



# Chapter 2

## Policy and Legislation

GoBe Consultants Ltd

March 2018

**Table of Contents**

<b>2</b>	<b>Policy and Legislation .....</b>	<b>3</b>
2.1	Introduction.....	3
2.2	Climate Change and Renewable Energy Legislation and Policy .....	3
2.3	UK Climate Change and Energy Legislation .....	5
2.4	Scottish Offshore Wind Consenting Regime and Legislation .....	7
2.5	Other Relevant Legislation .....	8
2.6	Scottish Waters Offshore Wind (Marine) Planning Policy .....	12
2.7	References.....	13

**Table of Tables**

<i>Table 2.1: Summary of the Five Carbon Budgets in United Kingdom (UK) Law to 2032 .....</i>	<i>5</i>
<i>Table 2.2: Summary of the main consents required for the Project (seaward of MHWS).....</i>	<i>7</i>

## 2 Policy and Legislation

### 2.1 Introduction

1. This Chapter of the EIA Report provides a summary of the policy and legislative context for the Project, specifically in relation to:
  - A brief overview of international obligations and policy, including European legislation, relating to climate change, reducing greenhouse gas (GHG) emissions and the role of renewable energy;
  - UK and Scottish climate change and energy legislation and policy;
  - The Scottish offshore wind consenting legislation and process;
  - Other legislation that may be relevant to the Project; and
  - Scottish offshore wind planning policy.
2. Where policy or legislation exists in respect of specific topics, particularly in respect of EIA, this is identified in the relevant topic chapters of the EIA Report.
3. Scotland and the UK as a whole, require new, renewable sources of energy to combat climate change through decarbonisation of the power sector and to ensure that a secure supply of electricity is available to meet increased future demand. The provision of new renewable energy capacity will help government meet legally binding national and international commitments on climate change.
4. Offshore wind generation has been identified at European and national levels as being capable of providing a significant contribution towards such commitments. The STW sites, which include the Project, are recognised as being important contributors to Scotland's and the UK's targets for reducing GHG emissions and generating electricity from renewable energy sources.
5. This Chapter provides the overarching policy context for the Project and the background to the need for the Project at an international and national level. Additional socioeconomic benefits of the Project are discussed in Chapter 15: Socioeconomic Assessment.

### 2.2 Climate Change and Renewable Energy Legislation and Policy

#### 2.2.1 International Commitments

6. The Kyoto Protocol is an international agreement, linked to the United Nations Framework Convention on Climate Change, which commits its Parties to reduce GHG emissions by setting internationally binding emission reduction targets. The Kyoto Protocol was adopted in Kyoto, Japan, on 11 December 1997 and entered into force on 16 February 2005.
7. At the Paris ('COP21') climate conference in December 2015, 195 countries adopted the first-ever universal legally binding global climate agreement (at the time of writing this had been ratified by 160 parties, including the EU and the UK). The agreement sets out a global action plan to put the world on track to avoid dangerous climate change by limiting a global temperature rise to well below 2°C.

#### 2.2.2 European Legislation and Policy

8. The European Commission (EC) has developed a number of mechanisms to reduce GHG emissions and to focus effort on strengthening and diversifying the generation and supply of energy in response to the international commitments made at Kyoto and in Paris. The following section summarises some of the main targets and legislation relating to climate change and renewable energy.

### 2.2.2.1 2020 Targets

9. In 2008, the European Parliament and Council agreed a climate and energy package known as the 20-20-20 targets. The targets to be achieved by 2020 include:
  - A reduction in European Union (EU) GHG emissions of at least 20% below 1990 levels;
  - 20% of EU energy consumption to come from renewable energy sources; and
  - 20% reduction in primary energy use compared with projected levels, to be achieved by improvements in energy efficiency.
10. In order to meet these ambitious targets, the EU introduced Directive 2009/28/EC on the promotion of the use of energy from renewable sources (the Renewable Energy Directive). Article 3 and Annex I of this Directive set out the mandatory national targets for individual Member States to meet by 2020.
11. As part of this, the UK is subject to a mandatory national target of deriving 15% of gross final energy consumption from renewable sources by 2020. Due to the relative inflexibility of other sectors, meeting this 15% target will require between 30% to 40% of UK electricity consumption to come from renewable sources (DECC, 2009).

### 2.2.2.2 2030 Targets

12. In October 2014, EU countries agreed on a 2030 framework for climate and energy, which included targets and policy objectives for the period between 2020 and 2030. The targets to be achieved by 2030 include:
  - At least a 40% cut in GHG emissions compared to 1990 levels;
  - At least a 27% share of renewable energy consumption; and
  - At least 27% energy savings compared with the business-as-usual scenario.
13. To meet the targets, the EC has proposed:
  - A reformed EU emissions trading scheme;
  - New indicators for the competitiveness and security of the energy system, such as price differences with major trading partners, diversification of supply, and interconnection capacity between EU countries; and
  - First ideas on a new governance system based on national plans for competitive, secure, and sustainable energy. These plans will follow a common EU approach. They will ensure stronger investor capacity, greater transparency, enhanced policy coherence and improved co-ordination across the EU.
14. In order to meet these targets, the EC published a proposal for a revised Renewable Energy Directive on 30 November 2016 which is currently under consideration.

### 2.2.2.3 2050 Low Carbon Economy

15. In addition, the EC is looking at cost-efficient ways to make the European economy more climate-friendly and less energy-consuming. Its low-carbon economy roadmap suggests that:
  - By 2050, the EU should cut GHG emissions to 80% below 1990 levels;
  - Milestones to achieve this are 40% emissions cuts by 2030 and 60% by 2040;
  - All sectors need to contribute; and
  - The low-carbon transition is feasible and affordable.

## 2.3 UK Climate Change and Energy Legislation

### 2.3.1.1 The Climate Change Act 2008

16. The Climate Change Act 2008 introduced carbon budgets, which put legally binding limits on the amount of greenhouse gases the UK can emit over a five-year period. These carbon budgets are intended to set out a cost-effective path to achieving longer term climate targets. To date, five carbon budgets have been put into law that run up to 2032 as summarised in Table 2.1.

Table 2.1: Summary of the Five Carbon Budgets in United Kingdom (UK) Law to 2032

Budgetary Period	Years covered	Carbon Budget (MtCO <sub>2</sub> )	Average annual reduction (cf. 1990)
1	2008-2012	3018	-23%
2	2013-2017	2782	-29%
3	2018-2022	2544	-35%
4	2023-2027	1950	-50%
5	2028-2032	1725	-57%
6	2033-2037	Set by 30/06/21	-
-	-	-	-
-	2050	160	-80%

17. The government subsequently produced Carbon Plans (the first being published in 2009 and the second in 2011) which set out detailed proposals and policies for meeting the carbon budgets across government. The plans deal with matters such as energy efficiency, low carbon transport and industry and electricity generation. In relation to this last point the importance of offshore wind generation is noted in the most recent plan published in 2011.

### 2.3.1.2 The Energy Act 2013

18. The 2013 Energy Act contains provisions for Electricity Market Reform (EMR). The EMR sets out the framework for replacing Renewables Obligation Certificates (ROCs) with Contracts for Difference (CfD) to provide stable financial incentives to encourage investment in low carbon electricity generation.
19. CfDs are private contracts between a low carbon electricity generator and the UK Government owned Low Carbon Contracts Company (LCCC). Under a CfD, the electricity generating party is paid the difference between the strike price (the price for electricity reflecting the cost of investment in low carbon technology) and the reference price (a measure of the average market price for electricity in the Great Britain market) where the reference price is below the strike price.
20. The aim of CfDs is to give greater certainty and stability of revenues to electricity generators by reducing exposure to volatile wholesale prices, whilst at the same time protecting the consumer from paying for higher generation support costs when electricity prices are high. It is envisaged that CfDs will help to incentivise renewable energy development in the UK.
21. In April 2014, a total of eight projects were awarded Investment Contracts (i.e. early CfDs) under the 'Final Investment Decision (FID) Enabling for Renewables' process, thereby allocating the first CfDs that were introduced through the EMR programme. Of these eight projects, five were offshore wind farm projects (Beatrice, Burbo Bank Extension, Dudgeon, Hornsea Project One, Walney Extension). In February 2015, 27 projects were awarded CfDs in Allocation Round One, two of which were offshore wind projects. The Project was one of those awarded a CfD.
22. The results of the most recent CfD Allocation Round (Round Two) were announced in September 2017. The awarded contracts included allocations for three offshore wind farm projects – Hornsea Project Two, Triton Knoll and, in Scotland, the Moray East project in the Moray Firth.

## 2.3.2 Scottish Climate Change Legislation and Policy

### 2.3.2.1 The Climate Change (Scotland) Act 2009

23. The UK's target under the Renewable Energy Directive is delivered by individual targets for England, Wales, Scotland and Northern Ireland. The Scottish Government's commitment to tackling climate change is laid out in the Climate Change (Scotland) Act 2009, which sets an interim target of a 42% reduction in GHG emissions by 2020, in addition to the UK target of an 80% reduction by 2050.

### 2.3.2.2 Scottish Renewable Energy Policy

24. The Scottish Government and Marine Scotland have developed a number of strategy and policy positions that sit within and reflect broader global, EU and UK Government Directives, regulations, plans and policies aimed at tackling climate change and delivering energy security.

#### *2020 Route Map for Renewable Energy in Scotland*

25. At a local level, the 2020 Route Map for Renewable Energy in Scotland (Scottish Government, 2011a) sets out how Scotland will achieve its target to meet an equivalent of 100% demand for electricity from renewable energy by 2020, as well as its target of 11% renewable heat. The 2020 Route Map is an update and extension to the Scottish Government's Renewables Action Plan 2009.

26. Further updates to the Route Map were published in September 2015 (Scottish Government, 2015a). This update reports on progress on development across the renewables sector and towards reaching the 2020 targets, highlighting that provisional figures showed renewable sources generated a record 49.8% of Scotland's gross electricity consumption in 2014.

27. The 2020 Routemap for Renewable Energy in Scotland places considerable emphasis on the role of offshore wind in delivering targets. The Scottish Government is fully supportive of the offshore wind sector, recognising both the potential energy generation and economic development opportunities provided by the deployment of wind turbines around Scotland's shores.

#### *Draft Scottish Energy Strategy: The Future of Energy in Scotland*

28. In January 2017, the Scottish Government issued, for consultation, its Draft Energy Strategy for Scotland. This sets out Scotland's 2050 vision for energy, which encompasses the development of a strong low carbon economy, building on the 2020 Route Map, and development of a modern, integrated clean energy system for Scotland. The focus of the strategy is on continued growth of the economy through secure, reliable and affordable energy supplies. The strategy examines Scotland's current energy mix and provides a framework for the future growth of technologies and fuels that will be required to supply Scotland's energy needs over the coming decades (Scottish Government, 2017). With regard to offshore wind, the report highlights:

- "There is huge optimism for further development of offshore wind in Scotland. Scottish waters remain open for business and the pipeline of development continues to grow.
- 25% of Europe's offshore wind resource can be found around Scotland's coastline.
- Offshore wind is a large-scale technology with the potential to play a pivotal role in our energy system over the coming decades.
- Innovation in offshore wind, and especially in technologies like floating wind, which offer scope for development in deeper water, will play a significant role in positioning Scotland as a world centre for energy innovation."

## 2.4 Scottish Offshore Wind Consenting Regime and Legislation

29. This section describes the legislative requirements relevant to the consenting and development of the offshore aspects of the Project.

30. Table 2.2 below summarises the main consents which are being sought for the Project.

Table 2.2: Summary of the main consents required for the Project (seaward of MHWS)<sup>1</sup>

Key Legislation and Consent sought	Relevant Project Element	Requirements for the Project	Licensing Authority
<b>Electricity Act 1989 – Section 36 Consent</b>	Offshore Wind Farm	Section 36 consent from the Scottish Ministers is required for applications to construct and operate an offshore wind farm above 1 MW in generation capacity within STW.	MS-LOT acting on behalf of the Scottish Ministers
<b>Marine (Scotland) Act 2010 – Marine Licences</b>	Offshore Wind Farm and The OfTW.	Marine Licences granted by the Scottish Ministers are required for activities listed under Part 4 of the Marine (Scotland) Act 2010. This includes proposals to construct, alter or improve works within Scottish waters. A Marine Licence is required for the Offshore Wind Farm and a second is required for the OfTW,	MS-LOT acting on behalf of the Scottish Ministers

### 2.4.1 The Electricity Act 1989 (Section 36 Consent and 36A Declaration)

31. The construction and operation of a wind farm (of greater than 1 MW capacity) in STW requires consent under Section 36 of the Electricity Act 1989. A Section 36 Consent is required for all elements of the generating station and for the purposes of the Project this includes the wind turbines and inter-array cables (but does not include the OfTW).

32. In addition, under Section 36A of the Electricity Act, an application has been made to extinguish public rights of navigation in so far as they pass through those parts of Scottish waters where structures forming part of the Project are to be located (but not, for the avoidance of doubt, the areas of sea between those structures).

### 2.4.2 Marine (Scotland) Act 2010 (Marine Licences)

33. The Marine (Scotland) Act 2010 regulates activities within STW (where the Project is to be entirely located). A Marine Licence is required for the carrying out of licensable marine activities in Scottish waters. Licensable marine activities include, among other things, the deposit from a vessel of substances or objects on or under the seabed, and the construction, alteration and improvement of any works in or over the sea, or on or under the seabed. The Scottish Ministers are responsible for issuing Marine Licences under the Marine (Scotland) Act.

34. An application is being made for a Marine Licence for the licensable marine activities associated with the Offshore Wind Farm (the Generation Station Marine Licence), with a separate Marine Licence application being made for the OfTW seaward of MHWS (the OfTW Marine Licence).

35. In considering the Marine Licence applications the Scottish Ministers are required to take any decision in accordance with the "appropriate marine plans" (i.e. the National Marine Plan and any relevant Regional Marine Plan, unless relevant considerations indicate otherwise) (see Section 2.6 below).

36. When making their decision, the Scottish Ministers must also consider:

- The need to protect the environment;

<sup>1</sup> The planning permission for the OnTW landward of Mean Low Water Springs (MLWS) was granted by East Lothian Council in June 2013.

- The need to protect human health;
- The need to prevent interference with legitimate uses of the sea;
- The effects of any use intended to be made of the works in question when constructed;
- Any representations made by anyone with an interest in the outcome of the Marine Licence application; and
- Such other matters as the Scottish Ministers consider relevant.

### 2.4.3 The EIA Regulations

37. The EIA Regulations relevant to an application for Section 36 Consent are the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 and in relation to Marine Licenses, the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017. These Regulations came into force on 16 May 2017 and set out the statutory process and requirements for EIA in accordance with the new EIA Directive (2014/52/EU).
38. A request for a scoping opinion was submitted to MS-LOT on 15 May 2017 (i.e. prior to the regulations noted above coming into force) and therefore the transitional arrangements set out within those regulations apply to the Project, meaning that certain aspects of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 and the Marine Works (Environmental Impact Assessment) Regulations 2007 (the 2000 EIA Regulations and the 2007 EIA Regulations respectively) continue to apply (i.e. in relation to the scope of the EIA Report etc.).
39. Further details on the EIA requirements and the EIA process are set out in Chapter 6: EIA Methodology.

## 2.5 Other Relevant Legislation

40. This section provides details of additional legislation that are, or may be, relevant to the Project. It is acknowledged that further legislation may be relevant in the context of specific topics and where appropriate, such legislation is detailed in the relevant topic chapter of this EIA report.

### 2.5.1 The Habitats and Bird Directives

41. Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive), provides for the conservation of natural habitats and of wild flora and fauna, including in offshore areas.
42. Directive 2009/147/EC on the conservation of wild birds (the Birds Directive) applies to the conservation of all species of naturally occurring wild birds including in offshore areas. In the UK, sites designated as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) form part of the Natura 2000 network, delivering the requirements of the Directives.
43. The Directives have been transposed into Scottish Law by various regulations. The regulations of relevance to the Project are the Conservation (Natural Habitats &c.) Regulations 1994 and the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).
44. The Habitats Regulations require that wherever a project that is not directly connected to, or necessary to the management of, a European site, is likely to have a significant effect on a European site (directly, indirectly, alone or in-combination with other plans or projects), then an 'Appropriate Assessment' (AA) of the implications for that site in view of that site's conservation objectives must be undertaken by the competent authority. The AA must be carried out before consent or authorisation can be given for the Project.

#### 2.5.1.1 Habitats Regulations Appraisal (HRA)

45. HRA is a step by step process which determines Likely Significant Effects (LSE) and, where appropriate, assesses adverse effects on the integrity of a European site. Where adverse effects on integrity cannot



be ruled out, the HRA then examines alternative solutions, and if necessary goes on to provide justification of Imperative Reasons of Overriding Public Interest (IROPI).

46. The HRA process comprises up to four-stages as set out below:
- HRA Stage 1 - Screening: Screening for LSE (alone or in-combination with other projects or plans);
  - HRA Stage 2 - Appropriate Assessment: Assessment of implications of identified LSEs on the conservation objectives of a European site to ascertain if the proposal will adversely affect the integrity of a European site;
  - HRA Stage 3 – Assessment of Alternatives: where it cannot be ascertained that the proposal will not adversely affect the integrity of a European site alternative solutions must be considered; and
  - HRA Stage 4 – Assessment of IROPI: where it cannot be ascertained that the proposal will not adversely affect the integrity of a European site, and where no alternatives are identified at Stage 3, IROPI must be considered.
47. The information required to inform the AA has been gathered and presented in parallel with the EIA process. A HRA report has been prepared for submission to the Scottish Ministers alongside this EIA Report. The HRA report examines the potential for LSE for sites screened into the assessment and, for those sites where no LSE can be concluded, goes on to assess the potential for adverse effects on the integrity of those sites.
48. Whilst there is likely to be some repetition of information between the HRA Report and EIA report, the HRA report does not form part of the EIA process or the EIA Report and is therefore only mentioned to provide context and information.

### 2.5.1.2 European Protected Species (EPS) Licensing

49. The Habitats Regulations provide strict protection for certain animal and plant species referred to as EPS, however certain activities which would normally constitute an offence against EPS can be carried out legally under a licence. An example of such an activity is the installation of the piled foundations for the OSP(s) and wind turbines, which may generate underwater noise at levels that could disturb cetaceans, which are EPS.
50. EPS licences are granted by Scottish National Heritage (SNH) or the Scottish Ministers depending on the reason for the licence application. NnGOWL will apply for any EPS licences as appropriate prior to the start of construction.

## 2.5.2 The Energy Act 2004

### 2.5.2.1 Safety Zones

51. Under Section 95 of the Energy Act 2004, 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.
52. Safety zones are intended to ensure the safety of the renewable energy installation or other installations in the vicinity during construction, operation, extension or decommissioning. Safety zones may exclude non-Project vessels from navigating through a designated area for a designated period.
53. Applications for safety zones under the provisions of the 2004 Act will be made for the construction phase. These will have a radius of 500 m from the outer edge of the proposed wind turbine and OSP locations during periods when installation vessels are in operation at those locations. The construction-phase safety zones will reduce to a radius of 50 m around structures during periods when there are no installation vessels operating at a location and/or there are no personnel on the offshore structure. A

50m safety zone will also apply to completed but not yet commissioned structures. The safety zones will limit all non-project vessels from entering the safety zones.

54. During the operational phase, an advisory safe passing distance of 50 m radius will be advised around the wind turbines and OSP(s). In the event of major maintenance works, NnGOWL will apply for a notice declaring formal safety zones (under the Energy Act 2004) around the location where the maintenance work is taking place. These safety zones would have a radius of 500 m from the outer edge of the proposed wind turbine location / OSP during periods when major maintenance vessels (such as, for example, jack-up vessels required for major component repairs or replacements) are in operation.
55. Further information on safety zones can be found in Chapter 4: Project Description and in Chapter 11: Shipping and Navigation.

### 2.5.2.2 Decommissioning

56. Sections 105 to 114 of the Energy Act 2004 require a decommissioning scheme for an offshore renewable energy installation to be approved by the Scottish Ministers (this is also sometimes referred to as a decommissioning programme as is the case in the Consents). The potential effects of the decommissioning of the Project have been assessed within the EIA. A draft decommissioning scheme (or programme) will be prepared and submitted to Scottish Ministers for approval prior to the commencement of construction or as otherwise required.

### 2.5.3 The Crown Estate Act 1961

57. TCE Commissioners are the owner of much of the foreshore and the seabed below the territorial seas of the UK under the provisions of the Crown Estate Act 1961, and are the party entitled to exercise the right to exploit areas for the production of energy from water or winds within designated areas. The Commissioners require a lease of the seabed and foreshore to be entered into for developments on the marine estate, including cable laying and construction of offshore structures.
58. Following the Scotland Act 2016, TCE management in Scotland has now been devolved to Scottish Ministers. CES began operating on 1 April 2017 and is tasked with managing assets including agricultural and forestry land, most of the seabed, around half of the foreshore and some commercial property.
59. In May 2008, TCE invited expressions of interest from those companies wishing to be considered as potential developers of offshore wind farms in STW. In 2009 TCE awarded an exclusivity agreement to NnGOWL to develop the Project. Subsequently an Agreement for Lease (AfL) with TCE, which gives an exclusive right to NnGOWL to develop a wind farm and the opportunity to secure a lease giving rights to the seabed was entered into in August 2011. CES will now take on the management functions relating to the AfL under the provisions of the Scotland Act 2016.

### 2.5.4 Town and Country Planning (Scotland) Act 1997

60. Planning permission was separately sought by NnGOWL for the OnTW under the Town and Country Planning (Scotland) Act 1997. NnGOWL was granted planning permission for the OnTW by East Lothian Council in June 2013. The permission was subsequently amended by a Section 42 application in November 2015.

### 2.5.5 Consenting Process

61. The Scottish Ministers are the relevant decision-makers in respect of the Section 36 Consent and the Marine Licences. NnGOWL is applying for the Section 36 Consent and Marine Licences at the same time, with the application being supported by the information presented in this EIA Report. It is

expected that MS-LOT, on behalf of the Scottish Ministers, will process and determine the applications together.

62. The consenting process is summarised below, in line with the relevant MS-LOT guidance document (ABPmer, 2012).

#### 2.5.5.1 Pre-application

63. At the pre-application stage developers undertake preparatory work and discuss proposals with MS-LOT as early as possible. The first step in the EIA process commences with screening and / or scoping exercises to confirm the requirement for and scope of the EIA. It is encouraged that developers consult on the proposal as part of the consenting and EIA process with a variety of statutory consultees and stakeholders. MS-LOT manage consultation with statutory and non-statutory consultees at EIA screening and scoping stages. In the majority of cases MS-LOT liaise directly with consultees but can also direct applicants to specific organisations, if appropriate.
64. NnGOWL elected to prepare an EIA Report rather than undertaking a screening exercise. A request for a Scoping Opinion accompanied by a Scoping Report was submitted to MS-LOT on 15 May 2017. MS-LOT consulted on the Scoping Report and returned a Scoping Opinion on 8 September 2017 advising on the scope of the EIA for the Project.
65. In performing its regulatory duties, MS-LOT seeks expertise from a variety of sources both within Marine Scotland and from expert external advisors, consultees, stakeholders and regulators as outlined above.

#### *Pre-Application Consultation*

66. Sections 22 to 24 of the Marine (Scotland) Act 2010 require pre-application consultation to be undertaken in respect of developments of a certain scale or involving particular works (for example, projects involving the deposit of a submarine cable exceeding 1,853m in length and crossing the intertidal boundary or the construction of a renewable energy structure where the total area in which such structure is to be located exceeds 10,000 m<sup>2</sup>). The process provides opportunities to receive feedback from the public and third sector organisations that can then be addressed in the application and supporting EIA Report. MS-LOT require applicants to have undertaken pre-application consultation with stakeholders, consultees and the public in accordance with good practice. Full details of the pre-application consultation undertaken to inform this application are presented in Chapter 5: Scoping and Consultation.

#### 2.5.5.2 Application and Determination

67. Based on the feedback and advice received from the scoping process and from additional pre-application consultation, developers compile an application comprising an EIA Report detailing the EIA process and conclusions, all supporting appendices and assessments, a HRA, all relevant completed application forms, a completed gap analysis, pre-application consultation report, cover letter and any relevant additional information. The aim of the EIA Report is to demonstrate that potential environmental impacts have been adequately assessed and any potentially significant environmental effects have been identified, with appropriate mitigation considered where appropriate.
68. Once the application has been submitted, MS-LOT will check the application is complete and decide whether or not to accept it. Once the application has been accepted, the developer circulates application information to those consultees identified by MS-LOT, and also places copies of the same information in public viewing places. In addition, the developer will be required to place public notices in newspapers or other publications.
69. MS-LOT aims to ensure, where possible, that Section 36 applications are determined within nine months of receipt where there is no public inquiry. Once the applications are determined, MS-LOT announces and publishes the decision.

### 2.5.5.3 Post Consent

70. Following a positive determination, MS-LOT may, following careful consideration of the application, attach various measures on the developer as consent / licence conditions detailed within the relevant licences and consents. The developer has a statutory duty to comply with the terms of the consent and licences and MS-LOT has statutory powers to enforce compliance.

## 2.6 Scottish Waters Offshore Wind (Marine) Planning Policy

71. Marine planning matters in Scotland's inshore waters are governed by the Marine (Scotland) Act 2010 (and in its offshore waters by the Marine and Coastal Access Act 2009). Under the Marine (Scotland) Act 2010 Scottish Ministers must prepare and adopt a National Marine Plan covering Scottish inshore waters.
72. In addition, the Marine and Coastal Access Act 2009 requires Scottish Ministers to seek to ensure that a marine plan is in place in the offshore region when a Marine Policy Statement (MPS) is in effect.
73. A separate marine planning policy appraisal is provided as Appendix 2.1: Marine Planning Policy Review to this EIA Report.

### 2.6.1 UK Marine Policy Statement

74. The MPS is the framework for preparing Marine Plans and taking decisions affecting the marine environment. It is intended to contribute to the achievement of sustainable development in the United Kingdom Marine Area. Marine Plans must be in conformity with the MPS and public authorities taking decisions that affect or might affect the marine area are to do so in accordance with the MPS unless relevant considerations indicate otherwise.
75. The MPS notes that a significant part of the renewable energy required to meet the UK's climate change targets and objectives will come from marine sources highlighting that offshore wind is expected to provide the largest single renewable electricity contribution to 2020 and beyond.

### 2.6.2 Scotland's National Marine Plan

76. The Scottish Government adopted its National Marine Plan in early 2015 (Scottish Government, 2015b). The purpose of the plan is to provide an overarching framework for marine activity in Scottish waters, in an aim to enable the sustainable development and use of the marine area in a way that protects and enhances the marine environment whilst promoting both existing and emerging industries. This is underpinned by a set of core general policies, which apply across all existing and future development and use of the marine environment and sectoral specific policies.
77. With respect to offshore wind, the plan emphasises the growth of the global wind industry and Scotland's contribution to this industry by becoming a key hub for the design, development and deployment of the next generation of offshore wind technologies. The plan highlights the importance of offshore wind in achieving Scotland's targets for generating the equivalent of 100% of Scotland's own electricity demand from renewable resources by 2020, and to deliver an 80% reduction in GHG emissions by 2050 (Scottish Government, 2015b). The plan also highlights that within the Scottish Marine Area, there are a number of planned development sites for offshore wind including the STW sites of which the Project is one (Scottish Government, 2015b).
78. The core objectives and marine planning policies seek to:
- Ensure sustainable development of offshore wind in the most suitable locations;
  - Maximise economic benefits from offshore wind by securing a competitive local supply chain in Scotland;
  - Align marine and terrestrial planning and efficient consenting and licensing processes including, but not limited to, data sharing, engagement and timings, where possible;

- Align marine and terrestrial transmission grid planning and development in Scottish waters;
- Contribute to achieving the renewables target to generate electricity equivalent to 100% of Scotland's gross annual electricity consumption from renewable sources by 2020;
- Contribute to achieving the decarbonisation target of 50 g CO<sub>2</sub>/kWh by 2030 (to cut carbon emissions from electricity generation by more than four-fifths);
- Encourage sustainable development and expansion of test and demonstration facilities for offshore wind and marine renewable energy devices; and
- Ensure co-ordinated government and industry-wide monitoring.

### 2.6.3 Regional Marine Plans

79. The National Marine Plan sets the wider context for marine planning within Scottish waters, including what should be considered when creating regional marine plans. Eleven Scottish Marine Regions have been created which cover sea areas extending out to 12 nautical miles (NM). Regional Marine Plans will be developed for these areas by Marine Planning Partnerships in due course.
80. The Project lies within the Forth and Tay region. At the time of writing, a Marine Planning Partnership for the Forth and Tay has not been established and there is currently no regional marine plan in place for the region.

### 2.6.4 Sectoral Planning – Offshore Wind

#### 2.6.4.1 Blue Seas - Green Energy: A Sectoral Marine Plan for Offshore Wind Energy in STW

81. This plan, published in 2011 sets out proposals for the development of offshore wind in territorial waters at the regional level to 2020 and beyond (Scottish Government, 2011b). The plan identifies six short term sites considered to be suitable for development by 2020 and 25 medium term areas of search for development between 2020 and 2030. The Project is identified as one of the six short term sites. The plan recommends that the Project should be taken forward to the licensing stage. A key finding was that there is significant potential for the Project in the short term, and it appears at this stage to be publicly and environmentally acceptable. Of the six sites, at the time of writing this EIA Report, only three are currently being developed: the Project, Inch Cape and Beatrice.

#### 2.6.4.2 Scotland's Offshore Wind Route Map: Developing Scotland's Offshore Wind Industry to 2020 and Beyond

82. Scotland's Offshore Wind Route Map (Scottish Government, 2010; 2013a) recognises that, with 25% of Europe's offshore wind potential, the large-scale development of offshore wind represents the biggest opportunity for sustainable economic growth in Scotland.

## 2.7 References

- DECC (Department of Energy and Climate Change) (2009) *Renewable Energy Strategy*.
- Scottish Government (2017) *Draft Scottish Energy Strategy: The Future of Energy in Scotland*. Available from: <http://www.gov.scot/Publications/2017/01/3414/downloads>. [Accessed from 28 August 2017.]
- Scottish Government (2015a) *2020 Routemap for Renewable Energy in Scotland*. Available online from: <http://www.gov.scot/Resource/0048/00485407.pdf> [Accessed on 28 August 2017].
- Scottish Government (2015b.) *Scotland's National Marine Plan*. Available from: <http://www.gov.scot/Resource/0047/00475466.pdf>. [Accessed on 28 August 2017]
- Scottish Government (2013a) *Scotland's Offshore Wind Route Map: Developing Scotland's Offshore Wind Industry to 2020*. Available online from:

<http://www.gov.scot/Publications/2013/01/5856/downloads> [Accessed on 28 August 2017].

- Scottish Government (2011a.) *2020 Routemap for Renewable Energy in Scotland*. Available online from: <http://www.scotland.gov.uk/Publications/2011/08/04110353/0> [Accessed on 1 September 2011].
- Scottish Government (2011b.) *Blue seas – Green Energy: A sectoral Marine Plan for Offshore Wind Energy in Scottish Territorial Waters*. Available from: <http://www.gov.scot/Resource/Doc/346375/0115264.pdf> [accessed on 28 August 2017]
- Scottish Government (2011c.) *Scoping Study for Offshore Wind Farm Development in Scottish Waters Scottish Marine and Freshwater Science Volume 2 Number 13*. Available from: <http://www.gov.scot/Resource/Doc/363758/0123511.pdf>
- Scottish Government (2010) *Scotland's Offshore Wind Route Map: Developing Scotland's Offshore Wind Industry to 2020*. Available online from: <http://www.gov.scot/Publications/2010/09/28115850/0>