

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 Marine Works (Environmental Impact Assessment)
Regulations 2007**

and

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

Muir Mhòr Offshore Wind Farm

September 2023

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1. Introduction

1.1 Background

- 1.1.1 On 22 June 2023, the Scottish Ministers received a scoping report (“the Scoping Report”) from Muir Mhòr Offshore Wind Limited (“the Developer”) as part of its request for a scoping opinion relating to Muir Mhòr Offshore Wind Farm (“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.
- 1.1.2 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 also submitted a Habitats Regulations Appraisal (“HRA”) screening report (“HRA Screening Report”) alongside the Scoping Report on 22 June 2023 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 comprised of an offshore generating station located approximately 63 kilometres (“km”) east of Peterhead in the North Sea. The Proposed Development will have a capacity of approximately 1 Gigawatts (“GW”) which is greater than 50 Megawatts (“MW”) and therefore requires the Scottish Ministers’ consent, under the Electricity Act 1989, to allow its construction and operation. The Proposed Development will also require a marine licence granted by the Scottish Ministers under the 2009 Act and 2010 Act, to permit any and all ‘licensable marine activities’ carried on for the Proposed Development.
- 2.2.2 The Proposed Development will include the construction and operation of offshore Wind Turbine Generators (“WTGs”) and all associated offshore infrastructure.
- 2.2.3 The design envelope for the Proposed Development is broad and there are a number of design parameters which are yet to be determined by the Developer. The technology in relation to the WTG foundations will consist of floating substructures. The area of the Proposed Development in which the WTGs, inter-array cables, inter-connector cables and Offshore Electrical Platforms (“OEPs”) are located is termed the ‘Array Area’ and it sits within the E2 ScotWind Plan Option. The Array Area is approximately 200km².
- 2.2.4 The key offshore components of the Proposed Development include:

- Up to 67 WTGs;
- Floating substructures to support the WTGs;
- Mooring and anchoring systems to connect the floating substructures to the seabed;
- Up to 3 OEPs and foundations, either fixed surface platform or subsea;
- Scour protection for WTG and OEP foundations;
- Up to 250 km of dynamic Inter-array cables (“IACs”); and,
- Up to 3 export cables, each up to 120 km in length.

2.2.5 The construction of the Proposed Development is expected to begin in 2027 and last approximately 4 years, as detailed in Section 3.8 of the Scoping Report. The operational phase is expected to commence at the end 2030. The Developer has not provided a timeframe for the decommissioning phase.

2.3 Onshore Planning

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

2.4 The Scottish Ministers’ Comments

Description of the Proposed Development

2.4.1 Section 3.2 of the Scoping Report states that indicative parameters have been provided and will be refined as the proposed development progresses through the planning and development phase. Although an indicative design envelope has been provided in Tables 3-1 to 3-8 of the Scoping Report, the EIA Report must include a full and detailed description of all options considered within the design envelope. Further information on the design envelope approach is set out in Sections 2.4.17 to 2.4.20 of the Scoping Opinion below.

2.4.2 Section 3.4 of the Scoping Report states that there are a number of factors being considered in order to identify an offshore cable route that reduces, and where possible avoids, likely significant effects on the environment. The Scottish Ministers advise that the EIA Report must detail the chosen cable route providing clear justification as to the selection over the alternatives considered taking into consideration the outcome of engagement with stakeholders.

2.4.3 Section 3.5.2 of the Scoping Report states that the final WTG design will be informed by the consultation and engagement undertaken during the EIA process. The Scottish Ministers advise that the EIA Report must include a full and detailed description of all WTG parameters considered within the design envelope.

- 2.4.4 Section 3.5.4 of the Scoping Report states that the location of each WTG is yet to be finalised. It must be clear in the EIA Report which arrangement is being assessed. If the arrangement has not yet been decided, the EIA Report must include a full and detailed description of all layout options considered.
- 2.4.5 Section 3.6.1 of the Scoping Report states that a number of floating foundation types are currently under consideration for the Proposed Development. A design envelope has been provided in Table 3-2 of the Scoping Report. The Scottish Ministers advise that the EIA Report must include a full and detailed description of all floating foundation types considered within the design envelope.
- 2.4.6 Section 3.7.2 of the Scoping Report states that there are several mooring configurations under consideration for the Proposed Development. The EIA Report must provide details of the anchor and mooring design options being considered within the design envelope. In Section 3.7.4 of the Scoping Report the Developer has acknowledged that scour protection may be used as required to prevent erosion of the seabed sediments around the anchor location. For the avoidance of doubt the use of scour protection must be assessed in the EIA Report including details on materials, quantities and location.
- 2.4.7 Section 3.7.7 of the Scoping Report states that dynamic inter-array cables are to be used. Section 3.7.8 also outlines that the inter-array cables will be buried after the touchdown point onto the seabed and that target burial depth will be defined based on a Cable Burial Risk Assessment. If there is any potential for cable protection to be used to protect the inter-array cables, this must be assessed in the EIA Report including details on materials, quantities and location. In addition, any seabed levelling or removal of substance or objects from on or under the seabed, required for installation of both the inter-array cables and export cables, will require consideration in the EIA Report and may require a marine licence.
- 2.4.8 Section 3.7.11 of the Scoping Report states that elements of the Offshore Electrical Platform (“OEP”) design will be influenced by the type of current transmitted by the offshore export cable infrastructure. Section 3.7.13 also states that the OEP will either be designed as an above-sea (surface) platform with a fixed-foundation or as a subsea OEP, which lies on the seabed and does not include topsides. The Scottish Ministers advise that the EIA Report must include a full and detailed description of all OEP types considered within the design envelope.
- 2.4.9 Section 3.7.17 of the Scoping Report states that offshore export cable options include both HVAC and HVDC options, and the selected design will influence the OEP design. The EIA Report must include a detailed assessment of the cable installation methods under consideration and the impacts of each method at each potential landfall site. In addition, the Scottish Ministers advise that the EIA Report must include a full and detailed description of any scour protection and/or rock dumping that may be required including indicative locations and

maximum quantities. The EIA Report must also clearly describe the export cable area including the width, length and location of export cable corridor.

- 2.4.10 Section 3.8.4 of the Scoping Report provides an overview on the likely pre-construction activities required. The Scottish Ministers advise that the EIA Report must describe and assess the environmental effects, including in-combination effects, of the range of surveys which may be required such as geophysical and geotechnical survey activities and unexploded ordnance (“UXO”) clearance. The EIA Report must also include consideration of the options which will be assessed in relation to UXO clearance, the differences amongst them and an assessment of the environmental effects of these options. In this regard, the Scottish Ministers advise that the EIA Report must include a worst case 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.
- 2.4.11 Section 3.8.6 of the Scoping Report states that the foundations are likely to be assembled or marshalled in a large construction port and that once assembly is completed, they will be floated-off to free up quayside and storage space at the port facility, and then ‘wet stored’. ‘Wet storage’ is a potentially significant impact pathway in respect of the Proposed Development, as identified by NatureScot in its representation. The Scottish Ministers advise that, if there is potential for ‘wet storage’ of floating WTGs (whether fully assembled or in component parts), this must be detailed and consideration of impacts on all receptors must be addressed within the EIA Report and HRA for all phases of the Proposed Development. The Scoping Report indicates that the turbines will be static whilst in ‘wet storage’, however if any testing or commissioning of the turbines is required the Developer should seek further advice from the Scottish Ministers on the licensing and consenting requirements for this and also consider the impacts on the receptors appropriately. The Scottish Ministers note the Developers proposal to prepare a Wet Storage Plan.
- 2.4.12 Sections 3.8.21 to 3.8.27 of the Scoping Report detail the operation and maintenance activities that will be considered within the EIA Report. The Scottish Ministers advise that the EIA Report must provide a full description and consideration of the nature and scope of these activities, including the types of activity, their frequency, how activities will be carried out for the Proposed Development and any anticipated cumulative impacts. Such proposed activities may require to be permitted by a marine licence issued for the Proposed Development, unless an exemption applies.
- 2.4.13 Section 3.8.28 of the Scoping Report states that in line with the Energy Act 2004 and the Scotland Act 2016 a decommissioning programme will be prepared prior to construction. 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.

- 2.4.14 The EIA Report must provide the estimate of expected residues, for example drill cuttings, and emissions. Specific reference should be made to water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases, where relevant. This information should be provided in a clear and consistent fashion and may be integrated into the relevant aspect assessments.
- 2.4.15 The Scottish Ministers highlight that the HRA should be updated to take into account the representations provided by consultees and an updated version submitted alongside the EIA Report.

Design Envelope

- 2.4.17 The Scottish Ministers note the Developer's intention to apply a 'Design Envelope' approach. Where the details of the Proposed Development cannot be defined precisely, the Developer will apply a worst case scenario, as set out in Section 3.2 of the Scoping Report.
- 2.4.18 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.
- 2.4.19 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, 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.
- 2.4.20 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

- 2.4.21 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 note that the Developer's Scoping Report did not indicate any consideration of alternatives, however acknowledge that this is expected to be presented within Section 4 of the EIA Report as suggested in Table 20-1. The Scottish Ministers advise consideration of alternatives 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.

- 2.4.22 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(s). The Scottish Ministers expect this to comprise a discrete section in the EIA Report that provides details of the reasonable alternatives studied across all aspects of the Proposed Development and the reasoning for the selection of the chosen option(s), including a comparison of the environmental effects.

3. Contents of the EIA Report

3.1 Introduction

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

3.2 EIA Scope

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

3.3 Mitigation and Monitoring

- 3.3.1 Any embedded mitigation relied upon for the purposes of the assessment should be clearly and accurately explained in detail within the EIA Report. The likely efficacy of the mitigation proposed should be explained with reference to residual effects. The EIA Report must identify and describe any proposed monitoring of significant adverse effects and how the results of such monitoring would be utilised to inform any necessary remedial actions.

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

3.4 Risks of Major Accidents and/or Disasters

- 3.4.1 The Scottish Ministers note that risks of major accidents and/or disasters has been scoped out, however, it is advised that this is scoped into the EIA Report. The EIA Report must include a description and assessment of the likely significant effects deriving from the vulnerability of the Proposed Development to major accidents and disasters. The Developer should make use of appropriate guidance, including the recent Institute of Environmental Management and Assessment ("IEMA") 'Major Accidents and Disasters in EIA: A Primer', to better understand the likelihood of an occurrence and the Proposed Development susceptibility to potential major accidents and hazards. The description and assessment should consider the vulnerability of the Proposed Development to a potential accident or disaster and also the Proposed Development potential to cause an accident or disaster.
- 3.4.2 The Scottish Ministers advise that existing sources of risk assessment or other relevant studies should be used to establish the baseline rather than collecting survey data and note the IEMA Primer provides further advice on this. This should include the review of the identified hazards from your baseline assessment, the level of risk attributed to the identified hazards and the relevant receptors to be considered.
- 3.4.3 The assessment must detail how significance has been defined and detail the inclusions and exclusions within the assessment. Any mitigation measures that will be employed to prevent, reduce or control significant effects should be included in the EIA Report.

3.5 Climate and Greenhouse Gases

- 3.5.1 The Scoping Report proposes that the impact of climate change effects will be considered within a standalone chapter within the EIA Report and is considered further within Section 5.14 of this Scoping Opinion. The Scottish Ministers are mindful that Greenhouse Gas (“GHG”) emissions from all projects contribute to climate change. In this regard, the Scottish Ministers highlight the IEMA Environmental Impact Assessment Guide “Assessing Greenhouse Gas Emissions And Evaluating Their Significance” (“IEMA GHG Guidance”), which states that “GHG emissions have a combined environmental effect that is approaching a scientifically defined environmental limit, as a such any GHG emissions or reductions from a project might be considered significant.” The Scottish Ministers have considered this together with the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 and the requirement of the EIA Regulations to assess significant effects from the Proposed Development on climate. The Scottish Ministers therefore advise that the EIA Report must include a GHG Assessment which should be based on a Life Cycle Assessment (“LCA”) approach and note that the IEMA GHG Guidance provides further insight on this matter. The Scottish Ministers acknowledge the Developers commitment to carry out a GHG Assessment in accordance with IEMA GHG Guidance in Chapter 18 of the Scoping Report but highlight that the assessment should include the pre-construction phase as well as the construction, operation and decommissioning phases, including consideration of the supply chain as well as benefits beyond the life cycle of the Proposed Development.

4. Consultation

4.8 The Consultation Process

- 4.8.1 Following receipt of the Scoping Report, the Scottish Ministers, in accordance with the EIA Regulations, initiated a 30 day consultation process, which commenced on 11 July 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 Chamber of Commerce
- Aberdeen City Council
- Aberdeen Fishery Office
- Aberdeen Harbour Board
- **Aberdeen International Airport**
- Aberdeen Offshore Wind Farm
- Aberdeen Renewable Energy Group
- **Aberdeenshire Council**
- *Angus Council*
- Atlantic Salmon Trust
- Bellrock Offshore Wind Farm

- Boddam and District Community Council
- Boddam Harbour Trust
- BP
- **British Telecom (“BT”)**
- Broadshore Offshore Wind Farm
- Buchan East Community Council
- Buchan Offshore Wind Farm
- Buchanhaven Harbour
- Buckie Fishery Office
- Caledonia Offshore Wind Farm
- Champion Wind Offshore Wind Farm
- **Cenos Offshore Wind Farm**
- *Cerulean Winds*
- Civil Aviation Authority (“CAA”)
- Cluaran Deas Ear Offshore Wind Farm
- Crown Estate Scotland
- Cruden Community Council
- Cruise Association
- **Defence Infrastructure Organisation (“MOD”)**
- **Dee District Salmon Fishery Board (“DSFB”)**
- *Department of Agriculture, Environment and Rural Affairs (“DAERA”)*
- Deveron DSFB
- Don DSFB
- East Grampian Coastal Partnership
- Esk DSFB
- **Fisheries Management Scotland (“FMS”)**
- Fraserburgh Fishery Office
- Fraserburgh Harbour Commissioners
- Fraserburgh Inshore Association
- **Green Volt Offshore Wind Farm**
- Health and Safety Executive (“HSE”)
- **Historic Environment Scotland (“HES”)**
- Hywind
- Hywind Scotland Pilot Project Park
- Joint Radio Company
- Kincardine Offshore Windfarm
- Local Golf Clubs
- Local Ports and Harbours
- Local Sailing Clubs
- **Marine Coastguard Agency (“MCA”)**
- Marine Safety Forum
- MarramWind Offshore Wind Farm
- Moray Firth Partnership
- *Morven Offshore Wind Farm*
- **National Air Traffic Services (“NATS”)**
- National Grid
- National Trust for Scotland

- **Natural England**
- **NatureScot**
- Network Rail
- NorthConnect
- **Northern Lighthouse Board (“NLB”)**
- NorthLink Ferries
- **North Sea Transition Authority (“NSTA”)**
- **OFCOM**
- Oil and Gas UK
- Oil and Pipelines Agency
- Ossian Offshore Wind Farm
- Peterhead Community Council
- Peterhead Fishery Office
- Peterhead Local Fishermen’s Organisation
- Peterhead Port Authority
- Planning (Scotland)
- Port Eroll Harbour
- Receiver of Wreck
- Regional Inshore Fishery Group
- *Royal National Lifeboat Institution*
- **Royal Society for the Protection of Birds (“RSPB”) Scotland**
- **Royal Yachting Association (“RYA”)**
- Salamander Offshore Wind Farm
- Scottish Canoe Association
- Scottish Creel Fishermen’s Association
- Scottish Enterprise
- Scottish Environment Link
- *Scottish Environment Protection Agency (“SEPA”)*
- Scottish Federation of Sea Anglers
- **Scottish Fishermen’s Federation (“SFF”)**
- Scottish Fishermen’s Organisation
- Scottish Mammal Research Unit
- Scottish Sub-Aqua Club
- Scottish Surfing Federation
- **Scottish Water**
- Scottish White Fisher Producers Association
- Scottish Wildlife Trust
- Shell
- Slains and Collieston Community Council
- Spey DSFB
- *Sport Scotland*
- Stromar Offshore Wind Farm
- Surfers Against Sewage
- **Scottish and Southern Electricity Networks (“SSEN”)**
- **Ugie DSFB**
- **UK Chamber of Shipping (“UKCoS”)**
- University of Aberdeen Lighthouse Field Station

- Visit Scotland
- Whale and Dolphin Conservation
- Ythan DSFB

4.8.2 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”).

4.9 Responses Received

4.9.1 From the list above a total of 30 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.

4.9.2 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 In regard to the proposed study area presented in Figure 6-1 of the Scoping Report, the Scottish Ministers agree with NatureScot representation that the study area is vaguely defined and advise that it should be extended by at least one tidal excursion out with the array area and export cable corridor.

5.2.2 The Scottish Ministers direct the Developer to NatureScot comments regarding the baseline for physical processes and agree that they are not fully characterised. The Scottish Ministers advise that the NatureScot representation regarding sandwave fields must be fully considered and implemented in the EIA Report. The Scottish Ministers also refer the Developer to MD-SEDD advice that additional baseline data to describe the water column structure should be included and that the baseline description should include details of stratification. MD-SEDD advice on these aspects must be fully considered and included in the EIA Report.

- 5.2.3 The Scottish Ministers agree with NatureScot that ‘construction impacts to seabed morphology’ should be scoped in, however the only potential receptors noted are sandbanks and ‘depressions’. The Scottish Ministers advise that the Moraines element of the Quaternary of Scotland interest of the Southern Trench MPA is also a potential physical processes receptor and NatureScot comments regarding this must be fully considered and implemented in the EIA Report.
- 5.2.4 The Scottish Ministers agree that scour should be scoped in, however in addition to the potential settings included, the assessment should also consider potential scour around scour protection itself.
- 5.2.5 The Scottish Ministers advise that ‘modifications to the wave and tidal regime, and associated impacts to morphological features’ should be scoped in. The Scottish Ministers refer the Developer to NatureScot representation regarding this and advise that all comments and recommendations regarding this must be fully considered and implemented into the EIA Report. Further to this the Scottish Ministers refer the Developer to MD-SEDD advice that modifications to stratification and frontal features should be scoped in. The Scottish Ministers advise that this advice must be fully considered and implemented into the EIA Report.
- 5.2.6 The Scottish Ministers highlight and refer the Developer to NatureScot comments regarding the approach to assessment. The Scottish Ministers advise that the Developer should give careful consideration of these comments to mitigate any possible future requirement for additional information.
- 5.2.7 In regard to cumulative assessment, the Scottish Ministers agree with NatureScot that the potential re-exposure of trenched cable(s) at landfall should be assessed as an additional operational impact and advise that NatureScot comments should be fully addressed and implemented in the EIA Report.
- 5.2.8 The Scottish Ministers advise as per MD-SEDD advice that additional methods may be required to assess potential modification to stratification and frontal features. The Scottish Ministers refer the Developer to MD-SEDD advice regarding this and advise this advice must be fully considered and implemented into the EIA Report.
- 5.2.9 The Scottish Ministers agree that transboundary impacts can be scoped out from further consideration.
- 5.2.10 In regard to the HRA Screening Report, the Scottish Ministers advise that the study area should be extended by at least one tidal excursion outwith the array area and export cable corridor, rather than the distance of 20km which is currently proposed. This is in agreement with NatureScot recommendation.

5.3 Marine 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 7.3 of the Scoping Report.
- 5.3.2 The Scottish Ministers welcome the consideration of blue carbon as noted in Section 7.4.34 of the Scoping Report and that a full blue carbon assessment will be undertaken. The Scottish Ministers advise, in line with the NatureScot representation, that the blue carbon assessment should include any 'wet storage' areas in addition to the wind farm and associated cabling.
- 5.3.3 In Table 7-8 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 Subtidal and Intertidal Ecology

- 5.4.1 The Scottish Ministers are content with the proposed development study area as described in Section 8.2 and shown in Figure 8.1 of the Scoping Report. The Scottish Ministers note that the study area may be refined post-scoping based on further modelling and consultation. The Scottish Ministers are also broadly content with the data sources used to characterise the baseline as listed in the Scoping Report, however, highlight NatureScot representation regarding additional data sources and guidance which should be fully considered. The Scottish Ministers further highlight NatureScot comments on eDNA sampling which should be fully implemented.
- 5.4.2 The Scottish Ministers are broadly content that the receptors related to benthic subtidal and intertidal ecology have been identified in Section 8.4 of the Scoping Report, however, refer the Developer to NatureScot representation regarding the potential for Sabellaria spinulosa reefs to be present in the region. The Scottish Ministers advise that NatureScot representation regarding this should be fully implemented.
- 5.4.3 The Scottish Ministers are broadly content with the potential impacts scoped in and out of the benthic assessment as shown in Table 8-4, with the exception of the below.
- 5.4.4 As there is a risk of potentially introducing and/or spreading Invasive Non-Native Species ("INNS") the Scottish Ministers disagree that this should be scoped out for the operation and maintenance phase. As there is a risk of potentially introducing and spreading marine INNS during the operation and maintenance phase, particularly due to biofouling (and cleaning procedures) on the floating structures, the Scottish Ministers advise that this impact must be scoped in for assessment. Please also see the comment below in relation to embedded mitigation for the prevention of INNS.

- 5.4.5 Further to the above, the Scottish Ministers do not agree that indirect effects on benthic ecology from electromagnetic field (“EMF”) effects generated by inter-array and export cables should be scoped out for the operation and maintenance phase. The Scottish Ministers refer the Developer to NatureScot representation on this and advise that the representation should be fully considered and this aspect scoped in. Please also see the comment below in relation to potential EMF monitoring opportunities.
- 5.4.6 The Scottish Ministers also highlight the Scottish Fishermen’s Federation representation that boulder relocation effects should be scoped in. This should be considered by the Developer.
- 5.4.7 The Scottish Ministers also highlight the representations from DSFB and FMS regarding disturbance and degradation of the benthic environment and advise these representations should be considered by the Developer. Further to this, the FMS representation regarding aggregation effects of construction of wind turbines should be considered by the Developer.
- 5.4.8 The Scottish Ministers are generally content with the assessment methodology for benthic subtidal and intertidal ecology, however, agree with NatureScot representation that the assessment should quantify, where possible, the likely impacts to benthic Priority Marine Features (“PMF”) species and that it should assess whether these could lead to a significant impact on the national status of the PMFs. The Scottish Ministers advise that this must be fully considered and included in the EIA Report.
- 5.4.9 The Scottish Ministers also agree with NatureScot comments regarding Sabellaria spinulosa reefs and advise that the recommendations regarding this must be fully considered and assessed in the EIA Report. Further to this, the Scottish Ministers advise that consideration should also be given to indirect impacts on birds, fish and marine mammals, where appropriate.
- 5.4.10 In regard to cumulative impacts, the Scottish Ministers highlight, and agree with NatureScot comments that potential impacts do not need to spatially overlap to have cumulative impacts. The Scottish Ministers advise that the NatureScot representation regarding this must be fully considered and implemented, including that impacts which are potentially widespread, such as an EMF, should be scoped into the cumulative impact assessment.
- 5.4.11 The Scottish Ministers are generally content with the embedded commitments described in Section 8.5 of the Scoping Report, however, highlight the NatureScot comments regarding the full range of mitigation measures and published guidance being considered and published in the EIA Report and advise that this must be fully implemented. The Scottish Ministers also advise the Developer that the EIA Report should provide details on how INNS will be considered, monitored and recorded, as well as being taken account of in biosecurity plans for each phase of the development.

- 5.4.12 Further to this, the Scottish Ministers highlight NatureScot comments regarding EMF impacts from dynamic cables and advise that collaboration and contribution to strategic monitoring should be considered.
- 5.4.13 The Scottish Ministers agree that transboundary impacts in relation to benthic subtidal and intertidal ecology can be scoped out from further consideration.
- 5.4.14 In regard to the HRA Screening Report the Scottish Ministers agree that no sites with Annex 1 habitat features need to be taken forward to assessment.

5.5 Fish and Shellfish Ecology

- 5.5.1 The Scottish Ministers are content with the study area as defined in Section 9.2 of the Scoping Report. In relation to the list of data sources provided, the Developer is directed to the NatureScot response for a list of data sources to supplement the list provided in Table 9-2 of the Scoping Report.
- 5.5.2 In regard to the baseline characterisation of fish and shellfish assemblage, the Scottish Ministers welcome the use of eDNA sampling to inform the baseline characterisation of fish and shellfish communities. Furthermore, the Developer is directed to the NatureScot representation in relation to sandeels which must be considered wherever there is a suitable habitat due to their year round presence as they are not limited to spawning seasons and areas.
- 5.5.3 Clear links between the marine mammal and offshore ornithology assessments in relation to prey availability should be made to the fish and shellfish assessment within the EIA Report. The advice and data sources provided in the NatureScot representation in relation to prey species and impacts to spawning and nursery grounds should be fully considered and addressed by the Developer in the EIA Report. This view is supported by representations from NatureScot and RSPB.
- 5.5.4 The Scottish Ministers largely support the proposed approach outlined in Table 9-6 of the Scoping Report which summarises the impact pathways to be scoped in for fish and shellfish ecology for each phase of the Proposed Development. However, the impact of underwater noise and vibration effects during the operational phase of the Proposed Development, in relation to the year round presence of sandeel as well as migratory fish and spawning fish species, must be scoped into the EIA Report and the Developer is directed to the representation from NatureScot in this regard. Furthermore, the Scottish Ministers advise that the impact of subsea noise and vibration effects during the installation of the cable and cable protection, is scoped into the EIA Report and direct the Developer to the representations from FMS, Dee DSFB and Ugie DSFB in this regard. Additionally, the Scottish Ministers, in line with SFF advice, advise that direct damage (e.g., crushing) and disturbance to mobile demersal and pelagic fish and shellfish species should be scoped in during the construction phase due to fishing and spawning grounds within the Proposed Development area. The representation from FMS with regard to aggregation effects and potential visual impact on fish species should also be considered within the EIA Report.

- 5.5.5 The Scottish Ministers welcome the Developer's proposal to include an EMF assessment, a view supported by NatureScot, FMS, Dee DSFB and Ugie DSFB, in particular relating to elasmobranchs. The Scottish Ministers also highlight FMS, Dee DSFB and Ugie DSFB's comments with regards to salmon and European eels and request that these are taken into consideration in the EIA Report.
- 5.5.6 With regards to the approach to assessment set out in Section 9.8.1, the Scottish Ministers are largely content, however advise that 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, and that the additional guidance identified by NatureScot should be included.
- 5.5.7 The Scottish Ministers are broadly content with the designed mitigation measures described in Section 9.4 of the Scoping Report and advise that the full range of mitigation measures and published guidance are considered in the EIA Report. Information on proposed fish and shellfish monitoring should be outlined in the EIA Report. This is a view supported by NatureScot and the Developer should also have regard to the representations from the Dee DSFB and FMS in relation to contribution to filling data gaps around diadromous fish.
- 5.5.8 With regards to cumulative impacts, the Scottish Ministers are in agreement that cumulative impacts on fish and shellfish receptors are scoped in, however advise that subsea EMF should be scoped into the cumulative assessment. In addition, the Scottish Ministers highlight that consideration should be given to the cumulative effects of habitat loss and its impact on key fish and shellfish species as outlined in the NatureScot representation. The Scottish Ministers are content with the proposal to scope out transboundary impacts.
- 5.5.9 With regards to the HRA Screening Report, the Scottish Ministers agree with the advice within the NatureScot representation that migratory fish should currently be assessed through the EIA process and not through the HRA process. However, the Developer should engage with the Scottish Ministers and NatureScot in regard to any change in how diadromous fish should be assessed through EIA and HRA as a result of ongoing research in this area.

5.6 Offshore and Intertidal Ornithology

- 5.6.1 The Scottish Ministers are broadly content with the study area proposed in Section 10.2 of the Scoping Report. The Scottish Ministers agree that a 4 km buffer for the Digital Aerial Surveys ("DAS") is acceptable. Further to this, the Scottish Ministers agree that the 2 km displacement buffer proposed will be adequate if sensitive species such as divers are not present. Should similar numbers of red throated diver be recorded in the year two results, then the 2 km buffer will be acceptable. The Scottish Ministers also agree the intertidal survey buffer is appropriate. This is a view supported by NatureScot in its representation.

- 5.6.2 In regard to Special Protection Areas (“SPAs”), the Scottish Ministers highlight NatureScot comments regarding the short list of key sites provided in Section 10.4.19 of the Scoping Report and advise a full list of SPAs and their qualifying features which have theoretical connectivity with the project, based on species foraging distances should be included.
- 5.6.3 In regard to the baseline characterisation, the Scottish Ministers are content with the data listed in Section 10.3 of the Scoping Report and anticipated additional data listed in Section 10.10. The Scottish Ministers highlight the guidance notes provided by NatureScot for further consideration.
- 5.6.4 The Scottish Ministers note that only the first year of DAS data has been used to develop the preliminary list of Important Ornithological Features as shown in Table 10.2 and advise that, while the initial list seems appropriate, no species should be scoped out on the basis of incomplete DAS survey data. This is a view supported by NatureScot in its representation.
- 5.6.5 The Scottish Ministers further agree with NatureScot that the Scoping Report is not clear on the duration of the intertidal survey. The Scottish Ministers advise that a full year’s survey must be carried out. The Scottish Ministers advise that seabirds such as breeding terns may be present on the shore and should be considered as well as waterfowl and waders. A full description of the survey methodology should also be provided.
- 5.6.6 In regard to intertidal ornithological baseline environment, the Scottish Ministers refer the Developer to NatureScot representation in relation to the Buchan Ness to Collieston Coast SPA and advise that this must be fully considered and implemented by the Developer including consideration to the timing of works and a vessel management plan. Further to this, as there is also potential for disturbance of seabirds nesting on the cliffs as the construction works approach the coastline, consideration should be given to selecting a cable route and landfall that avoid the most sensitive areas of the nesting colonies within the SPA. The Scottish Ministers advise that the EIA Report should fully consider the timing of the construction works considering breeding seasons.
- 5.6.7 The Scottish Ministers refer the Developer to RSPB Scotland representation in relation to ‘EIA Assessment of Significance’, specifically comments regarding assessing significance and advise that the representation regarding this should be fully considered by the Developer.
- 5.6.8 In regard to potential impacts, the Scottish Ministers broadly agree with the impact pathways scoped in and out as included in Table 10.5, however advise that ‘wet storage’ should be scoped in construction and decommissioning phases in addition to the operational phase. Table 10-5 of the Scoping Report indicates that the turbines will be static whilst in ‘wet storage’ however if any testing or commissioning of the turbines is required the Developer should seek further advice from the Scottish Ministers and NatureScot in relation to potential impacts to bird species.

- 5.6.9 The Scottish Ministers advise that the impact on sandeels as a prey species of ornithological receptors must be scoped into the EIA Report. The Scottish Ministers refer the Developer to the RSPB representation for further consideration.
- 5.6.10 In regard to approach to assessment, the Scottish Ministers are generally content with the proposed methodology, however, refer the Developer to NatureScot specific advice on Density Modelling, SeabORD, Population Viability Analysis and Distributional Responses. The Scottish Ministers advise that NatureScot advice on these topics must be fully considered and implemented into the EIA Report.
- 5.6.11 In regard to the proposed threshold number of 100 records for using MRSea to generate density surfaces, the Scottish Ministers advise, as per NatureScot representation, that MRSea should be used for density modelling approaches unless the number of data points for a species is less than 10, or the species are present in a uniform distribution, in which case it may not be possible to run the spatial elements of MRSea. If in some instances it is found that MRSea is not producing the necessary output, then the reasons should be explained, and design-based approaches can be used. The Scottish Ministers also refer the Developer to the RSPB response which comments on lower numbers of data points being more suited to MRSea.
- 5.6.12 In regard to the proposal that CRM is run stochastically solely using option 2, the Scottish Ministers refer the Developer to the advice provided within the NatureScot representation regarding this and advise that this must be fully considered and implemented.
- 5.6.13 In response to the Developers questions in Section 10.11.1 of the Scoping Report that have not been answered previously in this Scoping Opinion, the Scottish Ministers reply below.
- In relation to the requirement of Option 3 models, the Scottish Ministers can confirm Option 3 models are not required and refer the Developer to the NatureScot representation in this regard. This is also a view supported by RSPB in its representation.
 - In relation to the definition of the 'most likely scenario' ("MLS"), the Scottish Ministers refer the Developer to both the NatureScot and RSPB representations.
 - In regard to how macro-avoidance should be incorporated into gannet and kittiwake collision risk modelling, the Scottish Ministers refer the Developer to NatureScot representation regarding this and advise the response contained therein should be fully considered and implemented into the EIA Report. The Developer is further directed to the RSPB representation in this regard also.
 - The Scottish Ministers agree with a qualitative approach to assessing impacts on migratory birds as proposed, until the updated review and associated migratory CRM are made available. The Scottish Ministers highlight the NatureScot representation in this regard.

- The Scottish Ministers refer the Developer to the NatureScot representation regarding clarity on how to use data from Furness (2015) to derive population estimates for the non-breeding seasons. The Developer is also directed to the comments within the RSPB representation in relation to bio-seasons for Kittiwake and Gannet.
- The Scottish Ministers highlight the NatureScot representation regarding guidance for the use of Conservation and Management Advice and guidance on how to consider Highly Pathogenic Avian Influenza in assessments. The Scottish Ministers advise representation regarding these topics should be fully considered by the Developer.

- 5.6.14 The Scottish Ministers are broadly content with the proposed approach to cumulative assessment as described in Section 10.8 of the Scoping Report. In relation to the breeding season, the list of other projects to be considered for cumulative effects assessment should be based on species specific mean-max plus 1 standard deviation foraging ranges from the project. This is a view supported by NatureScot in its representation. The Scottish Ministers support the use of the Cumulative Effects Framework (“CEF”) tool. The CEF is expected to be available shortly, so we anticipate it will be in place for use in the EIA Report and HRA for this project.
- 5.6.15 The Scottish Ministers also highlight NatureScot comments regarding the Berwick Bank application and advise that multiple PVA models should be run, with and without Berwick Bank.
- 5.6.16 The Scottish Ministers advise that cumulative assessment should be further discussed with Marine Directorate and NatureScot to ensure that both the worst case and realistic worst case are both taken forward into a cumulative assessment.
- 5.6.17 In regard to mitigation and monitoring, the Scottish Ministers advise that the designed in measures described in Table 10.4 should be kept under review as the assessment and development progresses and that the full range of mitigation measures and published guidance is considered and discussed in the EIA Report. The Scottish Ministers also advise that further information on proposed ornithological monitoring should be discussed in the EIA Report.
- 5.6.18 In regard to transboundary impacts, the Scottish Ministers highlight the NatureScot representation and advise further consideration will be required following submission of the final baseline report.
- 5.6.19 In regard to the HRA Screening Report, the Scottish Ministers advise that the Screening Report is acceptable and as expected, however, refer the Developer to NatureScot specific comments as below.
- 5.6.20 The potential effect of ‘disturbance and displacement’ during the operation and maintenance phase should include the presence of operating wind turbines.
- 5.6.21 In regard to Likely Significant Effect (“LSE”), no conclusions on LSE should be made until the second year of survey data is included.

- 5.6.22 In regard to the potential LSE for offshore and intertidal ornithology from the Proposed Development alone (Table 5.6), the Scottish Ministers highlight NatureScot representation regarding the following topics - seabird breeding colony sites, migratory waterbird sites, barrier effects, Buchan Ness to Collieston SPA, European storm petrel, Leach's storm petrel, Manx shearwater features and Fair Isle SPA. The Scottish Ministers advise the representation provided on these topics must be fully considered by the Developer.
- 5.6.23 The Scottish Ministers would also refer the Developer to the RSPB response to note the comment on constraints as to when DAS can be undertaken, which may not properly reflect the density of birds with crepuscular and nocturnal flight tendencies. This should be acknowledged and accounted for within the EIA Report.

5.7 Marine Mammals

- 5.7.1 In regard to the proposed study areas as described in Section 11.2 of the Scoping Report, the Scottish Ministers are content that the appropriate areas have been identified for the marine mammal's assessment.
- 5.7.2 In regard to the baseline characterisation, the Scottish Ministers agree with NatureScot representation regarding this and are content with the proposed approach of carrying out a desk-based review of existing marine mammal data, focusing on sourcing data that has been collected within or near to the study area. The Scottish Ministers are further content with the list of datasets as described in Table 11-1 which has been supplemented by site-specific monthly DAS and note that interim DAS results have been included in this baseline characterisation. The Scottish Ministers agree with the additional anticipated data listed in Section 11.10.
- 5.7.3 The Scottish Ministers refer the Developer to NatureScot representation regarding the Unexploded Ordnance ("UXO") Clearance Joint Interim Position Statement and advise that this should be considered as a further guidance document.
- 5.7.4 The Scottish Ministers are generally content with the included receptors relating to marine mammals as shown in Section 11.4, however, advise, as per NatureScot representation, that humpback whale should be qualitatively assessed due to an increase in sightings on the east coast of Scotland in recent years.
- 5.7.5 The Scottish Ministers are broadly content with the impacts scoped in and out as shown in Table 11-4 however, refer the Developer to NatureScot comments regarding the current lack of information on the potential impacts of EMF and entanglement from dynamic cables.
- 5.7.6 The Scottish Ministers are broadly content with the approach to assessment as detailed in Section 11.10, however refer the Developer to NatureScot comments regarding the joint interim statement on UXO and deflagration for

consideration. Further to this the Scottish Ministers advise that high order and low order clearance should be modelled to ensure the worst case scenario is assessed.

- 5.7.7 The Scottish Ministers are content with the proposed approach to the assessment of cumulative impacts as set out in Section 11.8 and advise that the CEF is used once available.
- 5.7.8 The Scottish Ministers are broadly content with the embedded commitments as described in Section 11.6 and the commitment for further mitigation measures if required. The Scottish Ministers agree with NatureScot that the full range of mitigation measures and published guidance should be considered and discussed in the EIA Report.
- 5.7.9 The Scottish Ministers refer the Developer to NatureScot comments regarding a lack of information on potential impacts of EMF from dynamic cables and advise NatureScot comments regarding this should be fully considered. The Scottish Ministers further agree with NatureScot that there does not appear to be any specific marine mammal monitoring measures mentioned in Section 11.6 and advise further information on proposed marine mammal monitoring must be included in the EIA Report.
- 5.7.10 The Scottish Ministers are content with the proposed approach to the assessment of transboundary impacts set out in Section 11.9. The Scottish Ministers refer the Developer to NatureScot comments regarding consideration being required to transboundary and cross border impacts for certain cetacean species, but not for seal species due to existing marine mammal management units and highlight the further advice available from NatureScot once the initial impact assessment has been completed.
- 5.7.11 In regard to the HRA Screening Report, the Scottish Ministers agree with the conclusion in Table 7.1 that the Moray Firth SAC should be screened in as having potential for LSE (alone or in-combination) for bottlenose dolphin due to the location of the export cable corridor and the potential for underwater noise from piling activities and UXO clearance reaching the coastal area. The Scottish Ministers also agree that all other marine mammal SACs can be screened out as having no potential for LSE (alone or in-combination).

5.8 Commercial Fisheries

- 5.8.1 The Scottish Ministers are content with the proposed study area as described in Section 12.2 of the Scoping Report. In regard to the baseline data, the Scottish Ministers highlight MD-SEDD advice regarding recently published Heat Maps and advise this data should be fully considered in the EIA Report. The Scottish Ministers also highlight SFF representation regarding screen shots from plotter data being used which should be considered by the Developer.
- 5.8.2 The Scottish Ministers are broadly content with the impact pathways identified for the construction, operation and decommissioning phase of the development,

however advise as per MD-SEDD advice that the EIA should consider the possibility of permanent exclusion during the operation of the floating wind farm to some types of fisheries such as those using mobile gear due to the potential safety risks of snagging gear on subsea infrastructure associated with floating wind. Further to the above, the Scottish Ministers highlight MAU advice regarding inclusion of commercial fisheries into the socio-economic impact assessment. The Scottish Ministers advise that MAU advice regarding commercial fisheries should be fully considered by the Developer and Implemented into the EIA Report.

- 5.8.3 The Scottish Ministers are broadly content with the embedded commitments proposed by the Developer, however highlight SFF representation regarding codes C-11, C-19 and C-29 of Table 12-2 of the Scoping Report for the Developers consideration.
- 5.8.4 In regard to assessment methodology, the Scottish Ministers advise as per MD-SEDD advice that the Developer must undertake a fisheries displacement assessment and refer to the 'Good practice guidance for assessing fisheries displacement by other licensed marine activities' (Xodus, 2022).
- 5.8.5 The Scottish Ministers are broadly content with the scoping assessment shown in Table 12-3 of the Scoping Report, however refer the Developer to SFF representation regarding 'Additional steaming to alternative fishing grounds for vessels that would otherwise fish within the Proposed development' and advise this should be scoped in.
- 5.8.5 The Scottish Ministers advise, as per MD-SEDD advice that the Cumulative Impacts Assessment ("CIA") must take into account other wind farm areas, in particular floating wind farms where some types of fishing may be restricted and also any Marine Protected Areas and other protected areas with fisheries management measures in place.

5.9 Shipping and Navigation

- 5.9.1 The Scottish Ministers are content with the study area identified in Section 13.2 of the Scoping Report. This view is supported by the MCA.
- 5.9.2 In line with the representation from the MCA, the Scottish Ministers are broadly content with the baseline data listed in Section 13.3 and the additional anticipated data listed in Section 13.10 of the Scoping Report. The Scottish Ministers direct the Developer to the MCA representation which recommends the proposed vessel traffic survey be carried out from a vessel-based survey using Automatic Identification System ("AIS"), radar and visual observations to capture all vessels navigating in the study area. The Scottish Ministers also direct the Developer to the representation from the UKCoS who highlight that current AIS summer data is insufficient for the Navigational Risk Assessment ("NRA") but acknowledge that a full summer survey is being undertaken in 2023.

- 5.9.3 In terms of additional data sources or guidance documents for consideration, the Scottish Ministers advise that the guidance document referenced in the Scoping Report 'MGN 543-SAR Annex 5' has been superseded by 'MGN-654 Annex 5'. The Scottish Ministers also refer the Developer to the UK Coastal Atlas of Recreational Boating published by the RYA which may be useful. Additionally, the Sailing Directions for the East Coast of Scotland have recently been published by Imray on behalf of the Forth Yacht Clubs Association.
- 5.9.4 The Scottish Ministers highlight the MCA representation regarding Search and Rescue ("SAR"), Emergency Response Co-operation Plans, levels of radar surveillance, AIS, and shore-based VHF radio coverage. The Scottish Ministers advise that the MCA representation must be fully addressed in the EIA Report and that a SAR checklist must be completed by the Developer in consultation with the MCA.
- 5.9.5 Table 13.3 of the Scoping Report summarises the potential impacts to shipping and navigation and the Scottish Ministers broadly agree with the impacts scoped in and out however, direct the Developer to the representation made by the UKCoS who note that loss of floating structures should be considered during the construction and decommissioning phases, in particular when the structures are in transit. 'Wet storage' areas will need to be considered from a navigational risk perspective, including loss of floating structures from a 'wet storage' area as well as displacement of vessels.
- 5.9.6 With regards to approach to assessment, the Scottish Ministers confirm that, in line with the MCA representations, the Developer will be required to submit an NRA in accordance with MGN 654 and the MCA's Methodology for Assessing the Marine Navigation Safety & Emergency Response Risks of Offshore Renewable Energy Installations ("OREI"), accompanied by a MGN 654 checklist. The hydrographic surveys should fulfil the requirements set out in Annex 4 of MGN 654. The Scottish Ministers also encourage the Developer to engage with RYA Scotland who have stated in their representation that they wish to have input into the NRA.
- 5.9.7 The Scottish Ministers advise that the Developer must give consideration within the EIA Report for the potential effect of electromagnetic deviation on ships' compasses should HVDC transmission infrastructure be installed. The Scottish Ministers highlight the representation from the MCA who advise that a three-degree deviation for 95% of the cable route would be acceptable, and that for the remaining 5% of the cable route, no more than five degrees will be attained.
- 5.9.8 With regards to cabling routes and cable burial, the Scottish Ministers advise that a Burial Protection Index should be completed and, subject to the traffic volumes, an anchor penetration study may be necessary. The Scottish Ministers advise that this should be fully addressed in the EIA Report and highlight the MCA advice on a maximum 5% reduction in surrounding depth.
- 5.9.9 The potential cumulative effects are summarised in Section 13.8 and the impacts assessment method is contained in Chapter 4 (EIA Methodology). The Scottish Ministers are broadly content with the proposed approach. However,

we highlight the MCA representation which advises to factor in cumulative impacts into the NRA, considering all the projects in the vicinity including the wind farm projects Bellrock, Morven, Ossian and Campion. The Developer is also directed to the UKCoS representation which suggests that the windfarm projects within 50nm could be considered. The Scottish Ministers expect the cumulative / in combination effects of nearby projects to be fully addressed in the EIA Report.

5.10 Marine Archaeology and Cultural Heritage

- 5.10.1 The Scottish Ministers are content with the study area as defined in Figure 14.1 of the Scoping Report and that the baseline data for the assessment, outlined in Section 14.3, is appropriate. The Scottish Ministers are also content that the methodology and embedded mitigation proposed in the Scoping Report are appropriate. This view is supported by HES.
- 5.10.2 The Scottish Ministers, in line with HES, agree with the potential impacts to Marine Archaeology, identified in Table 14-5 of the Scoping Report to be scoped into the EIA Report. The Scottish Ministers advise that Cultural Heritage impacts can be scoped out of the EIA Report and direct the Developer to the HES representation for their comments in relation to this.

5.11 Military and Civil Aviation

- 5.11.1 The Scottish Ministers are broadly content with the study area, including the potential receptors, which are outlined in Section 15.2 of the Scoping Report. However, the Scottish Ministers highlight the representation from NATS which predicts radar clutter from the Proposed Development will have an impact on air traffic operations at Prestwick Centre, and suggest the Developer consider this as a potential receptor and engage with NATS where necessary.
- 5.11.2 In relation to the baseline environment captured in Section 15.3, the Scottish Ministers recommend the Developer work with the MOD to determine relevant routes which must not be obstructed or impeded by offshore developments and refer the Developer to the MOD representation in this regard.
- 5.11.3 The Scottish Ministers are generally content with the potential impacts that have been scoped in and out of the EIA identified within Table 15.3 of the Scoping Report, and this is supported by the views of the MOD and NATS. The Scottish Ministers highlight the NATS representation which predicts the Proposed Development will cause primary false plots to be generated for both Allanshill and Perwinnes Radar and reduce the probability of detection of aircraft. The MOD representation also identifies potential impacts to radar AD at Buchan. The Scottish Ministers encourage the Developer to continue to engage with both the MOD and NATS regarding this and further explore how this could be mitigated through the EIA process. The Scottish Ministers also advise that potential impacts to radar as a result of proposed 'wet storage' activities be included in the EIA Report.

- 5.11.4 The Scottish Ministers highlight the representation from BT which states the Proposed Development will not likely cause interference to BT's current and presently planned radio network.
- 5.11.5 The Scottish Ministers direct the Developer to the NATS representation which strongly recommends that further analysis is undertaken to determine whether the wind farm will affect the ability of helicopters, including those operated by the Aberdeen Offshore sector, to safely navigate the area. NATS specifically states that further mitigation is required. The Scottish Ministers acknowledge that increased air traffic in the area has been scoped into the EIA at both the construction and O&M stages, and recommend the Developer engage with NATS on this matter to determine suitable mitigation. The Scottish Ministers would also direct the Developer to the MOD representation in relation to consideration of UXO at construction, decommissioning and, potentially, operational phases if intrusive works are necessary, and advise that this is considered within the EIA Report.
- 5.11.6 The representation from Aberdeen Airport predicts the Proposed Development will generate clutter on air traffic control displays. Additionally, as highlighted previously, the NATS representation also identifies an impact on air traffic operation at Prestwick Centre from radar clutter and advise that further mitigation is required. The Scottish Ministers recommend the Developer engages with NATS and Aberdeen Airport on this point and expect any additional mitigation to be detailed in the EIA Report.
- 5.11.7 Regarding the embedded mitigation detailed in Table 15-2 of the Scoping Report, the Scottish Ministers direct the Developer to the MOD representation which includes advice on aviation safety lighting.

5.12 Seascape, Landscape and Visual Resources

- 5.12.1 The Seascape, Landscape and Visual Resource ("SLVR") study area has been identified in Figure 16.1 of the Scoping Report. The Scottish Ministers support the NatureScot representation and are content that the wind farm array area and export cable corridor to MHWS is unlikely to give rise to significant effects to coastal character and / or visual receptors and can be scoped out of the EIA Report.
- 5.12.2 In Section 16.11.2 of the Scoping Report the Developer has confirmed that the EIA Report will consider the effects on SLVR arising as a result of the assembly and pre-commissioning of WTG, 'wet storage', and related activities. The Scottish Ministers highlight the NatureScot advice that the LVIA impacts could have considerable project specific and/ or cumulative impacts that must be considered in the EIA Report. The Scottish Ministers recommend further discussion on this topic, including whether the Developer intends on applying for the associated marine licences for this activity.

5.13 Socio-economic, Tourism and Recreation

- 5.13.1 In relation to study area, the Scottish Ministers refer the Developer to comments received from the MAU and advise that, in the absence of information on which port(s) will be utilised, the most likely ports and local area locations should be considered within the EIA Report.
- 5.13.2 The Scottish Ministers note that with regards to the baseline environment, the Developer proposes to rely on a desktop study at the pre consent stage of the proposal. A desk-based study alone is not considered an adequate way to assess socio-economic impacts at this stage in the EIA process. In line with the advice from the MAU, the Scottish Ministers advise that, in addition to desk-based methods, social research and primary data collection from communities likely to be affected by the Proposed Development must be carried out and the findings considered in the EIA Report.
- 5.13.3 The Developer advises in Section 17.7.4 that it is unlikely that the key epicentres, such as ports, will have been identified at the time of completing the EIA Report. The Scottish Ministers agree with the advice from the MAU and advise that, where the exact locations of impact cannot yet be identified, consideration should be given to the potential / likely locations at a smaller geographical scale and primary data should be gathered. The Scottish Ministers direct the Developer to the advice from the MAU in relation to stakeholder engagement and primary data collection and expect this to be incorporated into the Socio-Economic Impact Assessment (“SEIA”) and included in the EIA Report.
- 5.13.4 The Scottish Ministers broadly agree with the impacts scoped in and out as proposed within Table 17-3 of the Scoping Report, however have the following comments to make which must be fully addressed in the EIA Report.
- 5.13.5 In line with advice from the MAU, the Scottish Ministers agree that socio-cultural impacts must be considered prior to consent and scoped into the EIA Report. The Scottish Ministers advise that a full SEIA must be included in the EIA Report and direct the Developer to Annex 1 of the MAU advice which provides guidance on how to deliver a SEIA and request that the MAU advice is fully considered in the EIA Report.
- 5.13.6 The Scottish Ministers agree that changes to housing demand and local and public services should be scoped in. However, it is not clear how the data sources identified in Table 17-1 will be used to assess the potential impacts. The Developer should clarify within the EIA Report how these impact pathways have been assessed.
- 5.13.7 The Scottish Ministers also welcome the inclusion of impacts to commercial fisheries. As per the advice from the MAU, if significant changes to commercial fisheries are identified we expect the EIA Report to assess the knock on socio-economic effects.

- 5.13.8 In addition to the impacts already identified within the Scoping Report, the Scottish Ministers expects that potential impacts identified from community engagement are scoped into the socio-economic assessment and adequately assessed in the EIA Report.
- 5.13.9 In regard to the methods of assessment of economic impacts, a detailed description of the methodology and key assumptions should be included in the EIA Report. The Scottish Ministers refer the Developer to the MAU's comments in relation to this. Additionally, the Developer is directed to the MAU comments on magnitude and sensitivity matrix and encourage the Developer to give careful consideration to methodologies used to assess the significance of social impacts on communities.

5.14 Climate

- 5.14.1 The Scottish Ministers acknowledge the Developers proposal to conduct a GHG assessment in Section 18.1.2, as part of the overall climate assessment, and incorporate the IEMA GHG Guidance in the assessment. The Scottish Minister are broadly content with the scope of the GHG assessment and refer the Developer to the comments in Section 3.5.1 of this Scoping Opinion in relation to this.
- 5.14.2 In Section 18.8.5 the Developer has confirmed future projected climate conditions will be taken into consideration, as part of the Climate Change Resilience ("CCR") assessment. The Scottish Ministers welcome futureproofing the project design against the impacts of climate change, this is in line with the NatureScot representation which also requests that consideration is given to how certain climate stressors work in combination with effects from the Proposed Development. The Scottish Ministers expect in combinations effects to be considered in the EIA Report.
- 5.14.3 In line with NatureScot advice, the Scottish Ministers require that the EIA Report considers the carbon cost of the Proposed Development and to what extent this is offset through the production of green energy.
- 5.14.4 The Scottish Ministers welcome the Developers proposal in Section 7.4.34 to undertake a Blue Carbon Assessment and include findings in the EIA Report. The Scottish Ministers advise, in line with the NatureScot representation, that the blue carbon assessment should include any 'wet storage' areas in addition to the wind farm and associated cabling.

5.15 Infrastructure and Other Users

- 5.15.1 The Scottish Minister advise in relation to Infrastructure and Other Users, should be read alongside the other related chapters within this Scoping Opinion; [5.8 Commercial Fisheries](#), [5.9 Shipping and Navigation](#), [5.11 Military and Civil Aviation](#), and [5.13 Socio-economic, Tourism and Recreation](#).

- 5.15.2 The Scottish Ministers are content with the study area identified in Section 19.2 of the Scoping Report. The Scottish Ministers are also content with the data sources listed in Table 19-1 of the Scoping Report, the data used to inform the baseline environment in Section 19.3 and the potential receptors outlined in Section 19.4. The Scottish Ministers highlight the additional sources of information provided in the RYA representation referenced in paragraph [5.9.3](#) of this Scoping Opinion.
- 5.15.3 The Scottish Ministers are broadly in agreement with the potential impacts scoped into the EIA Report detailed in Table 19-3. Obstruction impacts to other offshore wind projects has been scoped in at the construction, operation and maintenance, and decommissioning stages of the Proposed Development. The Scottish Ministers welcome this and encourage ongoing engagement with developers of other offshore projects, including ScotWind and Innovation and Targeted Oil & Gas (“INTOG”) projects, throughout all phases of the Proposed Development. We highlight the representations from the GreenVolt and Cenos offshore windfarms which request further engagement regarding potential impacts to these projects. We also refer the Developer to 5.9.9 of this Scoping Opinion for UKCoS comments in relation to this and potential cumulative impacts.

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 1994 Habitats Regulations and the 2017 Offshore Habitats Regulations. This assessment must be coordinated with the EIA in accordance with the EIA Regulations.
- 6.1.3 A gap analysis template is attached at Appendix II to record the environmental concerns identified during the scoping process. This template should be completed and used to inform the preparation of the EIA Report. As part of the submission of the EIA Report the Scottish Ministers advise that the Developer must provide confirmation of how this Scoping Opinion is reflected in the EIA Report.

7. Multi-Stage Consent and Regulatory Approval

7.1 Background

- 7.1.1 The EIA Regulations contain provisions regulating the assessment of environmental impacts. A multi-stage consent or regulatory approval process arises where an approval procedure comprises more than one stage; one stage

involving a principal decision and one or more other stages involving implementing decision(s) within the parameters set by the principal decision. While the effects which works may have on the environment must be identified and assessed at the time of the procedure relating to the principal decision, if those effects are not identified or identifiable at the time of the principle decision, assessment must be undertaken at the subsequent stage.

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

Signed
Kirsty Black
29 September 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.