

SR/SOWEC Barriers to Deployment
Risk 1: Strategic Compensation & Habitats Regulations

Email to: MarineRecoveryFund@gov.scot

Cc: Alison.Gilfillan@gov.scot; joel.hankinson@gov.scot; Richard.McLeod@gov.scot;
Lucy.Law@gov.scot; Rebecca.Young@gov.scot



September 26, 2025

Marine Recovery Fund
Scottish Government
Area 3G South, Victoria Quay
Edinburgh, EH6 6QQ

Dear Lucy Law,

Response to: Scottish Government Scottish Marine Recovery Fund Consultation (August 19, 2025)

Scottish Renewables is the voice of Scotland's renewable energy industry. Our vision is for Scotland to lead the world in renewable energy. We work to grow Scotland's renewable energy sector and sustain its position at the forefront of the global clean energy industry. We represent over 380 organisations that deliver investment, jobs, social benefit and reduce the carbon emissions which cause climate change.

Our members work across all renewable technologies in Scotland, the UK, Europe and worldwide, ranging from energy suppliers, operators and manufacturers to small developers, installers, and community groups, as well as companies throughout the supply chain. In representing them, we aim to lead and inform the debate on how the growth of renewable energy can provide solutions to help sustainability heat and power Scotland's homes and businesses.

Scottish Renewables welcomes the opportunity to provide our view on the Scottish Government's Scottish Marine Recovery Fund consultation.

In response to this consultation, our members have highlighted the following key points, which are covered in further detail below:

- **Scottish Renewables supports and welcomes the proposal to implement a Scottish Marine Recovery Fund (MRF)** to fulfil environmental compensation requirements for offshore wind projects whose construction would result in adverse impacts on the features of protected sites in Scotland.
- We wish to highlight the urgency of the implementation of the Scottish MRF. Our members consider the timely establishment of a Scottish MRF essential to provide confidence in the deliverability of required compensation measures and to enable the deployment of Scotland's offshore wind pipeline, and would welcome an updated timeline on projected delivery.
- We wish to emphasise the importance of alignment between the UK MRF and the Scottish MRF, as a consistent approach across jurisdictions will provide clarity and coherence for developers operating across different parts of the UK. The exact mechanisms of interaction between the two Funds remain unclear. There must be clear guidelines produced on how the Funds will manage overlapping responsibilities and how they will account for projects with cross-border impacts that choose to discharge their compensation requirements across both funds.

- Further guidance is required on the process by which offshore wind projects that have already submitted, or are close to submitting, their consent applications can apply to the Scottish MRF and secure the discharge of their compensation obligations through an initial payment. Projects that are further along in the consenting process must not be penalised in comparison to projects that will submit their consent applications after the establishment of the Scottish MRF.
- Our members seek clarity on projected costs and request that the points at which a project pays into the Scottish MRF align with the development and financing of offshore wind projects. We recommend a flexible approach to payment plans to reflect the diversity of projects.
- Members do not agree that the adaptive management charge, and other overpayments into the Scottish MRF, should be non-refundable, and would prefer a flexible model that better reflects the actual environmental impact of a project and allows for recycling or refunding of surplus funds if compensation measures overperform or if the environmental impacts of a project are subsequently demonstrated to be less than forecast during the consenting process.
- Current methods for estimating a project's impacts are highly precautionary, and predicted mortalities requiring compensation are an overestimate of likely impacts. Therefore, the compensation required to offset these adverse impacts is also an overestimate. The Scottish MRF needs to be designed to address a situation in which a project's predicted adverse impacts, and hence compensation requirement, decrease in the future.
- We are aware that NatureScot will need sufficient resources to enable it to progress the Scottish offshore wind pipeline. A lack of resource already constrains the advice that SNCBs can provide to projects and the regulator, and the additional demands placed on them by proposed environmental legislation reforms and MRFs will further exacerbate the problem. We thank the Scottish Government and NatureScot for their ongoing engagement, and welcome their continued support, in addressing this issue.

It is understood that the concerns and matters raised by our members, as outlined below, will be fully considered. Scottish Renewables would be keen to engage further with this agenda and would be happy to discuss our response in more detail.

Yours sincerely,

Alice Tirbooman
Offshore Wind Policy Officer
atirbooman@scottishrenewables.com
 Scottish Renewables

RESPONSE TO CONSULTATION QUESTIONS:

1. Do you agree with our proposal that developers choose which MRF to apply to in the circumstances outlined below?

The text below in blue is pasted from the consultation and details the circumstances referenced in Question 1:

Application process

The process for offshore wind developers to apply to a Scottish MRF will be separate from, but parallel to, the existing Scottish offshore wind consenting process. Primarily, the application process to the Scottish MRF will align with the established process for applying for a consent under section 36 of the Electricity Act 1989.

The full application process will be detailed in the guidance, which will be published alongside the launch of the Scottish MRF in autumn. The sections below outline the key stages of the application process for offshore wind developers of projects within and outside Scottish waters.

Projects or plans located in Scottish waters

[1] Scottish waters include the Scottish inshore region (between 0 and 12 nautical miles (nm)) under the Marine (Scotland) Act 2010, and in the Scottish offshore region (between 12 and 200 nm) under the Marine and Coastal Access Act 2009.

It is anticipated there will be multiple points in the section 36 application process where offshore wind developers will be able to express interest in or apply to the Scottish MRF. In most cases, we expect the developer would initially identify a need for compensation measures either as they draft their Environmental Impact Assessment (EIA) and supporting application information or at the submission of their section 36 consent application. At either of these stages the developer can submit an Expression of Interest (EOI).

We are exploring the feasibility of undertaking derogation of the Updated Sectoral Marine Plan for Offshore Wind Energy as a whole. If this plan-led approach to determining developers' compensation requirements is taken, this estimate of compensation need could be used to inform the EOI. We are exploring the feasibility of undertaking derogation of the Updated Sectoral Marine Plan for Offshore Wind Energy as a whole.

The Scottish MRF Operator will review the EOI and, if suitable compensation is expected to be available in the Scottish MRF, will confirm to the developer that the degree of compensation requested is available. The developer will then pay an initial fee to provisionally reserve access to appropriate compensation through the Scottish MRF.

The developer will make a full application to the Scottish MRF following the outcome of the Appropriate Assessment (AA) undertaken by the competent authority, which for projects located in Scottish waters is Scottish Ministers. At this stage, the developer can revise their request for compensation to address the impacts identified by the AA.

The Scottish MRF Operator will consider the full application, including any revisions, and will confirm the total fee required to deliver the compensation through the Scottish MRF. The contract

will then be agreed between the developer and the Scottish MRF Operator, formalising the agreement for the developer to access compensation measures through the Scottish MRF, subject to a section 36 consent being granted. A developer may be able to use the contract and confirmation from the Scottish MRF Operator to support their section 36 application, as evidence that compensation measures are secured.

If the developer is subsequently granted a section 36 consent, requirement to pay into the Scottish MRF may be included as a condition attached to the section 36 consent.

Prior to the formal establishment of the Scottish MRF, offshore wind developers with projects in Scottish waters interested in addressing their compensation requirements through the Scottish MRF should indicate this in their section 36 consent application.

Until such time as the Scottish MRF is operational, offshore wind developers will be expected to identify other appropriate measures to deliver the necessary compensation for their projects. However, developers may wish to refer to the use of the Scottish MRF as a contingency measure should their own compensation measures not develop as planned.

Projects of plans located in English, Northern Irish or Welsh waters

Offshore wind developers with projects located in English, Welsh or Northern Irish waters can express interest in or apply to the Scottish MRF to compensate for adverse effects to sites in Scottish waters. It is most likely that the developer would initially identify a need for compensation measures during the pre-application stage of the consent process, such as during the EIA, preparing the draft report to inform the AA or during the Habitats Regulations assessment stages.

The offshore wind developer would make a full application to the Scottish MRF following the outcome of the AA undertaken by the competent authority, which will vary depending on the location of the project. At this stage, the developer can revise their request for compensation to address the impacts identified by the Appropriate Assessment.

If the offshore wind developer is subsequently awarded a consent, the requirement to pay into the Scottish MRF may be included as a consent condition.

- ☒ Yes
- ☐ No
- ☐ Don't Know

Please give reasons for your answer:

Scottish Renewables supports the proposed approach by which developers can access the Scottish Marine Recovery Fund (MRF). We welcome the intention to align the MRF with the Scottish MRF, as a consistent approach across jurisdictions will provide clarity and coherence for developers operating in different parts of the UK, provided that there are clear, pre-set criteria to determine eligibility.

We would welcome further clarity on how projects that have already submitted an application with a compensation plan, or that will submit an application in the future, can access the Scottish MRF in the near future, including an update on the timelines for the Scottish MRF implementation.

Members would also welcome clarification and binding protocols on apportionment of liability, monitoring responses and dispute resolution.

It is appropriate that developers can choose between the Scottish MRF and the UK MRF where impacts cross jurisdictions, as choice reduces administrative friction and allows developers to select the fund whose measures and timing best fit their project consenting pathway. We note, however, that this approach may add complexity, as English and Welsh projects may have adverse effects on features of protected areas in England or Wales that can only be addressed through compensation in Scotland. Having two separate MRFs to address the impacts of a single project could add difficulty in ensuring that a project's adverse effects are fully compensated. If proposed measures are unsuccessful and adaptive management is required, the transboundary accountancy will become even more complicated. Therefore, the two MRFs will need to regularly exchange information on the extent to which projects outwith their jurisdiction are compensating for impacts. We seek clarification on whether the geographical location of where measures are delivered will affect which Fund the measure sits in, and recommend that measures delivered in Scotland be available only through the Scottish MRF to avoid competition between the two Funds. We would also strongly recommend creating a centralised mechanism through which the two MRFs can record and track each project's compensation to ensure that impacts are quantified and projects can discharge their compensation requirements correctly.

2. Do you agree with the proposal for the way in which the two MRFs will interact to address cross-border impacts?

- ☒ Yes
- ☐ No
- ☐ Don't Know

Please give reasons for your answer:

We broadly agree with the proposed approach for how the MRF and the Scottish MRF will interact to address cross-boundary impacts. It is essential that the two Funds are coordinated and that compensatory measures and accounting mechanisms are aligned across jurisdictions to reduce the risk of double-counting, gaps in compensation or conflicting outcomes. This alignment will help ensure a more integrated and ecologically coherent approach to environmental protection, particularly for species and habitats that span multiple regions. To further enhance coordination, we recommend producing clear guidelines on how the Funds will manage overlapping responsibilities. Strong mechanisms for communication and collaboration between the managing bodies of the two Funds will be critical to ensure transparency, accountability and smooth delivery of compensation at scale.

We welcome the flexibility to use either Fund where cross-boundary effects occur, as well as the potential for flexibility in accessing measure capacity across both Funds. This will be crucial in supporting the development of a broader, interconnected network of strategic compensation sites. While acceptance into either Fund should remain at the discretion of the respective MRF Operators, allowing for cross-fund coordination on measure capacity would strengthen the overall effectiveness and resilience of the compensation framework.

We would welcome clarification around the role of Statutory Nature Conservation Bodies (SNCBs) in addressing cross-boundary impacts and strongly recommend the production of clear guidance on how statutory advisory responsibilities will be managed in cross-jurisdictional scenarios. The

consultation indicates that projects will only need to apply to their host country MRF (unless they wish to use both the MRF and the Scottish MRF), which should avoid dual compensation burdens and prevent Scottish projects from being subject to English requirements, such as Offshore Wind Environmental Standards (OWES). However, as Natural England would continue to be a consultee in relation to any impacts from Scottish projects on English SPAs, the scope of their role and ability (or not) to comment on compensation proposals linked to the Scottish MRF may need to be clarified. Our members do not support Natural England being a decision maker for projects applying to the Scottish MRF and/or having the ability to object or request certain compensations, as this will delay and complicate the consenting and assessment process, rather than help streamline it. Instead, these powers should solely be reserved for NatureScot in Scotland. Ensuring this is clear and managed correctly from the outset is crucial to avoid duplication of effort, ensure consistency in decision-making and provide greater certainty for developers navigating the MRF process.

3. Do you agree with the proposed approach for making an application to the Scottish MRF and how it will interact with the existing offshore wind application and determination process?

- ☒ Yes
☐ No
☐ Don't Know

Please give reasons for your answer:

Scottish Renewables agrees in principle with the proposed approach for making an application to the Scottish MRF and how it will interact with the existing offshore wind application and determination process, so long as the application steps are tightly integrated with the Section 36/Habitats Regulations Appraisal (HRA) timetable and do not create an approval bottleneck.

However, Scottish Renewables' members have identified several points that should be considered and clarified around the application process:

- The proposed approach for making an application to the Scottish MRF is clear for projects which have not yet submitted a section 36 application. However, many projects which have submitted an application or are close to submission may also wish to discharge some or all of their compensation obligations through the Scottish MRF. Further clarity is needed for these projects on how they can access the Scottish MRF.
- It is also unclear whether projects could access the Scottish MRF if their project-specific compensation was deemed unsuitable or if this was required as part of an adaptive management approach. Whether this was necessary might not be known until years into a wind farm's operation if monitoring showed that project-specific compensation was not working as anticipated.
- Concerns have been raised over application timelines. Applicants must be able to signal intent and obtain a reservation without delaying the AA process. We recommend that the Scottish MRF offer staged entry points, for example: an early statement of intent at EIA/scoping; a reservation step post-AA; and a final sign-off that can be made a condition of consent. Time limits for Fund decision-making should be published to avoid adding consenting delay.
- The consultation paper suggests that a full application to the Scottish MRF will be made following the outcome of the AA. However, this is too late in the consenting process. Developers need to understand the potential costs of compensation through the Scottish

MRF to inform their decisions on whether to use the Scottish MRF or develop project-specific measures. Under this application process, the cost would not be understood until after completion of the AA (normally just before determination). This means projects will need to carry cost uncertainty until a late stage in the consenting process, which would present a significant risk to projects should compensation be found to be unavailable or too costly. We recommend that a reasonable estimate of cost and availability be provided at the time the Expression of Interest (EOI) is submitted, allowing projects sufficient time to develop project-specific measures if necessary.

Additionally, we request further clarity on the proposed plan-led approach to projects' compensation. We support, in principle, a plan-led approach to project consenting, but have concerns about the mechanism by which the Sectoral Marine Plan would be used to define the compensation requirement for each individual project. We would welcome further discussion with the Scottish Government on this.

4. Do you agree that the Scottish MRF should be a voluntary mechanism, including in relation to strategic compensation?

- ☒ Yes
- ☐ No
- ☐ Don't Know

Please give reasons for your answer:

The Scottish MRF should be a voluntary mechanism, enabling projects to choose whether they deliver their compensation through bespoke, project-specific measures and/or the Scottish MRF. This flexibility allows projects to build a robust compensation plan that could potentially be delivered through both project-specific and Scottish MRF measures. Additionally, many Scottish projects have already submitted, or have already developed, a compensation plan based on project-specific measures. Whilst a project may choose not to develop these measures further and instead use the Scottish MRF, there may be some project-specific measures that a project would like to retain. Care should be taken to ensure that the Scottish MRF does not become a competitor to project-specific measures.

Making the fund voluntary also reduces legal and regulatory complexity, aligning with the principles used in the UK MRF design. To be an effective and attractive option to offshore wind developers, the fund must provide sufficient incentives. Our members recognise and welcome the certainty provided by the Scottish MRF around the ability of projects to discharge their compensation requirements. However, the fund should also provide demonstrable time savings, transparency and competitive pricing compared with bespoke, project-specific interventions. Critically, the Fund must not delay consenting, and ideally should accelerate consenting decisions.

5. Do you agree with the proposal of an initial payment to secure access to appropriate compensation?

- ☒ Yes
- ☐ No
- ☐ Don't Know

We agree with the proposed initial payment to secure access to compensation in principle, as it will help deter speculative applications while supporting fund planning to ensure the Scottish MRF is operational and effective as soon as possible. However, the fee structure should be proportionate; any initial fee must not be set at a level that dissuades legitimate applicants from applying to the Scottish MRF in the first place. The fee structure must also be transparent, and adjustable or refundable to account for scenarios in which project timelines change, consent is not granted, or if it is subsequently determined by SNCBs or the competent authority that compensation measures are not required or are not required to the same level as was initially indicated. This will avoid penalising genuine applicants facing unforeseen delays. Our members would strongly favour a process which allows for partial refunds of initial payments (minus administrative costs) where the requirement for compensation is waived.

There is a pressing need for clarity on how projects that have already identified the MRF as a potential compensation measure delivery mechanism in their application, particularly where that application has already been submitted, can more formally apply to use the MRF and make payments to secure their involvement. For projects applying now, there is only an outline indication of how this could work. Projects progressing on this basis should not be disadvantaged for bringing forward an application before a more detailed process is available.

6. Do you support the proposal that the MRF Operator will be responsible for assigning appropriate compensation to projects?

The text below in blue is pasted from the consultation and details the circumstances referenced in Question 6:

The compensation assigned to the application by the Scottish MRF Operator will be based on the scale and nature of the adverse effect of the project and will determine the full cost to the applicant. Cost of the compensation to an applicant will include the applicant's share of the cost to deliver, maintain, monitor and, if necessary, decommission a measure.

- ☒ Yes
- ☐ No
- ☐ Don't Know

Scottish Renewables agrees that the MRF Operator should be responsible for assigning appropriate compensation to projects. This will ensure that compensation measures are distributed fairly amongst developers and will ensure that costs are proportionate to the level of impact, as opposed to a first-come, first-served scenario. The MRF Operator, acting on behalf of the competent authority, should determine what the compensation requirements are for a project. The project may then either opt to deliver the measures through project-specific measures or through an MRF. Developers should have no role in influencing what those measures are, beyond ensuring that their financial contributions are being applied correctly against the agreed compensation package. This approach provides legal clarity, maintains the integrity of the derogation process, and ensures that compensation is delivered objectively, in line with ecological needs rather than project preferences. This approach also ensures that NatureScot and the Scottish Government are content that a project is fully compensating for their predicted impacts, thereby removing uncertainties associated with project-specific measures.

7. Do you agree that any payments made into the Scottish MRF will be non-refundable?

- ☐ Yes
- ☒ No
- ☐ Don't Know

We recommend providing refunds on a flexible, case-by-case basis.

We consider non-refundable reservation or administrative charges acceptable, as the MRF Operator will incur costs associated with compensation delivery and administering the Fund. However, our members would prefer the option of refundable payments into the Scottish MRF to safeguard against scenarios in which payments have not been used, the MRF fails to deliver, or where consent is refused through no fault of the developer.

8. Do you support a full cost recovery model for the Scottish MRF?

- ☒ Yes
- ☐ No
- ☐ Don't Know

Scottish Renewables supports a full cost recovery model for the Scottish MRF. It would need to be operated under a full cost recovery model to ensure it has sufficient funding to operate efficiently and to provide Scottish projects with the compensation required to allow them to discharge their consent conditions related to compensation. Without a full cost recovery model, there is a high risk of delays to the implementation and operation of the Scottish MRF due to a lack of government funding.

9. If options are available, do you have a preference for whether the total payable to secure compensatory measures should be paid in a single lump sum or through a payment plan?

- ☐ Lump sum
- ☒ Payment plan
- ☐ Either

Please give reasons for your answer:

We would welcome the inclusion of flexible payment options, particularly the ability to choose scheduled payments rather than being limited to a lump-sum approach. Our members' preference is for a payment plan that allows for instalments, as this would support better cashflow management and align payments more closely with project milestones. An annualised payment structure may suit projects with predictable timelines, while more tailored instalment plans could be better suited to complex or longer-term developments. Requiring a one-off lump sum payment could place unnecessary financial pressure on developers, especially for larger projects, and may ultimately discourage participation.

10. Do you agree with the proposal that a 30% adaptive management charge will be charged to all applicants to the Scottish MRF?

The text below in blue is pasted from the consultation and details the circumstances referenced in Question 10:

Adaptive Management

Adaptive management is the adjustment or replacement of a compensation measure, if monitoring identifies that a current measure is partially or not effective or not otherwise operating as intended, to ensure that compensation is still secured.

Appropriate monitoring of measures will be undertaken by the Scottish MRF Operator (or another body on their behalf) to ensure that intended environmental benefits are being realised. The type and frequency of monitoring will depend on the measure and may vary over the measure lifetime. If monitoring finds a measure is not functioning as intended, the Scottish MRF Operator will utilise the adaptive management plan for the measure, to ensure that environmental compensation required by the consent is delivered or an alternative compensation measure can be deployed.

The adaptive management charge for the Scottish MRF will be set at 30% of the total estimated cost of delivery, maintenance, monitoring and any decommissioning of the measure and will be applicable to all measures.

The charge has been set at 30% to reflect inherent uncertainty in calculation costs and delivering measures over the long term, to ensure sufficient fund liquidity to meet all relevant fund obligations, and to comply with subsidy control regulations.

The Scottish MRF Operator will use this charge to fund adaptive management for measures. This may include;

- modification if the measure is not functioning as intended
- any adjustments needed to improve the measure's efficacy, including if the measure has been delivered to specification but has failed to deliver the intended outcome
- agreeing a new measure where there is a reasonable guarantee that a new proposed measure will meet the required objectives

The adaptive management charge will not include adjustments to the quantity of compensation required if the competent authority decides that the adverse effect has been greater than was specified in the original consent. The charge will also not include adjustments to the type of compensation if the competent authority decides that the adverse effect has been different to what was specified in their original consent, and a different measure is now required. For example, if a project that had been predicted to only have an adverse effect on seabirds is later revealed to be having benthic impacts, the adaptive management cost will not cover the required benthic measure.

These adjustments would be considered outside the scope of the adaptive management charge, as the charge is linked to the specific quantity and type of compensation that was agreed between the applicant and the Scottish MRF Operator. To accommodate these adjustments, the applicant would have to source the additional compensation themselves or apply for further compensation through the Scottish MRF, if suitable compensation was available.

The adaptive management charge will be non-refundable, and any unused funds from this charge will be redistributed across the Scottish MRF to meet other relevant costs.

As part of the adaptive management charge process, the following will also be agreed;

- the Scottish MRF Operator will be responsible for delivery of the compensation specified in the applicant's contract with the Scottish MRF Operator
- if monitoring data shows that a measure is not functioning as expected, the Scottish MRF Operator will be responsible for delivering adaptive management
- if a measure does not require adaptive management during its lifespan, the adaptive management charge paid will remain non-refundable

If a project delivering their own project-level compensation without using the Scottish MRF required an alternative measure as part of their adaptive management process, they could apply for use of the Scottish MRF to deliver this. If the measure they require is available via the Scottish Government's portfolio of strategic compensatory measures, applicants would follow the same Scottish MRF application process. These applicants would still be subject to the adaptive management charge.

- ☐ Yes
☒ No
☐ Don't Know

We generally support the proposed approach to adaptive management outlined in the consultation, as it provides a structured process for refining compensation measures in response to new data and monitoring outcomes. This is essential to ensuring that compensation remains effective throughout the project lifecycle. However, we find the requirement that all applicants to the Scottish MRF must pay a 30% adaptive management charge disproportionate and unrelated to the actual probability of a particular measure requiring adaptive management.

We recommend a flexible approach to the adaptive management charge that accounts for the level of confidence in a particular measure's ability to deliver the required environmental impact. Simple measures with a high level of confidence are unlikely to need adaptive management, and this should be reflected in the upfront charge. We would also recommend including provisions to reassess the charge in cases where compensation measures significantly overperform or where the actual environmental impacts of a project are found or demonstrated to be lower than initially assessed. Allowing developers to review and potentially adjust their financial commitments in such cases would promote fairness and help avoid disproportionate costs for projects that exceed their ecological expectations.

The additional information (above) indicates that once payment is made, the MRF may use this money to fund other measures if evidence indicates that the initially selected measure is less effective than first predicted. While we would prefer an approach that allows for the recovery of unutilised funds, we note that any surplus generated through an adaptive management charge that is not required for covering adaptive management costs must contribute to developing further SCMs, with documentation of how this money is being deployed. Additionally, if compensation is successful and the funds provided for adaptive management are consistently not used, there should be room to revise and scale back the predicted costs and expectations for adaptive management.

11. Do you agree with the proposal that the 30% adaptive management charge will be non-refundable?

- ☐ Yes
☒ No
☐ Don't Know

Adaptive management charges should be used for their intended purpose; any unspent funds, after a suitable monitoring and review period, should be recyclable or refundable. Non-refundable adaptive management charges without exception risk inequity and may undermine trust. There must be a clear accounting process for adaptive funds, including periodic reporting, and a mechanism for surplus redistribution or rebate if contingencies are not used within a defined timescale.

Where actual costs of delivering a particular measure are lower than predicted, developers should receive a refund on surplus funds, including a pro rata refund on the 30% adaptive management charge. We recommend a flexible approach to refunds of all fees, including the adaptive management charge, with refunds agreed on a case-by-case basis. If the competent authority decides that a project no longer requires compensation, but the project has already paid the 30% adaptive management fee, a refund should be available to the project.

12. Do you agree with the proposal that surplus funds may be used for further development of measures?

The text below in blue is pasted from the consultation and details the circumstances referenced in Question 12:

Surplus funds

While the Scottish MRF is to be not-for-profit, it is possible the Scottish MRF may accrue surplus funds (for example, if adaptive management is not required). If this is the case, any initial surplus of funds will act as an operating balance and replace the initial seed funding provided by the Scottish Government.

As the Scottish MRF matures, the Scottish MRFO will determine an appropriate operating balance. If funds accumulate beyond this balance, we propose to utilise such funds for the identification and further development of new and additional compensation measures.

- ☒ Yes
☐ No
☐ Don't Know

Our opinion is that a percentage of the surplus funds should be allocated to the development of further measures, but significant overpayments, particularly of the adaptive management fee, should be refunded.

We support the proposal that a percentage of surplus funds may be used for the development of strategic compensation measures (SCMs), as this could enhance the long-term effectiveness,

scalability, and ecological value of the overall compensation framework. Reinvesting surplus funds in this way could also improve future options for developers and support the delivery of outcomes at a broader environmental scale. To ensure transparency and accountability, we recommend that the MRF Operator publish regular reports detailing how surplus funds are allocated and the outcomes achieved.

However, greater clarity is needed regarding how surplus funds, particularly the 30% allocation for adaptive management costs, will be calculated and used. The basis for selecting 30% is not clearly justified, and there is concern that it may represent a significant additional cost, particularly if it is based on potentially inflated compensation values. We recommend further consideration of the most appropriate and proportionate approach for the adaptive management fee, including clear justification and transparency around its use.

13. Do you have any other comments on the proposed costs and charges as described above (Questions 5-12)?

Please add any other comments on the proposed costs and charges:

On p. 10 of the consultation document, it states: "*Scottish Ministers will have overall accountability for the performance of, and use of public funds by, the Scottish MRF in line with statutory duties and the requirements of the Scottish Public Finance Manual (SPFM).*" This suggests that funding provided by developers will become subject to the same principles as public funds, which have many constraints, e.g. carrying funding across financial years is not generally feasible. We seek reassurance from the Scottish Government that a mechanism has been established to ensure these rules do not apply to funds held in the MRF.

Members also seek certainty, clarity and transparency around costing and recommend establishing an independent panel to review cost fund modelling annually and publicise the results.

14. Do you support the establishment of a Scottish MRF that operates separately from a UK Government MRF, providing Scottish offshore wind developers and plan authorities with a mechanism to compensate for adverse effects in Scottish waters?

- ☒ Yes
- ☐ No
- ☐ Don't Know

Please give reasons for your answer:

Scottish Renewables would like to reaffirm our strong support for the urgent establishment of a Scottish MRF and to emphasise developers' clear interest in establishing such a mechanism. Scottish developers remain firmly committed to progressing a Scottish MRF and consider its swift delivery both essential and urgent.

As outlined in our recent response to the Defra Marine Recovery Fund consultation¹ (May 9, 2025) while we welcome the establishment of a UK MRF, this primarily applies to England and Wales and

¹ <https://www.scottishrenewables.com/publications/1951-sr-response-defra-marine-recovery-fund-consultation>

does not currently provide adequate strategic compensation coverage or appropriate operating arrangements for Scottish projects. For example, the current Library of Strategic Compensation Measures (LoSCM) associated with the UK MRF contains only very limited relevant ornithological measures and is not aligned with the requirements of Scotland's consenting framework. Also, the proposed governance structures and intervention roles of bodies such as Natural England would be inappropriate for Scottish projects.

We consider the establishment of a Scottish MRF to be essential to providing confidence in the deliverability of required compensation measures and enabling the timely deployment of Scotland's offshore wind pipeline.

15. In addition to how cross border impacts are proposed to be addressed between a Scottish MRF and the UK Government MRF (see question 2), do you have any other views on how both MRFs should interact with one another?

- ☒ Yes
- ☐ No
- ☐ Don't Know

Please give reasons for your answer:

We welcome the proposals to establish intergovernmental working agreements to ensure consistency across the UK MRF and the Scottish MRF. This will be essential to avoid the two Funds competing with each other and to ensure a project can efficiently deliver its compensation requirements across the two Funds.

Further clarity is needed on how the MRF and SMRF interact with strategic plans, for example, compensation measures identified through the Crown Estates HRA for offshore wind leasing round 5, and HRA work currently being undertaken by the Scottish Government for the updated Sectoral Marine Plan for Offshore Wind Energy. Strategic planning should provide an opportunity to streamline rather than duplicate efforts, for example, avoiding the need to reapprove or renegotiate compensation measures that have already been identified and scrutinised at the plan level.

16. Do you have any comments on the findings of the partial BRIA?

Please provide any comment on the partial BRIA below:

No comment.

17. Do you have any additional information on the potential business or regulatory impacts of a Scottish MRF being established?

Please provide any additional information below:

No comment.

18. Do you have any comments on whether the establishment of a Scottish MRF will have any positive or negative impacts on consumers of Scotland?

Please provide any comment below:

The establishment of a Scottish MRF should reduce consenting friction and help deliver renewable capacity more predictably, supporting energy security and resulting in lower energy bills for Scottish consumers.

19. Do you have any comments on whether the establishment of a Scottish MRF will have any positive or negative impacts on island communities, in a way which is different from other communities?

Please provide any comment below:

No comment.

20. To what extent do you agree that establishing a Scottish MRF to streamline offshore wind consenting and deliver strategic compensation measures will address the following questions:

Help Scotland achieve net-zero?

- ☒ Strongly agree
- ☐ Mostly agree
- ☐ Don't Know
- ☐ Mostly disagree
- ☐ Strongly disagree

Be beneficial to the people and environment of Scotland?

- ☒ Strongly agree
- ☐ Mostly agree
- ☐ Don't Know
- ☐ Mostly disagree
- ☐ Strongly disagree

Be beneficial to developers of Scottish offshore wind projects?

- ☒ Strongly agree
- ☐ Mostly agree
- ☐ Don't Know
- ☐ Mostly disagree
- ☐ Strongly disagree

21. If you were/are developing an offshore wind project would the Scottish MRF be an attractive option to address any adverse environmental impacts?

- ☒ Yes
- ☐ No

☐ Don't Know

Please give reasons for your answer:

Currently, the process of securing compensation for individual projects is challenging. Whilst reforms to the environmental legislation will open up wider measures to projects, securing and delivering those measures remains very difficult. The Scottish MRF is therefore an attractive option for delivering a project's compensation, as it should provide a straightforward means of securing compensation. In particular, a project using the Scottish MRF has the security of knowing that SNCBs, eNGOs and the regulator will support a measure delivered through the Scottish MRF, whereas project-specific measures do not have that certainty. Additionally, we would expect the Scottish MRF to provide clarity for projects on future financial commitments associated with the delivery of compensation.

The Scottish MRF has the potential to streamline compensation by coordinating actions at scale, focusing on ecological priorities, and unlocking synergies, rather than requiring every developer to find limited compensation opportunities. However, it must demonstrate faster consenting timelines and clear certainty on monitoring, adaptive management and liability discharge. It must also be price-competitive with bespoke measures, costs should be understood early and there should be some level of assurance that compensation will be available to a project through the Scottish MRF at the time required.

22. Do you have any other comments on the overall proposal for the Scottish MRF?

Please add any comments below:

Scottish Renewables' members support the proposed Scottish MRF. This proposal, along with the proposed environmental legislation reforms by both the UK Government and the Scottish Government, needs to be implemented urgently to allow Scottish projects to proceed. We are concerned that the pace of implementation of the legislation and policy reforms and the Scottish MRF risks delaying the pipeline of projects and, hence, the government's ambitious renewables targets.

We welcome the intention to align the Scottish MRF with the UK Government MRF, as a consistent approach across jurisdictions will support clarity and coherence for developers operating in different parts of the UK. However, it is essential that both Funds are aligned not only in intent but also in their processes, funding mechanisms and expectations. Without such alignment, there is a risk of 'fund shopping', where developers may favour one fund over another if it is perceived to be more flexible, cost-effective or administratively straightforward. Ensuring consistency will help maintain a level playing field, support effective compensation delivery and reinforce the integrity of the overall strategic compensation framework.

We request further clarity on the likely fees associated with delivering a measure through the Scottish MRF. Until this clarity is provided, it is difficult to understand the extent to which using the Scottish MRF may be an expensive option for a project, compared with bespoke measures secured by the project.

It is also unclear at exactly what point compensation consent condition requirements are partially or wholly discharged through the Scottish MRF. We request clarity on this to provide certainty to developers that they can discharge their consent obligations through the Scottish MRF, and to

indicate when they are discharged. Without this clarity, the Scottish MRF risks being an unattractive option for developers.

Current methods for estimating a project's impacts are highly precautionary, and predicted mortalities requiring compensation are an overestimate of likely impacts. Therefore, the compensation required to offset these adverse impacts is also an overestimate. The Scottish MRF needs to be designed to address a situation in which a project's predicted adverse impacts, and hence compensation requirement, decrease in the future, e.g. if changes to impact assessment processes and/or monitoring at operational offshore wind farms show that current predicted adverse impacts are a substantial overestimate.

A lack of SNCB resources already constrains the advice that SNCBs can provide to projects and the regulator. The additional demands placed on SNCBs by the scale of the Scottish offshore wind pipeline, alongside proposed environmental legislation reforms and MRFs, will further exacerbate this problem. We are aware that NatureScot will need sufficient resource to provide the necessary statutory advice to offshore wind developments in order to avoid severe delays to the project consenting process, and we welcome continued engagement from the Scottish Government and NatureScot on the best solutions to this issue.

END