

Committee for the Regional Assessment
of Offshore Wind Development in Nova Scotia

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Dear Members of the Committee,

Re: Regional Assessment of Offshore Wind Development in Nova Scotia: Draft Report

East Coast Environmental Law (“ECEL”) is pleased to submit these comments on the draft report on the Regional Assessment of Offshore Wind Development in Nova Scotia (“Regional Assessment” and “Draft Report”).¹

1.0 Our Engagement in the Regional Assessment and the Focus of Our Comments

ECEL is a regional charity that provides public-interest environmental law services throughout Atlantic Canada. We advocate for progressive environmental law and policy, provide public legal education, and share our legal skills to support others who are working to prevent or redress environmental harms.

We have participated in the Regional Assessment and are members of the Fisheries and Other Ocean Users Advisory Group and Scientific Information and Community Knowledge Advisory Group. We have also participated in the Regional Assessment of Offshore Wind Development in Newfoundland and Labrador (“NL Offshore Wind RA”) and are members of the analogous advisory groups in that assessment process.

We also engaged in the parliamentary process to amend the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act* and the analogous provincial legislative

¹ Nova Scotia Regional Assessment Committee, [“Regional Assessment of Offshore Wind Development in Nova Scotia: Draft Report”](#) (31 October 2024) [“Draft Report”].

process to amend the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act* (“Accord Acts”).² In their amended forms, which have not yet been proclaimed in force, the Accord Acts will be the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation and Offshore Renewable Energy Management Act* and the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation and Offshore Renewable Energy Management (Nova Scotia) Act* (“amended Accord Acts”). Together, they will enable joint federal-provincial regulation of offshore renewable energy projects within the defined Offshore Area.

Additionally, we contributed a written submission on the proposed *Canada Offshore Renewable Energy Regulations* under the *Canadian Energy Regulator Act*, which are expected to provide a template for offshore wind regulations under the amended Accord Acts.³

Our engagement with this Regional Assessment, the NL Offshore Wind RA, the federal and provincial processes to amend the Accord Acts, and the proposed *Canada Offshore Renewable Energy Regulations* has been informed by research and analysis we conducted on offshore wind regulation in the European Union (“EU”), United Kingdom of Great Britain and Northern Ireland (“UK”), and United States of America (“US”), along with research and analysis on jurisdictional questions and regulatory issues pertaining to joint federal-provincial governance of energy resources in the offshore areas of Nova Scotia and Newfoundland and Labrador.⁴ We characterize much of this research as being initial and exploratory, and we have continued to deepen our understanding of offshore wind regulation through ongoing study and collaboration with groups like the SeaBlue Canada coalition, of which we are a member.

Throughout our engagement and advocacy in this sphere, we have prioritized a few points that we believe are fundamental to the sustainable development and regulation of offshore wind in Atlantic Canada. We have expressed our support for offshore wind development that contributes to local and global efforts to decarbonize energy systems and avoid the worst consequences of climate change. We recognize the urgency of the climate emergency, and we strongly support the transition from fossil fuel energy sources to sources of clean and renewable energy. At the same

² Our written submissions on the parliamentary process were: East Coast Environmental Law, [“Brief to the House of Commons Standing Committee on Natural Resources: Bill C-49”](#) (16 February 2024), and East Coast Environmental Law, [“Brief to the Standing Senate Committee on Energy, the Environment and Natural Resources: Bill C-49”](#) (20 June 2024). Our written submission on the provincial legislative process was: East Coast Environmental Law, [“Brief to the Nova Scotia Law Amendments Committee: Bill No. 471 – Advancing Nova Scotia Opportunities Act”](#) (16 September 2024).

³ See East Coast Environmental Law, [“Submission on the Proposed Canada Offshore Renewable Energy Regulations”](#) (25 March 2024) [“ECEL Submission on Proposed Offshore Renewable Energy Regulations under CERA”].

⁴ See: Mike Kofahl and Tina Northrup, [Comparative Jurisdictional Research Report on the Assessment and Regulation of Offshore Wind Development](#) (March 2023) [“ECEL Comparative Jurisdictional Research Report”]; Tina Northrup, [Joint Federal-Provincial Regulation of Marine Wind Energy Development in Offshore Nova Scotia: Understanding Anticipated Amendments to the Accord Acts Regime](#) (19 December 2023); and, Tina Northrup, [Provincial Regulation of Marine Wind Energy Development in “Nova Scotia Waters”: Understanding the “Regulatory Path” that the Government of Nova Scotia Might Establish under the Marine Renewable-energy Act and Other Provincial Statutes and Regulations](#) (19 December 2023).

time, we have emphasized the need for sound, sustainability-minded decision making in the offshore, and we have noted repeatedly that good law will be essential to facilitate the renewable energy transition while also protecting marine ecosystems and marine biodiversity as we seek to harness new sources of energy at sea. The protection of marine ecosystems and biodiversity also intersects significantly with the protection of Indigenous rights in Atlantic Canada, including through intersections with the need to maintain sustainable inshore and offshore fisheries in this region. Bearing all of this in mind, we have consistently taken the position that tiered planning and assessment processes will be necessary to support sound, sustainability-minded, conflict-minimizing decision-making in the offshore. Additionally, through our participation in SeaBlue Canada, we have joined in the calls for offshore wind developments to be excluded from legally protected and conserved areas within the offshore.⁵

We recognize the significant efforts that the Committee has made to carry out its mandate under the Canada–Nova Scotia “Agreement to Conduct a Regional Assessment of Offshore Wind Development in Nova Scotia” (“RA Agreement”) and the Committee Terms of Reference that were established as an appendix to that Agreement (“TOR”). While we support many of the findings and recommendations that the Committee has presented in its Draft Report, we take this opportunity to make some recommendations for improvements and to raise certain concerns.

Our comments throughout this submission continue on the themes described above, and they focus on the aspects of the Draft Report that are within our areas of expertise: namely, those with implications for environmental law and policy and the regulation of wind energy developments in offshore Nova Scotia.

2.0 Tiered Planning and Assessment and Tiered Responsibilities

Throughout our engagement with this Regional Assessment, the NL Offshore Wind RA, the federal and provincial processes to amend the Accord Acts, and the proposed *Canada Offshore Renewable Energy Regulations*, we have argued that legislated requirements for tiered planning and assessment would improve regulatory certainty, create opportunities for Indigenous rightsholders, fisheries stakeholders, coastal communities, and other ocean users to provide input at the highest levels of planning and site selection down to the level of project-specific proposals, and help to minimize conflict by building trust in balanced, informed, and participatory decision-making.

By “tiered planning and assessment”, we mean the combination of high-level planning and assessment processes such as regional assessments and strategic environmental assessments, coordinated with project-specific assessments such as federal impact assessments or environmental assessments conducted by others. More succinctly, our position is that tiered

⁵ See for example: East Coast Environmental Law and SeaBlue Canada, “[Letter to Minister of Energy and Natural Resources: Bill C-49](#)” (December 2023) and SeaBlue Canada, “[Brief to the House of Commons Standing Committee on Natural Resources: Bill C-49](#)” (February 2024).

planning and assessment of wind energy developments in offshore Nova Scotia requires, at minimum:

- high-level assessment, tailored to a defined area within the offshore, before that area is opened to offshore wind development through a call for bids; and,
- project-specific assessments for all individual offshore wind projects that are proposed.

Additionally, as our comments below explain in more detail, our opinion is that high-level assessments should both incorporate and contribute to marine spatial planning. In doing so, they should support the identification of marine areas deemed most suitable for offshore wind development, as contrasted with areas where marine protection and conservation measures or fisheries activities will be prioritized.

Our position on tiered planning and assessment is informed by our research on the planning, assessment, and regulation of offshore wind developments in the EU, UK, and US, which identified tiered planning and assessment as a best practice to emulate in Canada. Our position is also informed by the considerable collective experience that ECEL lawyers have gained through participation in federal and provincial environmental impact assessment processes. In particular, both our research and our actual engagement experience have shaped our firm opinion that project-specific assessments are not conducive to strong and effective cumulative effects assessment when they are not supported by higher-level cumulative effects assessment work.

We make a point of noting this because, in the Draft Report, the Committee writes: “the literature suggests that [...] project-level CEAs [cumulative effects assessments] tend to be associated with stronger decision-making processes than those undertaken at a regional scale”.⁶ While we can certainly appreciate that cumulative effects assessment may benefit from the specificity that one or more defined project proposals can provide (for example, by providing specific figures to input into predictive modelling), nevertheless, we have seen time and again that project proponents and governments struggle to conduct meaningful cumulative effects assessments at the project level when relevant “big-picture” data has not been consolidated by government.

Proponents are not well-suited to collecting big-picture data independently to understand how the impacts of an individual proposed project might interact with the impacts of past, present, and foreseeable future projects. We note that the Committee appears to express a similar understanding when it concludes, in the Draft Report:

Most data gaps cannot be easily addressed by individual proponents of OSW projects, but rather lend themselves to collaborative research and management on a broad scale and covering a large set of conditions. Model validation spanning various temporal and spatial scales is most effective when coupled with observation sets that span those same scales. While costly, if initiated early and planned to address priority concerns, research can

⁶ Draft Report at pages 282-83.

provide a significant return on investment by facilitating investment decisions, project planning, and the identification of conflicts and opportunities.⁷

Realistically, it is neither efficient nor entirely fair to expect individual proponents to piece together the “big picture” through various disconnected sources of information held by government and others. In a situation where multiple individual proponents are contemplating projects of the same type within a region, the inefficiency of expecting each proponent to piece together the same big picture independently is even more apparent. This is one of the primary reasons why we have argued consistently that cumulative effects assessment needs to be carried out at a high level, by government or government-appointed bodies, to the extent that relevant information can be gathered and synthesized at that level. Cumulative effects assessment at the high level can and should gather and synthesize available information that has been generated by former, current, and prospective users of the area in question. Then, subsequent project-specific assessments can use that high-level data collection and synthesis as the basis for further analyses that ask how specific proposed projects might fit within the bigger picture. Information generated through project-specific assessments should then feed back up into the higher-level understanding of the cumulative impacts that have occurred, are occurring, and are expected to occur in the region, so that project-level assessments are continuously deepening our understanding of the big, high-level picture.

In the Draft Report, the Committee discusses “tiered responsibilities” that pertain to assessments of proposed offshore wind projects, and to cumulative effects assessments in particular. The Committee’s discussion on this subject appears primarily in subsection 7.5.1 of the Draft Report, which is a subsection of the section on cumulative effects. In this subsection, the Committee begins by suggesting that wind energy development in offshore Nova Scotia should be informed by “the predictive modelling and research efforts of international agencies” such as the National Ocean and Atmospheric Administration and the Intergovernmental Panel on Climate Change”.⁸ The Committee also notes that several federal and provincial departments in Canada—including the Department of Fisheries and Oceans (“DFO”), Environment and Climate Change Canada, Natural Resources Canada (“NRCan”), and Transport Canada—“will continue to frame and execute research and modelling to meet their respective mandates to address the federal and provincial objectives with respect to attaining net zero”.⁹ Moving on to suggest that this ongoing international and domestic work “must become better coordinated and must more fully engage with academia and the users of the waters in the Regional Assessment Study Area [“RA Study Area”] including fishers and Indigenous interests”, the Committee goes on to write:

In light of the above, the Committee believes that responsibility for the data and research necessary for effective project and cumulative effects assessments resides not with one

⁷ *Ibid* at page 304.

⁸ *Ibid* at page 282.

⁹ *Ibid*.

party, but with many. It is of necessity a tiered process, but the efforts and results must be better integrated and shared. It is in the best interest of all.¹⁰

As we interpret it, the Committee’s vision of “tiered and shared responsibilities”—as per the title of this subsection of the Draft Report—is largely aligned with our vision for tiered planning and assessment of offshore wind development. That being said, there are some significant differences between the two visions, namely: the Committee’s vision of tiered and shared responsibilities appears to focus on how different levels of governmental and non-governmental data collection and modelling (i.e., international, federal, provincial, and private) must be layered together to foster a complete-as-possible understanding of cumulative effects of offshore wind development; whereas, by contrast, our vision of tiered planning and assessment focuses on the need for legislated requirements for high-level assessments (such as regional assessments or strategic environmental assessments) and project-specific assessments (such as impact assessments or environmental assessments carried out by others) to conduct cumulative effects assessment, inform site selection, and inform project-specific design and impact mitigation measures, among other things.

The most significant difference between the two visions, in our view, is that while the Committee is envisioning a significant amount of top-down work by the federal and provincial governments to gather data, conduct or commission predictive modelling, and develop guidance for project-specific cumulative effects assessments by offshore wind proponents, the Committee has not identified specific planning or assessment processes through which this crucial work should be done. We agree entirely with the Committee that these efforts are necessary, and we would argue that regional assessments (including regional assessment follow-up programs) and strategic environmental assessments are appropriate tools for the work the Committee suggests should be done. In our view, legislated requirements for high-level assessments and project-specific assessments, as described below, would support the realization of the Committee’s vision of tiered and shared responsibilities.

2.1 *High-level Assessments*

As indicated above, by “high-level assessments”, we mean regional assessments and strategic environmental assessments. As the Committee is already well aware of the nature and scope of regional assessments under the *Impact Assessment Act*, we will not elaborate on that here. As regards strategic environmental assessments, we primarily mean the kind of tailored high-level assessment that both the Canada–Nova Scotia Offshore Petroleum Board and Canada–Newfoundland and Labrador Offshore Petroleum Board (together, the “Offshore Petroleum Boards”) have been carrying out for decades to assess the potential impacts of opening marine areas to offshore oil and gas exploration and exploitation.¹¹

¹⁰ *Ibid.*

¹¹ We note, however, that concerns have been raised by environmental non-governmental organizations and others about the quality and effectiveness of the strategic environmental assessments that have been carried out by the Offshore Petroleum Boards; these concerns are connected to longstanding concerns about regulatory capture within the spheres of offshore oil and gas regulation in this region.

In essence, we envision the use of regional assessments and strategic environmental assessments as high-level assessments that are conducted primarily to support cumulative effects assessment and the informed, sustainability-minded, conflict-minimizing selection of sites that are suitable for wind energy development in offshore Nova Scotia.

In this Regional Assessment, the Committee has worked hard to gather and synthesize available information and knowledge, and it has also drawn on existing marine spatial planning and constraints analysis tools being employed by DFO and others, to inform the identification of Potential Development Areas (“PDAs”) where offshore wind development may be most suitable. To a significant degree, the Regional Assessment has been a tentative planning exercise as well as an assessment of the likely environmental, socioeconomic, human health, and climate impacts of proceeding with wind energy development in offshore Nova Scotia. In our view, the work that the Committee has carried out in this regard has laid a crucial foundation for project-specific assessments of proposed offshore wind developments within the RA Study Area. As we describe in more detail below, that foundation will of course be most useful if it is actually employed by the federal and provincial governments and the Canada-Nova Scotia Offshore Energy Regulator (“CNSOER”) as the development of offshore wind regulations under the amended Accord Acts proceeds.

Because several of the PDAs recommended by the Committee have been assessed at a high level through this Regional Assessment (see below for our comments and concerns regarding the Western/Emerald Bank, Sable Bank, and LaHave Basin PDAs), we would agree that sites within several of the PDAs recommended by the Committee could be appropriately opened to calls for bids for submerged land licences under the amended Accord Acts regime. In other words, we would agree that for several of the PDAs recommended by the Committee, the need for a high-level assessment has been met through this Regional Assessment (bearing in mind, however, the limitations that the Committee has expressed concerning its ability to carry out comprehensive cumulative effects assessments).

The situation is significantly different for the recommended PDAs that have benefited from less assessment by the Committee and less public engagement, and the situation is altogether different for the many marine areas within the total RA Study Area that did not receive detailed assessment by the Committee because they were deemed early on as unlikely to be suitable for offshore wind development in the near future. These are the areas that, in our view, should be subject to additional high-level assessment before being opened to potential offshore wind development.

Importantly, the Committee’s recommendations concerning PDAs are not binding on the CNSOER and the Government of Canada and Government of Nova Scotia. It is possible that under the amended Accord Acts regime for offshore wind regulation, the CNSOER will recommend opening marine areas beyond the Committee-recommended PDAs to potential offshore wind development and that the federal and provincial ministers responsible for such decisions will agree. This possibility is a primary reason why ECEL argued throughout the parliamentary and provincial legislative processes to amend the Accord Acts that there should be

a legal requirement prohibiting sites from being opened to calls for bids for submerged land licences if those sites have not been assessed at a high-level through either a regional assessment or a strategic environmental assessment.¹²

We note that in the Draft Report, the Committee makes no specific recommendation concerning the need for high-level assessment of sites beyond recommended PDAs before such sites are opened to potential offshore wind development. Additionally, as we explain in more detail below, we believe that only “Tier 1” PDAs identified by the Committee are ready to be opened to calls for bids for submerged land licencing. For “Tier 2” PDAs, we believe further high-level study is necessary. This further high-level study could potentially be conducted as part of a tailored follow-up program following this Regional Assessment (see our recommendations to that effect below), or it could potentially be carried out through strategic environmental assessments by the CNSOER.

In light of the above, we urge the Committee to consider adding the following recommendations to its final report:

The Committee recommends that “Tier 2” PDAs be assessed further before any areas within them are opened to calls for bids for submerged land licences. Further assessment could proceed as part of a follow-up program to this Regional Assessment or through strategic environmental assessments by the CNSOER.

The Committee recommends that marine areas outside of the Committee’s recommended PDAs not be opened to offshore wind development without first being assessed, at minimum, through a strategic environmental assessment by the CNSOER.

As we noted above, this Regional Assessment has been a tentative planning exercise as well as an assessment of the likely environmental, socioeconomic, human health, and climate impacts of proceeding with wind energy development in offshore Nova Scotia. Because we have repeatedly referred to the need for “tiered planning and assessment” of proposed offshore wind developments, we think it is worthwhile to spend a few extra moments discussing the “planning” component of tiered planning and assessment, as we understand it.

2.1.1 High-level Assessments and Marine Spatial Planning in Relationship

As concerns the “planning” component of tiered planning and assessment, we see significant value in a centralized initiative by government (federal and provincial, and informed by collaboration with Indigenous governments) to implement a marine spatial plan (“MSP”) that identifies prospective offshore wind development areas, existing and anticipated legally protected and conserved areas, existing fishing grounds, and other ocean uses. In our view, this MSP should incorporate the Committee’s recommendations concerning the 25-kilometre buffer from shore,

¹² For more on this, see the submissions cited above in note 2.

the 25-kilometre buffer around Sable Island, and the eight PDAs recommended by the Committee, with the significant exceptions of the recommended Western/Emerald Bank, Sable Bank, and LaHave Basin PDAs, for the reasons explained below in section 3.0.

As with zoning designations in a municipal land-use plan, the MSP we envision would not mean that areas identified as prospective offshore wind development areas would necessarily be opened to development. Instead, we imagine that the MSP would function by excluding offshore wind development from areas that are deemed to be unsuitable for such developments at this time. As we envision it, the MSP would build on the existing work of DFO’s “First Generation” marine spatial plan for the Scotian Shelf–Bay of Fundy region. In our view, implementation of an MSP that integrates the Committee’s recommendations in this Regional Assessment would help to create shared expectations for how offshore renewable energy developments will proceed (thereby helping to reduce conflicts and unwelcome surprises) and would also assist government in taking a considered, coordinated, and sustainable approach to siting competing uses of the marine space.

Notably, the Committee for the NL Offshore Wind RA made a specific recommendation that an MSP be developed by the Government of Canada and Government of Newfoundland and Labrador “to inform future planning and licencing processes for offshore wind development”.¹³ The Committee elaborated by writing:

A component of the plan should include zoning areas for potential development of marine based alternative energy projects, within which offshore wind areas could be selected for licencing consideration to help reduce conflict in advance of impact assessment processes.¹⁴

The recommendation was also accompanied by corresponding recommendations that the Government of Canada “reinstate a long-term commitment to funding MSP and key initiatives currently contributing to MSP”.¹⁵

In our view, an analogous recommendation by this Committee would assist the Government of Canada and Government of Nova Scotia in their next steps to enable wind energy developments in offshore Nova Scotia. We therefore recommend that the Committee include a specific recommendation to this effect in its final report, echoing the Committee for the NL Offshore Wind RA:

The Committee recommends that the Government of Canada and Government of Nova Scotia develop an MSP that clearly distinguishes offshore wind PDAs from marine areas where legal protection and conservation measures or fisheries will be

¹³ Committee for the Regional Assessment of Offshore Wind Development in Newfoundland and Labrador, “[Draft Report: Regional Assessment of Offshore Wind Development in Newfoundland and Labrador](#)” (1 October 2024) at page 110.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

prioritized. This plan should include zoning areas that establish these distinctions, to help reduce conflict in advance of impact assessment processes.

As we suggested above, we imagine that an MSP of this kind should draw extensively on the Committee's work in this Regional Assessment and that it should essentially be an adoption of the Committee's recommendations concerning the 25-kilometre buffer from shore, the 25-kilometre buffer around Sable Island, and the eight PDAs, with significant exceptions being the Committee's recommendations concerning the Western/Emerald Bank, Sable Bank, and LaHave Basin PDAs, for the reasons explained below in section 3.0.

2.2 *Project-specific Assessments*

As we noted above, our position is that high-level assessments such as regional assessments and strategic environmental assessments should be combined and coordinated with project-specific assessments, whether the latter be federal impact assessments or environmental assessments carried out by others.

We strongly support the Committee's recommendation within the Draft Report that offshore wind projects not be excluded from requiring federal impact assessments, and we appreciate the Committee's corresponding comments concerning the "emerging state" of the offshore wind industry in Canada and "the lengthy research agenda required to properly characterize biophysical and socio-economic impacts", as well as the statement that this Regional Assessment cannot be a "substitute for a detailed site-specific project assessment".¹⁶ We would note, however, that whereas the Committee suggests that impact assessments should be required "until key data gaps are addressed", we would argue firmly that impact assessments should always be required for offshore wind projects. As the Committee is well aware, the marine environment is not static, nor are offshore wind technologies. There will never be a point where we attain such a level of certainty that offshore wind projects should be allowed to proceed without first being subject to project-specific assessments.

Notably, under Canada's *Impact Assessment Act* as it currently stands, only proposed offshore wind projects of ten or more turbines will be subject to impact assessments (future expansions surpassing a set threshold would also trigger the process). While we recognize that even initial "stepping stone" projects in offshore Nova Scotia are likely to have at least ten turbines, we nevertheless encourage the Committee to recommend that the CNSOER be given a responsibility to conduct an environmental assessment of a proposed offshore wind project when an impact assessment is not required. This responsibility would be fully in line with the existing responsibilities of both Offshore Petroleum Boards, which carry out environmental assessments of oil and gas exploration and exploitation activities that are not subject to impact assessments. In our view, this responsibility can and should be set out in a regulation under the amended Accord Acts.

¹⁶ Draft Report at page 341.

We therefore urge the Committee to consider the following addition to its final report:

The Committee recommends that the CNSOER be required by regulation to conduct environmental assessments of proposed offshore wind projects when such projects are not subject to impact assessments.

Before concluding our comments on the topic of tiered planning and assessment, we note that, in the Draft Report, the Committee discusses the regulatory framework for offshore wind development that is taking shape under the *Canadian Energy Regulator Act* (“CERA”) and describes it as being “robust”.¹⁷ Because the *Offshore Renewable Energy Regulations* being established under CERA are expected to provide a template for corresponding regulations under the amended Accord Acts, we take this opportunity to note that in our submission on the proposed text of those Regulations, we emphasized that “they fail to establish necessary requirements and meaningful guidance for the environmental and socio-economic assessments that project proponents will need to conduct when seeking authorization for offshore renewable energy projects”.¹⁸ We encourage the Committee to review our submission on the proposed Regulations and reconsider its description of the evolving CERA regime as being “robust”.

To conclude our comments on the topic of tiered planning and assessment, we reiterate that our vision of “tiered planning and assessment” of offshore wind developments is largely aligned with the Committee’s vision of “tiered and shared responsibilities” for cumulative effects assessment. The most significant difference between the two visions is that the Committee has not identified and expressly recommended legal requirements for the planning and assessment processes that are needed to support this crucial work. In our view, legislated requirements for both high-level assessments and project-specific assessments of offshore wind developments would go a long way towards supporting ongoing cumulative effects assessment, wise site selection, and informed, sustainability-minding, conflict-minimizing decision-making.

3.0 Legally Protected and Conserved Marine Areas

ECEL is a member of SeaBlue Canada, which is a coalition of eight of Canada’s most impactful and well-respected environmental, non-profit, non-governmental organizations that work collaboratively to ensure Canada’s marine protected area (“MPA”) commitments are ambitious and equitable and that they meaningfully protect marine species and habitats.

We support the SeaBlue Canada submission on the Committee’s Draft Report and reiterate its key positions below, including that legally protected and conserved marine areas in offshore Nova Scotia are incompatible with offshore wind development. As we have noted above, an MSP developed as part of a tiered approach to planning and assessment would identify prospective offshore development areas, existing and anticipated legally protected and conserved areas, existing fishing grounds, and other ocean uses, would incorporate the Committee’s

¹⁷ Draft Report at pages 162-63.

¹⁸ ECEL Submission on Proposed *Offshore Renewable Energy Regulations* under CERA, full citation above at note 3.

recommendations (with the exceptions of the recommended Western/Emerald Bank, Sable Bank, and LaHave Basin PDAs for the reasons we explain below), and would be used to identify areas that are unsuitable for offshore wind development.

Canada has committed to protecting 25% of the ocean by 2025 and 30% by 2030 as required by the *Kunming-Montreal Global Biodiversity Framework*. MPAs, including *Oceans Act* Marine Protected Areas, National Marine Conservation Areas (“NMCAs”), National Wildlife Areas with marine components or Marine National Wildlife Areas, and “other effective area-based conservation measures” (“OECMs”) are the predominant legal tools used to protect marine biodiversity and are therefore critical to reaching Canada’s international obligations and domestic goals. OECMs (typically marine refuges, or fisheries area closures, established under the *Fisheries Act*) account for approximately half of Canada’s legally protected and conserved marine areas. Accordingly, if Canada hopes to achieve its marine conservation goals and effectively protect marine biodiversity using tools like MPAs and OECMs, it is critical that offshore wind development be prohibited in legally protected and conserved marine areas.

An MPA designation generally provides protection to the marine environment by prohibiting activities that would disrupt or destroy marine species and ecosystems. Canada’s *Marine Protected Areas Protection Standard* provides an additional layer of protection to MPAs by prohibiting the following: oil and gas exploration, development, and production; mineral exploration and exploitation; disposal at sea of waste and other matter; dumping deposits of deleterious drugs and pesticides; and, bottom-trawling.¹⁹ It also restricts vessel discharges in Canada’s Territorial Sea. Canada’s *Guidance for Recognizing Marine Other Effective Area-Based Conservation Measures* provides similar protection for OECMs.²⁰ It is worth noting that neither the MPA nor OECM protection standard is legally binding.

As noted in the SeaBlue Canada submission, the MPA and OECM protection standards are recognition that industrial activities are often counterproductive to these areas’ conservation objectives and outcomes. They reflect recommendations of the National Advisory Panel on Marine Protected Areas Standards that Canada should adopt International Union for the Conservation of Nature standards (i.e., prohibiting industrial activities in MPAs) and that Canada should be satisfied that the risks to intended biodiversity outcomes are avoided or mitigated in OECMs.²¹ However, while they represent some international best practices, the protection standards do not address nascent and emerging offshore renewable industries like offshore wind, despite the fact that in many jurisdictions—including Australia, France, Germany, the Netherlands, Spain, and the UK—MSP has been used to identify specific zones in which offshore

¹⁹ Fisheries and Oceans Canada, “[Federal Marine Protected Area Protection Standard](#)” (2023).

²⁰ Fisheries and Oceans Canada, “[Other Effective Area-Based Conservation Measures \(OECM\) Protection Standard](#)” (2023).

²¹ Mary Simon, Remi Bujold, et al., *Final Report of the National Advisory Panel on Marine Protected Area Standards* (26 September 2018).

wind may be installed and other zones where offshore wind development is prohibited or limited.²²

As the Committee has acknowledged in the Draft Report, site selection for offshore wind development is an iterative process that often starts by identifying where development is precluded, such as in MPAs, and then is followed by consideration of other physical, ecological, and socio-economic constraints.²³ We strongly support the Committee's precautionary approach that led it to preclude certain areas—including MPAs and other legally protected areas—from PDAs.²⁴ For example, excluding *Oceans Act* MPAs in the RA Study Area—the Gully and St. Anns Bank—from areas to be developed for offshore wind makes sense within a purposive and contextual interpretation of the *Oceans Act*'s MPA provisions and the respective MPA regulations, which already prohibit the disturbance, damaging, destruction, and removal of living organisms or habitat.²⁵ In our view, while the *Oceans Act* and its regulations are not explicit about this, offshore wind development is already prohibited in these MPAs because it would disturb or destroy living organisms or habitat in those areas. A precautionary approach warrants further, explicit recognition of that fact in law and policy.

We also support the Committee's consideration of secondary constraints—including Significant Benthic Areas, Ecologically and Biologically Significant Areas ("EBSAs"), coral and sponge areas, sea pen areas, important habitat for sensitive species, and marine conservation network sites—as part of its work to refine the analysis and selection of PDAs.²⁶ As the Committee has indicated, co-existence of these areas with offshore wind development may be possible, but avoidance of certain areas and identification of conditions to facilitate such co-existence would need to be determined at the project design stage.²⁷ We point to these conclusions as further evidence that all offshore wind projects must undergo an impact assessment or environmental assessment, where such determinations can appropriately be made through balanced, informed, and

²² Josep Lloret *et al.*, "[Floating offshore wind farms in Mediterranean marine protected areas: a cautionary tale](#)" (2023) 0 ICES Journal of Marine Science 1 at 2; see also Government of New Zealand, Ministry of Business, Innovation & Employment, "[Annex 3: International models for offshore renewable energy regulation](#)" in Enabling investment in offshore renewable energy discussion document (December 2022); ECEL Comparative Jurisdictional Research Report, full citation above at note 4.

²³ Draft Report at page 202.

²⁴ *Ibid.* at page 205. See also Figure 4.10 of the Draft Report. The list of areas precluded from PDAs includes the following: marine critical habitat for the North Atlantic right whale and northern bottlenose whale under the *Species at Risk Act*; *Oceans Act* MPAs including the Gully, Laurentian Channel, and St. Anns Bank; Sable Island National Park Reserve; and, Marine Bird Sanctuaries, including Big Glace Bay, Port Joli, Sable River, Port Herbert, Haley Lake and Sable Island.

²⁵ See the Committee's statement to such effect on page 127 of the Draft Report. Both the *Laurentian Channel Marine Protected Area Regulations*, SOR/2019-105 and the *St Anns Bank Marine Protected Area Regulations*, SOR/2017-106 prohibit, at section 4 respectively, any activity that disturbs, damages, destroys or removes any living marine organism or any part of its habitat, or is likely to do so. Section 4 of the *Gully Marine Protected Area Regulations*, SOR/2004-112 also prohibits such activities, as well as explicitly prohibit disturbance, damage, destruction, or removal of the seabed, and explicitly prohibits depositing, discharging, or dumping of substances likely to disturb, damage, destroy, or remove living marine organisms, habitat, or seabed.

²⁶ Draft Report at page 208.

²⁷ *Ibid.*

participatory decision-making. As we noted above, we also support the Committee’s recommendation to establish a 25-kilometre buffer zone from the shore and a 25-kilometre buffer zone around Sable Island. These buffer zones will enhance protections for important areas, like EBSAs, and for important avian, bat, and land-based species.

What we do not support is the Committee’s recommended PDAs where they overlap with key established and proposed legally protected and conserved areas in the offshore, particularly the Western/Emerald Banks marine refuge and the proposed Pemsik NMCA, which is part of a large, Indigenous-led “conservation mosaic” that has the opportunity to become an Indigenous Protected and Conserved Area.²⁸

3.1 Western/Emerald Banks Marine Refuge

The Western/Emerald Banks marine refuge prohibits the use of commercial bottom-contact fishing gear and is managed in accordance with the ecosystem and precautionary approaches under the *Policy for Managing the Impacts of Fishing on Sensitive Benthic Areas*, with priority for conservation of fisheries resources and fish habitat.²⁹ The area has long been closed to groundfish fishing, even before it was designated a marine refuge under the *Fisheries Act* in 2017. The conservation objectives of the marine refuge include supporting productivity for multiple kinds of groundfish, particularly haddock, and managing disturbances of benthic habitat that supports juvenile and adult species of fish.³⁰ Fishing has been the primary concern for the area because, until recently, there were no other foreseeable activities that would interfere with these conservation objectives.

Two of the Committee’s proposed PDAs (Sable Island Bank and Western/Emerald Bank) overlap with the Western/Emerald Banks marine refuge, and both PDAs have been proposed as Tier 1 sites. To our understanding, Tier 1 PDAs, as the Committee envisions them, are areas that can be immediately considered for offshore wind development, whereas Tier 2 PDAs are areas that may be suitable for offshore wind development but which require further investigation and engagement before such a conclusion is made. Identification of the Western/Emerald Banks marine refuge as an area suitable for immediate offshore wind development without any further investigation or engagement about potential impacts on the conservation objectives for the area is not consistent with the precautionary principle. Moreover, it would jeopardize Canada’s ability to count the large OEEM as part of its national conservation targets and towards its international obligations, because offshore wind development has the potential to negatively impact the same benthic habitats and species that the marine refuge was designed to protect against. For example, anchoring of wind turbines, construction activities, placement of transmission lines, and discharges and dumping from vessels are all likely to disturb or destroy the benthic area on the Western/Emerald Banks.

²⁸ *Ibid* at page 123.

²⁹ Fisheries and Oceans Canada, [Policy for Managing the Impacts of Fishing on Sensitive Benthic Areas](#) (23 March 2009). For example, see paragraph 2.2.

³⁰ Fisheries and Oceans Canada, “[Western/Emerald Banks Conservation Area \(restricted fisheries zone\)](#)” (13 March 2019).

DFO has identified to the Committee that its preferred approach is for offshore wind development to take place outside of any marine refuge, “but that a risk management assessment be completed at the time of any proposed development to ensure that risks to the biodiversity conservation benefits” can be avoided or mitigated.³¹ The Committee has accepted that “development within a Marine Refuge would require a determination that the conservation objectives that gave rise to the designations would not be substantially compromised by the co-location of a wind farm”.³² The Committee also comments in the Draft Report that:

[...] the possibility of co-locating an OSW development within an area with a protection designation requires a better understanding of net habitat benefit(s), potential impact(s) to existing conservation objectives and the value of placing OSW development in an area already restricted for fishing activity. Given the infancy of the OSW industry in NS, the Committee expects that the findings of research undertaken during any initial OSW projects will support decision making regarding the future utilization of Marine Refuge areas.³³

We do not support the Committee’s conclusions that research undertaken during initial offshore wind projects is the point in time when decisions should be made regarding the future use of marine refuges like the Western/Emerald Banks. Inherent in the DFO’s approach and the Committee’s conclusions is this: not enough is known about the impacts of offshore wind development on the biodiversity conservation benefits and conservation objectives of marine refuges, which is supported by other conclusions and findings of the Committee elsewhere in the Draft Report. A precautionary approach warrants precaution in the face of uncertainty, and there are clearly many unknowns about impacts in the marine refuge. Furthermore, as we have noted above, a tiered approach to planning and assessment requires a regional assessment or strategic environmental assessment that considers the impacts of offshore wind development in an area. In our view, this requirement has not yet been met for the Committee’s recommended Western/Emerald Bank PDA, which until recently was only half the size now proposed by the Committee, and which has not been subject to input from Indigenous rightsholders, stakeholders, coastal communities, and other ocean users.

It is also significant that, in the Draft Report, the Committee highlighted multiple reports that did not identify Western/Emerald Banks as an area suitable for (or in low conflict with) offshore wind development, including DFO's Marine Spatial Planning Atlas, Aegir Insights' "Value Mapping Nova Scotia's Offshore Wind Resources" (2023), CanmetENERGY's "Preliminary Considerations Analysis of Offshore Wind Energy in Atlantic Canada" (2023), and the DFO's "Marxan with Zones Analysis for Potential Locations of Low-Conflict with Offshore Wind Development" (2024). Notably, the marine refuge was only identified as an area of low conflict in [a submission from the Nova Scotia Fisheries Alliance for Energy Engagement](#) (2024), which makes sense because until the emergence of the nascent offshore wind industry, fisheries activities were the only threat to

³¹ Draft Report at page 237.

³² *Ibid.*

³³ *Ibid.*

the benthic area. Finally, the Committee has only identified one potential offshore wind proponent with an interest in the Western/Emerald Banks area.³⁴

To strengthen the protections for existing and future MPAs and OECMs in the RA Study Area, we point to two new provisions of the amended Accord Acts:

- Section 135 of the amended federal Accord Act and section 60(1) of the amended provincial Accord Act will allow the responsible Federal Minister and Provincial Minister to issue a joint direction to the CNSOER to prohibit the issuance of submerged land licences.
- Section 137 of the amended federal Accord Act and section 62A of the amended provincial Accord Act will allow the Governor in Council, for the purpose of protection of the environment, to make regulations prohibiting offshore renewable energy projects (including offshore wind developments) in any part of the offshore area that is, or in the opinion of the Governor in Council, may be identified under an Act of Parliament or the provincial legislature as an area for environmental or wildlife conservation or protection.

Once in force, these provisions of the amended Accord Acts will enable greater and clearer protection of existing and future MPAs, OECMs, and other legally protected and conserved marine areas.

For all of these reasons, we support the recommendations advocated by SeaBlue Canada, which is to prohibit offshore wind development from MPAs and OECMs. We urge the Committee to consider the following addition to its final report:

The Committee recommends that

1) the responsible federal and provincial ministers should issue a joint direction to the CNSOER, under the amended Accord Acts, to prohibit the issuance of submerged land licences in MPAs and OECMs, and

2) the Governor in Council should create a regulation under the amended Accord Acts to prohibit offshore wind developments in existing and future MPAs and OECMs.

In keeping with these recommendations, we also recommend that the Committee narrow the proposed Sable Island Bank and Western/Emerald Bank PDAs to the areas that do not overlap with the Western/Emerald Banks marine refuge, and we recommend that the Committee relegate the remaining Western/Emerald Bank PDA area to a “Tier 2” PDA.

³⁴ *Ibid* at pages 45-49.

3.2 Pemsik National Marine Conservation Area and Other “Areas of Interest”

As we have mentioned, and as is noted in the Draft Report, Pemsik is an Area of Interest (“AOI”) for an NMCA, and the establishment process for the NMCA is underway.³⁵ This area is identified as an AOI in Figure 4.11, “Existing and Proposed Conservation Sites with Ecological Areas” of the Draft Report.³⁶ Parks Canada has recommended that offshore wind development be excluded from this proposed NMCA, along with another potential NMCA in the coastal areas off of Cape Breton Highlands National Park.

As we have noted above, an MSP for the offshore area that is developed as part of a tiered approach to planning and assessment would identify prospective offshore development areas and consider them in light of existing and anticipated legally protected and conserved areas like the proposed Pemsik NMCA and other future potential conservation areas. We therefore recommend that the Committee remove Pemsik from its LaHave Basin PDA.

4.0 Highlighting Our Strong Support for Certain Committee Recommendations

Appended to this submission is a table that provides comments on all of the specific recommendations that the Committee has made in the Draft Report. We take this opportunity to highlight our strong support for certain Committee recommendations and for certain approaches taken more generally within the Draft Report.

We strongly support the Committee’s recommended 25-kilometre coastal buffer zone and the associated 25-kilometre buffer zone around Sable Island.

We note with approval the Committee’s comments that offshore wind developers should “recognize Indigenous authority to steward their lands and waters” while also taking various steps to engage meaningfully and inclusively with Indigenous communities.³⁷ We strongly support Canadian (federal and provincial) implementation of the *United Nations Declaration on the Rights of Indigenous Peoples*, and we agree that recognition of Indigenous governance authority is crucial. This recognition should not come from offshore wind developers alone, however: it must also be given by the Government of Canada, the Government of Nova Scotia, and the CNSOER, among others.

Concerning the Committee’s recommendation that a Scotian Shelf Collaborative Research Initiative (“SSCRI”) be developed to enable collaborative efforts to fill information gaps identified by the Committee and work to continuously develop relevant knowledge and understanding of the marine environment, we strongly support the spirit of this recommendation, and we agree with the Committee that a coordinated research effort following this Regional Assessment should be facilitated and funded by government. Based on conversation with the Committee and

³⁵ *Ibid* at page 123.

³⁶ *Ibid* at page 124.

³⁷ *Ibid* at page 284.

attendance at advisory group meetings, our impression is that the Committee had not yet envisioned its proposed SSCRI as a follow-up program following this Regional Assessment, and we encourage the Committee to explore that possibility. In our view, regional assessment follow-up programs contemplated by the *Impact Assessment Act* could be a useful framework for the SSCRI that the Committee is envisioning. Notably, there is a recent precedent for the establishment of a regional assessment follow-up program: a follow-up program was established following the completion of the Regional Assessment of Offshore Oil and Gas Exploratory Drilling East of Newfoundland and Labrador. That follow-up program was established to monitor and report on the implementation and effectiveness of various outcomes of that regional assessment, including commitments made in the associated Ministerial Response to the Regional Assessment Committee Report for Offshore Exploratory Drilling East of Newfoundland and Labrador.³⁸

Finally, woven throughout the Draft Report in numerous locations is the Committee's emphasis on the need for interjurisdictional and intergovernmental cooperation and collaboration going forward to ensure that the potential benefits of wind energy development in offshore Nova Scotia can be realized meaningfully. The Committee's comments in this regard have clearly been shaped to a significant extent by the initial port, other infrastructure, and market studies that have been carried out to assess Nova Scotia's readiness to advance an offshore wind industry, and it seems very clear from the Committee's conclusions that Nova Scotia cannot realize the benefits of an offshore wind industry by going it alone. We strongly support the Committee's emphasis on cooperation, collaboration, and collective working together. As suggested by our comments above, we appreciate in particular the Committee's emphasis on the need for intergovernmental, multi-rightsholder, and multi-stakeholder research to inform a stronger collective understanding of the marine environment and its interactions with offshore wind development going forward.

5.0 Concluding Comments and Summary of the Recommendations Made Above

To summarize the key recommendations made above, we are urging the Committee to:

- recommend that "Tier 2" PDAs be assessed further before any areas within them are opened to calls for bids for submerged land licences;
- recommend that marine areas outside of the Committee's recommended PDAs not be opened to offshore wind development without first being assessed, at minimum, through a strategic environmental assessment by the CNSOER;
- recommend that the Government of Canada and Government of Nova Scotia develop an MSP that clearly distinguishes offshore wind PDAs from marine areas where marine protection and conservation measures or fisheries will be prioritized, including zoning areas that establish these distinctions;

³⁸ See Impact Assessment Agency of Canada, "[Regional Assessment of Offshore Exploratory Drilling East of Newfoundland and Labrador: Follow-up Program - Terms of Reference](#)" (July 2021).

- recommend that the CNSOER be required by regulation to conduct environmental assessments of proposed offshore wind projects when such projects are not subject to impact assessments;
- recommend that the responsible federal and provincial ministers issue a joint direction to the CNSOER, under the amended Accord Acts, to prohibit the issuance of submerged land licences in MPAs and OECCMs;
- recommend that the Governor in Council create a regulation under the amended Accord Acts to prohibit offshore wind developments in existing and future MPAs and OECCMs;
- narrow the proposed Sable Island Bank and Western/Emerald Bank PDAs to the areas that do not overlap with the Western/Emerald Banks marine refuge;
- following the above, relegate the remaining Western/Emerald Bank PDA to a “Tier 2” PDA; and
- remove Pemsik from the proposed LaHave Basin PDA.

Please note that in addition to the recommendations we included in this narrative submission, we provide additional commentary and recommendations in the table below.

Thank you for the opportunity to contribute these comments on the Draft Report. We thank the Committee for its continued work in this Regional Assessment, and we look forward to seeing the Committee’s final report.

Sincerely,

<Original signed by>

Mike Kofahl
Staff Lawyer

<Original signed by>

Kostantina Northrup
Staff Lawyer

Appendix: Comments on the Committee's Recommendations

In the table below, we respond to the Committee’s recommendations in Chapter 10 of the Draft Report.

In our comments for each recommendation, we have indicated our level of support. For some of the recommendations, we have provided commentary or suggestions that are meant to contextualize our position, offered recommendations of our own, or reiterated our key positions, in order to further support the commentary that we provide in the narrative portion of this submission. In some instances, we have not indicated any level of support because the recommendation applies to an area outside of our expertise.

For certainty, all recommendations made in the table below are intended as recommendations to the Committee. We hope that the Committee will consider these recommendations and implement them accordingly through their own recommendations.

Recommendation	Draft Report Page	Comments
Theme 1: Existing knowledge gaps and necessary research		
T1-1 Develop a Scotian Shelf Collaborative Research Initiative (SSCRI).	317	<p>The Committee's proposed SSCRI would be established to benefit from combined contributions of the "scientific community" at large, in collaboration with rightsholders, stakeholders, coastal communities, and other ocean users. The Committee envisions those ongoing initiatives, like the DFO's marine spatial plan for the Fundy-Scotian Shelf region, would be incorporated into the SSCRI's activities. The SSCRI is envisioned as providing the framework for assessing any future developments in the marine area (not just offshore wind developments).</p> <p>As reiterated in the narrative portion of this submission, we strongly recommend an ongoing, integrative, tiered approach to the planning and assessment of offshore activities, including offshore wind development. The higher level of that approach would necessarily require assessment at a regional or strategic level and would require integration of existing knowledge, information, and data from a wide range of rightsholders, stakeholders, coastal</p>

	<p>communities, and other ocean users. We are also supportive of high-level assessment that involves strategic planning, including MSP. To these ends, we strongly support this recommendation, and we suggest that the Committee consider recommending that the SSCRI initiative be implemented as a follow-up program to this Regional Assessment, per our comments below.</p> <p>The Committee has suggested that in order to succeed, the SSCRI would need at least 5 years of core funding. We recommend that the Committee further explore how the SSCRI would be established and funded. We suggest that a regional assessment follow-up program be established under the <i>Impact Assessment Act</i>. There is a recent precedent for the establishment of a regional assessment follow-up program: a follow-up program was established following the completion of the Regional Assessment of Offshore Oil and Gas Exploratory Drilling East of Newfoundland and Labrador.³⁹ That follow-up program was established to monitor and report on the implementation and effectiveness of various outcomes of that regional assessment, including commitments made in the associated Ministerial Response to the Regional Assessment Committee Report for Offshore Exploratory Drilling East of Newfoundland and Labrador.⁴⁰</p> <p>Subsection 75(1)(a) of the <i>Impact Assessment Act</i> requires that participant funding be established to facilitate, in part, "the design and implementation of follow-up programs" in relation to designated projects.</p> <p>In our opinion, the Committee is entirely within its mandate to recommend the creation of a follow-up program. For example, paragraph 1.2(c) of the RA Agreement requires the Committee to identify and recommend mitigation and follow-up measures, and paragraph A2.3(b) of the TOR requires the Committee, in its final report, to include information about "recommendations for a Regional Assessment follow-up program to consider and incorporate any new and updated information that becomes available after submission of</p>
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³⁹ See Impact Assessment Agency of Canada, "[Regional Assessment of Offshore Exploratory Drilling East of Newfoundland and Labrador: Follow-up Program - Terms of Reference](#)" (July 2021).

⁴⁰ *Ibid.*

		<p>the final Report by the Committee, in order to help ensure that the Regional Assessment remains current and useful into the future and continues to fulfill its goal and objectives".</p> <p>We also recommend that the Committee propose specific timelines by which the SSCRI would be established.</p>
T1-2 Fund Mi'kmaw Ecological Knowledge Studies (MEKS).	320	<p>The Committee has suggested that the <i>Impact Assessment Act</i> requires developers to undertake project specific Mi'kmaw Ecological Knowledge Studies ("MEKS") and therefore recommends that the CNSOER be tasked with organizing a proactive execution of a MEKS for each Wind Energy Area.</p> <p>We note that the <i>Impact Assessment Act</i> does not specifically require proponents to conduct project-level MEKS. What it does require is consideration of Indigenous Knowledge provided with respect to a designated project.⁴¹ Such Indigenous Knowledge must be kept confidential when it is provided in confidence.⁴²</p> <p>We support the Committee's recommendation that MEKS in each Wind Energy Area be funded and suggest that the Committee provide more detail and clarity about who would be expected to fund MEKS and work with Mi'kmaq to ensure that a requirement for MEKS includes support for Mi'kmaw organizations carrying out the studies. During our engagement in the Fisheries and Other Ocean Users Advisory Group, we heard that there is limited capacity in Mi'kmaw organizations to conduct MEKS, partly due to a shortage of trained Mi'kmaw workers to conduct these studies.</p>
T1-3 Create a shared repository of data and sources.	320-321	<p>We support the Committee's recommendation that the CNSOER be responsible for providing a repository of project-specific data and maintaining, through liaising with the SSCRI, a record of research being undertaken that relates to offshore wind development.</p>

⁴¹ *Impact Assessment Act*, SC 2019, c 28 at subsection 22(1)(g).

⁴² *Ibid* at section 119.

		We also recommend that any such repository of data and sources be publicly accessible.
T1-4 Provide support for ongoing research in federal departments on modelling and marine spatial planning.	321	We support this recommendation.
T1-5 Provide funding to Mi'kmaw organizations for research on adaptive management.	321-322	<p>The Committee understands adaptive management as a "hypothesis-based approach to meet objectives agreed to by all interested parties" that uses "qualitative and quantitative models to provide alternative approaches to issues".</p> <p>Adaptive management is an approach to resource management that strives to facilitate decision-making based on existing information and also accommodates changes in processes or decision-making based on new or emerging information. An important element of adaptive management it that it is an iterative process, where policies and practices are refined based on ongoing learning. In this way, adaptive management complements a tiered approach to assessment of offshore wind development and marine spatial planning.</p> <p>We strongly support this recommendation, and we agree with the Committee that the CNSOER, in collaboration with the Unama'ki Institute of Natural Resources, Confederation of Mainland Mi'kmaq, and universities, should develop and fund a research program to determine how Two-Eyed Seeing can best be deployed in decision-making processes and contribute to adaptive management.</p>
T1-6 Prioritize and expand the general collection of environmental data, especially in the vicinity of the PDAs, including the bathymetric and substrate	322 - 323	<p>We support this recommendation.</p> <p>In its recommendation, the Committee has not stated <i>who</i> would be responsible for undertaking the general collection of environmental data. Since the objective of the data is, in part, to facilitate efficient management of the offshore area (and especially in the vicinity</p>

<p>characteristics, bird behaviour and habitat use, and marine mammal behaviour and habitat use within the RA Study Area.</p>		<p>of PDAs), we suggest that proponents of offshore wind development should be responsible for helping to finance and support data collection.</p>
<p>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.</p>	<p>323</p>	<p>We support this recommendation.</p>
<p>T1-8 Establish Participant Funding to last at least five years.</p>	<p>324</p>	<p>We support this recommendation but propose that such participant funding must enable all rightsholder and stakeholder groups to provide input into all development phases of the nascent offshore wind industry in the RA Study Area.</p> <p>We suggest the following changes to the Committee's recommendation:</p> <p>"The Committee recommends that participant funding be established to enable the all key rightsholder and stakeholder groups, e.g., Indigenous peoples, the public, fisheries groups, NGOs etc., to provide input into all development phases of the nascent OSW industry in the RA Study Area. This funding should last at least five years to provide the groups enough time to adequately develop the capacity and gather the resources necessary to provide fulsome and informed input to the SSCRI."</p>

Theme 2: Socio-economic Feasibility and Consequences		
T2-1 Establish a Port Advisory Group.	326	<p>We support this recommendation.</p> <p>We suggest that a Port Advisory Group also assess the ability of Nova Scotian ports to contribute to the establishment of a Green Shipping Corridor and develop a strategy for the development of such a corridor in collaboration with Indigenous groups and local communities. We note that Transport Canada has provided funding under its Green Shipping Corridor Program to enable decarbonization of the marine sector and encourage ports to adopt clean energy and export clean fuels.⁴³</p>
T2-2 Undertake Class D (conceptual design) cost estimate and model impacts.	327	<p>We have no comment on this recommendation because the 21FSP report is not yet available and we require more information.</p>
T2-3 Adopt a regional/national planning approach for the provincial OSW Roadmap.	327	<p>We support the spirit of this recommendation.</p> <p>The Committee has commented that the Province of Nova Scotia must collaborate and establish partnerships with other jurisdictions in the region, the country, and around the world. We agree that collaboration is necessary. However, the recommendation is not clear about what a regional/national planning approach for the provincial Offshore Wind Roadmap would look like and who would be responsible for leading that work. We suggest that the Committee clarify this and also recommend specific timelines for this work, given the short timelines associated with the province’s near-future goals under the Roadmap.</p>

⁴³ Transport Canada, "[The Green Shipping Corridor Program](#)" online. For an example of recently announced funding for EverWind Fuels to enable production and transport of ammonia, see: Transport Canada, "[Government of Canada invests in a clean economy for Nova Scotia](#)" (25 October 2024). The Halifax Port Authority and Hamburg Port Authority have a Memorandum of Understanding to collaborate on building port infrastructure for bunkering and exporting green hydrogen, among other objectives. See: Port of Halifax, "[Ports of Halifax and Hamburg Working to Decarbonize Shipping Corridor](#)" (29 September 2022).

T2-4 Initiate socio-economic studies for key communities.	327-328	We support this recommendation and suggest that the Committee also recommend that such studies include participant funding. We strongly support the Committee’s promotion of early planning with Indigenous communities, municipalities, and towns and villages (page 328 of the Draft Report) and suggest that the Committee frame its recommendation as an early planning approach.
T2-5 Engage the Departments of Education and Early Childhood Development and Skills, Labour and Immigration in the evolution of the OSW Roadmap.	328-329	We support this recommendation and suggest that Indigenous institutions also be engaged.
T2-6 Establish targeted immigration and recruitment programs to attract foreign specialists.	329 - 330	We have no comment on this recommendation because it is outside of our areas of focus.
T2-7 Compile a database on GBA+ research specific to the OSW industry.	330	We support this recommendation and suggest that the Committee state explicitly that GBA+ studies should be made publicly available.
Theme 3: Project Development		
T3-1 The establishment of a 25 km coastal buffer zone.	331 - 332	We strongly support this recommendation. We recommend that the Committee explicitly include the 25-kilometre buffer around Sable Island in the text of its core recommendation. We suggest the quoted

		<p>recommendation be written as follows: “T3-1 The establishment of a 25km coastal buffer zone and a 25km buffer zone around Sable Island”.</p> <p>The establishment of buffer zones around the province’s coast and around Sable Island is appropriate, and we support the Committee’s use of a precautionary approach in developing the buffer zones. Given that the 25-kilometre coastal buffer zone area is an area with a high level of conflict between potential OSW development and other ocean users, serves as an effective means to protect vulnerable migratory and at-risk bird or bird species, and also protects cultural and heritage values, we recommend that the Committee consider recommending an adaptive management approach that employs a rebuttable presumption that the coastal zone is not suitable for offshore wind development and requires proponents of offshore wind developments to prove that adverse environmental and socio-economic impacts could be effectively mitigated and show a need for offshore wind development within the coastal buffer zone that does not have alternatives. Economic feasibility must not suffice as rationale for development within the coastal buffer zone.</p> <p>We recommend that the 25-kilometre buffer zone around Sable Island not be eligible to be opened to offshore wind development in the future.</p>
T3-2 The adoption of Tier 1 and Tier 2 Proposed Development Areas (PDAs).	332	<p>We support the spirit of this recommendation, but we do not support inclusion of the Western/Emerald Banks marine refuge within a PDA. We strongly recommend that the Committee’s proposed Western/Emerald Bank PDA be re-categorized as a Tier 2 PDA. See the comments in the narrative portion of this submission for more information.</p>
T3-3 Development of bid criteria and bidder pre-qualification.	332 - 334	<p>We strongly support a multi-criteria bid process for submerged land licencing in the offshore area.</p> <p>As we have suggested elsewhere, bidding for submerged land licences within the offshore area should be informed by centralized site identification so that submerged land licencing</p>

		<p>areas conform with marine spatial planning, conservation networks, and relevant policies to enable sustainable development that balances human and ecological needs.</p> <p>The Committee has recommended the following bid criteria to be prioritized for consideration in early bidding rounds: supply chain development, labour capacity development, support for research and development gaps under the SSCRI, linkages to “follow on” projects, and community development plans. We recommend that early bidding criteria also include ongoing support for marine conservation and community capacity building. We also recommend that bidders who support integration of renewable energy into the local electricity grid to facilitate movement away from fossil fuel be prioritized over export of hydrogen and ammonia. We also recommend that Community Development Plans explicitly require a plan for equitable and sustainable community development so that local communities bearing the adverse impacts receive an equitable portion of positive impacts.</p> <p>Our recommendations are supported by the Committee’s Draft Report. For example, the Committee found that the German government has implemented policy to allocate 5% of bid revenue to protecting marine biodiversity,⁴⁴ that existing US state and European country offshore wind solicitation processes have leveraged offshore wind auctions to invest in ecological enhancement of their marine and aquatic ecosystems,⁴⁵ and that Maine has required offshore wind procurement to be consistent with its Maine Offshore Wind Roadmap, which requires environmental and wildlife research, monitoring, mitigation, and conservation.⁴⁶</p>
T3-4 Development of guidelines regarding in-field personnel transfers.	334	We support this recommendation.

⁴⁴ Draft Report at page 60.

⁴⁵ *Ibid* at page 61.

⁴⁶ *Ibid* at pages 62-63.

T3-5 Requirement for adequate security related to abandonment and decommissioning activities.	334 - 335	We strongly support this recommendation.
T3-6 The potential reduction of existing abandoned pipeline corridor exclusion zone.	335	We support this recommendation.
Theme 4: Coexistence and Compensation		
T4-1 The establishment of a compensation regime to address economic loss caused by exclusion based on the principles set out in T4-1(a) to T4-1(d).	336	<p>We support the spirit of this recommendation.</p> <p>Offshore wind development in the RA Study Area may lead to more than just direct economic loss for fishers: it may lead to adverse environmental and socio-economic impacts for local communities. The development of offshore wind must be accompanied by community development plans that enable equitable and sustainable community development in the face of uncertain adverse environmental and socio-economic impacts.</p> <p>We would like to better understand the reasoning of the Committee’s recommendation at T4-1(d) that compensation not be addressed as a bid criterion or be the subject of a non-monetary bid criterion for competitive leasing in order to understand how that reasoning would affect opportunities for local communities to receive benefits as part of the licencing process.</p>
T4-2 The development of a compensation guideline based on the principles set out in T4-2(a) to T4-2(g).	336-338	We support this recommendation.

T4-3 The establishment of an industry wide funding model based on equitable distribution of liability among OSW leaseholders.	338	<p>We support the spirit of this recommendation but cannot comment further because it is beyond the scope of our work at this time.</p> <p>We would appreciate having a better understanding of the Committee’s understanding of government subsidies. To our knowledge, this recommendation is the only mention within the Draft Report of the role of government subsidies for early projects, and it may be beneficial for the Committee to provide guidance or develop a recommendation about the use of subsidies to facilitate early offshore wind projects.</p>
T4-4 The establishment of participation funding to support fishers in implementing these recommendations.	338	We support this recommendation.
Theme 5: Cumulative Effects		
T5-1 Recognize that responsibility for cumulative effects is shared and tiered.	339	<p>We strongly support the use of tiered assessment to better understand cumulative effects.</p> <p>We note that Recommendation T5-1 does not actually contain a recommendation about how tiered responsibilities for cumulative effects will be met in the future. We have addresses this at length in the narrative portion of this submission and do not reiterate our associated recommendations here.</p> <p>We recommend that in the remaining weeks it has available to it, the Committee begin modeling exercises for a cumulative effects assessment. For example, since the Committee has the authority to contract experts,⁴⁷ we suggest that the Committee</p>

⁴⁷ *Ibid* at page 51.

		<p>outsource the production of modeling with multiple development scenarios (including one scenario where there is no offshore wind development) for the proposed Western/Emerald Bank PDA or the Western/Emerald Banks marine refuge. We understand that such scenario modeling may not be completed before the Committee’s final report is submitted to government; however, there is precedent for work started by a regional assessment committee continuing after a final report has been submitted. During the Regional Assessment of Offshore Oil and Gas Exploratory Drilling East of Newfoundland and Labrador, the committee initiated the development of a geographic information system that was not completed until well after that committee’s final report was submitted. A scenario modeling exercise of the kind we are suggesting here could be completed or integrated into the SSCRI, but since time is of the essence and bids are expected in 2025, it is crucial that action on cumulative effects assessment be taken as soon as possible.</p>
T5-2 Prepare guidelines and data sources for developers.	339	<p>We support this recommendation but urge the Committee to clarify who will be responsible for preparing guidelines (e.g., the Impact Assessment Agency of Canada, the CNSOER) and include timelines in this recommendation, given the likelihood of bids in 2025.</p>
<p>Theme 6: Governance</p>		
T6-1 CNSOER to prepare best practice guidelines and guidance documents for the OSW industry.	340	<p>We strongly support this recommendation.</p> <p>We recommend that the CNSOER develop best practice guidelines in collaboration with Indigenous rightsholders, stakeholders, coastal communities, and other ocean users and that participants be provided with participant funding. We also recommend that the Committee recommend specific deadlines for completion of this work, given the likelihood of bids in 2025.</p>
T6-2 Recommend First Nation representation on CNSOER.	340	<p>We strongly support this recommendation.</p>

		We recommend that the Committee recommend that the CNSOER also have membership with expertise in public engagement, marine conservation, and fisheries.
T6-3 Recommend that project-specific impact assessments for OSW projects are required.	340 – 341	We strongly support this recommendation; however, we do not agree with the Committee’s statement that environmental assessments must only be required “until key data gaps are addressed”. On the basis of the precautionary approach, and in recognition that there will always be localized and cumulative effects, project assessments must always be required either under the <i>Impact Assessment Act</i> or by the CNSOER.
T6-4 Consider requiring all vessels to have an approved vessel tracking system installed and operating while in the RA Study Area.	341 – 342	We strongly support this recommendation. Vessel Monitoring Systems (“VMS”) would allow for better information and data about ocean uses and activities. As the Committee has noted, VMS would help with management of fisheries, aid with enforcement, support conservation and MSP, contribute to understanding of cumulative effects and changes due to climate change, and aid with emergency and rescue missions. We agree with the Committee’s conclusions. We note that VMS can be effective for aiding with enforcement. For example, VMS was recently used in the successful prosecution under the <i>Oceans Act</i> and <i>Fisheries Act</i> for illegal fishing in the St. Anns Bank Marine Protected Area off the coast of Cape Breton Island, NS. ⁴⁸ In our view, the lack of critical information about fishing activities and other ocean uses has been a challenge, or even presented a barrier, to the Committee’s work. VMS seems like an effective tool to enable better data creation for future MSP and decision-making processes in the offshore.

⁴⁸ CBC News, “[Boat captain fined \\$5K for illegal fishing in marine protected area off Cape Breton](#)” (5 November 2024).

<p>T6-5 DFO to review their management and regulatory processes.</p>	<p>342</p>	<p>We support regular review of management and regulatory processes for the offshore area that is supported through meaningful public engagement.</p> <p>We would like to better understand how this recommendation to review current management practices and applicable regulations related to commercial fisheries is informed by the Committee’s understanding of practices, policies, and regulations related to DFO’s marine refuges and how this recommendation has shaped its recommendation of the Western/Emerald Banks marine refuge as a PDA.</p>
<p>Theme 7: Education and Training</p>		
<p>T7-1 Nova Scotia Department of Education to work with elementary, middle and high schools, colleges and universities to develop curriculum, educational and training programs related to OSW and other renewables.</p>	<p>343</p>	<p>We support this recommendation. We encourage the Committee to consider expanding this recommendation to also include the need for better education and training related to MSP and marine conservation.</p>
<p>T7-2 Nova Scotia Department of Education to develop curriculum for new upskilling, retraining and micro-credential programs to enable the current marine workforce to</p>	<p>344</p>	<p>We support this recommendation.</p>

transition into new roles in support of OSW development.		
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