

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

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

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

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

**and**

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

**Bowdun Offshore Wind Farm**

**November 2024**

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## **1. Introduction**

### **1.1 Background**

- 1.1.1 On 22 August 2024, the Scottish Ministers received a scoping report (“the Scoping Report”) from Thistle Wind Partners (“the Developer”) as part of its request for a scoping opinion relating to Bowdun 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.
- 1.1.3 The Scottish Ministers, in adopting this Scoping Opinion, have, in accordance with the EIA Regulations, taken into account the information provided by the Developer, in particular, information in respect of the specific characteristics of the Proposed Development, including its location and technical capacity and its likely impact on the environment. In addition, the Scottish Ministers have taken into account the representations made to them in response to the scoping consultation they have undertaken.
- 1.1.4 In examining the EIA Report, and any other environmental information, the Scottish Ministers will seek to reach an up to date reasoned conclusion on the significant effects on the environment from the Proposed Development. This reasoned conclusion will be considered as up to date if the Scottish Ministers are satisfied that current knowledge and methods of assessment have been taken account of. For the avoidance of doubt, this Scoping Opinion does not preclude the Scottish Ministers from requiring the Developer to submit additional information in connection with any EIA Report submitted with an application for consent under section 36 (“s.36 consent”) of The Electricity Act 1989 (“the 1989 Act”) and marine licences under The Marine (Scotland) Act

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

- 1.1.5 In the event that the Developer does not submit applications for a s.36 consent under the 1989 Act and marine licences under the 2010 Act and the 2009 Act for the Proposed Development within 12 months of the date of this Scoping Opinion, the Scottish Ministers strongly recommend that the Developer seeks further advice from them regarding the validity of the Scoping Opinion.
- 1.1.6 The Scottish Ministers advise that as more than one set of environmental impact assessment regulations apply the most stringent requirements must be adhered to in terms of, for example, consultation timelines and public notice requirements.

## **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 38 kilometres ("km") to the east of the Aberdeenshire coast within the ScotWind leasing round E3 Plan Option covering an area of 187 square kilometres ("km<sup>2</sup>"). As the Proposed Development will have an installed capacity greater than 50 megawatts, it will require the Scottish Ministers' to grant a s.36 consent under the 1989 Act to allow its construction and operation. The Proposed Development will also require marine licences granted by the Scottish Ministers under the 2009 Act and the 2010 Act, to permit any and all 'licensable marine activities' carried on for the Proposed Development.

2.2.2 The Project Design Envelope ("PDE") for the Proposed Development is broad and there are a number of design parameters that are yet to be determined by the Developer. The technology in relation to the wind turbine generator ("WTG") foundations has not been selected but will be either fixed or floating substructures. Several foundation options are under consideration with three types of fixed foundation (monopile, pile or drilled jacket and suction bucket jacket) and a preferred semi-submersible, floating option are discussed in the Scoping Report. The area of the Proposed Development in which the WTG, inter-array cables ("IACs"), inter-connector cables and Offshore Substation Platforms ("OSPs") are located is within the aforementioned ScotWind leasing round E3 Plan Option. In addition, up to four export cables are proposed within the export cable corridor ("ECC") area. Each has been assigned a maximum indicative length of 80 km and is due to make landfall at Benholm, Aberdeenshire.

2.2.3 The Proposed Development includes the construction and operation of offshore WTGs, export cables and all associated offshore infrastructure. The key components of the Proposed Development will depend on the final design chosen by the Developer and will include:

- Maximum of 67 WTGs;
- Maximum WTG rotor diameter of up to 326 metres ("m");

- WTG maximum blade tip height of 369.36 m above lowest astronomical tide (“LAT”);
  - Maximum of 67 WTG substructures, either fixed or floating
  - If fixed foundations are used, up to nine driven piles per foundation, each with a diameter of 4 m;
  - If floating foundations are used, up to six mooring lines per foundation. These will be either semi-taut or catenary in design;
  - If floating foundations are used, up to six anchors per foundation. Several designs are considered within the PDE, including;
    - drag embedment anchors,
    - suction piles,
    - driven piles,
    - drilled piles,
    - suction embedded plate anchors,
    - vertical loading anchors
    - and gravity blocks.
  - Scour protection consisting of rock placement, concrete mattresses and rock/grout bags;
- 2.2.4 The PDE includes between 16 and 20 subsea collectors up to 25 m in width and 25 m in length and 6 m in height from the seabed; a network of up to 156 km IACs which may be either static or dynamic cables depending on the WTG foundations used and a maximum of three interconnector cables within the array area, with a combined total length of 35 km.
- 2.2.5 The maximum parameters for OSPs include up to three OSPs and associated support structures and foundations. The OSP’s topsides will be up to 100 m in length and 100 m in width and up to 25 m above LAT with fixed foundations and supporting infrastructure, including scour protection as required.
- 2.2.6 The Proposed Development will include up to four offshore export cables each with an indicative maximum length of 80 m and target burial depth between 1 m and 3 m. Cable protection including concrete mattresses, rock placement, cast iron shells, rock/grout bags and utility crossings will be utilised where required.
- 2.2.7 The Developer expects to apply for Safety Zones under the Energy Act 2004 during construction and major maintenance activities, and around certain offshore structures during the Operation and Maintenance phase.
- 2.2.8 It is estimated that the Proposed Development will generate approximately 1 gigawatt of energy.

- 2.2.9 Commencement of offshore construction is currently anticipated to begin in 2029 and last for up to five years, as noted in Section 3.4.2 of the Scoping Report.
- 2.2.10 The Scottish Ministers are aware the Developer has sought a separate Scoping Opinion from Aberdeenshire Council for the associated onshore transmission infrastructure 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.

### **2.3 The Scottish Ministers' Comments**

#### *Description of the Proposed Development*

- 2.3.1 Section 3.5.6 of the Scoping Report highlights that the Developer is considering options for both fixed and floating WTG foundations. The Scottish Ministers advise that the EIA Report must include a full and detailed description of each of the foundation options considered within the PDE.
- 2.3.2 The Scottish Ministers were content to consult on the Scoping Report without coordinates included. However, the coordinates must be included alongside the EIA Report detailing the outline of the offshore turbine array.
- 2.3.3 The Scottish Ministers note the description of the PDE in section 3.2.2 of the Scoping Report. The example set out in the Scoping Report for foundation types should be applied to all parameters of the Proposed Development where a single design has not been decided upon. In such instances, the Scottish Ministers advise that the EIA Report must include a full and detailed description of all designs being considered, including the worst case scenario.
- 2.3.4 Table 3.6 of the Scoping Report indicates that two mooring line and seven anchor types are presently being considered for use within the PDE. The Scottish Ministers advise that the EIA Report must include a full and detailed description of every type of mooring and anchor under consideration. Furthermore, section 3.5.25 of the Scoping Report states the number of these mooring lines present will be dependent on several different factors, while section 3.5.29 of the Scoping Report states there may be up to six anchors per foundation. The EIA Report should include a full and detailed description of the moorings and anchors for the Proposed Development and must assess the total worst case scenarios for both, where specific parameters are unknown.



- 2.3.5 The Scottish Ministers note that, in section 3.5.36 of the Scoping Report, the Developer states that dynamic IACs will only be used for floating turbine design options. Therefore, if floating turbine designs are not excluded from the PDE ahead of submission of the EIA Report, dynamic IACs must be considered within the EIA Report.
- 2.3.6 Section 3.5.37 of the Scoping Report explains that the target burial depth for IACs is 1-3 m but deeper burial may be necessary in some areas. This will be guided by a Cable Burial Risk Assessment (“CBRA”). The EIA Report must explain how any measures drawn from the CBRA will mitigate effects, what measures are proposed for inclusion in the cable-laying strategy and the effectiveness and degree of confidence that the cable(s) can be placed using such measures. It is recommended that the CBRA is submitted alongside the EIA Report.
- 2.3.7 Sections 3.5.38 and 3.5.43 of the Scoping Report identifies the potential need for seabed preparation to enable cable-laying and use of subsea collectors. Should seabed preparation involve dredging, the EIA Report must identify the quantities of dredged material and identify the likely location for deposit. The Developer may also be required to submit pre-dredge sample analysis, including supporting characterisation of the new or existing deposit sites. Any seabed levelling or removal of substances on or under the seabed, including dredging and grapnel runs, will require consideration in the EIA Report and may require its own marine licence. Section 3.7.1 of the Scoping Report also identifies the likelihood of the need for boulder clearance at the site of the Proposed Development. The EIA Report must provide the anticipated estimate of boulders to be cleared, including the degree of uncertainty in the figures provided. Clear narrative must be used in the EIA Report to show how this has been estimated.
- 2.3.8 Further to the above, section 3.5.37 of the Scoping Report also states that alternative protection methods to cable burial may be used in unsuitable areas. The EIA Report must discuss each of these, stating the preferred option and why this is the case.
- 2.3.9 Section 3.8 of the Scoping Report details the potential scour protection required for WTG foundations, OSP foundations, moorings systems, anchor systems and at cable/pipeline crossings. However, no indicative maximum quantity or location of the scour protection has been provided. The Scottish Ministers advise that the EIA Report must, as well as detailing the anticipated locations and quantities of such protection (including the degree of uncertainty in calculating these figures), provide clear narrative to show how this has been estimated. These figures must also include details of the scour protection requirements for individual turbine foundations, OSP foundations, mooring systems, anchor systems and cable/pipeline crossings. The EIA Report should

describe different options for scour protection and provide an assessment of environmental effects that may result from each option or a combination of options.

- 2.3.10 Section 3.10 and Table 3.13 of the Scoping Report provide generalised detail of the construction phases planned until 2029 if a s.36 consent and marine licences are granted, including pre-construction surveys and activities. The EIA Report must describe and assess the environmental effects of the range of surveys which may be required, including in combination effects. The EIA Report must also include consideration of the options which will be assessed in relation to potential clearance of Unexploded Ordnance (“UXO”), discussed in section 3.7.1 of the Scoping Report, the differences amongst them and an assessment of the environmental effects of these options, including in combination effects with other projects. In this regard the Scottish Ministers advise that 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 the consistent performance of the preferred low order or deflagration method.
- 2.3.11 Section 3.12 of the Scoping Report sets out an overview of the estimated decommissioning activities and the Developer’s proposed decommissioning approach. The EIA Report should include the rationale in support of the assessment of potential significant effects during the decommissioning phase. Any uncertainty on the impacts upon receptors from activities during decommissioning should be clearly explained, along with the implications for the assessment of significant effects. The Scottish Ministers note that there is no consideration of the decommissioning of the Onshore Proposed Development in the Scoping Report and this should also be considered and addressed in the EIA Report.
- 2.3.12 Section 3.9 of the Scoping Report notes the potential that ‘wet storage’ may be needed to facilitate the construction of the Proposed Development. The Scottish Ministers are considering their position on this topic and will advise of any updates.
- 2.3.13 The Scottish Ministers note the Developer lists West of Orkney Offshore Wind Farm’s 2023 offshore ornithology data as a relevant data source for desk-based literature reviews in Table 12.1 of the Scoping Report. Advice is provided on this in section 5.7.4 of this Scoping Opinion. However, the Developer should be aware that West of Orkney Offshore Wind Farm submitted [additional information](#), including for ornithology, on 4 October 2024. If referring to ornithology data for West of Orkney Offshore Wind Farm, then the Scottish Ministers recommend that the additional information data is used.

- 2.3.14 The Scottish Ministers acknowledge that the Developer submitted its Habitats Regulations Appraisal (“HRA”) Screening Report to MD-LOT on 18 September 2024 in accordance with the HRA Regulations. The Scottish Ministers’ advice to the HRA Screening Report will be provided as part of this Scoping Opinion.

### *Design Envelope*

- 2.3.15 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 3.2.2 and tables 3.1 to 3.12 of the Scoping Report.
- 2.3.16 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.
- 2.3.17 The Scottish Ministers will determine the applications based on the worst case scenario. The EIA will reduce the degree of design flexibility required and the detail may be further refined in a Construction Method Statement (“CMS”) to be submitted to the Scottish Ministers, for their approval, before works commence. Please note however, the information provided in Section 7 below regarding multi-stage consent and regulatory approval. The CMS will ‘freeze’ the design of the project and will be reviewed by the Scottish Ministers to ensure that the worst case scenario described in the EIA Report is not exceeded.
- 2.3.18 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*

- 2.3.19 The EIA Regulations require that the EIA Report include ‘a description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the Developer, which are relevant to the proposed works and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects’. The Scottish Ministers acknowledge section 6 of the Developer’s Scoping Report setting out the consideration of alternatives to date together with the planned activities that are proposed to inform the EIA Report further. The Scottish Ministers advise however that these considerations must include how decommissioning has been taken into account within the design options. The Scottish Ministers advise that this must be based on the presumption of as close to full removal as possible of all infrastructure and assets and should consider the methods and processes of doing so.
- 2.3.20 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. 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.

## 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 11 September 2024. The following bodies were consulted, those marked in bold provided a response and those marked in italics sent nil returns or stated they had no comments:

- **Aberdeen Airport**
- Aberdeen Bay Offshore Wind Farm
- *Aberdeen City Council*
- Aberdeen Fishery Office
- **Aberdeenshire Council**
- **Angus Council**
- Bellrock Offshore Wind Farm
- Benholm and Johnshaven Community Council
- Berwick Bank Offshore Wind Farm
- **British Telecom**
- Campion Offshore Wind Farm
- Catterline, Kinneff and Dunnottar Community Council
- Civil Aviation Authority
- Community Inshore Fisheries Alliance
- Cove and Altens Community Council
- Crown Estate Scotland
- Cruise Association
- Dee District Salmon Fishery Board
- Department for Business, Energy and Industrial Strategy
- *Department of Agriculture, Environment and Rural Affairs*
- Don District Salmon Fishery Board
- Dundee Airport
- Esk District Salmon Fishery Board
- **Fisheries Management Scotland (“FMS”)**
- Gourdon Community Council
- **Historic Environment Scotland (“HES”)**
- *Hywind Offshore Wind Farm*
- Inshore Fishery Groups
- *Joint Nature Conservation Committee (Offshore advice Team)*
- **Joint Radio Company**
- *Kincardine Offshore Wind Farm*
- Marine Directorate - Marine & Fisheries Compliance
- Marine Safety Forum
- **Maritime and Coastguard Agency (“MCA”)**
- **Ministry of Defence (“MOD”)**
- Morven Offshore Wind Farm
- National Trust for Scotland
- **NATS**
- **Natural England**
- **NatureScot**

- Newtonhill, Muchalls and Cammachmore Community Council
- **Northern Lighthouse Board (“NLB”)**
- Offshore Energies UK
- Ossian Offshore Wind Farm
- *Peterhead Fishery Office*
- Portlethen and District Community Council
- Ports & Harbours
- River Dee Trust
- River Don Trust
- Royal Burgh of Inverbervie Community Council
- Royal National Lifeboat Institution
- **Royal Society for the Protection of Birds Scotland (“RSPB”)**
- **Royal Yachting Association (“RYA”)**
- Scottish Canoe Association
- Scottish Creel Fishermen’s Federation
- *Scottish Environment Protection Agency (“SEPA”)*
- **Scottish Fishermen’s Federation (“SFF”)**
- Scottish Fishermen’s Organisation
- Scottish Hydro Electric Transmission PLC
- Scottish Southern Electricity Networks – Transmission
- Scottish Surfing Federation
- **Scottish Water**
- Scottish White Fish Producers Association
- Scottish Wildlife Trust
- Seagreen (Alpha/Bravo & 1a) Offshore Wind Farm
- Sport Scotland
- Stonehaven and District Community Council
- Surfers Against Sewage
- The Esk Rivers and Fisheries Trust
- Torry Community Council
- **UK Chamber of Shipping (“UKCoS”)**
- Visit Scotland
- Whale & Dolphin Conservation

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

## **4.2 Responses Received**

4.2.1 From the list above a total of 25 responses were received. Advice was also provided by MD-SEDD and TS. The purpose of the consultation was to seek representations to aid the Scottish Ministers’ consideration of which potential effects should be scoped in or out of the EIA Report.

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

## **5. Interests to be considered within the EIA Report**

### **5.1 Introduction**

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

5.2.1 The Scottish Ministers are content with the study area noted in Section 7.2.1 of the Scoping Report. The Scottish Ministers are also content with the data sources provided in Table 7.1, however, note that Hansom et al. (2017) was an output of Dynamic Coast phase 1, which has since been superseded by phase 2 outputs. The updated outputs, including new reports<sup>1</sup> and webmapping<sup>2</sup> of coastal change, should be used as a data source for the EIA Report. This is supported by NatureScot in its 18 October 2024 representation ("the NatureScot EIA response"). The MD-SEDD advice received 9 October 2024 provides additional publications and data sources, mainly focusing on tidal and water column processes omitted from the Scoping Report. The Scottish Ministers advise the Developer to consider these additional sources as part of its EIA Report.

5.2.2 The Scottish Ministers acknowledge Section 7.4.20 of the Scoping Report which notes that consideration will be given to changes to the physical characteristics of designated sites. The Scottish Ministers, in line with the NatureScot EIA response, are content with the Developer's approach.

5.2.3 In Table 7.2 of the Scoping Report the Developer summarises the physical processes impacts to be scoped in for further assessment within the EIA Report. The Scottish Ministers, in line with the MD-SEDD advice received 9 October 2024, agree with the impacts scoped in; however, highlight the NatureScot EIA response which advises that the potential re-exposure of buried landfall cable(s) should be assessed as an additional operational impact. The Scottish Ministers note that this impact is referenced within Table 5.2 of the Scoping Report; however, is missing from Table 7.2, and advise the Developer to assess this operational impact within the EIA Report.

5.2.4 The Scottish Ministers acknowledge Section 7.7.4 within the Scoping Report which notes that a combination of analytical methods will be used to assess

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<sup>1</sup> [Dynamic Coast - Reports](#)

<sup>2</sup> [Dynamic Coast - Webmaps](#)



the potential changes to physical processes within the EIA Report. The Scottish Ministers direct the Developer to the NatureScot representation which highlights previous advice issued to the Developer on 11 July 2024 regarding the required greater detail for the modelling proposed is considered in full within the EIA Report.

- 5.2.5 The Scottish Ministers acknowledge Section 7.9.2 of the Scoping Report which identifies several impacts from the Proposed Development which have the potential to act cumulatively with impacts from other developments to contribute to cumulative effects. The Scottish Ministers are content with the impacts proposed. This is supported by the NatureScot EIA response.
- 5.2.6 Furthermore, the Scottish Ministers note that, whilst Section 7.9.2 does list receptors affecting water column structure that could potentially be affected by interaction with infrastructure associated with other projects, this list does not include physical structures or alterations to near sea surface wind speeds. The Scottish Ministers agree with the MD-SEDD advice received 9 October 2024 that these effects could be important cumulatively and should be considered in the EIA Report.
- 5.2.7 The Scottish Ministers, in line with the NatureScot representation, agree that transboundary impacts can be scoped out from further consideration in the EIA Report.

### **5.3 Subsea Noise**

- 5.3.1 In Table 8.2 of the Scoping Report the Developer summarises the subsea noise impacts to be scoped in for further assessment within the EIA Report. The Scottish Ministers note that injury ranges for marine mammals and fish will be estimated for clearance of UXO. The Scottish Ministers advise that disturbance is also assessed using Temporary Threshold Shift as a proxy. This is supported by the NatureScot EIA response.
- 5.3.2 The Scottish Ministers agree with the Developer's intention to scope in potential impacts of UXO clearance in terms of subsea noise during the construction phase of the Proposed Development. However, the Scottish Ministers also note the representation from the MOD which states that the potential presence of UXOs and disposal sites should also be considered for the decommissioning phase and where any other intrusive works may take place. The Scottish Ministers therefore advise that the potential impacts of UXO clearance be scoped in for all stages of the Proposed Works.
- 5.3.3 Table C1.3 within Appendix C of the Scoping Report provides a summary of the approach to the modelling of disturbance to marine mammals from all sources. The Scottish Ministers agree that the dose-response approach

should be used for piling, however, note that Graham et al. (2017) should be used for cetaceans. Additionally, in line with the NatureScot EIA response, for impulsive noise sources, the Scottish Ministers advise presenting thresholds as peak, instead of rms, to allow comparison with the Southall thresholds.

- 5.3.4 The Scottish Ministers note that the potential for cumulative subsea noise effects is discussed in Section 8.9 of the Scoping Report. With regards to shipping, the Scottish Ministers agree with the UKCoS advice that this chapter in the EIA Report considers the potential for cumulative effects during both the construction and operational phases. This should include careful consideration of the Proposed Development's proximity to designated Marine Protected Areas ("MPAs"). Where necessary, the Developer should ensure that appropriate noise mitigation measures are implemented.
- 5.3.5 The Scottish Ministers acknowledge the MPA screening assessment included in Appendix D of the Scoping Report. This assessment concludes that underwater noise will not be capable of affecting, other than insignificantly, the qualifying sandeel feature of the Turbot Bank Nature Conservation MPA ("ncMPA") and Southern Trench ncMPA and are therefore proposed to be screened out. As underwater noise modelling is still to be undertaken, the Scottish Ministers consider it premature to scope out effects on the Turbot Bank ncMPA and Southern Trench ncMPA at this stage and advise that both are scoped in, pending the results of the underwater noise modelling. This is supported by the NatureScot EIA response.
- 5.3.6 The Scottish Ministers have provided specific receptor advice with regard to subsea noise in Sections 5.6.5, 5.6.12 and 5.7.6 below.

## **5.4 Benthic Ecology**

- 5.4.1 The Scottish Ministers are broadly content with the local benthic ecology study area noted in Section 9.2.1 of the Scoping Report. The Scottish Ministers acknowledge that the Developer has also defined a regional benthic ecology study area that extends further into the northern North Sea. The Scottish Ministers, in line with the NatureScot EIA response, are content with the regional study area proposed.
- 5.4.2 The Scottish Ministers acknowledge that site-specific subtidal benthic ecology data for the study area outcomes could not be provided within the Scoping Report. Whilst the Scottish Ministers are content with the approach suggested within Section 9.3 of the Scoping Report for how the outcomes from the surveys will be incorporated into the EIA Report, we advise that if there are any unexpected survey results appear these should be flagged to the relevant stakeholders prior to application submission. This is supported by the NatureScot EIA response.

- 5.4.3 The Scottish Ministers highlight the NatureScot EIA response concerning a blue carbon assessment. The Scottish Ministers advise that consideration should be given to impacts on blue carbon as a result of the Proposed Development, as well as an expanded assessment for benthic ecology to focus on the potential impacts of marine sediments and coastal habitats.
- 5.4.4 In Table 9.4 and Table 9.5 of the Scoping Report the Developer summarises the benthic ecology impacts to be scoped in and scoped out, respectively, of further assessment within the EIA Report. The Scottish Ministers are broadly content with the impacts proposed to be scoped in; however, advise that Electromagnetic Field (“EMF”) impacts should be scoped in for all cabling. The Scottish Ministers acknowledge that burial of the cable will reduce the level of EMF at the seabed surface, but burial will not completely remove the possibility of EMF effects on benthic species. This is supported by the SFF representation and the NatureScot EIA response.
- 5.4.5 In addition to the assessment of the potential impacts as a result of the removal of hard substrate during the decommissioning phase, the Scottish Ministers, in line with the SFF representation, recommend that these potential impacts also be scoped in for the construction phase of the Proposed Development. The Scottish Ministers are also in agreement with the representation from the SFF that the potential impacts of heat on benthic invertebrates should be scoped into the assessment for further consideration.
- 5.4.6 The Scottish Ministers highlight the NatureScot EIA response advice that discussion and agreement should be sought as the PDE is refined during the pre-application period to ensure that assessment processes are fit for purpose. The Scottish Ministers agree with the NatureScot representation.
- 5.4.7 The Scottish Ministers acknowledge Section 9.5.2 of the Scoping Report which details several items of embedded mitigation relevant to benthic ecology. The Scottish Ministers are content with the proposed mitigation but further advise that adherence to post-consent plans/programmes does not strictly constitute mitigation. The EIA Report must clearly articulate the measures within these plans/programmes that will be adhered to in order to avoid or reduce predicted significant adverse effects of the Proposed Development. This full range of mitigation and monitoring measures, along with the published guidance, should be considered and discussed in the EIA Report. This is supported by the NatureScot EIA response.
- 5.4.8 With regards to EMF, the Scottish Ministers, in line with the NatureScot EIA response, advise that EMF impacts should be assessed on a cumulative basis for benthic ecology.

- 5.4.9 The Scottish Ministers, in line with the NatureScot EIA response, agree that transboundary impacts can be scoped out from further consideration within the EIA Report, as suggested in Section 9.10 and Appendix B: Transboundary Screening of the EIA Report.
- 5.4.10 The Scottish Ministers acknowledge Section 4.2 of the HRA Screening Report, which sets out the approach to identifying connectivity between the Proposed Development and European sites for Annex I habitats. While drawing the Developer's attention to the inconsistencies detailed within the 1 November 2024 NatureScot representation ("the NatureScot HRA response"), the Scottish Ministers are content with the conclusion not to screen any European sites with Annex I habitats into the Report to Inform Appropriate Assessment ("RIAA").

## **5.5 Fish and Shellfish Ecology**

- 5.5.1 The Scottish Ministers acknowledge Section 10.1.4 of the Scoping Report which notes that the fish and shellfish study area has been defined as a 100 km buffer around the Proposed Development, which includes the offshore ECC. The Scottish Ministers, in line with the NatureScot EIA response, are content with the study area proposed but consideration of the ECC in nearshore waters should assess the impacts to diadromous fish species that are in proximity to the landfall area.
- 5.5.2 The Scottish Ministers are broadly content with the data sources considered in Table 10.1 of the Scoping Report. The NatureScot EIA response provides additional data sources recommended for use when considering basking sharks. The Scottish Ministers advise the Developer to consider these additional data sources as part of its EIA Report.
- 5.5.3 Furthermore, with regards to data sources, FMS notes in its representation that the Diadromous Fish Receptor Group under Scottish Marine Energy Research ("ScotMER") has identified evidence gaps relating to health, distribution and impacts on diadromous fish species including, but not limited to, salmon and sea trout. The Scottish Ministers direct the Developer to the evidence map<sup>3</sup> referenced in the NatureScot and FMS representation and advise the Developer to consider these evidence gaps fully in the EIA Report.
- 5.5.4 The Scottish Ministers agree with FMS that information on the baseline use of the Proposed Development area by diadromous fish should be provided in the EIA Report. If the Developer is unable to produce such information, then a suitable monitoring strategy should be devised and detailed in full, either as part of the EIA Report or as an Appendix.

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<sup>3</sup> <https://www.gov.scot/publications/diadromous-fish-specialist-receptor-group/>

- 5.5.5 As noted in Section 5.4.2 of this Scoping Opinion, the results of the site-specific benthic surveys are not yet available and, therefore, could not be provided within the Scoping Report. The Scottish Ministers advise that, once it is analysed, and if the data indicates that other species are present, then any additional species should be included in the EIA Report. Additionally, the benthic ecology survey sampling should be used to determine suitable sandeel habitat and/or herring spawning habitat. This is supported by the NatureScot EIA response.
- 5.5.6 Table 10.6 and Table 10.7 within the Scoping Report note the impacts proposed to be scoped into and scoped out of the fish and shellfish ecology assessment in the EIA Report. Per the NatureScot and FMS responses, the Scottish Ministers agree that fish aggregation around the WTG and other hard structures should also be considered for relevant species, regardless of whether fixed or floating foundations are being used. Additionally, the Scottish Ministers, in line with the FMS representation, advise that shadow flicker and direct visual effects from moving turbine blades should be scoped in for further assessment within the EIA Report.
- 5.5.7 In line with the representation made by SFF, Scottish Ministers advise that potential impacts to fish and shellfish species caused by entanglement should be scoped in for both the construction and decommissioning phases as well as the operational phase, detailed in the Scoping Report, of the Proposed Development.
- 5.5.8 The Scottish Ministers acknowledge Section 10.1.26 within the Scoping Report which notes the relevant embedded mitigation measures to fish and shellfish ecology. These measures do not directly relate to fish and shellfish but will indirectly reduce the impacts of the Proposed Development on fish and shellfish receptors. The Scottish Ministers acknowledge that these measures will evolve throughout the EIA process and, therefore, are content with what is presented currently. However, should the EIA assessment show that further mitigation is needed for fish and shellfish this should be addressed within the EIA Report. This is supported by the NatureScot EIA response.
- 5.5.9 The Scottish Ministers agree with FMS that the Developer is expected to assess and, where necessary, mitigate the potential impacts of the Proposed Development on diadromous fish across the lifespan of the Project. The Scottish Ministers also agree with the potential impacts in the FMS representation, for consideration within the EIA Report. This includes both the list of potential impacts highlighted by ScotMER and the further points identified by the FMS.
- 5.5.10 The Scottish Ministers, in line with the NatureScot EIA response, advise that the EIA Report should clearly set out the impacts to key prey species and their

habitats arising from the Proposed Development alone and cumulatively with other wind farms. The Scottish Ministers acknowledge the need to understand impacts at the ecosystem scale; therefore, advise that consideration across key trophic levels will enable a better understanding of the consequences of any potential changes in prey distribution and abundance on marine mammal interests and how this may influence population level impacts. Additionally, the Scottish Ministers advise that consideration of how this loss and/or disturbance may affect the recruitment of key prey (fish) species through impacts to important spawning or nursery ground habitats should also be assessed within the EIA Report. The Predators and Prey Around Renewable Energy Developments project<sup>4</sup> may be helpful when carrying out this assessment. This is also supported by the NatureScot EIA response.

- 5.5.11 The Scottish Ministers note the SFF representation regarding overlap between both the array area and ECC for the Proposed Development and spawning and nursery grounds for some commercially important fish species. The Scottish Ministers agree that any survey activities, or other seabed disturbances, should be undertaken outwith the spawning and nursery periods of the species mentioned in the SFF representation. Furthermore, the Scottish Ministers refer the Developer to the ICES advice<sup>5</sup> regarding herring, discussed in the SFF representation. This advice should be taken into account in the EIA Report.
- 5.5.12 The Scottish Ministers, in line with the NatureScot EIA response, also advise that the spatial and temporal use of habitats by fish and shellfish, as well as the EMF impacts from the growing network of subsea cables, should be assessed on a cumulative basis for fish and shellfish ecology in the EIA Report.
- 5.5.13 Section 10.10 of the Scoping Report commits to scoping transboundary impacts out of the EIA Report. The Scottish Ministers, in line with the NatureScot EIA response, agree that transboundary impacts can be scoped out from further consideration within the EIA Report.
- 5.5.14 With regards to the HRA Screening Report, based on the evidence currently available, it is not possible to carry out an assessment of diadromous fish to the level required under HRA. The Scottish Ministers therefore advise that diadromous fish species should be assessed through EIA only, not through HRA. This is in line with both the NatureScot EIA response and the NatureScot HRA response. Furthermore, the Scottish Ministers advise the Developer to

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<sup>4</sup> [PrePARED – An offshore renewables science project \(owecprepared.org\)](https://owecprepared.org)

<sup>5</sup> [Herring \(Clupea harengus\) in Subarea 4 and divisions 3.a and 7.d, autumn spawners \(North Sea, Skagerrak and Kattegat, eastern English Channel\) \(figshare.com\)](https://figshare.com)

update Table 1.1 in the HRA Screening Report to reflect the advice of the NatureScot HRA response.

- 5.5.15 The Scottish Ministers concur with FMS that the appropriate Scottish Special Area of Conservation (“SAC”) rivers have been identified. However, the Scottish Ministers also suggest that the Developer give thought to including SAC rivers from the east coast of England in the EIA Report.

## **5.6 Marine Mammals**

- 5.6.1 The Scottish Ministers are broadly content with the study areas described in Section 11.2.1 of the Scoping Report. The Scottish Ministers, in line with the NatureScot EIA response, note that the United Kingdom portion of the Management Unit should be used in the EIA Report.
- 5.6.2 With regards to baseline characterisation, the Scottish Ministers are broadly content with the proposed data sources identified in Table 11.1 of the Scoping Report, however, refer the Developer to the NatureScot representation regarding further recommended data sources. The highest density estimate for each species should be used from Digital Aerial Surveys (“DAS”) and SCANS, the advice from NatureScot in this regard must be fully addressed in the EIA Report. The Scottish Ministers draw attention to the advice provided by NatureScot on the aforementioned date about the absence of seal population estimates in SCOS 2023. The Scottish Ministers recommends the Developer reviews and incorporates the most recent SCOS report when undertaking the marine mammal assessment within the EIA Report.
- 5.6.3 The Scottish Ministers advise that, alongside the species the Developer has scoped in for assessment, Risso’s Dolphin should be included qualitatively. This is supported by the NatureScot EIA response.
- 5.6.4 The Scottish Ministers are generally content with the impacts scoped into the EIA Report, per Table 11.9 of the Scoping Report. However, the Scottish Ministers advise that indirect impacts from EMF should be scoped into the EIA Report, cross-referencing between the fish and shellfish and marine mammal chapters. This is supported by the NatureScot EIA response.
- 5.6.5 The Scottish Ministers also note that Table 11.9 in the Scoping Report discusses injury and disturbance from subsea noise to marine mammals. Per the NatureScot EIA response, the Scottish Ministers advise that the Developer clarifies the term “residual effect” used in Table 11.9 within the EIA Report. Furthermore, the Developer should present the percentage of the reference population affected in the EIA Report and, unless sound levels are predicted to exceed PTS from operational or other construction activities, then PTS does

not need to be included in the EIA Report other than when considering impulsive noises.

- 5.6.6 The Scottish Ministers do not support the Developer's decision, set out in Section 11.7.2 of the Scoping Report, to group marine mammal species into broad ecological groups. The Scottish Ministers expect marine mammal species to be assessed independently in the EIA Report. For species where a quantitative assessment is possible, the Scottish Ministers expect to see a percentage of each species respective (UK portion) reference population when assigning the magnitude of each assessed impact. This is supported by the NatureScot EIA response. The Scottish Ministers further advise that the aforementioned NatureScot representation, with regards to the approach to assessment, should be fully considered and implemented in the EIA Report. The Scottish Ministers highlight the advice relating to sensitivity and magnitude here.
- 5.6.7 The Scottish Ministers acknowledge Section 11.5 and Appendix A: Draft Schedule of Mitigation and Commitments within the Scoping Report that note the embedded mitigation measures relevant to marine mammals. The Scottish Ministers, in line with the NatureScot EIA response, recommend the Scottish Marine Wildlife Watching Code<sup>6</sup> ("SMWWC") be used to minimise disturbance to marine mammals, and if possible, night vision binoculars are used in poor visibility at night. Mitigation used for marine mammals should also be applied to basking sharks. The Scottish Ministers advise the Developer that if Uncrewed Surface Vehicles or Autonomous Underwater Vehicles are to be used, to consult with NatureScot to agree on appropriate mitigation for basking sharks and marine mammals.
- 5.6.8 The Scottish Ministers acknowledge the approach to the cumulative assessment noted in Section 11.9 of the Scoping Report. The Scottish Ministers highlight the NatureScot EIA response and advise that consideration should be given for a year on either side of the Proposed Development, focusing on both the temporal and spatial overlap.
- 5.6.9 The Scottish Ministers, in line with the NatureScot EIA response, agree that transboundary impacts can be scoped out from further consideration within the EIA Report, as suggested by the Developer in Section 11.10 and Appendix B: Transboundary Screening in the Scoping Report.
- 5.6.10 The Scottish Ministers acknowledge Section 4.4 of the HRA Screening Report, which sets out the approach to identifying connectivity between the Proposed Development and European sites for Annex II marine mammals. While noting the NatureScot HRA response advice that the HRA Screening Report does

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<sup>6</sup> [Scottish Marine Wildlife Watching Code | NatureScot](#)



not clearly explain this approach, the Scottish Ministers are broadly content with the conclusions reached in Table 4.2. The Isle of May SAC and Berwickshire and Northumberland SAC, currently included in Table 4.2, can be scoped out of further assessment in the RIAA. This is supported by the aforementioned NatureScot advice.

- 5.6.11 The Scottish Ministers concur with the 11 October 2024 Natural England advice that the Berwickshire and North Northumberland SAC is considered within the RIAA due to the designated seal population. The Scottish Ministers also concur with the NatureScot HRA response advice that the Developer should screen any SACs into the RIAA where the designated site has a grey seal qualifying feature and the project site/impact radius is within 20 km or any SACs with a harbour seal qualifying interest and the project site/impact radius is within 50 km. For sites with cetacean qualifying features, this radius should be 100 km.
- 5.6.12 The Scottish Ministers disagree with the conclusion in Table 5.3 of the HRA Screening Report that there is no potential for likely significant effects (“LSE”) via injury and disturbance on marine mammals features from subsea noise generated during site investigations. The Developer should screen this impact pathway into the RIAA for the Firth of Tay and Eden Estuary SAC and the Moray Firth SAC. The Scottish Ministers also disagree with the conclusion that there is no potential for LSE via injury and disturbance from subsea noise generated through vessel use and other activities. This impact pathway should be screened into the RIAA for the Moray Firth SAC. The Scottish Ministers welcome the inclusion of changes to prey availability during the construction phases in the list of impact pathways to be screened into the RIAA but advise that this should also be included for all phases of the Proposed Development. The Scottish Ministers also advise that entanglement can be screened out of the RIAA as an impact pathway for all phases of the Proposed Development. This is supported by the NatureScot HRA response.
- 5.6.13 The Scottish Ministers are content with the conclusions drawn in Section 4.5 of the HRA Screening Report regarding onshore Annex II species. This is supported by the NatureScot HRA response.

## **5.7 Offshore Ornithology**

- 5.7.1 The Scottish Ministers are broadly content with the study areas as described in Section 12.2 of the Scoping Report, however, draw attention to the NatureScot EIA response regarding wider study areas to be included.
- 5.7.2 The Scottish Ministers note that LiDAR surveys were conducted within the array area to collect flight height information that will inform the Collision Risk Monitoring (“CRM”) required for the EIA and HRA Reports. The Scottish

Ministers highlight the NatureScot EIA response advice to use generic flight height information for CRM. However, in keeping with the aforementioned NatureScot advice, the Developer can present the site-specific data in the EIA and HRA Reports for comparison.

- 5.7.3 With regards to baseline characteristics the Scottish Ministers acknowledge Table 12.1 in the Scoping Report which notes technical guidance, key data and information resources that will be utilised to inform the ornithology assessment. However, the Scottish Ministers, in line with the NatureScot EIA response, highlight that some of the sources listed in Table 12.1 are unclear. The Scottish Ministers advise that, where key data sources are identified, the Developer should make it clear what these sources are. Furthermore, the Scottish Ministers refer the Developer to the relevant references and data sources provided in the NatureScot response.
- 5.7.4 The Scottish Ministers acknowledge the Developer's intent to refer to current and previous offshore wind project for relevant information. With regards to Table 12.1 in the Scoping Report, the Scottish Ministers do not recommend the Developer use the [West Of Orkney Wind Farm 2023 EIA Report Volume 3 figures](#), particularly in relation to the ornithology section, within its cumulative assessment. This is supported by the NatureScot EIA response. Please see section 2.3.13 of this Scoping Opinion for advice on the additional information for ornithology at West of Orkney Offshore Wind Farm.
- 5.7.5 The Scottish Ministers are generally content with the impact pathways scoped in, per Table 12.4 of the Scoping Report. Furthermore, the Scottish Ministers are pleased that disturbance from transiting vessels has been considered. However, the Scottish Ministers highlight that the extent of this assessment will depend on what ports are used and draw the Developer's attention to the NatureScot EIA response on this matter.
- 5.7.6 The Scottish Ministers advise that direct impacts to seabirds from the detonation of UXO should also be included, alongside indirect impacts of underwater noise on their prey species. This is supported by the NatureScot EIA response. Additionally, the Scottish Ministers, in line with the aforementioned NatureScot representation, agree that the impacts from attraction to lights should not only consider turbine lighting but also lighting on servicing or construction vessels. The Scottish Ministers advise that the aforementioned NatureScot representation regarding this must be fully considered and addressed in the EIA Report.
- 5.7.7 The Scottish Ministers advise, per the Aberdeenshire Council representation, that the potential impact of the Proposed Development on the Benholm to Todhead Point Local Nature Conservation Site is considered in the EIA Report.

This assessment should incorporate features of the site which use the offshore area.

- 5.7.8 The Scottish Ministers are broadly content with the approach to assessment as detailed in the Scoping Report and highlight the advice relating to MRSea, availability bias, CRM, apportioning, displacement assessment and population viability analysis (“PVA”) included in the NatureScot EIA response. The Scottish Ministers advise that the aforementioned NatureScot representation on this should be fully considered and implemented in the EIA Report.
- 5.7.9 The Scottish Ministers advise for displacement assessment that SeabORD be used during the assessment of distributional effects during chick rearing season for the below species:
- Guillemot (*Uria aalge*);
  - Razorbill (*Alca torda*);
  - Puffin (*Fratercula artica*); and
  - Kittiwake (*Rissa tridactyla*).

Additionally, the Scottish Ministers advise the Developer to include impacts on Manx Shearwater, petrel species, fulmar and gannet. This is supported by the NatureScot EIA response and RSPB representation.

- 5.7.10 The Scottish Ministers note there is no mention of Highly Pathogenic Avian Influenza (“HPAI”) within the Scoping Report and its impacts on seabird populations. The Scottish Ministers highlight the NatureScot EIA response regarding HPAI and expect the impact of HPAI on colonies to be considered qualitatively in the EIA Report.
- 5.7.11 The Scottish Ministers acknowledge Section 12.6 of the Scoping Report which details several items of embedded mitigation relevant to offshore ornithology. The Scottish Ministers are content with the proposed mitigation but further advise that adherence to post-consent plans/programmes does not strictly constitute mitigation. The EIA Report must clearly articulate the measures within these plans/programmes that will be adhered to in order to avoid or reduce predicted significant adverse effects of the Proposed Development. This full range of mitigation and monitoring measures, along with the published guidance, should be considered and discussed in the EIA Report. This is supported by the NatureScot EIA response. The Scottish Ministers also direct the Developer to the aforementioned NatureScot representation for consideration of proposed additional mitigation measures and monitoring protocols.
- 5.7.12 The Scottish Ministers are content with the approach to the cumulative assessment as described in Section 12.10 of the Scoping Report. The Scottish

Ministers highlight the NatureScot EIA response advice that, when screening projects for which to assess cumulative impacts in the EIA Report, species-specific foraging ranges should be used. Furthermore, the Scottish Ministers, in line with the NatureScot EIA response, agree that if the Cumulative Effects Framework is published within the project timeframe, then it should be used to undertake the cumulative assessment.

- 5.7.13 The Scottish Ministers are aware that the Proposed Development has the potential to result in cumulative impacts in combination with the proposed Berwick Bank Offshore Wind Farm (“Berwick Bank”) development. At the point of this Scoping Opinion, the outcome of the Berwick Bank consenting application is unknown. As such, the Scottish Ministers advise the Developer to conduct a PVA for any seabird species which may be impacted by the Proposed Development based both on the scenario of Berwick Bank being consented and it not being consented.
- 5.7.14 Furthermore, the Scottish Ministers highlight that, for all in combination PVA, the updated guidance on PVA thresholds for in combination effects should be followed. This guidance can be found as an annex to the NatureScot EIA response and applies to both the EIA and HRA processes.
- 5.7.15 With regards to transboundary impacts, considered in Section 12.11 and Appendix B: Transboundary Screening of the Scoping Report, the Scottish Ministers, in line with the NatureScot EIA response, support the approach proposed by the Developer.
- 5.7.16 The Scottish Ministers note that the Developer’s conclusions for offshore ornithology in the HRA Screening Report are based on 12 months of DAS. However, the HRA Screening Report acknowledges that, once the full 24 month dataset is available, it will be analysed and included in the RIAA. The Scottish Ministers are generally content with this approach but advise that, in revisiting and revising the offshore ornithology conclusions, further consultation with NatureScot may be necessary prior to submission of the RIAA. This is supported by the NatureScot HRA response.
- 5.7.17 Furthermore, the Scottish Ministers advise the Developer that no designated sites or qualifying features should be screened out of the RIAA until the conclusions have been revisited and revised with the full 24 months of DAS data. This is supported by the NatureScot HRA response. However, the Scottish Ministers concur with the 11 October 2024 Natural England advice that, as a minimum, the Flamborough and Filey Coast SPA and Farne Islands SPA are assessed in both the EIA and HRA Reports.
- 5.7.18 When assessing the effects of the Proposed Development on qualifying features of SPAs, the Developer should ensure it does so for the breeding and

non-breeding seasons of the relevant features. Effects of impacts should be assessed on an individual species level. The Scottish Ministers refer the Developer to the NatureScot HRA response advice on the relevant data sources and considerations when assessing these effects and advise that Table 4.6 and 4.7 in the HRA Screening Report will need to be updated in light of this advice.

- 5.7.19 The Scottish Ministers also refer the Developer to the RSPB response which notes that impacts on particular species may not be sufficiently captured in DAS. Modelling utilising this data may result in biased counts for these species and underestimate impacts which may also be greater due to these species being most active outwith the crepuscular hours. RSPB states that it would welcome discussion with the Developer as to a suitable methodology for assessment in this case. RSPB also highlight in their representation that if modelling methods using alternative parameters, to those included in the NatureScot published guidelines, are used in the Developer's assessment then this should be clearly detailed within the RIAA.
- 5.7.20 Furthermore, the Scottish Ministers highlight the 23 October 2024 Natural England advice on carrying out assessments regarding auks, sabbatical rates and stable age apportioning for the RIAA.
- 5.7.21 The Scottish Ministers concur with the NatureScot HRA response and with the RSPB advice that the Developer should present the SPAs in Tables 4.7 and 4.8 of the HRA Screening Report more clearly in the RIAA and avoid duplicating sites between both Tables.
- 5.7.22 The Scottish Ministers advise that the list of SPAs included in Table 4.8 should be revisited, taking into account the "Offshore wind - birds on migration in Scottish waters: strategic review"<sup>7</sup>. This is supported by the NatureScot HRA response.
- 5.7.23 The Scottish Ministers advise that the Developer should consider any potential construction and operational vessel routes' proximity to marine SPAs before drawing a conclusion on LSE. If vessels are likely to transit through a marine SPA, the Scottish Ministers advise that vessel disturbance between the development site and the port is included as an impact pathway in the RIAA. When performing these assessments, the Developer should refer to the considerations listed in the NatureScot HRA response. The Scottish Ministers also note that disturbance to birds from the presence of vessels during all phases of the Proposed Development are not included in Table 5.6 and agrees with the aforementioned NatureScot representation that this should be

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<sup>7</sup> [Introduction - Offshore wind - birds on migration in Scottish waters: strategic review - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/strategic-review-offshore-wind-birds-on-migration-in-scottish-waters/pages/1-introduction-to-offshore-wind-birds-on-migration-in-scottish-waters.aspx)

amended in the RIAA. Furthermore, if a floating turbine design is to be used, the Scottish Ministers advise that entanglement should be assessed as an impact pathway in the RIAA.

- 5.7.24 In agreement with the RSPB advice, the Scottish Ministers also advise that the Developer includes consideration of potential wider ecosystem impacts that may arise through the construction and operation of the wind farm.
- 5.7.25 The Scottish Ministers note the LSE Matrix for SPAs and Ramsar sites presented in Table 5.7 of the HRA Screening Report and broadly agree with what is presented. However, the Developer should revise this Table in line with the NatureScot HRA response.
- 5.7.26 Additionally, the Scottish Ministers highlight the RSPB representation which notes the screening in of fulmar detailed in Table 5.7 and recommend the inclusion of distributional responses as an impact for fulmar particularly in consideration of in-combination effects. The Scottish Ministers advise that this should be given due consideration in the RIAA.
- 5.7.27 Furthermore, the Scottish Ministers broadly concur with the conclusions of Table 7.2 in the HRA Screening Report. However, the Developer should revise these conclusions in line with the NatureScot HRA response.

## **5.8 Commercial Fisheries**

- 5.8.1 The Scottish Ministers are generally content with the study area identified in Section 13.2 of the Scoping Report.
- 5.8.2 The Scottish Ministers are broadly content with the data sources used to characterise the baseline. The Scottish Ministers request that the Developer follow the MD-SEDD advice received on 9 October 2024, regarding the EMODNet Automatic Identification System (“AIS”) data, the use of Marine Management Organisation Vessel Monitoring System (“VMS”) datasets and the use of ScotMap data to further inform the baseline characterisation. The Scottish Ministers also refer the Developer to the SFF representation which recommends the use of plotter data provided by fishers, associations and the SFF as this data not captured by utilising only AIS or VMS. The Scottish Ministers agree with the SFF representation reiterating the value of utilising data generated prior to the UK’s departure from the European Union.
- 5.8.3 The Scottish Ministers are content with the potential commercial fisheries impacts identified and scoped into the EIA Report in Table 13.2. This is supported by the MD-SEDD advice received on 9 October 2024.
- 5.8.4 The Scottish Ministers note that sections 3.5 and 3.6 of the Scoping Report detail the potential need for external protection methods for subsea cabling.

The Scottish Ministers agree with the MD-SEDD advice received on 9 October 2024 which advises that methods such as rock placement be utilised where possible with concrete mattresses the last choice for cable protection. Furthermore, MD-SEDD recommends that any rock placement carried out follows the industry best practice guidance.

- 5.8.5 The Scottish Ministers agree with the MD-SEDD advice received on 9 October 2024 that the cumulative effects assessment described in Section 13.9.2 of the Scoping Report should take into account any nearby MPAs and other fisheries management areas with restricted fishing activity.

## **5.9 Shipping and Navigation**

- 5.9.1 The Scottish Ministers are content with the study area and baseline characterisation provided within Chapter 14 of the Scoping Report.
- 5.9.2 In line with the MCA representation the Scottish Ministers are content with the data sources utilised at this stage of the process. However, as the Proposed Development moves forward from the scoping stage to application the Scottish Ministers refer the Developer to the MCA's emphasis on the use of expanded data sources as dictated by the MCA's MGN 654 guidelines, including the outcome of vessel traffic survey of at least twenty eight days which should include seasonal data (two x fourteen-day surveys) collected from a vessel-based survey using AIS, radar and visual observations to capture all vessels navigating the study area.
- 5.9.3 The Scottish Ministers further direct the Developer to the UKCoS representation which emphasises the value of a detailed Navigational Risk Assessment ("NRA") which should provide a detailed analysis of shipping traffic, accounting for seasonal variations in commercial and recreational vessel activity within the project area.
- 5.9.4 Further to the vessel traffic data described above, the Scottish Ministers also refer the Developer to the MCA representation regarding cable routing and burial depths. It is detailed here that the Developer should complete a burial protection index and should consider carrying out an anchor penetration study. It is noted that a CBRA and Cable Plan have already been included in the embedded mitigations described by the Developer.
- 5.9.5 The Scottish Ministers are content with the Developer's proposed method of assessment and with the impact pathways scoped in and out as detailed in Table 14.2.
- 5.9.6 In line with the MCA and UKCoS representations, the Scottish Ministers agree with the embedded mitigation measures described by the Developer and advise that the Developer produces the NRA described in the Scoping Report,

in line with the MCA's MGN 654 guidelines, including completion of the relevant checklist. The Scottish Ministers also refer the Developer to the RYA representation in which it states that the RYA and the Cruising Association would welcome the opportunity to contribute to the production of the NRA.

- 5.9.7 Whilst the Scottish Ministers are in agreement with the range of impacts to be scoped in to the EIA, as detailed in the Scoping Report, the Developer is also directed to the list of impacts detailed in the MCA representation and it is advised that consideration should be given to the additional impacts included there.
- 5.9.8 The Developer is also directed to the UKCoS representation which states that risks to vessels during the construction and operational phases, particularly those utilising nearby shipping lanes, should be fully assessed.
- 5.9.9 The Scottish Ministers are in agreement with the representation made by UKCoS in that the EIA should evaluate how emergency anchorage or vessel refuge procedures will be managed within the vicinity of the wind farm. In line with the UKCoS representation, it is recommended that the Developer liaises with the MCA and any other relevant bodies to ensure that the emergency response protocols are robust and that navigation safety is not compromised during the lifecycle of the Proposed Development.
- 5.9.10 The Developer is further referred to the NLB response which advises that consideration should be given to potential of any wreck within the array area, either that of a vessel or a WTG. The Scottish Ministers are in agreement with this and advise the Developer to include this in the EIA Report.
- 5.9.11 The Developer details its proposed embedded mitigation measures in section 14.5.3 of the Scoping Report. The Scottish Ministers are in agreement with the measures set out but also note consideration given in section 14.11.1 of additional mitigation measures following the NRA process and as a result of on-going discussion with stakeholders.
- 5.9.12 The Scottish Ministers are in agreement with the Developer's commitment to explore the cumulative effects of the Proposed Works in combination with other projects. It is expected that the Developer will provide greater detail on the projects to be included in this assessment as the Proposed Works evolve.

## **5.10 Aviation and Radar**

- 5.10.1 The Scottish Ministers are broadly content with the study area identified in Section 15.2 of the Scoping Report.
- 5.10.2 The Scottish Ministers highlight the Aberdeen Airport representation stating that the Proposed Development is located within the wind farm and instrument



flight procedure consultation zones for Aberdeen Airport. Consequently, the Developer should include consideration of such aviation impacts in the EIA Report.

- 5.10.3 The Scottish Ministers draw the Developer's attention to the representation from NATS which predicts that the Proposed Development conflicts with its safeguarding criteria. The Scottish Ministers therefore recommend that the Developer engages with NATS on the matter. This impact must be assessed, and appropriate mitigation proposed, in the EIA Report.
- 5.10.4 The Scottish Ministers note the Aberdeen Airport representation that mitigation is highly likely to be required as the proposed turbines are likely to be detected by Aberdeen Airport's primary surveillance radars. The Developer should consider appropriate mitigation measures within the EIA Report.
- 5.10.5 The Scottish Ministers are in agreement with and refer the Developer to the MOD representation with regards to potential impacts on aviation and radar receptors. The Scottish Ministers advise that, in addition, consideration should be given to Military Low Flying Training in the EIA Report and the suggested mitigation measures should be taken into account.
- 5.10.6 With further regards to mitigation measures, the Scottish Ministers highlight that, although detailed assessment of instrument flight procedure should be included in the EIA Report, it may not be possible to mitigate any impacts identified through this assessment. Consequently, the Developer should engage with Aberdeen Airport on this matter as soon as possible.

## **5.11 Infrastructure and Other Users**

- 5.11.1 This Developer's approach to consideration of potential impacts on infrastructure and other users expressly excludes those receptors which are covered elsewhere, for example, commercial fisheries or shipping and navigation.
- 5.11.2 Within the Scoping Report the Developer outlines two study areas, a local study area and a regional study area in order to assess impacts on different groups of infrastructure and other users of the marine environment. The Scottish Ministers are broadly content with this approach and the study areas as detailed.
- 5.11.3 The Scottish Ministers are also broadly content with the data sources used by the Developer and with the baseline characterisation provided.
- 5.11.4 In the text the Developer outlines the receptors which may be impacted by the Proposed Development and then in Tables 16.3 and 16.4 respectively lists those impacts that it proposes to scope in and out of the EIA. The Scottish

Ministers are content with the method of assessment adopted and with those impacts to be scoped in and out.

- 5.11.5 The Scottish Ministers are in agreement with, and refer the Developer to, the representations from UKCoS and MCA in which the need to consider the potential interactions between the Proposed Development and the other existing or planned offshore projects in the region, is highlighted. The Scottish Ministers concur with both of these responses, which advise that the EIA should evaluate cumulative impacts on shipping and navigation, ensuring that vessel routes remain unobstructed and navigational risks are minimised.
- 5.11.6 With regards to mitigation, the Developer has identified groups of other users of the area that maybe impacted by the Proposed Development and the intensity of their usage. The Developer states that designed-in mitigation against potential impacts on these groups shall be developed as the EIA process continues. The Scottish Ministers are in agreement with this strategy.
- 5.11.7 The assessment of cumulative impacts between this and other projects shall be carried out in line with the general approach for all receptors detailed in Chapter 4 of the Scoping Report. The Scottish Ministers accept this approach.

## **5.12 Major Accidents and Disasters**

- 5.12.1 The Developer has provided details of its consideration of major accidents and disasters as relates to the Proposed Development in Chapter 17 of the Scoping Report. This chapter states that all identified hazards will be assessed within the appropriate receptor chapters of the EIA Report or will be managed via adherence to industry requirements, Risk Assessment Method Statements and/ or management plans. As a result, the Developer has scoped out a standalone chapter on the assessment of major accidents and disasters.
- 5.12.2 The EIA Report must include a description and assessment of the LSE 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.
- 5.12.3 The Scottish Ministers advise that existing sources of risk assessment or other relevant studies should be used to establish the baseline rather than collecting survey data and note the IEMA Primer provides further advice on this. 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.

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

### **5.13 Socio-Economics, Tourism and Recreation**

- 5.13.1 The Scottish Ministers are broadly content with the study areas as detailed in Section 18.2 of the Scoping Report however, in line with the 25 October 2024 MD-SEDD representation, advise that the assessment of socio-economic impacts would benefit from the inclusion of a shortlist of potential epicentres of impact. The Scottish Ministers welcome the idea to discuss hypothetical areas of impact and analysis using port location scenarios to identify potential local study areas however, alongside MD-SEDD advice in section 1.1, agree that scenario mapping should not replace primary research with stakeholders and local communities.
- 5.13.2 The Scottish Ministers, supported by MD-SEDD's 25 October 2024 representation, advise the Developer that a full Socio-Economic Impact Assessment ("SEIA") should be included within the EIA Report. The Scottish Ministers draw attention to Annex 1 of the aforementioned MD-SEDD advice which may be of assistance when developing the SEIA.
- 5.13.3 With regards to baseline data, the Scottish Ministers, in line with the MD-SEDD advice received on 25 October 2024, advise that the most up-to-date data sources should be used for all analysis.
- 5.13.4 The Scottish Ministers are generally content with the impacts scoped in, per Table 18.4 of the Scoping Report. However, in line with MD-SEDD's 25 October 2024 advice, disagree with the scoping out of socio-cultural impacts during the decommissioning phase. The Developer should scope this impact pathway into the EIA Report for the decommissioning phase.
- 5.13.5 The Scottish Ministers are broadly content with the proposed assessment approach noted in Section 18.7 of the Scoping Report and agree with MD-SEDD's 25 October 2024 advice that the assessment should take into account deadweight, leakage, displacement and substitution and that sensitivity analysis will be performed. The Scottish Ministers refer the Developer to Annex 1 of the aforementioned MD-SEDD advice for guidance.
- 5.13.6 The Scottish Ministers recommend the Developer includes additional analysis regarding potential job creation in comparison to existing jobs in the study area

in the EIA Report, as outlined in the 25 October 2024 MD-SEDD advice. In addition, the Scottish Ministers agree with the aforementioned MD-SEDD advice that a detailed description of the methodology used to assess economic impacts must be included in the EIA Report, outlining the methodological approach taken and any key assumptions that underpin any estimates.

- 5.13.7 The Scottish Ministers highlight the 25 October 2024 MD-SEDD advice about the use of social researchers with experience in qualitative methods to conduct research and primary data collection with communities. The Developer is encouraged to adopt this approach.

#### **5.14 Marine Archaeology**

- 5.14.1 The Scottish Ministers are content with the data sources, detailed in Table 19.1, and are in agreement with the study area, shown in Figure 19.1, and the baseline characterisation of marine archaeological interests described, in Section 19.5, of the Scoping Report. This position concurs with the representation received from HES during the scoping consultation.
- 5.14.2 The Scottish Ministers note the Developer's intention to carry out archaeological assessment of the site-specific geophysical survey area which will provide further information on the potential for submerged prehistoric archaeology within the Marine Archaeology Study Area. As per the HES representation the Scottish Ministers agree with this approach and stress that any such survey work should be undertaken in a manner that facilitates its archaeological analysis and use.
- 5.14.3 The Scottish Ministers also note that there are a number of identified wrecks and possible wreck sites within the study area, some of which may be subject to the Protection of Military Remains Act 1986. The Scottish Ministers reiterate, as detailed in the HES representation, that physical impacts should be avoided with any of these features.
- 5.14.4 The Scottish Ministers note Aberdeenshire Council's agreement with the proposed assessment methodology as outlined in section 19.8 of the Scoping Report and share this position.
- 5.14.5 The Scottish Ministers are in agreement with the lists of impacts to be scoped into the EIA and the justification for those not to be included at particular phases of the Proposed Development as shown in Table 19.4 of the Scoping Report. This is in agreement with the Aberdeenshire Council representation and with the HES representation which states that it is content that potential impacts on marine archaeology have been adequately identified.

- 5.14.6 The Scottish Ministers, in line with both the Aberdeenshire Council and the HES representation, are also in agreement with the embedded mitigation strategies proposed by the Developer in section 19.6.1 of the Scoping Report. The Scottish Ministers are also content with the Proposed Development of a marine archaeological Written Scheme of Investigation and a Protocol for Archaeological Discoveries and advise that these documents should be developed as part of the EIA reporting process. This is in keeping with the representation submitted by HES.
- 5.14.7 The Scottish Ministers are content with the Developer's approach to assessment of cumulative effects and also with the with the position that there is no potential for transboundary impacts on marine archaeology due to the Proposed Development at any phase.

### **5.15 Seascape, Landscape and Visual Impact**

- 5.15.1 The Scottish Ministers broadly agree with the study area for seascape and landscape visual impact outlined in Section 20.2 of the Scoping Report. This is supported by Aberdeenshire Council.
- 5.15.2 The Scottish Ministers recommend including an additional viewpoint from the Angus Shoreline (near Ethie Haven or Dunninald Castle) to those already identified in Table 20.2 of the Scoping Report and seascape, landscape and visual impacts should be clearly illustrated in the form of wireframe, photomontage or visualisations. This is supported by Angus Council.

### **5.16 Cultural Heritage**

- 5.16.1 The Scottish Ministers, in line with the Aberdeenshire Council representation, are generally content with the Developer's approach to the assessment of potential impacts on the cultural heritage receptor group. In particular the data sources referred to, the study area and baseline characterisation, and the method of assessment are all satisfactory.
- 5.16.2 In line with the representations received from HES and Aberdeenshire Council, Scottish Ministers are content with the method of assessment detailed in Section 21.7 of the Scoping Report and with the impacts to be scoped in or out of the EIA at various stages of the Proposed Development as detailed in Tables 21.4 and 21.5, respectively. The Scottish Ministers are content with the justification provided for scoping out potential cultural heritage impacts during the construction and decommissioning phases.
- 5.16.3 The Scottish Ministers are content with the embedded mitigation measures suggested by the Developer in Section 21.5 of the Scoping Report and note the intention that these should evolve as the Proposed Development, including the EIA process, progresses.

5.16.4 In agreement with representations received, the Scottish Ministers are content with the Developer's approach to cumulative effects caused by the Proposed Development in combination with other, similar developments in the vicinity. They are also in agreement with the Developer's conclusion presented in Section 21.10.1 that there is no potential for transboundary impacts on cultural heritage due to the Proposed Development.

### **5.17 Climate Change**

5.17.1 The Developer considers potential impacts on climate change and greenhouse gas emissions as result of the Proposed Development in Chapter 22 of the Scoping Report. The Scottish Ministers are broadly content with the Developer's approach to this aspect of the EIA. NatureScot also provided comment on this chapter in their representation.

5.17.2 The Scottish Ministers note the Developer's reference to, and highlight, the IEMA Environmental Impact Assessment Guide "Assessing Greenhouse Gas Emissions And Evaluating Their Significance" ("IEMA GHG Guidance")<sup>8</sup>, 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 confirm that, as per section 22.2.2 of the Scoping Report, the EIA Report must include a GHG Assessment which should be based on a Life Cycle Assessment approach and note that the IEMA GHG Guidance provides further insight on this matter. The Scottish Ministers highlight that this 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.

### **5.18 Offshore Water Quality and Water Framework Directive**

5.18.1 The Scottish Ministers acknowledge Table 23.5 within the Scoping Report which provides an overview of technical topics scoped in and scoped out of further assessment within the EIA Report.

5.18.2 The Scottish Ministers advise the Developer to engage with the regulator SEPA with regard to the assessment for the Water Framework Directive compliance. The Scottish Ministers provide no further comments.

### **5.19 Other Environmental Topics**

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<sup>8</sup> [IEMA - Launch of the Updated EIA Guidance on Assessing GHG Emissions - February 2022](#)

- 5.19.1 The Scottish Ministers acknowledge Section 24.2 of the Scoping Report which notes topics that are proposed to be scoped out of further consideration in the EIA Report as they will be considered within relevant receptor chapters. The Scottish Ministers are content with what is proposed and provide no further comment.
- 5.19.2 With regards to offshore airborne noise and vibration, the Scottish Ministers recommend the SMWWC is used to minimise disturbance to marine mammals from noise from piling and construction activities. This is supported by NatureScot.
- 5.19.3 The Scottish Ministers acknowledge the Developer's proposal to scope out offshore air quality for the offshore elements of the Proposed Development from further assessment in the EIA Report. The Scottish Ministers are content with what is proposed and provide no further comments.

## **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 The Conservation (Natural Habitats, &c.) Regulations 1994. 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 principal decision, assessment must be undertaken at the subsequent stage.
- 7.1.2 The definition in the 2017 EW Regulations is as follows (the definition in the 2017 MW Regulations provides for the same but in relation to “regulatory approvals”): *“application for multi-stage consent” means an application for approval, consent or agreement required by a condition included in a regulatory approval where (in terms of the condition) that approval, consent or agreement must be obtained from the Scottish Ministers before all or part of the development permitted by the Electricity Act consent may be begun*”.
- 7.1.3 A s.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.

Kirsten Watson

25 November 2024

Authorised by the Scottish Ministers to sign in that behalf.

**Appendix I: Consultation Responses & Advice**

*Please refer to separate document provided alongside Scoping Opinion*

**Appendix II: Gap Analysis**

*Please refer to separate document issued alongside Scoping Opinion.*