

Marine Directorate - Licensing Operations Team

**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**

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

and

Electricity Act 1989

Salamander Offshore Wind Farm

21 June 2023

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1. Introduction

1.1 Background

- 1.1.1 On 22 February 2023, the Scottish Ministers received a scoping report (“the Scoping Report”) from Simply Blue Energy (Scotland) Limited (“the Developer”) as part of its request for a scoping opinion relating to Salamander Offshore Wind Farm and associated onshore Energy Balancing Infrastructure (“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 In addition, due to the potential capacity of the proposed offshore windfarm and the associated onshore Energy Balancing Infrastructure (“EBI”) being greater than 50MW, the Scottish Ministers have also considered the content in relation to the Electricity Act 1989 (“the 1989 Act”).
- 1.1.3 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 – Licensing Operations Team (“MD-LOT”) (previously known as Marine Scotland – Licensing Operations Team) in-house expertise and experience including that of the Scottish Government’s Marine Directorate Energy Consents Unit (“ECU”). 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.
- 1.1.4 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.

- 1.1.5 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 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”).
- 1.1.6 In the event that the Developer does not submit application(s) 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.
- 1.1.7 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.
- 1.1.8 The Developer also submitted a Habitats Regulations Appraisal (“HRA”) screening report (“HRA Screening Report”) alongside the Scoping Report on 22 February 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 floating windfarm with an installed capacity of up to 100 megawatts ("MW") with the aim of demonstrating the offshore wind capabilities of the North Sea and to provide an opportunity for the local supply chain to scale-up in preparation for the commercial scale opportunities resulting from the ScotWind process.

2.2.2 The Proposed Development also comprises onshore EBI, which in itself would also have a potential capacity of more than 50MW and as such would be considered as a 'generating station' under the 1989 Act.

2.2.3 As the proposed onshore and offshore developments will each have a capacity of greater than 50 MW, they require the Scottish Ministers' consent to allow the construction and operation. For the offshore elements, 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 out for the Proposed Development and objects in or over the sea, or on or under the seabed.

2.2.4 The Proposed Development is to be located approximately 35 kilometres ("km") east of Peterhead supported by an export cable(s) making landfall approximately 2.5 km to the north of Peterhead.

2.2.5 The Proposed Development will include the construction and operation of offshore wind turbine generators ("WTG's") and all associated offshore infrastructure.

2.2.5 The key offshore components of the Proposed Development include:

- Up to seven offshore WTGs;
- Floating substructures to support the WTGs;
- Mooring and anchoring systems to connect the floating substructures to the seabed;

- Inter-array cables (including both dynamic and static parts) to collect the power from the WTGs;
- Connection hub(s)/joint(s) on the seabed, including any associated foundations; and,
- Export cable(s) as a continuation of the inter-array cables to bring the power ashore.

2.2.6 At landfall, the offshore export cable(s) will be joined to onshore export cables at the Transition Joint Bay(s) which will be located above Mean High Water Springs. The main onshore components will include:

- Cable Transition Joint Bay(s) to join the offshore and onshore cables;
- Onshore export cables buried in up to two trenches;
- An Onshore Substation (“OnSS”) compound and associated infrastructure including EBI within the confines of the OnSS;
- Grid connection works; and,
- Access roads to the OnSS.

2.2.7 It is noted that the final onshore development location will be confirmed following future site selection activities which will be informed by engineering studies as well as the findings from the EIA process.

2.3 Consenting Approach

2.3.1 The Scottish Ministers note that, in relation to the onshore EBI, the Developer is currently engaging with the Scottish Ministers and Aberdeenshire Council regarding the application for s.36 consent. The Developer will incorporate the EBI into the onshore infrastructure and due to the potential for the battery storage element of the EBI to be greater than 50 MW, the following consenting strategy options are being considered by the Developer:

- A single application for s.36 consent under the 1989 Act, in which the Scottish Ministers will determine, with involvement from the ECU, the offshore development and the onshore EBI development. Additionally, a separate application for planning permission to Aberdeenshire Council under the Town and Country Planning (Scotland) Act 1997 for the remainder of the onshore works; or
- Deemed planning permission under Section 57 of the Town and Country Planning (Scotland) Act 1997 whereby the Marine Directorate will coordinate approval of the whole development with involvement from the ECU and Aberdeenshire Council.

2.3.2 The Scottish Ministers advise that this is a matter for the Developer, in preparing the EIA Report, to consider and determine.

2.4 Onshore Planning

2.4.1 The Scottish Ministers are aware the Developer has sought a separate scoping opinion from Aberdeenshire Council for the associated remaining onshore transmission 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 the cumulative impacts with the onshore works.

2.5 Innovation and Targeted Oil and Gas

2.5.1 The Marine Directorate is undertaking a spatial planning exercise for Innovation and Targeted Oil and Gas ("INTOG") projects, and an Initial Plan Framework was published in August 2021. Crown Estate Scotland's INTOG leasing round has been developed in alignment with the Marine Directorate's Initial Plan Framework and all applications must be sited within the areas and other planning parameters defined by the Initial Plan Framework.

2.5.2 The Scottish Ministers understand that the Developer has been awarded a lease option agreement by Crown Estate Scotland for one of the INTOG sites and advise that the EIA Report must consider any plan level assessments included in the final Sectoral Marine Plan for INTOG and consider cumulative impacts with other INTOG projects awarded lease option agreements.

2.6 The Scottish Ministers' Comments

Description of the Proposed Development

2.6.1 Section 4.4.1 of the Scoping Report states that the final layout of the windfarm components will be determined once the design optimisation process has been completed with a number of key sensitives to be considered. The Scottish Ministers advise that the EIA Report must include a full and detailed description of all layout options considered within the design envelope. The Scottish Ministers also advise that the Developer must identify how habitats of conservation value can be avoided through micrositing of windfarm components, inclusive of all cabling, in the EIA Report.

2.6.2 Section 4.4.2 of the Scoping Report states that two floating substructure designs are currently being considered for the Proposed Development. A design envelope has been provided in Table 4-2 of the Scoping Report. The Scottish Ministers advise that the EIA Report must include a full and detailed description of both floating substructure designs to be considered within the design envelope.

- 2.6.3 Section 4.4.3 of the Scoping Report details a number of anchor and mooring designs being considered. The Scoping Report states that the type and number of anchors and moorings required will be subject to refinement upon selection of the floating substructures. The EIA Report must provide details of the anchor and mooring design options being considered within the design envelope. In addition, if there is any potential for scour protection to be used, this must be assessed in the EIA Report including details on materials, quantities and locations.
- 2.6.4 Section 4.4.4 of the Scoping Report states that the Developer may choose the option to trench and/or bury portions of the inter-array cables and that the burial method and 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.
- 2.6.5 Section 4.5.2 of the Scoping Report details the inclusion of the EBI within the confines of the OnSS. The Scottish Ministers advise that the EIA Report must include a full and detailed description of the design parameters to be considered within the design envelope.
- 2.6.6 Section 4.6.5 of the Scoping Report states that the offshore export cables will make landfall north of Peterhead. With regard to methods of export cable installation, trenched or trench-less landfall techniques such as Horizontal Directional Drilling or similar is expected to be used. The EIA Report must describe and assess the options considered for cable installation at landfall and must also explain the reasons for the selected installation option(s). The EIA Report must clearly detail the landfall location and state the site-specific considerations. The EIA Report must also outline the steps taken to mitigate any environmental impacts resulting from the cable landfall. 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.
- 2.6.7 Section 4.6.7 of the Scoping Report provides an overview on the pre-construction activities required with these planned to be undertaken approximately one to two years prior to construction. 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.

- 2.6.8 Section 4.8 of the Scoping Report states that a decommissioning programme will be prepared prior to construction but for the purposes of the Scoping Report, it is anticipated that all infrastructure above the seabed or ground level will be completely removed with any rock and/or scour protection being left *in situ*. 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.
- 2.6.9 The Proposed Development is in a location which may require the consideration of a derogation package under regulation 49 of The Conservation (Natural Habitats, &c.) Regulations 1994 (“1994 Habitats Regulations”) and regulation 29 of The Conservation of Offshore Marine Habitats and Species Regulations 2017 (“2017 Offshore Habitats Regulations”), with identification of suitable compensation measures as well as evidence of meeting all the required tests. The Developer should continue to liaise with MD-LOT on this point going forward.
- 2.6.10 Finally, 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

- 2.6.11 The Scottish Ministers note the Developer’s intention to apply a ‘Design Envelope’ approach. Where the details of the Proposed Development cannot be defined precisely, the Developer will apply a worst case scenario, as set out in 4.1 of the Scoping Report.
- 2.6.12 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.

- 2.6.13 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 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.
- 2.6.14 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

- 2.6.15 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. The Scottish Ministers advise 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.
- 2.6.16 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.

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. Section 13 of the Scoping Report provides a summary of the embedded mitigation to be considered within the EIA 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 impact on the environment have been fully investigated but found to be of little or no significance, it is sufficient to validate that part of the

assessment by detailing in the EIA Report, the work that has been undertaken, the results, what impact, if any, has been identified and why it is not significant.

3.4 Risks of Major Accidents and/or Disasters

- 3.4.1 The EIA Report must include a description and assessment of the likely significant effects deriving from the vulnerability of the Proposed Development to major accidents and disasters. The Developer should make use of appropriate guidance, including the recent Institute of Environmental Management and Assessment (“IEMA”) ‘Major Accidents and Disasters in EIA: A Primer’, 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. 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 highlight however that this should include the pre-construction, construction, operation and decommissioning phases, including consideration of the supply chain as well as benefits beyond the life cycle of the Proposed Development.

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 16 March 2023 with the inclusion of additional bodies consulted on behalf of the ECU with respect to the onshore EBI. 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
- BAA Aerodrome Safeguarding
- Bellrock Offshore Wind Farm
- Boddam and District Community Council
- Boddam Harbour Trust
- BP
- British Horse Society Scotland
- British Telecom
- 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
- Civil Aviation Authority (“CAA”)
- Cluaran Deas Ear Offshore Wind Farm
- Crown Estate Scotland
- Cruden Bay Harbour Trust
- Cruden Community Council
- **Dee District Salmon Fishery Board (“DSFB”)**

- **Department of Agriculture and Rural Development of Northern Ireland**
- Deveron DSFB
- Don DSFB
- East Grampian Coastal Partnership
- *Edinburgh Airport*
- Esk DSFB
- Fisheries Management Scotland
- Fraserburgh Fishery Office
- Fraserburgh Harbour Commissioners
- Fraserburgh Inshore Association
- Galloway and Southern Ayrshire Biosphere
- *Glasgow Airport*
- *Glasgow Prestwick Airport*
- **Green Volt Offshore Wind Farm**
- **Health and Safety Executive (“HSE”)**
- *Highlands and Islands Airport*
- **Historic Environment Scotland (“HES”)**
- Hywind Scotland Pilot Project Park
- John Muir Trust
- Joint Radio Company
- Local Golf Clubs
- Local Ports and Harbours
- Local Sailing Clubs
- **Marine Coastguard Agency (“MCA”)**
- Marine Safety Forum
- Marine Directorate Planning
- MarramWind Offshore Wind Farm
- *Met Office*
- **Ministry of Defence (“MOD”)**
- Moray Firth Partnership
- Morven Offshore Wind Farm
- Mountaineering Scotland
- Muir Mhòr Offshore Wind Farm
- **National Air Traffic Services (“NATS”)**
- National Grid
- National Trust for Scotland
- **Natural England**
- **NatureScot**
- *Network Rail*
- **North Sea Transition Authority**
- NorthConnect

- **Northern Lighthouse Board (“NLB”)**
- NorthLink Ferries
- *Nuclear Safety Directorate*
- **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
- Port Eroll Harbour
- Receiver of Wreck
- Regional Fishery Group
- Royal National Lifeboat Institution
- **Royal Society for the Protection of Birds (“RSPB”) Scotland**
- **Royal Yachting Association (“RYA”)**
- Scottish Canoe Association
- Scottish Creel Fishermen’s Association
- Scottish Enterprise
- Scottish Environment Link
- **Scottish Environment Protection Agency (“SEPA”)**
- Scottish Federation of Sea Anglers
- *Scottish Fire and Rescue Services (Aberdeen City)*
- *Scottish Fire and Rescue Services (Aberdeenshire and Moray)*
- **Scottish Fishermen’s Federation (“SFF”)**
- Scottish Fishermen’s Organisation
- Scottish Forestry
- Scottish Government Energy Consents Unit
- Scottish Mammal Research Unit
- *Scottish Rights of Way and Access Society*
- Scottish Sub-Aqua Club
- Scottish Surfing Federation
- **Scottish Water**
- Scottish White Fisher Producers Association
- Scottish Wildland Group
- Scottish Wildlife Trust
- Shell
- Slains and Collieston Community Council
- Spey DSFB
- Sport Scotland

- Stromar Offshore Wind Farm
- Surfers Against Sewage
- The Met Office
- **Ugie DSFB**
- **UK Chamber of Shipping (“CoS”)**
- University of Aberdeen Lighthouse Field Station
- Visit Scotland
- *Whale and Dolphin Conservation*
- Woodland Trust Scotland
- Ythan DSFB

4.1.2 Specific advice was sought from Marine Scotland Science (“MSS”), 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 34 responses were received. Advice was also provided by MSS, 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 regard 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, MSS and TS must be considered in conjunction with the Scoping Opinion and with the expectation that recommendations and advice as directed through this Scoping Opinion are implemented.

5.2 Marine Physical Processes

5.2.1 The Scottish Ministers are content with the proposed study area as shown in Figure 7-1 and agree that the relevant legislation and policy have been identified.

5.2.2 The Scottish Ministers broadly agree with the receptors and potential impacts for physical processes detailed in Table 7-3, however, agree with the NatureScot representation regarding the Southern Trench nature conservation Marine Protected Area ("ncMPA") feature that the 'impact on designated features' in Table 7-3 are not characterised / identified and that methods for assessing this impact are not detailed. The Scottish Ministers advise that the NatureScot representation regarding this must be fully considered and addressed in the EIA Report.

5.2.3 The Scottish Ministers agree with NatureScot that the potential impacts of trenched landfall cable(s) being re-exposed by future coastal change should also be assessed. The Scottish Ministers advise that this additional impact should be addressed either stand-alone or within the 'changes to coastal landfall morphology' impact.

5.2.4 With regard to the approach to assessment, the Scottish Ministers agree with NatureScot that further detail is required on the assessment methods used for tidal and wave regimes, suspended sediment concentrations, seabed morphology and coastal and landfall morphology. The Scottish Ministers advise this must be considered and addressed in the EIA Report. Further to this, the Scottish Ministers advise that the proposed assessment method for the impact on ncMPA designated features must be set out and agreed in advance.

5.2.5 The Scottish Ministers are content with the cumulative assessment approach however highlight NatureScot comment that the CEF tool will be available for ornithology and marine mammal cumulative assessments only.

5.2.6 With regard to mitigation and monitoring as proposed in Table 7-2, the Scottish Ministers further highlight NatureScot recommendation, as above, of including an additional measure to ensure that re-exposed cable(s) would be appropriately re-buried without hard engineering/protection and advise this must be fully considered and addressed in the EIA Report.

- 5.2.7 The Scottish Ministers agree that there are unlikely to be any transboundary or cross border impacts in relation to impacts on marine physical processes.

5.3 Water and Sediment Quality

- 5.3.1 The Scottish Ministers are broadly content with the baseline data sources used by the Developer in Table 7.2.3 of the Scoping Report and the identification of potential impacts to be scoped in/out contained in Section 7.2.7. However, the Scottish Ministers direct the Developer to the SEPA representation including their standing advice and advise this must be fully considered and in the EIA Report.

5.4 Benthic Ecology

- 5.4.1 The Scottish Ministers are content with the Proposed Development study area as described in Section 8.1.4 and shown in Figure 8-1.
- 5.4.2 With regard to the characterisation of the baseline, the Scottish Ministers agree with NatureScot representation that it is unclear in the Scoping Report whether the benthic survey work includes grab sampling. The Scottish Ministers advise that the Developer should fully consider and implement the NatureScot recommendation regarding this as well as considering predictive modelling as a means of determining the presence of Priority Marine Features (“PMF”). Further to this, The Scottish Ministers recommend that the Developer gives full consideration to eDNA sampling to complement the benthic survey data as outlined in the NatureScot representation. The Developer should continue to liaise with NatureScot and the Scottish Ministers on the progress of benthic baseline characterisation surveys.
- 5.4.3 The Scottish Ministers broadly agree with the potential impacts scoped in for further assessment in the EIA Report as contained within Table 8-3 of the Scoping Report, however advise that potential impacts to the Southern Trench ncMPA must be scoped in as per the NatureScot representation. In addition to this, the Scottish Ministers advise that the introduction and spread of marine invasive non-native species (“INNS”) must be scoped in for the operation and maintenance phase.
- 5.4.4 The Scottish Ministers also highlight the SFF representation regarding the impact to habitats or species as a result of pollution or accidental discharge and boulder displacement.
- 5.4.5 With regard to the approach to assessment set out in Section 8.1.10, the Scottish Ministers highlight the NatureScot recommendation that the assessment should quantify, where possible, the likely impacts of benthic PMF species and advise that this should be fully considered and implemented as necessary. Further to this the Scottish Ministers advise that NatureScot recommendations regarding *Sabellaria spinulosa* reefs and also the indirect impact on birds, fish and mammals must also be fully considered and included in the EIA Report.
- 5.4.6 In relation to cumulative impacts, the Scottish Ministers are broadly content with the proposed approach to the cumulative assessment as described in Section

8.1.8, however agree with NatureScot representation regarding the likelihood of multiple offshore cables making landfall in the area around Peterhead and the potential for cumulative impacts arising from construction and associated survey programmes. Therefore, the Scottish Ministers advise that this must be assessed in the EIA Report.

5.4.7 In relation to mitigation, the Scottish Ministers note the proposed embedded mitigation measure to develop and implement an INNS Management Plan post consent, however the Scottish Ministers agree with NatureScot that the EIA Report must 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.

5.4.8 The Scottish Ministers conclude that there are unlikely to be any transboundary or cross border impacts for benthic interests and agree with the conclusion of no likely significant effect on the Special Areas of Conservation (“SAC”) included within the HRA Screening Report.

5.5 Fish and Shellfish Ecology

5.5.1 The Scottish Ministers are content with the study areas as defined in Section 8.2.4 and shown in Figure 8-5 of the Scoping Report.

5.5.2 With regard to the baseline information, the Scottish Ministers highlight the additional studies, reports and data sources available (and becoming available) as recommended by NatureScot and advise that these are fully considered in the EIA Report.

5.5.3 With regard to PMF the Scottish Ministers refer the Developer to NatureScot comments that, in addition to being qualifying features of European sites, Atlantic salmon are PMF’s along with European eel and sea trout. The Scottish Ministers advise that NatureScot comments and recommendations regarding this must be fully considered and included in the EIA Report and that other migratory fish species are scoped in for assessment including sea trout, European eel, and sea and river lamprey. Further to this Freshwater Pearl Mussel must also be included in the assessment.

5.5.4 The Scottish Ministers agree with NatureScot comments that under Section 8.2.5 of the report it is not clear which shellfish species may be present in the study area including lame shell, horse mussel, ocean quahog etc., which are PMF’s. The Scottish Ministers advise that these will require full consideration.

5.5.5 The Scottish Ministers note that there is no mention of basking shark in the fish and shellfish section of the Scoping Report and that basking shark (and turtles) are included in the marine mammal section of the report. The Scottish Ministers are content with this approach however advise that NatureScot recommendations regarding mitigation must be fully implemented as required.

5.5.6 The Scottish Ministers broadly agree with the impacts scoped in and out of the EIA Report in Table 8-8 of the Scoping Report including accidental pollution;

increased suspended sediment concentrations and barrier effects to migratory fish during operation and maintenance. However, in addition to those scoped in, the Scottish Ministers advise that the colonisation of hard structures, the potential impacts on Southern Trench ncMPA, and the changes in prey species availability must also be scoped into the EIA Report. This is in agreement with the NatureScot representation which must be fully considered and implemented in the EIA Report.

- 5.5.7 The Scottish Ministers draw the developer attention to the NatureScot representations in regard to habitat loss and disturbance and agree that all appropriate pre-construction seabed preparations must be included in the assessment.
- 5.5.8 The Scottish Ministers advise that UXO clearance must be fully considered in the assessment with regard to underwater noise and vibration. This is supported by NatureScot representation.
- 5.5.9 With regard to Electromagnetic Fields (“EMF”) impacts from both buried and dynamic cables, the Scottish Ministers highlight and agree with the NatureScot representation that the impacts from EMF should be considered for all relevant fish species, including elasmobranch species, nephrops and diadromous fish, including migratory fish. The Scottish Ministers advise that the NatureScot representation and further advice on cable burial should be fully considered along with consideration of the SFF comments on this matter.
- 5.5.10 With regard to the impact assessment approach, the Scottish Ministers highlight and agree with the NatureScot representation regarding PMF’s and advise that the assessment should quantify, where possible, the likely impacts to key fish and shellfish PMF species, and it should assess whether these could lead to a significant impact on the national status of the PMF being considered.
- 5.5.11 The Scottish Ministers advise that the EIA Report must consider the cumulative effects of key impacts such as habitat loss/change especially in relation to diadromous fish as well as key fish and shellfish species that contribute ecological importance as a prey resource.
- 5.5.12 The Developer outlines embedded mitigation to be considered within the EIA Report in Table 8-7. The Scottish Minister highlight the NatureScot representation regarding this and agree that the full range of mitigation measures and published guidance should be considered and discussed in the EIA Report.
- 5.5.13 The Scottish Ministers would like to highlight the representation from the Dee District Salmon Fisheries board in relation to their recommendation that further consultation takes place with reference to broadening the understanding of any potential impact upon diadromous fish, specifically feeding into the ScotMER Diadromous Fish Specialist Receptor Group.
- 5.5.14 The Scottish Ministers agree that transboundary/cross border impacts can be scoped out from further consideration.

5.5.15 With regard to the HRA Screening Report, the Scottish Ministers highlight the NatureScot representation and agree that migratory fish should be assessed through the EIA process only and not the HRA process.

5.6 Marine Mammals

5.6.1 The Scottish Ministers are content with the study area described in Section 8.3.4 of the Scoping Report.

5.6.2 With regard to the baseline information included in Table 8-9, the Scottish Ministers highlight the NatureScot representation regarding the dataset references and advise that the recommendation must be fully implemented. The Scottish Ministers also agree with NatureScot that humpback whale should be qualitatively assessed as part of the scoping report and advise this must be included.

5.6.3 The Scottish Ministers broadly agree with the impacts to be scoped in and out as detailed in Table 8-11, however the NatureScot representation with regard to both operational noise and EMF impacts from dynamic cables must be fully addressed and included in the EIA Report.

5.6.4 The Scottish Ministers are generally content with the approach to assessment as detailed in Section 8.3.10, however highlight the NatureScot comments regarding dose-response curve information sources used and the joint interim position statement on UXO. Scottish Ministers advise that the NatureScot representation on this should be fully considered and implemented.

5.6.5 The Scottish Ministers are content with the embedded mitigation measures included in Table 8.3.6 and the commitment for additional mitigation measures if required. The Scottish Ministers do however highlight NatureScot representation with regard to the guidance listed and also collaboration and contributing to monitoring of EMF impacts from dynamic cables as well as monitoring of entanglement with dynamic cables and mooring systems and advise this should be fully considered by the developer.

5.6.6 In relation to transboundary impacts, the Scottish Ministers agree with NatureScot representation regarding consideration for cross border impacts for certain cetacean species and advise the details of the NatureScot representation should be fully considered in the EIA Report.

5.6.7 In regard to the HRA Screening Report, the Scottish Ministers agree with NatureScot representation that SACs with harbour and grey seal features located outwith 50km for harbour seal and 20km for grey seal should be screened out from further assessment. Further to this, the Scottish Ministers agree that the Moray Firth SAC should be screened in 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.

5.7 Offshore Ornithology

- 5.7.1 The Scottish Ministers are content with the proposed study areas defined and outlined in Figure 8-14 of the Scoping Report.
- 5.7.2 Regarding the relevant legislation, policy and guidance documents identified and outlined in Table 8-13, the Scottish Ministers highlight the additional guidance notes and policy recommended within the NatureScot representation and advise these must be fully considered by the Developer within the EIA Report. In addition, the Scottish Ministers highlight the RSPB Scotland representation regarding the non-technical summary to be included within the EIA Report. The Scottish Ministers advise that the comments and recommendations of RSPB Scotland with regard to guidance must be fully considered and addressed by the Developer.
- 5.7.3 In relation to the baseline characterisation, the Scottish Ministers note the reference to the Year 1 Digital Aerial Survey report which provides an overview of the species recorded between March 2021 and August 2022, and that the full list of species to be considered within the assessment is still to be determined. The Scottish Ministers highlight the NatureScot representation in this regard and advise the Developer that consideration must be given to tern species within the assessment for displacement and collision risk. The Scottish Ministers also highlight the NatureScot representation requesting sight of the final baseline characterisation report covering the full 24 month survey period once available. In addition, the Scottish Ministers highlight the representation by RSPB Scotland regarding the adoption of a precautionary approach to the identification of relevant protected sites for seabirds. The Scottish Ministers advise that the Developer must present clear methodology within the EIA Report with regard to the exclusion of any sites and species not considered within the assessment.
- 5.7.4 In Section 8.4.7 of the Scoping Report the Developer summarises the potential impacts for offshore and intertidal ornithology during the different phases of the Proposed Development which it proposes to scope in and out for assessment within the EIA Report. The Scottish Ministers broadly agree with the potential impacts proposed to be scoped in and out however, direct the Developer further to the NatureScot representation. The Scottish Ministers advise that consideration of inter-related effects and pre-construction seabed preparation works must be considered within the EIA Report. With regard to wet storage, the Scottish Ministers advise that the Scoping Report does not adequately capture impacts of wet storage on ornithological interests and must be fully addressed by the Developer in the EIA Report.
- 5.7.5 In relation to the tools and methods to be used in the impact assessment, the Scottish Ministers are broadly content with the summary provided in Section 8.4.10 of the Scoping Report. The Scottish Ministers advise that, regarding the approach to analysis and assessment to inform the EIA, the Developer must fully consider and implement the recommendations within the NatureScot and RSPB Scotland representations specifically in relation to collision, distribution responses, apportioning and population viability analysis (“PVA”). With regard to avoidance rates, the Scottish Ministers highlight the RSPB Scotland

representation regarding gannet and the NatureScot comments around the review of avoidance rates, specifically for application in the stochastic Collision Risk Model, is ongoing and NatureScot will advise of any revised position once this process is complete. Further discussion on this will be required with NatureScot and MD-LOT.

- 5.7.6 The Scottish Ministers advise the Developer to address the points raised in the RSPB Scotland response in full including the recommendation that site specific data should be examined and, where maximum foraging range from colonies exceeds its generic value, the site-specific value should be used.
- 5.7.7 In line with the NatureScot representation, the Scottish Ministers advise that where impact pathways have been identified, the Developer must include a full range of monitoring and mitigation techniques within the EIA Report. The EIA Report must clearly articulate those mitigation measures that are informed by the EIA and are necessary to avoid or reduce predicted significant adverse environmental effects of the proposed development.
- 5.7.8 The Scottish Ministers agree with the NatureScot representation regarding cumulative effects and transboundary impacts and advise that multiple PVA models should be run which both include and omit the Berwick Bank Offshore Wind farm. The Scottish Ministers also agree that the cumulative assessment should be further discussed with MD-LOT and NatureScot to ensure that both worst case and realistic worst case are both taken forward into a cumulative assessment. Further discussions will also be required on the proposed approach to transboundary impacts following the submission of the final Ornithology Baseline Report.
- 5.7.9 In regard to the HRA Screening Report, the Scottish ministers highlight NatureScot comments in relation to guidance notes used and advise the Developer must address this. The Scottish Ministers also advise the Developer that if wet storage is to be an integral part of the application, then impacts arising from wet storage must also be fully addressed in the HRA, with specific reference to the NatureScot comments in relation to the potential impact on shag populations.
- 5.7.10 The Scottish Ministers are content with the 5 Special Protected Areas (“SPA”) screened out of the HRA Screening Report within Section 6.4.2.1 and this is supported by the NatureScot representation. However, the Scottish Ministers agree with NatureScot that no further species or sites should be scoped out based on one year of data collection, and as such until the second year of data becomes available for review, the Scottish Ministers cannot agree the species or sites scoped out in Section 6.4.2.3 of the HRA Report at this stage, with the exception of those mentioned below.
- 5.7.11 With regard to gannet, the Scottish Ministers agree that the sites Ailsa Craig SPA, Flamborough and Filey Coast SPA and St Kilda SPA can be screened out for further assessment during the breeding season. The Scottish Ministers advise that there is a data gap on gannet tracking in the north east and therefore Sule Skerry and Sule Stack SPAs must be screened in for further assessment. This

is a view supported by the NatureScot representation. In addition, the Scottish Ministers highlight the RSPB Scotland representation on bio-seasons for kittiwake and gannet.

- 5.7.12 Similarly, with regard to Manx shearwater, the Scottish Ministers agree with the NatureScot representation on the approach to screen out Manx shearwater during the breeding season from Copeland Islands SPA, Rum SPA and Skomer, Skokholm, Seas off Pembrokeshire SPA and Glannau Aberdaron ac Ynys Enlli/ Aberdaron Coast and Bardsey Island SPA.
- 5.7.13 The Scottish Ministers highlight the NatureScot representation regarding seabirds in the non-breeding season with regard to the BDMPS region and potential connectivity and advise that the Developer must fully consider and address this within the HRA.
- 5.7.14 The Scottish Ministers refer the Developer to NatureScot comments regarding connectivity and identification of key sites for migratory birds (non-seabirds) and advise the Developer must fully consider and address the advice and recommendations provided.
- 5.7.15 The Scottish Ministers are content with the sites scoped in with regard to transboundary/cross border impacts for seabirds during the breeding season. This is a view supported by the NatureScot representation.

5.8 Commercial Fisheries

- 5.8.1 With regard to the baseline data, the Scottish Ministers draw the Developer's attention to the advice from MSS and advise that the most recent datasets must be used. The Scottish Ministers recommend that all the data and guidance detailed in the MSS advice, including the MSS good practice guidance are fully considered in the EIA Report. Further to this clarity must be provided regarding the data source for 'Fishing - tonnage, effort and value change- Shellfish, Pelagic and Demersal (also with vessels of 10 m length) from 2017 – 2021' in Table 9-1 as the link provided does not appear to work.
- 5.8.2 The Developer summarises potential impacts of the project in Table 9-3 of the Scoping Report. All impacts identified by the Developer are proposed to be scoped in for assessment within the EIA Report. The Scottish Ministers do not agree that all impacts have been presented and scoped in within the table and advise that MSS advice must be fully considered and addressed by the Developer. The Developer is also directed to the advice from the MAU in relation to socio-economic impacts which is discussed in more detail in Section 5.14.2 of this Scoping Opinion.
- 5.8.3 The Scottish Ministers advise that displacement of fishing activities in the cable corridor during the operational and maintenance phase should be scoped in. MSS advice supporting this must be fully considered and implemented by the Developer.

- 5.8.4 With regard to the impact ‘interference with fishing activity as a result of increased vessel traffic’ the Scottish Ministers agree with MSS advice that this impact should be scoped in for the operational and maintenance phase as well as the construction and decommissioning phase.
- 5.8.5 The Scottish Ministers advise that the impact ‘safety issues for fishing vessels’ in both the offshore array and cable corridor must be scoped in for the operational and maintenance phase. This is supported by MSS advice and must be fully considered and implemented by the Developer.
- 5.8.6 The Scottish Ministers agree with MSS advice that ‘obstruction of regular fishing vessel transit routes due to the presence of floating foundations and associated moorings’ is actually a cause for increased steaming times, alongside displacement of fishing activity and advise that MSS advice and recommendations here must be fully considered and implemented by the Developer.

5.9 Shipping and Navigation

- 5.9.1 With regard to the legislation and guidance listed in Section 9.2.2 within the Scoping Report, the Scottish Ministers highlight the CoS representation which states that the policies within Scotland’s National Marine Plan and Scotland’s Sectoral Marine Plan for Offshore Wind Energy should be considered.
- 5.9.2 In line with the MCA representation, the Scottish Ministers highlight the requirement that Automatic Identification System (“AIS”) data meets the MGN 654 standards. The Scottish Ministers also highlight the advice from the CoS that an additional full 12 months of AIS data should be included in the EIA Report. The Scottish Ministers advise that the Developer must engage further with the MCA and CoS to reach a suitable agreement on the provision of AIS data and document the rationale for the final approach within the EIA Report.
- 5.9.3 In relation to the proposed study area, the Scottish Ministers are broadly content, however draw the Developers attention to the CoS recommendation of a wider routing study area of 50 nautical miles, which may be included as part of the wider cumulative impact assessment to consider routeing impacts of the Proposed Development in combination with other developments.
- 5.9.4 The Scottish Ministers broadly agree with the impacts to shipping and navigation to be scoped in and out as detailed in Table 9-6.
- 5.9.5 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 High-Voltage Direct Current transmission infrastructure be installed. The Scottish Ministers highlight the advice from the MCA 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.
- 5.9.6 With regard to cabling routes and cable burial, the Scottish Ministers confirm that a Burial Protection Index should be completed, and, subject to traffic volumes,

an anchor penetration study may also 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 referenced to Chart Datum if cable protection measures are required and where depths are decreasing towards the shore.

- 5.9.7 The Scottish Ministers also highlight the MCA representation regarding SAR resources, 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 Developers in consultation with the MCA.
- 5.9.8 In relation to the proposed embedded mitigation measures, the Scottish Ministers highlight the representations from the CoS and RYA Scotland which must be fully addressed by the developer. In addition, the Scottish Ministers highlight the MCA recommendations on third party review.
- 5.9.9 With regard to the potential cumulative effects, the Scottish Ministers highlight the MCA, CoS and RYA representations and advise their comments and recommendations should be fully considered and addressed.
- 5.9.10 In relation to transboundary impacts, the Scottish Ministers agree that transboundary impacts need to be considered as proposed within the Scoping Report.

5.10 Aviation and Radar

- 5.10.1 With regard to baseline characterisation, the Scottish Ministers are content with the data sources listed in Table 9-8 of the Scoping Report. However, the Scottish Ministers draw attention to the representation from the MOD regarding anticipated effects of the Proposed Development on military practice and exercise areas.
- 5.10.2 Within Table 9-10 of the Scoping Report the Developer summarises the potential impacts to aviation and radar to be scoped in and out of the EIA Report during different phases of the Proposed Development. The Scottish Ministers agree with the impacts detailed however advise that the representations from Aberdeen Airport, the MOD and NATS must be fully addressed by the Developer including the points raised below.
- 5.10.3 The Scottish Ministers direct the Developer to the representation received from Aberdeen Airport regarding Instrument Flight Procedures (“IFPs”). The Scottish Ministers agree and advise that impacts on IFPs must be taken into account within the assessment of aviation impacts and interference in the EIA Report.

- 5.10.4 The Scottish Ministers highlight the representation by NATS which predicts that the Proposed Development is likely to generate false primary plots and also a reduction in the probability of Alanshill and Perwinnes Radar to detect real aircraft. NATS advised that the Proposed Development will likely have significant adverse impacts on the Air Traffic Control at both Prestwick and Aberdeen. Furthermore, NATS state that no impact is anticipated on NATS navigational aids and radio communications infrastructure. The NATS representation states that it objects to the Proposed Development and the Scottish Ministers therefore advise that the Developer must consider this factor and address the NATS representation in full.
- 5.10.5 In Table 9-9 of the Scoping Report, the Developer outlines the embedded mitigation with regard to the requirement to install aviation lighting. The MOD requests that the Proposed Development is fitted with MOD accredited aviation safety lighting in accordance with the CAA Air Navigation Order 2016. The Scottish Ministers agree with the MOD and advise the Developer that this must be considered within the EIA Report. The Scottish Ministers highlight that whilst the CAA have not provided any representation, the Scottish Ministers advise that the Developer should seek to engage with the CAA prior to the submission of the EIA Report. For the avoidance of doubt, the Scottish Ministers advise that impacts on Remote Radar Head Buchan and the requirement for appropriate technical mitigation, must be fully assessed in the EIA Report.

5.11 Seascape, Landscape and Visual Impact Assessment

- 5.11.1 The Scottish Ministers are content with the study area as defined in Figure 9.11 of the Scoping Report with a buffer of 60km radius. In addition, the Scottish Ministers are in agreement with the relevant data sources and information to inform the baseline environment. This is a view supported by NatureScot.
- 5.11.2 The Scottish Ministers are content with the proposed viewpoints detailed in Table 9-12 of the Scoping Report however would refer the Developer further to the NatureScot representation with regard to night-time visualisations which must be fully considered.
- 5.11.3 Within Table 9-13 of the Scoping Report, the Developer details the potential impacts on seascape, landscape and visual resources during the different phases of the Proposed Development, which it proposes to scope in and out for assessment within the EIA Report. The Scottish Ministers are broadly content with the impacts identified as being scoped in and out however highlight the clarification within the NatureScot representation relating to the potential impact of presence of activity and partially completed/dismantled structures during construction and decommissioning.

- 5.11.4 The Scottish Ministers are content with the proposed approach to the EIA Report as outlined in Section 9.4.10 of the Scoping Report. This view is supported by NatureScot. The Scottish Ministers note the Developers consideration of mitigation measures proposed at Section 9.4.6 of the Scoping Report.
- 5.11.5 With regard to cumulative impacts, the Scottish Ministers note that the Developer proposes to undertake a cumulative effects assessment. The Scottish Ministers direct the Developer to the NatureScot representation in this regard to the guidance available for consideration within the cumulative impact assessment.
- 5.11.6 The Scottish Ministers agree with the NatureScot representation that there will be no transboundary or cross border impacts for seascape, landscape and visual impacts.

5.12 Marine Archaeology and Cultural Heritage

- 5.12.1 With regard to the study area and setting impacts the Scottish Ministers refer to the HES representation and highlight the concerns raised therein with regard to the area proposed. The Scottish Ministers advise that the Developer must consider the recommendations provided by HES in its representation regarding the use of a bare earth zone of theoretical visibility (“ZTV”) analysis to identify assets which may be impacted by the Proposed Development. In addition, the Scottish Ministers advise that the Developer must consider the additional designated assets highlighted within the HES representation and the use of wireframe visualisations.
- 5.12.2 In Table 9-17 of the Scoping Report the Developer summarises the potential impacts to archaeology and cultural heritage during different phases of the Proposed Development. The Scottish Ministers are broadly content with the impacts proposed to be scoped in to and out of the EIA Report. However, the Scottish Ministers disagree with the scoping out of impacts on known assets that lie outwith the Proposed Development and advise that this must be considered further within the EIA Report. This is a view supported by the HES representation.
- 5.12.3 The Scottish Ministers draw the Developers attention to the HES representation regarding impacts on setting. The Scottish Ministers advise that the Developer must consider the guidance provided by HES in its representation on the discussion of direct, indirect and setting impacts to take forward within the EIA Report.
- 5.12.4 The Scottish Ministers are content with the embedded mitigations proposed in Table 9-16 of the Scoping Report. The Scottish Ministers direct the Developer to the HES representation which underlines the requirement for a Written Scheme

of Investigation with a Protocol for Archaeological Discoveries to be prepared which must be fully implemented by the Developer.

- 5.12.5 With regard to cumulative and transboundary impacts the Scottish Ministers note the representation of HES relating to other relevant developments to be considered within the cumulative assessment. The Scottish Ministers are content with the scoping out of transboundary impacts during all phases of the Proposed Development.

5.13 Other Users of the Marine Environment

- 5.13.1 The Scottish Ministers are content with the data sources listed in Table 9-18 of the Scoping Report. In Table 9-20 of the Scoping Report the Developer summarises the potential impacts on other marine users during different phases of the Proposed Development to be scoped in and out.
- 5.13.2 The Scottish Ministers broadly agree with the impacts detailed and scoped in however, advise that the advice from TS must be fully addressed by the Developer. In particular, the Scottish Ministers highlight the comments from TS regarding abnormal loads and advise that a full abnormal loads assessment report and a swept path analysis must be undertaken and included in the EIA Report.
- 5.13.3 In addition, the Scottish Ministers advise that the Developer must establish and calculate if there will be an increase in heavy goods vehicle traffic and further, if such increase will be above the thresholds set in the IEMA guidelines for the environmental assessment of road traffic. The Scottish Ministers advise that if the thresholds are breached then the Developer must fully assess the likely traffic and transportation impacts on traffic flows and transportation infrastructure as detailed in the advice from TS.
- 5.13.4 The Scottish Ministers agree with the potential impacts on other users during the different phases of the Proposed Development to be scoped out from further assessment within the EIA Report however, would emphasise the importance of engaging with other marine users, including developers of ScotWind projects, throughout all phases of the Proposed Development. The Scottish Ministers draw the Developers attention to the representations from the North Sea Transition Authority and Green Volt Offshore Wind Farm which must be fully considered within the EIA Report.
- 5.13.5 The Scottish Ministers highlight the representation from the MCA addressed above in Section 5.9 and advise that detail on the potential impact of the Proposed Development on navigational issues for other marine users, including commercial and recreational craft, must be included in the EIA Report.

5.13.6 With regard to the embedded mitigation to be considered within the EIA Report within Table 9-19 of the Scoping Report, the Scottish Ministers are content that these provide a suitable means for managing and mitigating the potential effects of the Proposed Development at this stage.

5.14 Socio-economics

5.14.1 With regard to the baseline environment, the Scottish Ministers are broadly content with the data sources outlined by the Developer at Table 9-21 of the Scoping Report. The Scottish Ministers advise that the most up to date data is used for all analysis and direct the Developer further to the MAU advice in this regard.

5.14.2 The Scottish Ministers advise that a full Socio-Economic Impact Assessment ("SEIA") must be included in the EIA Report. With regard to economic impacts, the Scottish Ministers are broadly content with the proposed indicators for assessing economic impacts however, advise that the SEIA must include direct, indirect and induced impacts and take account of deadweight, leakage displacement and substitution. Furthermore, the SEIA must consider sensitivity analysis to account for risk, uncertainty and optimism bias. The SEIA must include a detailed description of the methodology used to assess economic impacts and must include specific details about the methodological approach taken and any key assumptions. These requirements are in line with the advice from the MAU which must be addressed in full, in addition to consideration to the representation from the SFF. The Scottish Ministers would draw particular attention to Annex 1 of the MAU advice which may be of assistance in this regard.

5.14.3 The Scottish Ministers broadly agree with the impacts scoped in and out of the EIA Report in Table 9-24 of the Scoping Report. However, the Scottish Ministers do not agree with the Developers proposal to scope out socio-cultural effects and distributional effects due to insufficient evidence within the Scoping Report to justify the scoping out of these. This is a view supported by both the SFF and the MAU and the Scottish Ministers direct the Developer further to the MAU advice in this regard and advise that these impacts are scoped into the SEIA for further assessment.

5.14.4 The Scottish Ministers advise that further engagement with a wider range of interest groups is required with socio-economic impacts to be the focus of some of the engagement. This is a view supported by the MAU advice. The information gathered from the engagement must be recorded accurately within the SEIA and the Scottish Ministers direct the Developer to the MAU advice for further detail in this regard.

5.14.5 With regard to mitigation, the Scottish Ministers advise that at this stage, further work is required in terms of identifying and assessing socio-economic impacts and therefore consideration and identification of potential mitigation measures must be addressed through the SEIA.

5.15 Offshore Air Quality, Airborne Noise and Vibration

5.15.1 The Developers consideration of the potential impacts on air quality, airborne noise and vibration during the different phases of the Proposed Development are detailed in Table 9-27 of the Scoping Report. The Developer proposes to scope out all the identified impacts from the assessment within the EIA Report.

5.15.2 The Scottish Ministers are content with the potential impacts scoped out within the scoping report, however, would draw the Developers attention to the impacts suggested in the SFF representation which could be discussed with the SFF.

5.16 Climate Change and Carbon

5.16.1 The Scottish Ministers broadly agree with the proposed methods of assessment and impacts identified within Section 9.9 of the Scoping Report and would defer the Developer further to the Scottish Ministers comments provided at Section 3.5 of this Scoping Opinion.

5.16.2 In addition, the Scottish Ministers direct the Developer to the NatureScot response with regard to consideration of climate change effects in both futureproofing the Proposed Development project design and in considering both the benefits and carbon costs associated with the Proposed Development overall which must be fully addressed by the Developer within the EIA Report.

5.17 Geology, Hydrology and Hydrogeology

5.17.1 The Scottish Ministers are broadly content with the legislation, policy, guidance referred to at Section 10.1.2 and the data sources referred to within Table 10-1 of the Scoping Report. The Scottish Ministers would however highlight the representation from Aberdeenshire Council's Contaminated Land Department and SEPA with regard to additional legislation, guidance and data sources which must be considered and included within the EIA Report.

5.17.2 Within Table 10-3 of the Scoping Report, the Developer details the potential impacts of the Proposed Development on geology, hydrology and hydrogeology, which it proposes to scope in and out for assessment within the EIA Report. The Scottish Ministers broadly agree with the impacts identified highlighting the representations from Aberdeenshire Council's Contaminated Land Department and Scottish Water. The Scottish Ministers highlight however that it is not clear as to whether the onshore infrastructure (including the intertidal export cable

corridor and the onshore export cable corridor) has been considered within Table 7-3 of the Scoping Report. The Scottish Ministers advise that the ‘changes to coastal landfall morphology’ impact identified within Table 7-3 of the Scoping Report should also be scoped in for the onshore infrastructure and fully considered by the Developer within the onshore physical environment chapter of the EIA Report. Furthermore, the Scottish Ministers advise that the Developer must fully identify and assess Sites of Special Scientific Interest (“SSSI”) and Geological Conservation Review sites of relevance to the onshore infrastructure within the EIA Report. Particular consideration must be being given to the Loch of Strathbeg SSSI and the Scottish Ministers direct the Developer further to the NatureScot representation in this regard.

5.18 Terrestrial Ornithology and Terrestrial Ecology

- 5.18.1 With regard to the proposed study area, the Scottish Ministers are content that the proposed range of ecological surveys will be comprehensive and cover the features present within the study area. This is a view supported by the Aberdeenshire Council Environment Officer and NatureScot. In carrying out the survey work, the Scottish Ministers advise that should there be any presence of INNS, the Developer must note this with any necessary mitigation described within the EIA Report.
- 5.18.2 The Scottish Ministers are content with regard to the potential impacts of the Proposed Development that have been scoped in within Table 11-7 of the Scoping Report for further assessment within the EIA Report. The Scottish Ministers highlight the representation received from the Ugie DSFB which must be fully considered within the EIA Report.

5.19 Onshore Archaeology and Cultural Heritage

- 5.19.1 With regard to the study area and setting impacts the Scottish Ministers refer to the HES representation. The Scottish Ministers highlight the concerns raised by HES relating to the 3km study area proposed and advise that the Developer must consider the recommendations provided by HES in its representation regarding the use of a bare earth ZTV analysis to identify assets which may be impacted by the Proposed Development. In addition, the Scottish Ministers advise that the Developer must consider the additional designated assets highlighted within the HES representation and the use of wireframe visualisations.
- 5.19.2 In Table 12-3 of the Scoping Report the Developer summarises the potential impacts to onshore archaeology and cultural heritage during different phases of the Proposed Development. The Scottish Ministers are broadly content with the impacts proposed to be scoped in to and out of the EIA Report. However, the Scottish Ministers highlight the HES representation regarding the potential for impacts to St Fergus’ Church in relation to cable landfall.

5.19.3 The Scottish Ministers draw the Developers attention to the HES representation regarding impacts on setting. The Scottish Ministers advise that the Developer must consider the guidance provided by HES in its response on the discussion of direct, indirect and setting impacts to take forward within the EIA Report.

5.19.4 With regard to cumulative effects the Scottish Ministers note the representation of HES relating to other relevant developments to be considered within the assessment. The Scottish Ministers advise that clarification on the approach to the assessment for cumulative effects is clearly defined within the EIA Report.

5.20 Onshore Air Quality

5.20.1 The Scottish Ministers agree with the defined study area for assessment of onshore air quality and with the potential impacts proposed to be scoped in and scoped out of the EIA Report. The Scottish Ministers are satisfied with the EIA assessment methodology and embedded mitigation measures proposed and agree with the proposed approach to cumulative assessment.

5.21 Landscape and Visual Amenity

5.21.1 The Scottish Ministers consider the study area radius for the onshore landscape and visual impact assessment to be appropriate. The potential impacts to be scoped in and out and the assessment methodologies proposed are acceptable. The Scottish Ministers note that Aberdeenshire Council are open to discussing viewpoints to be assessed and agree with Aberdeenshire Council that the approach in terms of identifying receptor types is correct. The embedded mitigation measures proposed are acceptable and landscape planting should also be considered and proposed in the context of potential biodiversity enhancement. Furthermore, the Scottish Ministers direct the Developer to the NatureScot representation regarding the demonstration of positive effects for biodiversity. The Scottish Ministers advise that information on predicted losses and proposed offsetting and delivery of positive effects must be fully considered and summarised within the EIA Report. The Scottish Ministers agree with the proposed approach to cumulative assessment.

5.22 Traffic and Transport

5.22.1 The Scottish Ministers note within the Scoping Report that the study area for potential impacts on traffic and transport has not yet been finalised. The Scottish Ministers advise that where any changes to the trunk network are proposed, these must be discussed and approved by Transport Scotland and the Developer should seek to engage with Transport Scotland prior to the submission of the EIA Report.

5.22.2 The Scottish Ministers note the representation received from the Aberdeenshire Council Roads Development Team and would advise that the Developer must consider the potential impacts to traffic and transport within the EIA Report.

5.23 Onshore Noise and Vibration

5.23.1 The Scottish Ministers are content with the proposed study area defined in the Scoping Report, the identification of potential receptors and the embedded mitigation to be considered. The scope of impacts to be assessed and methodology to be adopted is considered acceptable and the approach to assessment of cumulative effects is appropriate.

5.24 Land Use and Other Users

5.24.1 The Scottish Ministers are content with the study area defined at Figure 12-8 of the Scoping Report noting the number of core paths and rights of way within the study area that have been identified. This is a view supported by the Aberdeenshire Council Environment Team.

5.24.2 With regard to the potential impacts on land use and other users during the different phases of the Proposed Development to be scoped in and out of the EIA Report, the Scottish Ministers are content with what has been identified within Table 12-26 of the Scoping Report. The Scottish Ministers draw the Developers attention to the representations from Green Volt Offshore Wind Farm and HSE which must be fully considered within the EIA Report.

6. Application and EIA Report

6.1 General

- 6.1.1 The EIA Report must be in accordance with the EIA Regulations and the Scottish Ministers draw your attention in particular to, regulation 6 of the 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
21 June 2023

Authorised by the Scottish Ministers to sign in that behalf.

Appendix I: Consultation Representations & Advice

Please refer to separate document provided alongside the Scoping Opinion.

Appendix II: Gap Analysis

Please refer to separate document provided alongside the Scoping Opinion.