



December 13, 2024,

**Regional Assessment of Offshore Wind Development in Nova Scotia
Impact Assessment Agency of Canada**

200-1801 Hollis Street
Halifax, Nova Scotia B3J 3N4

**RE: COMMENTS ON DRAFT REGIONAL ASSESSMENT FOR OFFSHORE WIND
DEVELOPMENT IN NOVA SCOTIA.**

To whom it may concern at the Impact Assessment Agency Canada (IAAC);

This letter responds to the Draft Regional Assessment Report for Offshore Wind Development in Nova Scotia published on October 31, 2024, and open for a 60-day comment period. The comprehensive review of the draft report published by the IAAC raised several concerns among the Sipekne'katik Governance Initiative (SGI) team. Our comments are gathered in the table annexed to this letter.

As an important reminder to all parties, we would like to clarify and restate that all Development Areas proposed in the draft report are located in Mi'kma'ki, the ancestral territory of the Mi'kmaq. Each Mi'kmaq Band holds Treaty and Aboriginal Rights over lands, waterways and natural resources they have utilized, benefitted from, and occupied since time immemorial - **no undertaken activity shall impede the exercise of such Rights.**

We trust that all these comments will be duly considered and diligently included by the IAAC in their assessment. We trust that all comments necessitating a response will be answered promptly, before the publication of the final report.

Respectfully,

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Appendix – Sipekne'katik's Comments

Section	Page	Comments
All	All	General comment #1: Before any further review, please note the paramount and necessary differentiation between Rightsholders and stakeholders. Rightsholders are not solely another group of stakeholders to engage. Indigenous peoples have Rights affirmed and protected under Section 35 of the Constitution Act. As such, no Federal department representing the Crown should introduce new regulations or documents to the general public before conducting meaningful consultation with local First Nations. In this case, First Nations should have received this report for review before its publication online.
All	All	General comment #2: Two different reports have been drafted for Newfoundland Labrador, and Nova Scotia. Our traditional territories are vast and do not conform to the same geographic rules the Provinces of Canada apply. Although we understand the specificities of each piece of the territory, the offshore wind energy, its specificities and potential impacts are the same. For coherence purposes, Reviewing two reports sharing at least half of the information would have made sense and be easier.
All	All	General comment #3: Does Nova Scotia plan on keeping the power produced within the province or is it intended to be exported to foreign countries and used for green fuel production? If the power is exported, the benefit of reducing Nova Scotia's use of non-renewable energy will be limited. Mi'kmaw First Nations would like to see the potential development of offshore wind benefit Mi'kma'ki, which has never been the case with land and tidal turbines previously implemented in the Province.
All	All	General comment #4: There is not a lot of detail on the maintenance costs associated with the operation of Offshore Wind farms. More details are required.
All	All	General comment #5: The report does not provide many details regarding the increased vessel traffic during the construction and maintenance phases. A map with projected vessel traffic during those times would be necessary to address potential overlap with shipping and fishing vessels.
All	All	General comment #6: Sipekne'katik has developed management plans for new fisheries that they currently do not fish but are looking to harvest as part of their Treaty Rights. Should a community want to explore other fishing grounds and new fishing opportunities, the maps of proposed development areas proposed in the report would not be adequate and offshore wind development will restrain the ability of First Nations to exercise their inherent Treaty Rights.
All	All	General comment #7: Some Treaty land around Mi'kma'ki is now submerged due to sea level rise. However, it was not always the case and some offshore territory may be part of Mi'kma'ki.



All	All	General comment #8: First Nations should be involved in the management and research related to offshore wind development. The report introduces some solutions to involve First Nations in the process but mostly in the role of informing the research and consequent decision-making process. We have to move from this and involve First Nations earlier to ensure they are part of the research and decision-making process.
Summary	19	"Consider other components including Indigenous communities" - You may want to change the wording. Rightsholders cannot only be considered as another "component".
Summary	20	Tier 1 areas are defined as "recommended for immediate consideration as prospective Wind Energy Areas" - You may want to change the wording here. There are many uncertainties remaining and a lot of additional research that should be conducted <u>prior to</u> considering these areas for offshore wind development. Therefore, they should not be recommended for "immediate" consideration.
1.6	33	First call for bids to be issued in 2025 - We understand that the timeline provided can and will change. However, planning to start the bids in 2025 when we still do not know much of the potential impacts of the activity on the environment, is not adequate. Being proactive in the process will allow us to avoid a fiasco similar to the one on tidal energy in the Bay of Fundy.
1.6	33	First turbines may be installed anytime after 2030 - Did we consider meaningful consultation and the need to feel some of the data gaps when setting up these timelines? Same comment as above.
1.7	35	General comment #9: The report mentioned engagement with the Grand Council of the Seven Districts. Even though we recognize and appreciate the effort made by the Committee to engage the Grand Council, we want to clarify and restate that each district in Mi'kma'ki has its own autonomy and makes its own decisions. The opinions expressed by representatives of the Grand Council are not necessarily the opinions shared by all districts. Engaging the Grand Council does not replace nor stand for engagement and consultation with each Mi'kmaw community.
2.2.5	48	NSFAEE report mentioned - Did you get any data from Indigenous fishers (Communal Commercial & FSC) to add to the proposed modelled maps and report from the NSFAEE map of fishing effort? We are concerned that the data provided does not represent adequately the fishing activity occurring in the area.
2.4	51	The Minister expected larger areas to be identified - The PDA changed a lot in size and number from the interim report to that draft final report. We understand that geophysical characteristics were considered after publishing the interim report. However, more detail explaining the reasons for the changes observed between each report should be provided.



2.6.2	54-55	Lessons from other jurisdictions - There are not too many details on the best management practices used in other jurisdictions to mitigate the overlap with fisheries. More details should be provided on this.
2.6.5	57-58	Details of compensation models (BOEM) - Compensation is and should always be used as the last resort after avoidance. As we are technically not sure that Offshore Wind would ever be developed around Nova Scotia, presenting the BOEM model may be unnecessary at this stage.
2.6.6	63	NFLD already opened for bidders - We understood that these reports would be used to determine if NS and NFLD would be adequate for the development of offshore wind. In the case of NFLD, why are we still reviewing their draft report, if the provincial already opened the floor for industry bidders?
3.2.3	79	"the typical project operating life span of an OSW farm is in the range of 20 to 25 years [...] dependent on the environmental conditions and quality of the O&M program." - What environmental conditions and how would these impact the life span of the farm? The construction of these offshore wind farms will negatively impact the surrounding environment. Therefore, it is critical to know the exact lifespan of these turbines and the potential influences of the surrounding environmental conditions. Nova Scotia waters are rough and with climate change, the frequency of extreme weather events is increasing. This is likely to reduce the life span of turbines considerably. In this case, the benefit of implementing these farms becomes even more questionable.
3.2.4	79-80	Decommissioning - Would the OSW fall under the current legislation for oil and gas or the one for renewable energy? The community is concerned that most companies will not have the funds to ensure the decommissioning phase. It is vital to avoid repeating the tidal energy fiasco and leave the turbines in the water indefinitely.
3.3.1.1	83	Vessels to be coming from abroad - Where would those vessels come from exactly? What would be the benefits for NS and Canada if all vessels were coming from a different country? If the infrastructure and equipment are not currently available, it is important to build capacity <u>before</u> considering any project.
4.1	87	"The remaining uncertainties can and should be resolved using these coordinated programs of research as OSW farms receive regulatory approvals techniques in a coordinated program of research as OSW farms receive regulatory approvals." - What about the use of the Precautionary Approach? The data gaps should be addressed BEFORE any proponents receive the regulatory approvals.
4.2.4	97	Change to vertical mixing of surface waters - Can we have more details on this? How exactly would the turbine impact the surface waters? This can severely impact the entire water column and the stratification (<i>e.g.</i> , nutrient mixing, primary production, diel migrations, etc.). Additional details are required (<i>e.g.</i> , Floeter et al., 2017; Christiansen et al., 2023).



4.3.2	102	Corals and sponges are not likely to be directly at risk from OSW and not discussed further - However, corals and sponges are still largely present in some of the presented PDAs (e.g., Western/Emerald Bank). The construction phase of wind turbines is highly disturbing for the benthic area and will therefore affect these vulnerable and significant species.
4.4.5	129	Regulations for MPAs include prohibiting any activities that disturb [...] unless the activity is listed as an exception in the Regulations or approved by the Minister. - Before discussing the potential for offshore wind, it may be interesting to focus on the Marine Spatial Planning (MSP) opportunities around the Province. Activities such as offshore wind and protected areas can sometimes coexist, reducing the overlap with fisheries and additional fisheries closures.
4.6.1	141	Population of Indigenous Communities in NS - The table present the details by gender. However, there are no such details for non-Indigenous communities. Is there a specific reason for including such data in the report? Does the gender table support the comments on observed gender inequality in the renewable energy sector presented later on?
5.6.4	187 (Table 5.6)	General comment #10: As climate change continues to have serious impacts on the ecosystems, we see more movement of fish and fish-like species. This will eventually result in the movement of fisheries and fishing areas. The proposed Tier 1 PDAs are located in areas where the overlapping with fisheries is the least prominent. However, it may change as temperatures evolve and result in a complicated coexistence of offshore wind and fisheries, one of the main sources of revenue for First Nations in Atlantic Canada. That is a great concern that should be highlighted in more detail in the proposed section.
6.4	209	Incursion to the buffer zone - This part needs to be clarified. The current explanation seems to provide accessible loopholes for industry proponents to avoid respecting the mitigation measures recommended. If judged necessary, it should be introduced and discussed on a project-by-project basis. It does not seem necessary to be included there.
6.6.3	231	French Bank - Mention that the area is heavily fished or limited by fisheries coexistence, however, there is no mention of Food, Social, and Ceremonial (FSC) fisheries and the importance of the area for culturally significant diadromous fish (e.g., American eel and Atlantic salmon).
6.6.5	246	Western/Emerald Bank - Mention that the area is heavily fished or limited by fisheries (coexistence, however, there is no mention of Food, Social, and Ceremonial (FSC) fisheries and the importance of the area for migratory species (<i>see previous comment</i>)).



6.6.7	259	LaHave Basin - This is an important area for diadromous fish migrating from the ocean to fresh waters and <i>vice versa</i> . This includes two culturally important species for the Mi'kmaw: the Atlantic salmon (<i>Salmo salar</i>) and the American eel (<i>Anguilla rostrata</i>). Juvenile American eels (e.g., elvers) are also found in the area and harvested by Mi'kmaw communities. This part of the report should mention the importance of Food, Social, and Ceremonial (FSC) fisheries, our concerns about the status of these migratory species, and the potential impact of offshore wind development in the area.
7.1.3	266	"most impacts, however, appear to be moderate and the benefits, both in terms of socio-economic effects and in addressing GHG emissions can be substantial" - This sounds like a speculation which is not neutral, especially if most of the power created is to be exported somewhere else. In this case, the GHG emissions limitations will not benefit Nova Scotia. The wording may be changed.
7.4	281	Requirement for a TEKS - Since the proposed activities will be located offshore, our team questioned the feasibility of a Traditional Ecological Knowledge Study (TEKS). Currently, the data available on Mi'kmaw archaeological resources offshore is still very limited, and we are concerned about the credibility of a TEKS in this case, which will probably be based mostly on desktop data gathered in a report. More discussions are required on this matter.
8.6.1	297	"generational opportunity that is likely unparalleled with anything else on the provincial horizon" - The wording may be changed there to ensure the report remains neutral. These words sound biased and advocate for the development of offshore wind in NS.
8.6.4	301	Net Zero Atlantic - This organization is cited multiple times. What exactly is their mandate and role? Are they advocating for the development of offshore wind in NS?
9	303	"support provincial NGOs, research facilities and engineers, ocean scientists, ..." - What about Indigenous organizations and communities? Building capacity and benefitting Mi'kma'ki should be the priority of considering developing such activity in the Province.
9	303	typo "Other others"
9	303 - onward	Research is the best solution to knowledge and data gaps - This affirmation does not match the initial proposed timeline. Research takes time and having a start of construction projected for 2030 seems unreasonable.
9.1.3	305	Potential shift in species and displacement - Can we elaborate on this and what does this mean from a fishery perspective? Spillover effect or migration?
10.1	317	T1-1 - This recommendation highlights the need to involve stakeholders in the process. What about <u>rightsholders</u> ? They should be part of this new committee, not only informing it. Who will decide who is sitting at the table?



10.1	317	T1-1 "DFO is planning an expanded Marine Spatial Plan for the Fundy-Scotian Shelf region which aims to provide a valid foundation for any new initiative within the region and to embrace contributions from other departments and stakeholders." - What about the involvement of rightsholders in the process of making decisions and not once the decisions have been made? Are Indigenous peoples going to be part of this "new initiative"?
10.1	320	T1-2 funding MEKS to key Indigenous organizations - Same comment as above. Should such studies be conducted, it should involve all communities and not limit its reach to a sole organization.
10.1	323	T1-7 Open discussions with the State of Maine to contribute to and develop a mutually supportive research agenda associated with their proposed floating OSW test site - This should be considered carefully. Legislations and constraints are different in Maine, and the United States in general. Such discussions can be beneficial from a scientific and data-sharing perspective but should remain neutral from political and financial pressure regarding the development of offshore wind.
10.2	327	T2-3 Adopt a regional/national planning approach for the provincial OSW Roadmap - When was the MOU signed with Germany? It seems like, the need to develop offshore wind in Nova Scotia is indeed to produce hydrogen to be exported to Germany and other countries. This supports our concerns that the energy produced will not stay nor benefit the Province. It is, once again, a great concern.
10.2	329-330	T2-6 Establishment of targeted immigration and recruitment programs to attract foreign specialists - We should focus on building local capacity first by training local people.
10.3	331	T3-1 Potential regulatory loophole issue already mentioned previously
10.3	332	T3-2 Same comment as above regarding the definition of "Tier 1 PDAs"
10.4	336	T4-2 Same comment as above: compensation should be the <u>last</u> resort.
10.4	337	T4-2 <i>Fishermen</i> instead of <i>fisherman</i> ? Typo?
10.4	338	T4-3 The establishment of an industry-wide funding model based on equitable distribution of liability among OSW leaseholders - This recommendation needs clarification. It seems like the committee recommends "a multi-lease/project industry" to ensure the sustainability of developing offshore wind in the Province. If that is the case, it is greatly concerning. A multi-project industry does not adequately reflect the need for a precautionary approach. We do not know most of the potential impacts of the activity on the environment and species. A scaled industry based on adaptive management should be put forward.



10.5	339	T5-1 Recognize that responsibility for cumulative effects is shared and tiered - Recognizing shared responsibility will not move the process along, especially since communication between different provincial and federal organizations is still very limited.
10.5	339	T5-2 Prepare guidelines and data sources for developers - Who will develop and implement those guidelines? Where does consultation with the Mi'kmaw fall in this process?
10.6	340	T6-2 Recommend First Nation representation on CNSOER Board - Who will decide on who the Mi'kmaw nominee is? How many representatives of the Crown will be on the Committee? It is important to ensure that everybody is represented <u>equally</u> . Additional discussions are critical before any decision is to be made.
10.6	342	T6-5 DFO to review their management and regulatory processes - We agree with the need to amend the Fisheries Act but the OSW should not be the first catalyst for such amendments. The government cannot just change the regulations as it pleases to make it easier for the industries to implement their projects. The Precautionary Approach should always be considered first.
All	All	Additional Comment #1: No mention of the potential effects of high-voltage direct current (HVDC) emissions. There are different types of cooling systems but open-loop release heated water back into the ocean which may have impacts on the ecosystem immediately surrounding the stations. Such impacts were mentioned in the report for NFLD but not for NS. More details are required.