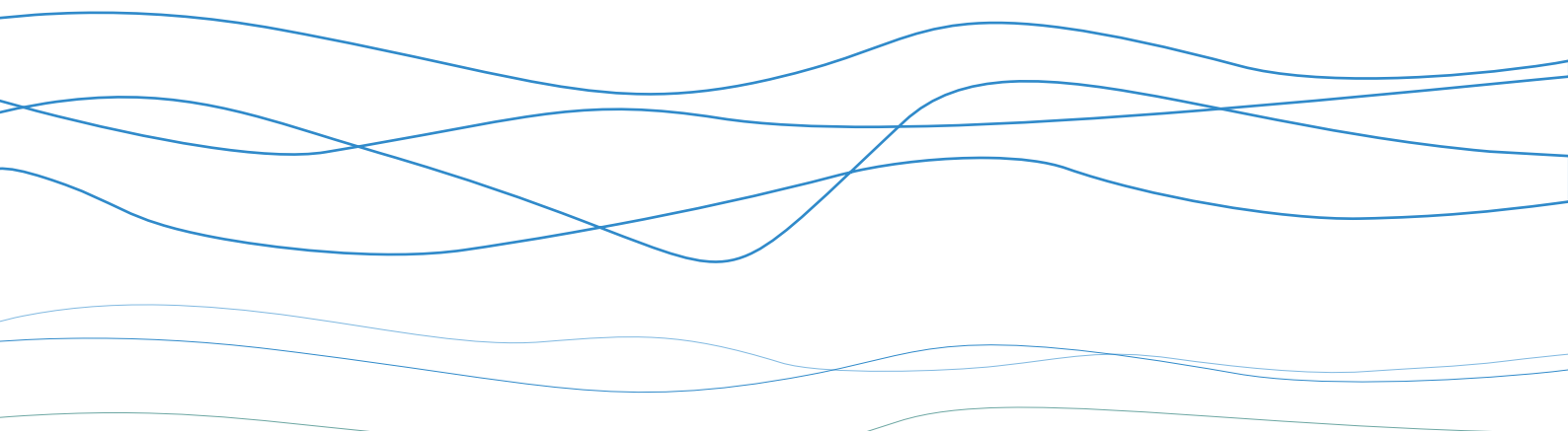




Bowdun Offshore Wind Farm, Offshore EIA Report

Volume 1, Chapter 2: Policy and Legislation

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Glossary

Defined Term	Definition
Additional Mitigation	Also referred to as secondary mitigation which is defined by The Institute of Sustainability and Environmental Professionals (ISEP) (formerly Institute of Environmental Management and Assessment (IEMA)) as: Actions that will require further activity in order to achieve the anticipated outcome. These may be imposed as part of the planning consent, or through inclusion in the Environmental Impact Assessment (EIA) Report (sic).
Annex I	Habitats of community interest whose conservation requires the designation of Special Areas of Conservation (SACs), as identified in Annex I of the Habitats Directive (Council Directive 92/43/EEC).
Annex IV	Species of community interest in need of strict protection under the Habitats Directive (Council Directive 92/43/EEC).
Applicant (the)	Bowdun Offshore Wind Farm Limited (BOWFL).
Appropriate Assessment (AA)	An assessment to determine the implications of a plan or project for a European site in view of that site's conservation objectives. An Appropriate Assessment forms part of the Habitats Regulations Appraisal (HRA) and is required when a plan or project (either alone or in combination with other plans or projects) is likely to have a significant adverse effect on a European site.
Array Area	The Array Area is the area in which the Offshore Generation Assets will be located.
Carbon Budget	The maximum amount of carbon emissions that can be released into the atmosphere over a set period of time. The goal of Carbon Budgets is to limit global warming to a specific level.
Contracts for Difference (CfD)	The UK Government's main mechanism for supporting low-carbon electricity generation.
Crown Estate Scotland (CES)	Public corporation accountable to Scottish Government, responsible for the management of land and property, including marine assets in Scotland owned by the monarch.
Embedded Mitigation	Measures that are adopted as part of the Proposed Development and therefore assessed within the EIA. The proposed approach for the EIA for the Proposed Development is that Embedded Mitigation includes both primary mitigation and tertiary mitigation. These are defined by the ISEP as follows: Primary: Modifications to the location or design of the development made during the pre-application phase that are an inherent part of the project, and do not require additional action to be taken. Tertiary: Actions that would occur with or without input from the EIA feeding into the design process. These include actions that will be undertaken to meet other existing legislative requirements, or actions that are considered to be standard practices used to manage commonly occurring environmental effects.
Environmental Impact Assessment (EIA)	Process for the assessment of likely significant environmental effects of a project on the physical, biological and human environment during construction, Operation and Maintenance (O&M) and decommissioning.

Defined Term	Definition
Environmental Impact Assessment Regulations (EIA Regulations)	Terminology used in this Offshore EIA Report to refer to three sets of regulations: • The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017; • The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017; and • The Marine Works (Environmental Impact Assessment) Regulations 2007.
European Sites	This term recognises SACs, candidate SACs (cSACs), Sites of Community Importance (SCIs), Special Protection Areas (SPAs), possible SACs (pSACs), potential SPAs (pSPAs) and Ramsar sites (where also designated as another European Site), which protect species and habitats shared across Europe and were originally designated under European legislation.
Habitats Regulations	A term that refers to the collective legislation that translates the Habitats Directive into specific legal obligations in Scotland, namely: The Conservation (Natural Habitats, &c.) Regulations 1994; The Conservation of Habitats and Species Regulations 2017; and The Conservation of Offshore Marine Habitats and Species Regulations 2017 (in each case as amended).
Habitats Regulations Appraisal (HRA)	An assessment carried out under the Habitats Regulations to determine if a plan or project could adversely affect the integrity of a European Site.
Impact	A change caused by an action that occurs during a project's lifetime.
Inter-Array Cables (IAC)	Cables which link the Wind Turbines to each other and with the Offshore Substation Platforms (OSPs).
Intertidal Area	The area between Mean High Water Spring (MHWS) and Mean Low Water Springs (MLWS).
Likely Significant Effect (LSE)	A significant effect on a designated site that has the potential to occur as a result of the Proposed Development (as determined by the LSE Screening Report). Where a LSE cannot be ruled out, further assessment is needed as part of the AA.
Marine Directorate (MD)	The Marine Directorate of the Scottish Government, formerly known as Marine Scotland. The planning and licensing authority for Scotland's seas and custodian of Scotland's National Marine Plan (NMP). The Marine Directorate - Licensing Operations Team (MD-LOT) are specifically responsible for managing Section 36 Consent and Marine Licence Applications seaward of MHWS.
Marine Licence	A Marine Licence permits the undertaking of different activities in the marine environment, including construction, the deposition or removal of substances or objects, and dredging. The Marine (Scotland) Act 2010 requires Marine Licences to be obtained for licensable activities taking place within Scottish Territorial Seas (MHWS to 12 nm). The Marine and Coastal Access Act (MCAA) 2009 requires a Marine Licence to be obtained for licensable marine activities within the Scottish offshore region (12 nm – 200 nm).
Marine Protected Areas (MPAs)	MPAs are designated under the Marine (Scotland) Act 2010 and the Marine and Coastal Access Act (MCAA) 2009. The MPA network protects nationally and internationally important marine wildlife, habitats, geology, and underwater landforms. Scotland's MPAs are significantly important for European, North-East Atlantic, and global MPA networks.

Defined Term	Definition
Mean High Water Springs (MHWS)	The average tidal height throughout the year of two successive high waters during those periods of 24 hours when the range of the tide is at its greatest.
Mitigation	Measures to avoid, prevent, reduce or control effects on the environment. See also definitions for Embedded Mitigation and Additional Mitigation.
Offshore Application	Term used to refer to the applications associated with the Proposed Development. The Applicant will apply for: • A Section 36 Consent under the Electricity Act 1989; and • Marine Licence(s) under Marine Scotland Act 2010 and Marine and Coastal Access Act 2009.
Offshore Environmental Impact Assessment (EIA) Report (hereafter, 'Offshore EIA Report')	Document prepared to report the findings of the EIA for the Proposed Development and produced in accordance with the EIA Regulations. The Offshore EIA Report is submitted to support the Offshore Application for the Proposed Development, and to comply with EIA Regulations.
Offshore Export Cables	Subsea cables used to transmit electricity generated offshore by the Wind Turbines from the OSPs to shore. The Transition Joint Bay (TJB) is the location where the Offshore Export Cables terminate, and the onshore cabling begins.
Offshore Generation Assets	The infrastructure of the Proposed Development required to generate electricity comprising of the Wind Turbines, Wind Turbine foundations and associated infrastructure (e.g. IACs).
Offshore Infrastructure	All of the Offshore Infrastructure associated with the Proposed Development that is located seaward of MHWS, comprising the Offshore Generation Assets and the Offshore Transmission Assets.
Offshore Substation Platform(s) (OSPs)	OSPs comprise the support structure, topside and electrical components used for collecting and/or converting electricity generated by the Wind Turbines for transmission by the Offshore Export Cables.
Offshore Transmission Assets	The infrastructure of the Proposed Development required to transmit the generated electricity comprising of the OSPs, Offshore Export Cables and associated infrastructure up to MHWS.
Onshore Scoping Report	Document prepared to comply with The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 in order to provide information on the potential impacts of the Onshore Transmission Assets.
Onshore Transmission Assets	The transmission infrastructure associated with the Project above MLWS which is subject to the Planning Permission in Principle (PPP) Application submitted to Aberdeenshire Council (REF: APP/2025/1952).
Operation and Maintenance (O&M)	The phase of the Proposed Development following completion of construction. This phase of development includes routine inspections, repairs and replacement of infrastructure and equipment (including Interconnector Cables and IACs), Scour Protection replenishment or replacement, major component replacement, painting and/or other coating works, removal of marine growth, and replacement of access ladders.
Plan Option Area (POA)	A location identified in the SMP as a preferred area for commercial scale offshore wind development.

Defined Term	Definition
Pre-Application Consultation (PAC)	Pre-Application Consultation with communities and stakeholders with regard to the consent applications for the Project that meets the requirements of Marine Licensing (Pre-application Consultation) (Scotland) Regulations 2013.
Project (the)	An overarching term for the Bowdun Offshore Wind Farm (Bowdun OWF) comprising the offshore and onshore infrastructure required to generate and transmit electricity from the Array Area to the onshore Grid Connection Point (GCP). The Project includes the Offshore Generation Assets, the Offshore Transmission Assets and the Onshore Transmission Assets.
Project Design Envelope (PDE)	A description of the range of possible elements that make up the design options for the Proposed Development under consideration when the exact engineering parameters are not yet known.
Proposed Development	Term used to define the Offshore Infrastructure associated with the Project seaward of MHWS for which consent is being sought. Further details of the parameters are included in Volume 1, Chapter 3: Project Description.
Ramsar Site	Wetlands of international importance, designated under the Ramsar Convention on Wetlands of International Importance 1971.
Scoping Opinion	A document produced by MD-LOT which is issued in response to submission and review of the Offshore Scoping Report. The Scoping Opinion is supported with feedback and advice from consultees, which details what is expected to be included in the Offshore EIA Report and what can be scoped out of the EIA process.
Scottish Marine Area	The area of sea within the seaward limits of the territorial sea of the United Kingdom adjacent to Scotland as defined by the Marine (Scotland) Act 2010.
Scottish Ministers (the)	The decision makers with regard to Marine Licence(s) and Section 36 Consent applications in Scottish Offshore Waters and Scottish Marine Area.
Scottish Renewable Energy Zone (REZ)	The area of the sea within the Scottish Territorial and Offshore Waters that may be utilised for renewable energy production, as specified in the Renewable Energy Zone (Designation of Area) (Scottish Ministers) Order 2005.
Scottish Territorial Waters	The territorial waters of Scotland that extend out from MHWS to 12 nm.
ScotWind Leasing Round	A seabed leasing round run by CES to grant property rights for the seabed in Scottish waters for new commercial scale offshore wind project development. ScotWind Leasing must be sited within POA of the SMP.
Section 36 Consent	Scottish Ministers' consent under Section 36 of the Electricity Act 1989 required to permit the generation and operation of an energy generation station.
Sectoral Marine Plan (SMP)	A plan developed by the Scottish Government which provide the strategically planned spatial footprint for offshore wind development in Scotland.
Special Areas of Conservation (SACs)	SACs are areas designated for the conservation of certain plant and animal species listed in the Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

Defined Term	Definition
Special Protection Areas (SPAs)	SPAs are sites that are designated to protect rare or vulnerable birds (as listed on Annex I of the Directive 2009/147/EC on the conservation of wild birds), as well as regularly occurring migratory species.
Thistle Wind Partners (TWP)	Company established for the development of the Project.
Wind Turbines	Structures comprising of a tubular tower, rotor blades, and a nacelle which houses the Wind Turbine generator.

Acronyms

Acronym	Definition
AA	Appropriate Assessment
ALDP	Aberdeenshire Local Development Plan
CES	Crown Estate Scotland
CfD	Contracts for Difference
COP	Conference of the Parties
DESNZ	Department for Energy Security and Net Zero
EIA	Environmental Impact Assessment
EMR	Energy Market Reform
EPS	European Protected Species
EU	European Union
GHG	Greenhouse Gas
HRA	Habitats Regulations Appraisal
INTOG	Innovation and Targeted Oil and Gas
LSE	Likely Significant Effects
MCAA	Marine and Coastal Access Act 2009
MD-LOT	Marine Directorate-Licensing Operations Team
MHWS	Mean High Water Spring
MPA	Marine Protected Area
MPS	Marine Policy Statement
NMP	National Marine Plan
OREI	Offshore Renewable Energy Installation
OWF	Offshore Wind Farm
OWPS	Offshore Wind Policy Statement
O&M	Operation and Maintenance
PAC	Pre-Application Consultation
PMF	Priority Marine Feature
POA	Plan Option Area
RMP	Regional Marine Plan

Acronym	Definition
SAC	Special Area of Conservation
SEA	Strategic Environmental Assessment
SMP	Sectoral Marine Plan
SNH	Scottish National Heritage
SPA	Special Protection Area
UK	United Kingdom
UNFCCC	United Nations Framework Convention on Climate Change

Table of Units

Units	Definition
%	Percent
°C	Degree Celsius
CO₂	Carbon Dioxide
gCO₂/kWh	Grams of Carbon Dioxide per Kilowatt-Hour
GW	GigaWatt
MW	MegaWatt
nm	Nautical Mile

2 Policy and Legislation

2.1 Introduction

- 2.1.1 This chapter of the Offshore Environmental Impact Assessment (EIA) Report presents a summary of the key policies and legislation relevant to the Proposed Development. This includes United Kingdom (UK) and Scottish policies and legislation in relation to climate and planning, the need for the Proposed Development and consents and licensing requirements.
- 2.1.2 The background for the Proposed Development's application in relation to international and national policy and legislation, follows the structure as set out below:
- international obligations and policy, including those derived from European legislation, relating to climate change, reducing greenhouse gas (GHG) emissions and the role of renewable energy;
 - legislation and policy relating to climate change, energy and marine planning relevant to both the UK and Scotland;
 - Scottish offshore wind consenting, including the consent applications required for the construction, Operation and Maintenance (O&M), and decommissioning of the Proposed Development; and
 - other relevant legislation to the Proposed Development.
- 2.1.3 Where specific policies and/or legislation apply to specialist topic areas, particularly in relation to the impact assessments for receptors, these will be outlined and discussed within the relevant topic chapters of this Offshore EIA Report.
- 2.1.4 For the purposes of this chapter and throughout this Offshore EIA Report, where legislation has been amended (for example, by European Union (EU) Exit Amendment Regulations) the legislation is referred to 'as amended'.

2.2 Climate Change Policy, Legislation and the Need for the Development

International Commitments

- 2.2.1 The Kyoto Protocol, which came into effect in 2005 sets international binding GHG emission reduction targets set by the United Nations Framework Convention on Climate Change (UNFCCC). The Kyoto Protocol introduced legally binding targets for 37 industrialised nations and economies, including the reduction of GHG emissions by an average of 5% below 1990 levels from 2008 to 2012 (UNFCCC, 2005). The Doha amendment introduced further reduction of GHG emissions to at least 18% below 1990 levels from the period of 2012 to 2020 (UNFCCC, 2012).

- 2.2.2 The Paris Agreement 2016 (Paris Agreement under the UNFCCC) is an international treaty, agreed at the Paris Climate Conference (Conference of the Parties (COP) 21) in December 2015 and entered into force in November 2016. This agreement aims to improve resilience to climate change impacts and provide support to developing countries to implement climate change mitigation. The targets in this agreement supersede those made in the Kyoto Protocol, aiming to keep the global temperature to below 2°C above pre-industrial levels, and limit global warming to 1.5°C (UNFCCC, 2016).
- 2.2.3 In December 2023, COP28 was held in Dubai and focused on the start of the transition towards renewable means of energy generation such as wind and solar (UNFCCC, 2023a). This collective move towards renewable energy generation was acknowledged by 133 countries (including the UK) signing the Global Renewables and Energy Efficiency Pledge which was a commitment to tripling the global renewable energy capacity by 2030 through:
- accelerating permitting of renewable projects and infrastructure;
 - developing and expanding grid connections;
 - providing clarity on market design and incentive schemes in renewables and energy efficiency;
 - promoting energy efficiency, electrification and energy demand management;
 - raising public awareness and encouraging behaviour change;
 - encouraging private investment; and
 - enhancing new technological solutions (UNFCCC, 2023b).

European Legislation and Policy

EU Exit

- 2.2.4 The UK officially left the EU (hereafter referred to as 'EU Exit') on 31 January 2020 after triggering Article 50 of the Lisbon Treaty. Since the EU Exit, the UK Government has been committed to maintain any environmental commitments made, along with the legislation enacted after the departure of the UK from the EU, according to the European Union (Withdrawal) Act 2018 (HM Government, 2018). The relationship with the EU is currently governed by the European Union (Future Relationships) Act 2020 and the Trade and Cooperation Agreement which together reaffirm the commitment to democratic principles, rule of law, human rights and the collective fight against the changing climate (HM Government, 2021a; HM Government, 2021b). The Scottish Government's alignment with EU law is detailed in the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 which outlines the Scottish Ministers' ability to make supporting legislation on devolved Scots law (of which environment is included), wherever appropriate, to align with EU law (Scottish Government, 2022a).
- 2.2.5 This chapter sets out where specific legislation has been implemented to guarantee legislative instruments continue to operate in a similar way after the EU Exit.

UK Energy Legislation and Policy

The Climate Change Act 2008

- 2.2.6 The Climate Change Act 2008, as amended by the Climate Change Act 2008 (2050 Target Amendment) Order 2019, sets an emission reduction target of 100% against the 1990 baseline for carbon dioxide (CO₂) and other GHGs (HM Government, 2008). The establishment of this act marked the start of the UK's adopted policies to address the climate emergency and made the UK the first Group of Seven (G7) nation to set a climate change goal in reference to the Kyoto Protocol.
- 2.2.7 As required by the Climate Change Act 2008, the Carbon Budget Delivery Plan (HM Government, 2023b) outlines a package of measures and associated timings, and details how they will contribute to meeting the UK's 4th to 6th Carbon Budget. The ability to meet future Carbon Budgets requires the delivery of further offshore wind development including floating wind capacity.
- 2.2.8 To support the Climate Change Act 2008, the Energy Act 2013 encourages low-carbon electricity generation within the UK and aids the goals set for low-carbon industries. The act provides the framework for setting a decarbonisation target of 2030 for electricity generation within the UK and includes a framework for Energy Market Reform (EMR) to help deliver low-carbon electricity generation while reducing costs for consumers. The EMR included the implementation of Contracts for Difference (CfD) which aims to provide long term price stabilisation and low-carbon energy investment. To further support the Climate Change Act 2008, the Energy Act 2023 encourages the development of hydrogen, Carbon Capture and Storage (CCS) and heat infrastructure within the UK. The Energy Act 2023 is anticipated to be accompanied by a raft of secondary legislation and guidance, expected to be published in 2026, which will provide further details on the implementation and operation of the new regimes and measures, and which will have relevance to offshore wind.
- 2.2.9 In March 2019 the UK Government and the Offshore Wind Industry Council (OWIC) signed the UK Offshore Wind Sector Deal (HM Government, 2019). The Sector Deal is a long term strategy which sets out an ambitious partnership between government and industry to raise the productivity and competitiveness of UK companies to ensure the UK continues to play a leading role as the global market grows in the decades to come. The Sector Deal aims to maximise the advantages for UK industry in the shift to net zero by providing clarity on future CfD rounds, increasing UK content of offshore wind to 60% by 2030 and increasing investment in UK supply chain. The ongoing development of the renewable energy sector will be required to meet these targets, with offshore wind playing a significant role as the development and operation costs are reduced.
- 2.2.10 In 2022, UK Government published the British Energy Security Strategy (HM Government, 2022) in response to global rises in energy costs. It sets out the UK ambition to deliver 50 GW of offshore wind energy by 2030, including 5 GW of floating wind. This is an increase of 4 GW of floating wind when compared to the Net Zero Strategy: Build Back Greener policy set out in 2021

(HM Government, 2021c). The British Energy Security Strategy also sets out steps that the UK Government aims to take to reduce the time taken to develop and deploy offshore wind projects (HM Government, 2022).

- 2.2.11 The Offshore Wind Net Zero Investment Roadmap, published by the UK Government in 2023 emphasised the UK's ambitions to reach up to 50 GW of offshore wind deployment by 2030 and how it aims to ensure investments will further support the sector through streamlining of planning, supporting sustainability and development of facilitatory infrastructure (HM Government, 2023a).
- 2.2.12 The Department for Energy Security and Net Zero (DESNZ) published the Powering Up Britain Policy papers including an Energy Security Plan and Net Zero Growth Plan in 2023 (DESNZ, 2023). These policies aim to encourage the use of renewable energies, including from Offshore Wind Farms (OWFs), as part of a solution to the climate emergency and details how the UK Government will improve energy security, take advantage of the economic opportunities of the transition to low-carbon energy generation and deliver on the commitment to achieving net zero by 2050. Offshore wind is a key element of these publications which includes the commitment to developing 50 GW of offshore wind by 2030, and to helping expand and increase the benefits of offshore wind projects by making funding available to support major port and manufacturing infrastructure through the Offshore Wind Manufacturing Investment Scheme.

Scottish Energy Legislation and Policy

- 2.2.13 The Climate Change (Scotland) Act 2009, as amended by the Climate Change (Emission Reduction Targets) (Scotland) Act 2019, sets out a legally binding target to decrease GHG emissions by 100% by 2045 from 1990 levels. The act relies on the Scottish Ministers and other public entities to ensure that future developments are made sustainably and that low emission options are encouraged. This act is also in accordance with the Paris Agreement goals of limiting global warming levels to below 2°C, whilst pursuing efforts to stop them reaching over 1.5°C. The Scottish Emissions Reductions Targets aimed to reduce GHG emissions by at least 75% by 2030, 90% by 2040, and fully to net zero by 2045. However, the Scottish Government has since dropped the 2030 target, stating that the Climate Change Committee had advised that the target was beyond their recommendation and is now beyond what can be achieved. The targets of 90% reduction by 2040 and fully net zero by 2045 are still being pursued (Scottish Government, 2024a).
- 2.2.14 The Scottish Energy Strategy: The Future of Energy in Scotland (Scottish Government, 2017), presented the plan for decarbonising and improving energy infrastructure within Scotland including a 2030 and 2050 vision for Scotland to deliver secure, affordable, clean energy for Scotland's households, communities and businesses. In setting out this vision the strategy relies on future delivery of renewable energy with a target of the equivalent of 50% of the energy for Scotland's heat, transport and electricity consumption to be supplied from renewable sources by 2030. The strategy also emphasises the importance of CfD auctions for Scottish offshore wind projects and outlines how the same process can be used and expanded upon for future marine energy

developments.

- 2.2.15 In April 2019, the First Minister of the Scottish Government declared a climate emergency, which was followed by the UK Parliament declaring a climate emergency, along with an environmental emergency, through an opposition motion in May 2019 (Scottish Government, 2019a; UK Parliament, 2019). These announcements demonstrate the UK and Scottish Governments' commitment to tackling climate change, which is further demonstrated through the policies outlined within this chapter.
- 2.2.16 The challenges associated with climate change, energy supply and security of supply are driving government policy and decision making on renewable energy developments. There are now a significant number of national and international policies, strategies and regulations relating to climate change and the development of renewable energy in Scotland.
- 2.2.17 The Offshore Wind Policy Statement (OWPS) (Scottish Government, 2020a) details expectations for offshore wind developments in the future and how they can help the Scottish Government reach its Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 goals. The OWPS builds on the renewable energy targets outlined in the Scottish Energy Strategy (Scottish Government, 2017). The updated OWPS (Scottish Government, 2026) further refines this policy framework by increasing Scotland's offshore wind ambition in response to the substantially expanded project pipeline - now exceeding 40 GW as a result of the ScotWind and Innovation and Targeted Oil and Gas (INTOG) leasing rounds.
- 2.2.18 After the UN warned that global temperatures were likely to breach the 1.5 °C of global warming during the next five years the Scottish Government released a statement that Scotland is committed to making steps towards becoming a net zero country and working towards a climate resilient future (Scottish Government, 2023a). Offshore wind generation has been identified as being capable of providing a significant contribution towards such commitments (Scottish Government, 2023b).
- 2.2.19 On 10 January 2023, the Scottish Government published the 'Energy Strategy and Just Transition Plan' for consultation, which will eventually replace the Scottish Energy Strategy (Scottish Government, 2023c). The Draft Strategy and Plan sets out a *"clear policy position and a route map of actions with a focus out to 2030 that the Scottish Government will take and the changes that the UK Government must deliver"*, while establishing a vision that by 2045 *"Scotland will have a flourishing, climate friendly energy system that delivers affordable, resilient and clean energy to Scottish households, communities and business"*. Consultation on the draft Energy Strategy and Just Transition Plan closed in May 2023. The timeframe for publication of the final version of the document is not currently known.

Local Energy Legislation and Policy

- 2.2.20 In March 2020, Aberdeenshire Council committed to working towards a carbon free society by reducing emissions by 75% by 2030 and Net Zero by 2045 (Aberdeenshire Council, 2021). The draft Aberdeenshire Council Route Map 2030 and Beyond (Aberdeenshire Council, 2022) and associated Action Plan (Aberdeenshire Council, 2024) outline the actions and financial investment required across the Council to reach emission reduction targets.
- 2.2.21 The Aberdeenshire Council Climate Change Adaptation Plan (2025 to 2030) was developed following recommendations from the Route Map to 2030 and Beyond Action Plan (Aberdeenshire Council, 2024). The plan sets out the councils long-term vision, outcomes and priorities for adaptation up until 2030 (Aberdeenshire Council, 2025a). The plan vision for adaptation is based around five key outcomes:
- nature connects;
 - communities;
 - public services;
 - employees and infrastructure; and
 - economy, businesses and industry.
- 2.2.22 Aberdeen City and Shire Strategic Development Plan (Aberdeen City and Shire, 2020) outlines the spatial strategy and principles for development up to 2040. The Strategic Development Plan acknowledges the potential for offshore renewables and opportunities to service the renewable energy industry are key to promote, develop and encourage.
- 2.2.23 Informed by the Strategic Development Plan, the Aberdeenshire Local Development Plan (ALDP) (Aberdeenshire Council, 2023) outlines a vision for the entire Aberdeenshire Council administrative area and promotes sustainable economic growth while safeguarding the environment. The ALDP is most relevant to the onshore elements of the Project (those landward of Mean Low Water Springs (MLWS)) which will be subject to the separate onshore planning application but will be considered where relevant to the Proposed Development (i.e. in the Intertidal Area). The ALDP is in the process of being reviewed and is set to update in 2029 which will cover the period between 2029 and 2039 (Aberdeenshire Council, 2025b).

2.3 Marine Planning Framework

- 2.3.1 Scottish marine planning is governed by two acts: the Marine (Scotland) Act 2010 for Scottish Territorial Waters and the Marine and Coastal Access Act (MCAA) 2009 for Scottish Offshore Waters.
- 2.3.2 The two Acts (referred herein as the Marine Acts) established a legislative framework for marine planning to enable demands on the marine environment to be managed in a sustainable way, while providing a regulatory framework for licensing marine developments.

2.3.3 The Marine Acts set out a tiered approach to developing marine planning in the UK and Scotland. The framework includes the following elements:

- UK Marine Policy Statement (MPS);
- Scottish National Marine Plan (NMP);
- Sectoral Marine Plan (SMP) for Offshore Wind Energy; and
- Regional Marine Plans (RMPs).

UK Marine Policy Statement

2.3.4 The UK MPS (UK Government, 2011), prepared under MCAA (2009), was created by the UK Government and adopted by the devolved administrations including Scottish Government. The UK MPS provides a framework for preparing marine plans within the UK and for taking decisions on matters affecting the marine environment in the absence of adopted marine plans.

Scottish National Marine Plan

2.3.5 The Scottish Government adopted and published the first NMP (Scottish Government, 2015) in March 2015. Within the NMP, policies are provided for developments and use of marine resources in Scottish Offshore Waters up to 200 nm from the coast. The Scottish NMP, which is compatible with the UK MPS (UK Government, 2011) and other marine plans, supports marine development in Scottish Offshore Waters while incorporating appropriate protections and safeguards for the environment, other sea users and existing marine activities. There are a number of strategic objectives which aim to deliver a robust approach to managing Scotland's marine area including:

- achieving a sustainable marine economy;
- living within environmental limits;
- ensuring a strong, healthy and just society;
- promoting good governance; and
- using sound science responsibly.

2.3.6 The NMP provides both general policies to support delivery of strategic objectives, and specific sectoral objectives which may be achievable over the plan period or set direction for longer term goals. The objectives for offshore wind and other marine renewables are:

- sustainable development of offshore wind, wave and tidal renewable energy in the most suitable locations;
- economic benefits from offshore wind, wave and tidal energy developments maximised by securing a competitive local supply chain in Scotland;
- alignment of marine and terrestrial planning and efficient consenting and licensing processes including but not limited to data sharing, engagement and timings, where possible;
- aligned marine and terrestrial electricity transmission grid planning and

development in Scottish Offshore Waters;

- contribute to achieving the renewables target to generate electricity consumption from renewable sources by 2020;
- contribute to achieving the decarbonisation target of 50 gCO₂/kWh by 2030 (to cut carbon emissions from electricity generation by more than four-fifths);
- sustainable development and expansion of test and demonstration facilities for offshore wind and marine renewable energy devices; and
- coordinated government and industry-wide monitoring.

2.3.7 The NMP has been reviewed and the effectiveness of its implementation has been reported on twice since its adoption. The latest review in 2021, identified that while the plan is still effective, it needs to be updated to account for significant national and global developments, which impact the use and management of Scottish marine resources. Key developments include the withdrawal of the UK from the EU on 31 January 2020, the Global Climate Emergency, Scottish Government's commitment to net zero by 2045, the COVID-19 pandemic, rapid pace of change and interest in the marine sphere and the delivery of the Scotland's Blue Economy approach (Scottish Government, 2021). The second iteration of the NMP (NMP2), which is currently in preparation, is likely to take into account the key elements highlighted in the 2021 review, particularly around the climate emergency. The NMP2 will be supported by a Strategic Environmental Assessment (SEA), and will be informed by the SEA Scoping Report consulted upon in 2023 (Scottish Government, 2023d).

2.3.8 On 15 August 2024, Scottish Ministers announced an update to the NMP2 development timeline (NMP2 - Stakeholder Engagement Strategy and Statement of Public Participation) (Scottish Government, 2024b). The updated timeline introduces further opportunity for stakeholder engagement as the plan is developed, including consultation on the Planning Position Statement which was released in Autumn 2024 (Scottish Government, 2024c). The Planning Position Statement sets out the intended policy direction for NMP2 in relation to all stakeholder feedback, and provides stakeholders with an early opportunity to help shape the plan policies prior to consultation on the draft plan in 2026. After considering stakeholder feedback, the Planning Position Statement laid out 12 draft high-level objectives, alongside associated policy ideas generated through extensive engagement. These 12 high-level draft objectives can be found in Table 2.1.

Table 2.1: High-Level Draft Objectives from National Marine Plan 2 Planning Position Statement (Scottish Government, 2024c)

Theme	Draft High-Level Objective
Climate Mitigation and Adaptation	Respond to the Global Climate Emergency, achieving net zero by 2045 and realising adaptation opportunities
Ecosystem health, protection and restoration	Respond to the Global Biodiversity Crisis, protecting Scotland's marine and coastal biodiversity
	Restore and enhance Scotland's marine and coastal ecosystem services in line with Scotland's Biodiversity Strategy
Sustainable marine economy	Enable multi-use of Scotland's seas to reduce conflict for marine space
	Safeguard opportunities for marine economic sectors to operate, based on available evidence and in line with Scotland's ambitions
	Enable use of Scotland's seas to support the development of Net Zero sectors in line with Scotland's ambitions
Island and coastal community development	Enhance and safeguard opportunities for sustainable, resilient and diverse marine economies within Scotland's island and coastal communities
Cultural Heritage	Protect, and where appropriate, enhance access to – and appreciation of – Scotland's marine and coastal cultural heritage
Social and Cultural Wellbeing	Facilitate equitable access to Scotland's seas and shared stewardship to benefit wellbeing and to support thriving communities
Implementation	Use evidence-based decision-making to manage marine space in line with Scotland's wider ambitions
	Contribute to monitoring and evaluation of NMP2 implementation
Food production	Support the growth and development of sustainable marine food production which supports thriving and resilient communities across Scotland

2.3.9 The Planning Position Statement highlighted the Scottish Government's maintained support for sectoral planning for marine renewables (including offshore wind) and a plan-led approach to leasing. Extensive work aims to maximise the benefits of offshore wind and address the social and environmental issues highlighted in Table 2.1. Consultation on the Planning Position Statement ran from 05 November 2024 to 07 February 2025, with the report of the findings being published 29 August 2025 (Scottish Government, 2025). This consultation feedback demonstrated that offshore wind development should be prioritised, however, offshore developments had to pay special consideration to:

- cumulative impacts on fishing industry due to offshore development;
- potential displacement of fishers; and
- visual impacts of offshore developments (Scottish Government, 2025).

- 2.3.10 Consultation on the draft NMP2 has been postponed to allow for further consideration of the feedback received on the Planning Position Statement, and the intended approach to the draft NMP2. In the interim, the NMP team will be exploring options for how to support forthcoming offshore wind applications through the implementation of the current NMP.

Sectoral Marine Plan for Offshore Wind

- 2.3.11 The first SMP for Offshore Wind Energy (Blue Seas Green Energy) (Marine Scotland, 2011) was adopted in 2011, following which, draft SMPs for wind, wave and tidal were produced in 2013 (Marine Scotland, 2013).
- 2.3.12 Subsequently, in 2017, the Crown Estate Scotland (CES) announced their intention to run a leasing round for commercial scale offshore wind energy projects in Scottish Offshore Waters, which was named the ScotWind Leasing Round. To inform the spatial development of this leasing round, the Marine Directorate-Licensing Operations Team (MD-LOT), as Planning Authority for the area, undertook a planning exercise to identify areas suitable for the development for offshore wind.
- 2.3.13 The SMP for Offshore Wind Energy (Scottish Government, 2020b) builds upon the work undertaken in the 2011 and 2013 plans, and incorporated technological, policy, regulatory and market development to create a new strategic planning process. The SMP seeks to contribute to achieving Scotland's energy and climate change objectives by providing a spatial strategy and was used to inform the ScotWind leasing process which concluded in 2022. A SEA, Habitats Regulations Appraisal (HRA) and Socio-Economic Impact Assessment (SEIA) were carried out for the SMP.
- 2.3.14 In the recent ScotWind Leasing Round process, a total of 20 proposed OWF projects were awarded option agreements within 15 Plan Option Areas (POAs), for a total of 27.6 GW of capacity. This includes 17 proposed OWF projects awarded in January 2022, with a further three sites awarded in August 2022 as part of the 'Scotwind Clearing Round'. The SMP identified that E3 (the POA applicable to the Proposed Development) was a site suitable for offshore wind development.
- 2.3.15 The SMP is subject to the Iterative Plan Review (IPR) process to ensure that it is underpinned by best available evidence, taking into account updates and progression of developments (e.g. detailed site survey results and assessments for projects, the construction of projects, INTOG leasing round and further changes to policy and regulatory context). Work on the next iteration of the SMP is underway. Consultation on the draft of the updated SMP for Offshore Wind Energy commenced in early 2025 and closed on 22 August 2025. Consultation analysis commenced on the 25 August 2025, with anticipated adoption of the plan expected in summer 2026. The updated SMP for Offshore Wind Energy will deliver the planning framework for ScotWind and INTOG leasing rounds, supporting deployment in Scottish Waters whilst protecting marine users and the environment.

Regional Marine Plans

- 2.3.16 Marine planning improves our understanding of the distribution of human activities and natural assets, balancing priorities, and where appropriate allocating space, to achieve environmental, economic and social objectives. The introduction of marine planning enables a shift from the management of individual marine sectors to a more integrated approach that considers how human activities interact and effect the marine environment. In addition to the NMP, the Marine (Scotland) Act 2010 sets the requirement for local stakeholders to prepare statutory RMPs.
- 2.3.17 In addition to the NMP, the Marine (Scotland) Act 2010 set the requirement for local stakeholders to prepare statutory RMPs at the local level. Eleven Scottish Marine Regions (SMRs) have been created covering sea areas extending out to 12 nm. RMPs are being developed at a regional level within SMRs where there is an established Marine Planning Partnership. Unless relevant considerations indicate otherwise, they are required to be in accordance with the NMP and MPS to ensure they are consistent with national objectives and priorities and are subject to adoption by Scottish Ministers (Marine Scotland, 2015).
- 2.3.18 The Proposed Development lies within the North East SMR. At the time of writing there is no RMP in place for the region.

2.4 Onshore Plans and Policies

- 2.4.1 The National Planning Framework 4 (NPF4) was approved by the Scottish Parliament on 11 January 2023, before being formally adopted in February 2023. The NPF4 is Scotland's terrestrial national spatial strategy and sets out spatial principles, regional priorities, national developments and national planning policy in support of achieving Scotland's net zero target date of 2045 (Scottish Government, 2023e). Within the NPF4, net zero energy solutions are identified as a key contributor to net zero emissions by 2045, with national planning policies to achieve this aim (such as the Climate Emergency Policy and the Green Energy Policy) also included. These policies that are included within the NPF4 aim to encourage and promote developments that address the current global climate emergency as well as encourage and promote all forms of renewable energy developments, both onshore and offshore. Furthermore, the NPF4 also categorises any offshore renewable development that has a generating capacity of over 50 MW as a 'national development'.
- 2.4.2 The onshore elements of the Project (those landward of MLWS) will be subject to the separate onshore planning application (reference APP/2025/1925) the Aberdeenshire Council administrative area, as such the ALDP is the applicable Local Development Plan. The ALDP outlines a vision which promotes sustainable economic growth while safeguarding the environment (Aberdeenshire Council, 2023).

2.5 Consenting Process and Associated Legislation

Consenting Process for Infrastructure in Scottish Offshore Waters

2.5.1 The Proposed Development is a generating station with a capacity of greater than 50 MW located in Scottish Offshore Waters (between 12 nm to 200 nm), as well as partially located within Scottish Marine Area (between Mean High Water Springs (MHWS) and 12 nm), and therefore it requires the following consent and licences:

- a Section 36 Consent under the Electricity Act 1989 which covers the Offshore Generation Assets located in the Array Area;
- a Marine Licence for the Offshore Generation Assets under the MCAA 2009; and
- a Marine Licence for the Offshore Transmission Assets under the Marine (Scotland) 2010 and MCAA 2009.

2.5.2 A decommissioning scheme as well as any additional pre-construction licences or Safety Zone declarations will be discussed and agreed with the relevant consenting authority during the pre-construction phase of the Proposed Development as required.

The Electricity Act 1989

2.5.3 Under the Electricity Act 1989, a Section 36 Consent is required for the construction and operation of an energy generation station of capacity greater than 50 MW where it is located between 12 nm and 200 nm off the Scottish coast. The Proposed Development is estimated to have a generating capacity of approximately 1 GW, and therefore a Section 36 Consent is required. An application for consent has been submitted to MD-LOT, which acts on behalf Scottish Ministers to process the application.

Marine (Scotland) Act 2010

2.5.4 The Marine (Scotland) Act 2010 provides the legislative provisions for the management of the marine environment in Scottish Marine Area between MHWS to 12 nm off the Scottish coast. This includes the designation of the Marine Protected Areas (MPAs), and the requirement to produce RMPs. The Act also requires the granting of Marine Licences to control and regulate certain marine development.

2.5.5 Part 4 (Marine Licensing) of the Marine (Scotland) Act 2010 includes a list of licensable marine activities (Section 21) which apply to the Proposed Development activities including:

- depositing objects within the Scottish marine area from a vehicle, marine structure or floating system;
- construction or alteration of offshore structures within the Scottish marine area in the sea, over the sea, on the seabed or under the seabed;
- removal of an object or substance from the seabed through the use of a vehicle, marine structure or floating system; and

- any form of dredging within the Scottish marine area.

2.5.6 Marine Licence applications are managed and processed by MD-LOT on behalf of Scottish Ministers, with consideration of input and recommendations from consultees.

Marine and Coastal Access Act 2009

2.5.7 The MCAA 2009 applies to all UK offshore waters out to 200 nm, except Scottish Marine Area which are covered by the Marine (Scotland) Act 2010. Under the MCAA 2009 (Part 4) there is the requirement for a Marine Licence to be obtained prior to the construction, alteration or improvement of any works or deposit any object in or over the sea, or on or under the seabed.

2.5.8 The licensable activities are broadly the same as listed in Part 4 of the Marine (Scotland) Act 2010. Scottish Ministers may grant a Marine Licence under Part 4 of the MCAA 2009 with consideration of input and recommendations from MD-LOT. Separate Marine Licences will be sought for Offshore Generation Assets and Offshore Transmission Assets of the Proposed Development.

Environmental Impact Assessment Regulations

2.5.9 The requirement for EIA in Scotland originates from the European Union (EU) Directive on the assessment of the effects of certain public and private projects on the environment (EIA Directive) (2011/92/EU, as amended by Directive 2014/52/EU). The EIA Directive has been transposed into Scottish law through multiple EIA regulations discussed in Paragraph 2.5.11.

2.5.10 Any EU-derived legislation still has effect in domestic law under the European Union (Withdrawal) Act 2018. The Marine Environment (EU Exit) (Scotland) (Amendment) Regulations 2019 has further applied minor changes to regulations, such as the Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 with respect to the Marine Works (Environmental Impact Assessment) Regulations 2007¹. These changes allow for the EIA Directive to still apply to any application in Scottish waters which are seeking a Section 36 Consent and/or a Marine Licence, as well as continuing to set the framework for the EIA process in Scotland.

2.5.11 This Offshore EIA Report has been carried out in accordance with the following regulations (collectively referred to as the EIA Regulations):

- in relation to the Section 36 Consent application: The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017; and
- in relation to the Marine Licence applications: The Marine Works (EIA) (Scotland) Regulations 2017 and The Marine Works (Environmental Impact Assessment) Regulations 2007.

2.5.12 Under the EIA Regulations, an EIA Report is required to be prepared and submitted to support applications for a Section 36 Consent, a Marine Licence

¹ Part 3 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 with part 4 detailing the EIA Report process.

or planning permission relating to offshore renewable energy developments. The primary objective of EIA is to protect the environment by ensuring that the likely significant environmental effects of a project are properly understood and mitigated where appropriate before relevant consents are granted. An EIA Report is necessary for installations aiming to harness the power of wind for energy production (wind farms) if the project is likely to have significant effects on the environment. As the Proposed Development meets both of these criteria, an EIA is required as part of the application.

2.5.13 The assessment should consider:

- population and human health;
- biodiversity, in particular species and habitats protected under the Habitats Directive;
- land, soil, water, air and climate; and
- material assets, cultural heritage and the landscape². These requirements are further detailed within Volume 1, Chapter 4: Environmental Impact Assessment Methodology where relevant.

2.5.14 The main stages of the EIA process include the following:

- decision to undertake an EIA (screening);
- scoping to determine the subject matter of the EIA and to identify potentially significant effects;
- data review involving compiling and reviewing available baseline data and/or undertaking of baseline surveys to generate site-specific data;
- production of a Project Design Envelope (PDE) and identification of topic-specific Maximum Design Scenarios (MDS), from which the likely significant environmental effects of the development during the construction, O&M, and decommissioning stages of its life are assessed. Feedback is provided to the design and engineering team(s) to modify the design of the development where practicable in order to avoid, prevent, reduce and/or offset any significant adverse effects on the environment;
- identifying any further mitigation requirements;
- identifying residual effects;
- preparing the EIA Report (i.e. reporting on the EIA process and continuing with design iteration and consultation);
- consultation with the regulatory bodies, stakeholders and the community, in accordance with all relevant requirements (the Electricity Act 1989, the MCAA 2009, Marine (Scotland) Act 2010, The Marine Licensing (Pre-

²Regulation 22 (c) of The Marine Works (Environmental Impact Assessment) Regulations 2007.

Regulation 4 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 and Schedule 3 of the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017.

Application Consultation) (Scotland) Regulations 2013, EIA Regulations and the associated regulations and guidance);

- consideration of the EIA Report by the Marine Directorate; and
- controlling and, where necessary, monitoring the effects of the project during construction, O&M, and decommissioning in accordance with the mitigation measures identified in the EIA Report and/or the requirements identified in the relevant licences which have been drawn from the findings of the EIA.

2.6 Other Consents and Legislation

The Energy Act 2004 (as amended)

2.6.1 The Energy Act 2004 (as amended) makes provision for, among other aspects, the development, regulation and encouragement of the use of renewable energy sources and giving effect to international agreements relating to pipelines and offshore installations.

2.6.2 Under Section 95 of the Energy Act, where a renewable energy installation is proposed to be constructed, and the Scottish Ministers consider it appropriate for safety reasons, designated areas may be declared as Safety Zones.

Safety Zones

2.6.3 Safety Zones are intended to ensure the safety of the renewable energy installation or other installations in the vicinity during construction, O&M, extension or decommissioning. Safety Zones may exclude non-OWF vessels from navigating through a designated Safety Zone area for a specific period.

2.6.4 The Proposed Development expects to apply for Safety Zones during construction and major maintenance activities, and around certain offshore structures (i.e. Wind Turbines) during the O&M phase.

2.6.5 Scottish Ministers have the power to declare Safety Zones around offshore renewable energy developments in Scottish Offshore Waters devolved through the Scotland Act 2016 which was an amendment of the Energy Act 2004.

Decommissioning

2.6.6 The statutory requirements for the decommissioning of Offshore Renewable Energy Installations (OREIs), and their respective electricity lines, are contained within Sections 105 to 114 of the Energy Act 2004 (as amended by the Energy Act 2008 and the Scotland Act 2016). Under the terms of the Energy Act, any persons responsible for these installations or lines in Scottish Waters or in a Scottish part of a Renewable Energy Zone (REZ) can be requested by the Scottish Ministers to prepare, and carry out, a costed decommissioning programme. This decommissioning programme will be prepared for submission to, and approval from, Scottish Ministers (Scottish Government, 2022b).

2.6.7 In April 2017 the responsibilities and the powers that are associated with decommissioning for OREIs within Scottish Waters were transferred from the Secretary of State to Scottish Ministers from the Department for Business, Energy and Industrial Strategy (BEIS) (Scottish Government, 2022b). Marine

Directorate are aiming to establish robust policies and procedures covering decommissioning, which include securities for offshore wind, wave and tidal projects. Consultation on future plans for decommissioning for OREIs in Scottish waters ended in March 2020, and guidance was finalised and shared with the industry (Scottish Government, 2022b) as described in Paragraph 2.6.8.

- 2.6.8 The offshore renewable energy decommissioning guidance (Section 5 – Submission, approval and review of decommissioning programmes) states that *“an indication of the decommissioning proposals should be included as part of the statutory consenting or licensing process so that the feasibility of removing the infrastructure can be assessed as part of the application process”*. Additionally, it states that *“a full description should be provided, supported by diagrams, of all items associated with the generating station to be decommissioned”* prior to construction, and that *“the Scottish Ministers expect that decommissioning programmes should be submitted for approval no later than six months in advance of construction, and that the first drafts should be submitted about 18 months in advance”* (Scottish Government, 2022b).
- 2.6.9 The power to determine specific approaches to decommissioning is held by Scottish Ministers, including specifying what form, timing and size of financial securities are necessary. The content expected within decommissioning programmes includes:
- decommissioning standards;
 - financial security;
 - residual liability; and
 - industry cooperation and collaboration.

The Town and Country Planning (Scotland) Act 1997

- 2.6.10 The Electricity Act 1989 allows for deemed planning permission to be granted for the onshore elements of the Project. However, in this case consent for the Onshore Infrastructure will be secured through a separate application to Aberdeenshire Council for planning permission under the Town and Country Planning (Scotland) Act 1997 (as amended). A separate Onshore Scoping Report was submitted to Aberdeenshire Council in September 2024. The onshore application was submitted to Aberdeenshire Council in November 2025 (Planning reference: APP/2025/1952). There will be some overlap between the two applications, covered in both the Onshore and Offshore EIA Report's, within the Intertidal Area.

Habitats Regulations

- 2.6.11 Article 3 of EU Council Directive 92/43/EEC on the conservation of natural habitats and wild flora and fauna (hereafter referred to as the 'Habitats Directive') required the establishment of a European network of conservation sites, referred to as Special Areas of Conservation (SACs), in order to help protect and conserve habitats and species identified in Annex I and II of the Directive. These habitats and species (excluding birds) were considered to be most at risk at a European level.

- 2.6.12 Under Article 4 of the EU Council Directive 2009/147/EC on the conservation of wild birds (hereafter referred to as the 'Birds Directive') lists of vulnerable bird species (detailed in Annex I of the Birds Directive) are provided protection through the implementation of Special Protection Areas (SPAs).
- 2.6.13 The requirements of the Habitats and Birds Directive relevant to the Proposed Development are transposed into the following pieces of legislation (hereafter referred to as the 'Habitats Regulations'):
- Conservation (Natural Habitats, &c.) Regulations 1994 (as amended);
 - Conservation of Habitats and Species Regulations 2017; and
 - Conservation of Offshore Marine Habitats and Species Regulations 2017.
- 2.6.14 By virtue of the Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019, functions relating to SACs and SPAs have been transferred to the appropriate authorities or bodies in the UK/Scotland, as these no longer form part of the EU Natura 2000 Network.
- 2.6.15 Instead, the Habitats Regulations have created a UK-wide network of protected sites, including both the inshore and offshore marine areas in the UK, which retain the same protections as previous Natura 2000 sites and is referred to as the National Site Network. It includes all existing SACs and SPAs, and subsequent new SACs and SPAs which may be designated and are now referred to as European Sites. Furthermore, under Scottish Government policy, Ramsar Sites (wetlands of international importance designated under the Ramsar Convention) are also protected under the same statutory regimes.
- 2.6.16 Under the Habitats Regulations, Scottish Ministers must consider whether any plan or project, is likely to have a significant effect on a European Site before it can be authorised or carried out. If there is potential for a Likely Significant Effect (LSE) to occur then an Appropriate Assessment (AA) of the implications on that site and its conservation objectives must be undertaken by the competent authority. This process is known as the HRA.
- 2.6.17 The HRA process, comprising Stage 1 (HRA screening) and, if required, Stage 2 (AA), must be carried out before consent or authorisation can be given for the Proposed Development. Permission should only be granted at Stage 2 by the competent authority where it is determined that the plan or project will not result in an adverse effect on the integrity of a designated site either alone or in-combination with other plans and projects, unless a HRA Derogation process including the identification of compensation measures can be agreed and implemented.
- 2.6.18 A HRA Screening Report was submitted to MD-LOT on the 18 September 2024, detailing the outcome of HRA screening on the qualifying features of relevant European Sites for the Proposed Development (Bowdun Offshore Wind Farm Limited, 2024). The Screening Response was received on the 25 November 2024. The Report to Inform the Appropriate Assessment (RIAA), which accompanies this Offshore EIA Report, takes account of the Screening Response and provides information to the competent authority to allow it to assess if there are likely to be any significant effects, and to carry out the AA (and any subsequent

stages of the HRA), where necessary, as part of an HRA.

European Protected Species

- 2.6.19 European Protected Species (EPS) are species of plants and animals (other than birds) protected by law throughout the EU. They are listed within Annex IV of the Habitats Directive. It is an offence, with certain exceptions, to deliberately or recklessly capture/collect, disturb or injure an EPS.
- 2.6.20 Certain activities likely to cause disturbance or injury which would otherwise constitute an offence, can be carried out legally under an EPS Licence, as follows:
- Within Scottish Marine Area, an EPS Licence may be required under the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) where there is potential for activities to injure or cause disturbance to an EPS. NatureScot is responsible for the administration of most licences in relation to EPS in Scotland. The exception is for purely marine species for purposes under regulation 44(2)(e) to (f), where MD-LOT on behalf of the Scottish Ministers, is the licensing authority.
 - Scottish Offshore Waters (The area between the seaward boundary of Scottish Marine Area and the seaward boundary of the Scottish part of the Exclusive Economic Zone (EEZ)), an EPS Licence may be required under the Conservation of Offshore Marine Habitats and Species Regulations 2017 where there is potential for activities to injure or cause significant disturbance to an EPS (defined as a population level effect rather than at the level of individuals). MD-LOT is the licensing authority for these EPS Licences.

Priority Marine Features

- 2.6.21 Scottish Ministers formally adopted a list of 81 Priority Marine Features (PMFs) in 2014. The PMFs cover a variety of habitats and species that are a priority for conservation in Scottish Offshore Waters. PMFs include a range of intertidal and continental shelf habitats, deep sea habitats, mammals, fish and shellfish and other invertebrates.
- 2.6.22 The Priority Marine Features Guidance (Scottish Natural Heritage (SNH), 2016) addresses the policy requirement to conserve and protect PMFs, included in The Scottish Government Strategy for Marine Nature Conservation in Scotland's Seas (Scottish Government, 2010), and the NMP (including via policy Gen 9 Natural heritage) (Scottish Government, 2015).
- 2.6.23 It should be noted that some PMFs are already protected as qualifying features of European Sites, or via EPS legislation, and therefore will be considered from the HRA perspective as well as in the EIA where relevant.

Marine Strategy Framework Directive

- 2.6.24 On 15 July 2008 the Marine Strategy Framework Directive (MSFD) came into force and was officially written into UK law by the Marine Strategy Regulations in 2010. The UK's Good Environmental Status (GES) targets, as well as the approach for achieving these, were outlined in a "*UK programme of measures*" (Department for Environment, Food and Rural Affairs (DEFRA), 2015).
- 2.6.25 When determining whether to grant approval for developments, Scottish Ministers must ensure that in doing so it would not compromise achieving or maintaining GES. This is implemented in the UK through the Marine Strategy Regulations 2010 with some slight interpretation amendments being made to this guidance after EU Exit (Scottish Government, 2020c):

Marine Protected Areas

- 2.6.26 The management of Nature Conservation MPAs is aided by arrangements that are laid out in both the Marine (Scotland) Act 2010 and the MCAA 2009. Under Section 83 of the Marine (Scotland) Act 2010 and Section 126 of the MCAA 2009 (Section 126 refers to Marine Conservation Zones (MCZs) which by virtue of Section 116 MCAA 2009 are the same as MPAs in Scotland), MD-LOT, as the public authority, are obligated to consider if an activity is capable of affecting (other than insignificantly) a protected feature of a Nature Conservation MPA, or any ecological or geomorphological process, on which the conservation of any protected feature of a Nature Conservation MPA is dependent.
- 2.6.27 Full authorisation for the activity must not be granted by MD-LOT unless the person applying for the authorisation satisfies MD-LOT that either:
- 1) there is no significant risk of the activity hindering the achievement of the conservation objectives for the Nature Conservation MPA; or
 - 2) if there is a significant risk of the activity hindering the achievement of the conservation objectives for the MPA, that: (i) there is no other means of proceeding with the activity which would create a substantially lower risk of hindering the achievement of those objectives, (ii) the benefit to the public of proceeding with the act clearly outweighs the risk of damage to the environment that will be created by proceeding with it, and (iii) the person will undertake measures of equivalent environmental benefit to the damage which the act will or is likely to have on the Nature Conservation MPA concerned.
- 2.6.28 If MD-LOT are of the belief that there is, or could be, a significant risk of the proposal hindering the achievement of the conservation objectives, then they are obliged to notify the appropriate statutory nature conservation bodies (NatureScot for MPAs within 12 nm or the Joint Nature Conservation Committee (JNCC) for MPAs out with 12 nm) of that fact.

Pre-Application Consultation

- 2.6.29 The Marine Licensing (Pre-Application Consultation) (Scotland) Regulations 2013 apply whenever an activity is planned within the Scottish Marine Area. However, these requirements are not applicable in respect of relevant applications in the Scottish Marine Region and the Scottish Offshore Region due to their being no provision for statutory Pre-Application Consultation (PAC) in the MCAA 2009. Any consultation that takes place during the pre-application stage for Section 36 is not a statutory requirement. However, the principles of the PAC regulations will still be followed for all offshore components of the Proposed Development. Volume 1, Chapter 5: Consultation and Engagement and Volume 3, Technical Appendix 5.2: Pre-Application Consultation Report detail the stakeholder engagement and public consultation that has been carried out relative to the Proposed Development.

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