoping Report. However, the impact of the Proposed Development on basking shark must be scoped in for assessment, particularly in relation to EMF, entanglement and collision. Additionally, secondary entanglement should be scoped into the EIA Report for the operation and maintenance phase of the Proposed Development.
- 5.7.4 Noting that underwater noise and vibration is scoped in for assessment, the Scottish Ministers highlight the advice provided by NatureScot in its representation to consider the results from the study on characterisation of underwater noise from Hywind Scotland and Kincardine Offshore Wind Farm in the assessment.
- 5.7.5 The Scottish Ministers agree with the proposed approach to assessment of impacts to fish ecology. In relation to Priority Marine Features (“PMF”), the Scottish Ministers highlight the NatureScot representation and advise the assessment should quantify, where possible, the likely impacts to key PMFs and consider whether this could lead to a significant impact on the national status of the PMFs under consideration. The Scottish Ministers highlight the NatureScot representation in relation to underwater noise assessment methodology relative to the impact of piling on fish receptors and advise the Developer engage with NatureScot in this regard.
- 5.7.6 The Scottish Ministers note the embedded mitigation measures detailed in section 12.7 of the Scoping Report and advise that further mitigation may be required following assessment should impacts be predicted. This is in line with the NatureScot representation.

- 5.7.7 With regard to cumulative effects, in addition to underwater noise, the Scottish Ministers advise that EMF impacts and suspended sediment concentrations are included in the cumulative impacts assessment. The Developer is directed to the NatureScot representation in this regard.
- 5.7.8 The Scottish Ministers agree with the Developer's proposal to scope in transboundary effects on fish ecology.
- 5.7.9 In regards to the HRA Screening Report, the Scottish Ministers agree with the advice from NatureScot that migratory fish should be assessed through the EIA process and not through the HRA process. However, the Developer should engage with the Scottish Ministers and NatureScot in regards to any change in how diadromous fish should be assessed through EIA and HRA as a result of ongoing research in this area. For completeness the Scottish Ministers advise the Developer to give consideration to the representation from the Ugie District Salmon Fishery Board when carrying out the assessment.

5.8 Commercial Fisheries

- 5.8.1 The Developer considers the potential impacts of the Proposed Development on commercial fisheries in chapter 13 of the Scoping Report.
- 5.8.2 Scottish Ministers are broadly content with the data sources listed by the Developer as detailed in table 13.4 of the Scoping Report. However, in line with the MD-SEDD advice, in addition to the sources listed, the EIA should also include Automate Identification System ("AIS") data as provided by EMODNet. This data provides a time-weighted picture of fishing activity, including annual and seasonal activity, so gives an accurate representation to inform the baseline. Vessel Monitoring System ("VMS") and relevant National Marine Plan Interactive ("NMPI") data layers should also be included to provide a clearer indication of fishing activities by gear type throughout the study area as well as allowing assessment of VMS value and fishing effort. Additionally, the Scottish Ministers recommend that the new gridded fisheries data for under 12m vessels, available on NMPI, should be included as this can be split by gear type and provides accurate, up to date information regarding the activity of the inshore fleet. Furthermore, the Developer is advised that consideration should be given to fisheries data gathered prior to the UK leaving the European Union and to obtaining fish plotter data from fisheries organisations, as this will include data from vessels not obliged to use AIS or VMS. This is in line with the SFF representation. Finally, the Scottish Ministers highlight the MD-SEDD advice in relation to the reliance on MMO surveillance sightings and advised to take this into consideration in undertaking the EIA.

- 5.8.3 The Developer defines the study area in section 13.3 of the Scoping Report. The Scottish Ministers advise that the study area must include International Council for the Exploration of the Seas rectangles adjacent to the current study area in order to capture the effects on those areas of the fishing activities which have been displaced, the Developer is referred to the MD-SEDD advice in this regard.
- 5.8.4 The Scottish Ministers agree with the impact pathways scoped in and out of the assessment as described in table 10-4 of the Scoping Report. However, the Scottish Ministers refer the Developer to the SFF representation in relation to snagging hazards and gear conflict as a result of displacement and advise that this is given consideration in the EIA Report.
- 5.8.5 The Scottish Ministers are content with the embedded mitigation measures detailed in table 13.5 of the Scoping Report. In relation to the development of a Fisheries Management and Mitigation Strategy (“FMMS”), the Scottish Ministers refer the Developer to the SFF representation and advise that the FMMS be developed in consultation with the SFF.
- 5.8.6 The Scottish Ministers are also content with the Developers approach to the assessment of cumulative effects on commercial fisheries arising from the Proposed Development cumulatively with other developments.
- 5.8.7 The Scottish Ministers are in agreement with the Developer’s proposal to scope in transboundary impacts to non-UK fisheries for assessment in the EIA Report.

5.9 Shipping and Navigation

- 5.9.1 The Scottish Ministers are broadly content with the proposed study area and baseline data sources identified in chapter 14 of the Scoping Report however directs the Developer to the UK Chamber of Shipping (“UKCoS”) representation to consider extending this to 50 nautical miles for the cumulative impacts assessment. Additionally, the Scottish Ministers advise the Developer to consider the data source recommendations from the UKCoS, particularly in relation to increasing the scope of the Marine Accident Investigation Branch spatial accident data to fully assess trends and historic incidents.
- 5.9.2 The Scottish Ministers are broadly content with the impacts proposed to be scoped in and out of the EIA Report in table 14-7 of the Scoping Report but advise that risk of loss of station during construction and decommissioning in addition to the operational phase must be scoped in. Management of lighting and marking during maintenance or repair and the potential impact that a wreck could have on navigation should also be scoped in. This is in line with

the UKCoS, SFF and NLB representations. Furthermore, the Scottish Ministers direct the Developer to the MCA response in relation to the possible impact on navigational issues for both commercial and recreational craft and advise that this is fully considered in the EIA Report. Finally, the Scottish Ministers refer the Developer to the advice provided by the MCA specifically in relation to the electromagnetic deviation on ships' compasses from the use of HVDC cable and advise that this must be scoped in and fully addressed within the EIA Report.

- 5.9.3 Section 3.7.1.7 of the Scoping Report states that mooring lines may be installed and stored temporarily until the FTU can be installed. The Scottish Ministers refer the Developer to the SFF representation and the advice to consider the need for guard vessels.
- 5.9.4 The Developer's commitment to producing a Navigational Risk Assessment ("NRA") in accordance with MGN 654 is acknowledged by the Scottish Ministers. In addition to the key stakeholders proposed to be consulted as part of the NRA process in section 14.12.1.1 of the Scoping Report, in line with the MCA response, the Scottish Ministers advise that The Cruising Association must also be included. A completed MGN checklist must also be submitted.
- 5.9.5 With regards to cabling routes and cable burial, the Scottish Ministers advise that a Burial Protection Index study should be completed and, subject to the traffic volumes, an anchor penetration study may be necessary. The Scottish Ministers advise that this should be fully addressed in the EIA Report and highlight the MCA representation regarding a 5% reduction in surrounding depths referenced to Chart Datum if cable protection measures are required.
- 5.9.6 In addition, the Scottish Ministers highlight the MCA representation regarding Search and Rescue ("SAR"), Emergency Response Co-operation Plans, radar surveillance, AIS and shore-based VHF radio coverage. The Scottish Ministers advise that the MCA representation must be fully addressed within the EIA Report and that a SAR checklist must be completed by the Developer in consultation with the MCA.
- 5.9.7 For completeness, the Developer is directed to the representation from the MCA and advised that compliance with regulatory expectations on moorings for floating wind and marine devices is required and a third-party verification of the mooring arrangements will be required.

5.10 Marine Cultural Heritage and Archaeology

- 5.10.1 The Developer discusses potential impacts on marine cultural heritage and archaeology in chapter 15 of the Scoping Report. In addition to the data sources included in table 15.4, the Scottish Ministers direct the Developer to

the HES representation in relation to additional data sources to be used to inform the assessment.

- 5.10.2 The existing baseline has been characterised by utilising the publicly available information held in the sources detailed in table 15.4. The Developer notes that the area between MHWS and 12nm was assessed as part of the NorthConnect project licensing process in 2018 and so the information gathered at that time will be used in this case. In consultation HES state that this is not acceptable due to the dynamic nature of the environment and the potential additional scope of the Proposed Development. The Scottish Ministers agree with the advice provided by HES in its representation that an assessment should be made for all areas where the Proposed Development exceed that consented for NorthConnect, and that any existing data should be re-validated and additional surveys carried out where notable changes have occurred. Desk-based elements of the assessment should also be re-visited and updated where necessary.
- 5.10.3 Table 15.6 of the Scoping Report lists the potential receptors which may be impacted by the Proposed Development. The Developer details whether the potential impacts are likely to be significant enough, following the application of the various embedded mitigation measures included in table 15.5, to merit further assessment in the EIA and provides a justification for the decision to scope each receptor in or out at the three main phases of the Proposed Development. The Scottish Ministers are broadly content with this proposal however advise that potential impacts on the known scheduled monument, Boddam Castle, which sits within the inter-tidal area should be scoped in for all phases of the Proposed Development. Additionally, direct and indirect impacts must be be scoped in for all phases of the Proposed Development. This is in line with the HES representation.
- 5.10.4 The Scottish Minisers advise that the embedded mitigation measures proposed in table 15-5 of the Scoping Report are insufficient. In addition to the proposed measures, the Scottish Ministers advise that a Written Scheme of Investigation and Protocol for Archaeological Discoveries is also developed. Additionally, Archaeological Exclusion Zones should also be established where appropriate, this is in line with the HES representation.

5.11 Seascape, Landscape and Visual Impact Assessment

- 5.11.1 The Developer sets out its approach to seascape, landscape and visual impact assessment ("SLVIA") in section 16 of the Scoping Report.
- 5.11.2 Due to the height and distance of the WTGs from shore, the Developer concluded that they will not be visible and therefore will have no impact. Using the same calculations the Developer concluded that there would be no visual

impact on the Aberdeen to Lerwick ferry route. There may be some intervisibility with oil and gas assets but workers on these assets are not classed as sensitive visual receptors. On this basis the Developer proposes to scope visual impacts out of the EIA Report.

- 5.11.3 The Scottish Ministers agree with the Developer's proposal to scope SLVIA out of the EIA Report in relation to the visual impacts from the location of the wind farm array area and the export cable corridor to MHWS. This is in line with the representations from NatureScot and Aberdeenshire Council.

5.12 Marine Infrastructure and Other Users

- 5.12.1 The Developer outlines the approach to be taken to marine infrastructure and other user receptors in chapter 17 of the Scoping Report. The Developer describes the study area for this receptor topic as the area within which the offshore infrastructure will be installed and operated which may directly interact with third party infrastructure and other marine users, together with the central North Sea area as the widest perspective of the study area. The Scottish Ministers are satisfied with the study area as described.
- 5.12.2 The Developer considers the subset of receptors which may be included for assessment and notes that those covered in other sections of the Scoping Report will not be considered in this section. The receptors which shall be included and excluded for consideration in this chapter are listed in table 17.1. The Scottish Ministers are in agreement with this list.
- 5.12.3 The Scottish Ministers are largely in agreement with the impacts proposed to be scoped in for assessment in the EIA Report as detailed in table 17-7 of the Scoping Report. In consultation SHET noted that there may be some overlap between the ECC of the Proposed Development and various other transmission cables, notably to the proposed Eastern Green Link 2 and Eastern Green Link 3 cables. This supports the inclusion of effects on subsea telecommunications and power infrastructure.
- 5.12.4 Due to potential direct overlap between the Salamander Offshore Wind Farm site and the site of the Proposed Development, there may be potential effects on and cumulative effects with the Salamander Offshore Wind Farm and as such should be scoped into the EIA Report.
- 5.12.5 The MOD also commented on potential impacts to marine infrastructure and other users noting that the potential presence of UXO and of disposal sites is a relevant consideration to the installation of cables and other intrusive works. Whilst the discovery of UXOs is already proposed to be scoped into the EIA by the Developer, as the MOD has highly surveyed routes which may be

relevant to the installation of cables and infrastructure, the Scottish Ministers recommend that the Developer liaise with the MOD in this regard.

- 5.12.6 In relation to cumulative effects, the Scottish Ministers agree that cumulative effects are scoped in and advise that cumulative effects with other renewable energy developments should also be scoped in for assessment.
- 5.12.7 The Scottish Ministers agree that transboundary effects should be scoped in for assessment in the EIA Report.

5.13 Military and Civil Aviation

- 5.13.1 The Developer considers potential impacts on military and civil aviation in chapter 18 of the Scoping Report.
- 5.13.2 The Scottish Ministers are content with the study area identified by the Developer which excludes the ECC but includes the area within the maximum operating ranges of civil and military air traffic services and air defence overlapping the array area, and helidecks located within 9nm of the array area.
- 5.13.3 The Scottish Ministers are content with the impacts proposed to be scoped in and out of the EIA Report as detailed in table in 18-6 of the Scoping Report.
- 5.13.4 The Scottish Ministers highlight that the consultation responses from NATS and JRC agree with the Developers approach to these receptors and with the possible impacts to be scoped in or out of the EIA, on the basis that the Proposed Development is as detailed in the Scoping Report. Should any of the parameters change or extend outwith the current PDE, the Scottish Ministers advise the Developer must engage further with NATS, JRC and MOD to understand if the changes alter the advice provided.
- 5.13.5 The Scottish Ministers are content with the Developer's approach to scope in cumulative effects and scope out transboundary effects from the EIA Report.

5.14 Socio-Economics

- 5.14.1 The Developer has considered the socio-economic impacts of the Proposed Development in chapter 19 of the Scoping Report and in Appendix 19A of Volume II of the Scoping Report. The latter specifically considers socio-economic issues relating to human health.
- 5.14.2 The Scottish Ministers advise that the Developer must undertake a full Socio-Economic Impact Assessment ("SEIA") and in completing this, advise the Developer to fully consider the guidance and principles detailed in Annex 1 of the MAU advice.

- 5.14.3 The Scottish Ministers are content with the study area for the SEIA and agree with the proposal to include impacts to onshore receptors as well as offshore receptors from the Proposed Development.
- 5.14.4 The Scottish Ministers are broadly in agreement with the data sources detailed in table 19.4 of the Scoping Report. However, the Developer is referred to the MAU advice for information as to how the data sources may be broadened to improve the quality of the assessment presented. The Scottish Ministers highlight the MAU emphasis on the importance of community engagement throughout the process.
- 5.14.5 The Scottish Ministers advise that all socio-economic issues should be considered within the same part of the document, this is a view supported by the MAU in its advice. For the avoidance of doubt, impacts scoped in for assessment relative to human health should form part of the SEIA.
- 5.14.6 The Scottish Ministers are broadly in agreement with the receptors to be scoped in as summarised in table 19.10 of the Scoping Report, however, disagree that community safety, transport and access and social participation should be scoped out and advise that these must be scoped into the SEIA. This is in line the MAU advice.
- 5.14.7 In relation to economic impacts, the Scottish Ministers advise that the proposed approach to assess employment impacts should be expanded to include analysis of potential job creation from the Proposed Development in comparison to existing jobs in the study area, as outlined in the MAU response. A detailed description of the methodology used to assess economic impacts must also be included in the EIA, outlining the methodological approach taken and any key assumptions that underpin any estimates.

5.15 Materials and Waste

- 5.15.1 The Developer has considered the impacts of waste generation and disposal and use of materials in chapter 20 of the Scoping Report. The Developer provided detailed consideration of baseline conditions and the potential for use of materials, generation of waste and recycling of components in all phases of the Proposed Development.
- 5.15.2 The Scottish Ministers are content with the approach taken by the Developer to this topic and agree that materials and waste may be scoped out of the EIA.

5.16 Major Accidents and Disasters

- 5.16.1 The Scoping Report considers the vulnerability of the Proposed Development to major accidents and disasters in chapter 21. Table 21-3 of the Scoping Report details the technical guidance used by the Developer to design the

assessment which includes the recent Institute of Environmental Management and Assessment (“IEMA”) ‘Major Accidents and Disasters in EIA: A Primer’. Appendix. Appendix 21A of Volume II of the Scoping Report presents the types of major accidents or disasters considered in the assessment and the justification for proposing to scope out all potential impacts from the construction and operation phases of the Proposed Development.

- 5.16.2 The Scottish Ministers are satisfied that in undertaking the assessment, the Developer has utilised the appropriate technical guidance and has considered 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. The Developer proposes that mitigation measures to prevent, reduce or control any potential impacts will be embedded in the design of the Proposed Development and through adherence to other regulatory frameworks. Additionally, environmental effects associated with unplanned events will be addressed through the relevant receptor chapters and appropriately mitigated. On this basis, the Scottish Ministers are content for major accidents and disasters to be scoped out of the EIA Report.

5.17 Climate Change Resilience

- 5.17.1 The Developer considers the potential impact of climate change to the Proposed Development in chapter 22 of the Scoping Report and proposes to scope out all potential impacts as detailed in table 22-11. In section 22.9 of the Scoping Report, the Developer proposes to scope in in-combination climate change impacts but this will be assessed within the relevant receptor chapters of the EIA Report as opposed to a standalone assessment. Transboundary effects relative to climate change resilience is proposed to be scoped out as stated in section 22.10 of the Scoping Report. The Scottish Ministers are content with this approach.

5.18 Carbon and Greenhouse Gases

- 5.18.1 The Developer considers the impacts of Greenhouse Gas (“GHG”) emissions as a result of the Proposed Development in chapter 23 of the Scoping Report. The impacts proposed to be scoped into the EIA Report for the Proposed Development are detailed in table 23-5 in the Scoping Report. The Scottish Ministers note that the Developer sets out the proposed approach to the GHG assessment in section 23.11.2 of the Scoping Report and that it aligns with the IEMA Environmental Impact Assessment Guide “Assessing Greenhouse Gas Emissions And Evaluating Their Significance” (“IEMA GHG Guidance”). The Scottish Ministers are content with this approach noting that the GHG Assessment will be based on a Life Cycle Assessment (“LCA”) approach. The Scottish Ministers acknowledge that this will include the pre-construction, construction, operation and decommissioning phases, however highlight that

this should also include consideration of the supply chain as well as benefits beyond the life cycle of the Proposed Development.

- 5.18.2 Alongside the GHG assessment, the Scottish Ministers highlight the NatureScot representation in relation to blue carbon assessment. The Scottish Ministers advise that consideration should be given to impacts on blue carbon as a result of the Proposed Development, as well as an expanded assessment for benthic ecology focusing on potential impacts on marine sediments.

6. Application and EIA Report

6.1 General

- 6.1.1 The EIA Report must be in accordance with the EIA Regulations and the Scottish Ministers draw your attention in particular to, regulation 6 of the 2017 MW Regulations, regulation 5 of the 2017 EW Regulations and regulation 12 of the 2007 MW Regulations. In accordance with the EIA Regulations, the Scottish Ministers advise that the EIA Report must be based on this Scoping Opinion.
- 6.1.2 The Scottish Ministers note the need to carry out an assessment under the Conservation (Natural Habitats, &c.) Regulations 1994 and the Conservation of Offshore Marine Habitats and Species Regulations 2017. This assessment must be coordinated with the EIA in accordance with the EIA Regulations.
- 6.1.3 The Scottish Ministers also note the need to provide an assessment of impacts on Marine Protected Areas under the 2009 Act and reiterate the advice detailed in paragraph 5.4.4 of the benthic ecology section above recommending early consideration be given by the Developer (on a without prejudice basis to the assessment process outcome) to the undertaking of a parallel process relating to the derogation process under section 126 of the 2009 Act. The Developer should continue to liaise with MD-LOT on this point going forward.
- 6.1.4 A gap analysis template is attached at Appendix II to record the environmental concerns identified during the scoping process. This template should be completed and used to inform the preparation of the EIA Report. As part of the submission of the EIA Report the Scottish Ministers advise that the Developer must provide confirmation of how this Scoping Opinion is reflected in the EIA Report.

7. Multi-Stage Consent and Regulatory Approval

7.1 Background

- 7.1.1 The EIA Regulations contain provisions regulating the assessment of environmental impacts. A multi-stage consent or regulatory approval process arises where an approval procedure comprises more than one stage; one stage involving a principal decision and one or more other stages involving implementing decision(s) within the parameters set by the principal decision. While the effects which works may have on the environment must be identified and assessed at the time of the procedure relating to the principal decision, if those effects are not identified or identifiable at the time of the principal decision, assessment must be undertaken at the subsequent stage.
- 7.1.2 The definition in the 2017 EW Regulations is as follows (the definition in the 2017 MW Regulations provides for the same but in relation to “regulatory approvals”): *“application for multi-stage consent” means an application for approval, consent or agreement required by a condition included in a regulatory approval where (in terms of the condition) that approval, consent or agreement must be obtained from the Scottish Ministers before all or part of the development permitted by the Electricity Act consent may be begun*”.
- 7.1.3 A section 36 consent or marine licences, if granted, by the Scottish Ministers for the Proposed Development, may have several conditions attached requiring approvals etc. which fall under this definition, for example the approval of a CMS. When making an application for multi-stage consent or regulatory approval the Developer must satisfy the Scottish Ministers that no significant effects have been identified in addition to those already assessed in the EIA Report.
- 7.1.4 If during the consideration of information provided in support of an application for multi-stage consent or regulatory approval the Scottish Ministers consider that the development may have significant environmental effects which have not previously been identified in the EIA Report (perhaps due to revised construction methods or updated survey information), then information on such effects and their impacts will be required. This information will fall to be dealt with as additional information under the EIA Regulations, and procedures for consultation, public participation, public notice and decision notice of additional information will apply.

Signed
Debbie England

10 September 2024
Authorised by the Scottish Ministers to sign in that behalf.

Appendix I: Consultation Responses & Advice

Please refer to separate document provided alongside Scoping Opinion

Appendix II: Gap Analysis

Please refer to separate document issued alongside Scoping Opinion.