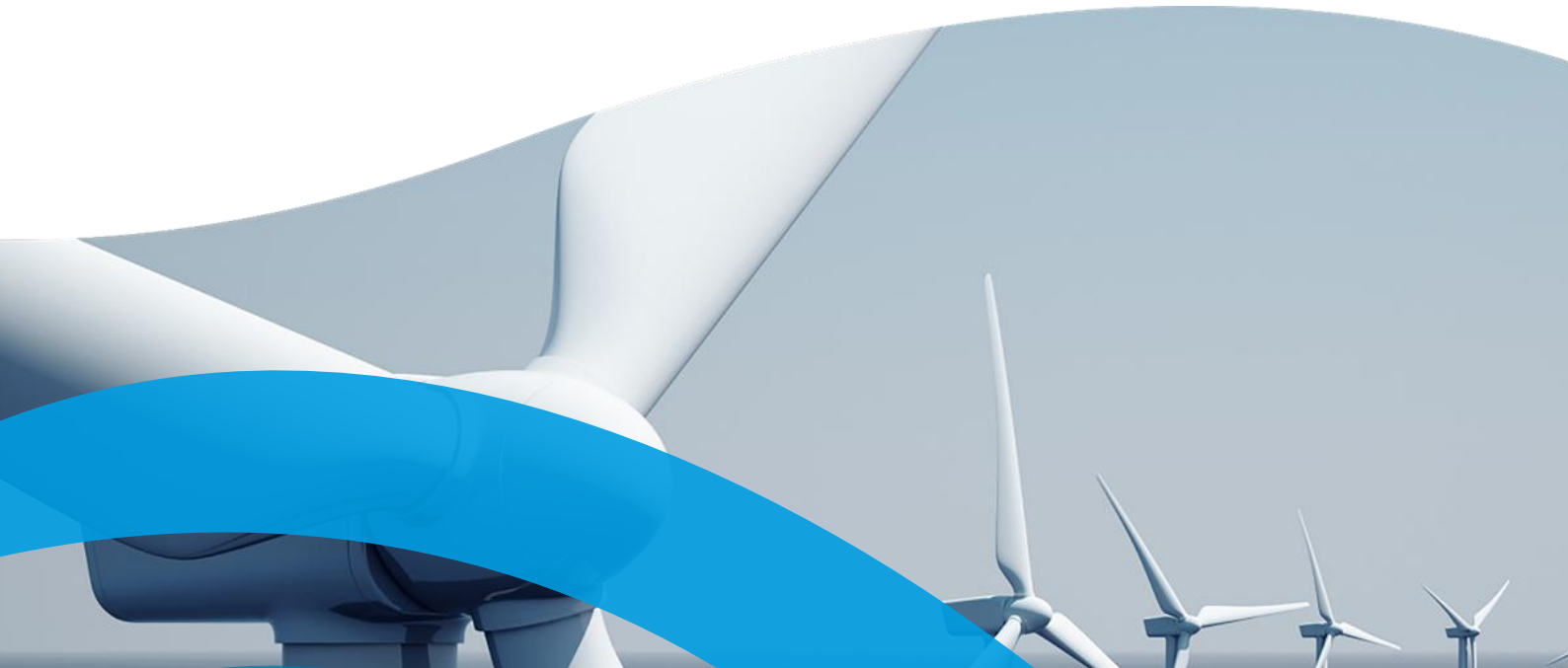
Muir Mhòr Offshore Wind Farm

Environmental Impact Assessment Report

Volume 1, Chapter 2: Legislation and Policy Context



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Glossary

Term	Definition
Array Area	The area in which the generation infrastructure (including Wind Turbine Generators and associated foundations and inter-array cables), Offshore Electrical Platform(s), and an interconnector cable will be located.
Developer	Muir Mhòr Offshore Wind Farm Limited
E2	The ScotWind Plan Option Area where the Proposed Development is located.
EIA Regulations	Collectively the term used to refer to The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, The Marine Works (Environmental Impact Assessment) Regulations 2007, and The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017.
Floating Foundations	The floating structures on which the Wind Turbine Generators are installed.
Habitats Regulations	The Conservation (Natural Habitats, &c..) Regulations 1994, the Conservation of Offshore Marine Habitats and Species Regulations 2017 and the Conservation of Habitats and Species Regulations 2017
Inter-array cables	Cables which link the Wind Turbine Generators to each other and the Offshore Electrical Platform(s).
Interconnector cable	Cable which links the Offshore Electrical Platform(s) to one another, allowing for power to be transferred between the platforms.
Landfall	The area between Mean High Water Springs (MHWS) and Mean Low Water Springs (MLWS) where the offshore export cables are brought onshore.
Offshore Electrical Platform (OEP)	Offshore platform consisting of High Voltage Alternating Current (HVAC) equipment, details depending on the final electrical set up of the Project.
Offshore Export Cable Corridor (ECC)	The area within which the offshore export cables will be installed.
Offshore export cables	The subsea electricity cable circuits running from the Offshore Electrical Platform to the landfall which will transmit the electricity generated by the offshore wind farm to the onshore export cable(s) for transmission onwards to the onshore substation and the national electrical transmission system along with auxiliary cables such as fibre optic cables.
Offshore transmission infrastructure	The proposed transmission infrastructure comprising: Offshore Electrical Platform(s) and associated foundations and substructures; the interconnector cable, the offshore export cables; and the landfall area up to Mean High Water Springs (MHWS).
Project	Muir Mhòr Offshore Wind Farm – comprises the wind farm and all associated offshore and onshore components.
Proposed Development	The offshore Muir Mhòr Offshore Wind Farm project elements to which this offshore EIA Report relates.
Wind Turbine Generator (WTG)	The wind turbines that generate electricity consisting of tubular towers and blades attached to a nacelle housing mechanical and electrical generating equipment.

Acronyms

Term	Definition
AA	Appropriate Assessment
CCC	Committee on Climate Change
CCS	Carbon Capture and Storage
CES	Crown Estate Scotland
CfD	Contracts for Difference
COP	Conference of the Parties
CO_2	Carbon Dioxide
ECC	Export Cable Corridor
EEZ	Exclusive Economic Zone
EIA	Environmental Impact Assessment
EIAR	Environmental Impact Assessment Report
EPS	European Protected Species
EU	European Union
GHG	Greenhouse Gas
GW	Gigawatt
HES	Historic Environment Scotland
HRA	Habitat Regulations Appraisal
IAC	Inter Array Cable
INTOG	Innovation and Targeted Oil & Gas
JNCC	Joint Nature Conservation Committee
kWh	Kilowatt hour
LSE	Likely Significant Effect
MCA	Marine and Coastguard Agency
MCAA	Marine and Coastal Access Act
MHWS	Mean High Water Springs
MLWS	Mean Low Water Springs
MD-LOT	Marine Directorate - Licensing Operations Team
MW	Megawatt
NC-MPA	Nature Conservation Marine Protected Area
NLB	Northern Lighthouse Board
nm	Nautical Miles
NMP	National Marine Plan
NPF	National Planning Framework
O&M	Operations and Maintenance
OEP	Offshore Electrical Platform
OWF	Offshore Wind Farm
OWIG	Offshore Wind Industry Group
PAC	Pre-Application Consultation

Term	Definition
PMF	Priority Marine Features
PO	Plan Option
RED	Renewable Energy Directive
RIAA	Report to Inform Appropriate Assessment
RMP	Regional Marine Plan
SAC	Special Area of Conservation
SEPA	Scottish Environment Protection Agency
SMP	Sectoral Marine Plan
SMR	Scottish Marine Regions
SNH	Scottish Natural Heritage (now NatureScot)
SSSI	Site of Scientific Special Interest
SPA	Special Protection Area
SPP	Scottish Planning Policy
UK	United Kingdom
UNFCCC	United Nations Framework Convention on Climate Change
UNSDG	United Nations Sustainable Development Goals
WFD	Water Framework Directive
WTG	Wind Turbine Generator

2. LEGISLATION AND POLICY CONTEXT

2.1. INTRODUCTION

2.1.1. Muir Mhòr Offshore Wind Farm Limited (hereafter referred to as 'the Developer') is proposing to develop the Muir Mhòr Offshore Wind Farm (hereafter 'the Project'). The Project is made up of both offshore and onshore components. The subject of this Offshore Environmental Impact Assessment Report (EIAR) is the offshore infrastructure of the Project seaward of Mean High-Water Springs (MHWS) which is hereafter referred to as 'the Proposed Development'.

2.1.2. The Muir Mhòr Array Area covers an area of approximately 200 km^2 and is located approximately 63 km east of Peterhead on the east coast of Scotland. The offshore infrastructure of the Proposed Development includes Wind Turbine Generators (WTGs) and associated floating foundations, the Offshore Electrical Platform(s) (OEP) and associated foundations, an interconnector cable, the inter-array cables, offshore export cables and landfall.

2.1.3. The challenges of climate change, energy supply and security of supply are driving governmental 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 Europe, the UK and Scotland.

2.1.4. The need for a secure energy supply in the face of climate change has led to several international, national, and local legislation and policies being put in place, designed to help guide development within the renewable energy sector. A number of these legislation and policies are of relevance to the Proposed Development.

2.1.5. Scotland's long-term climate change targets will require net-zero Greenhouse Gas (GHG) emissions by 2045, in line with advice from the Committee on Climate Change (CCC). 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. With each development round resulting in reduced costs, offshore wind is becoming one of the most competitively priced technologies to assist with delivery of energy targets.

2.1.6. This Chapter of the EIAR considers some of the key relevant legislation and guidance which relate to the development of Offshore Wind Farms (OWFs), and thus of relevance to the consenting process for the Proposed Development.

2.1.7. This Chapter specifically relates to:

- International, European, United Kingdom (UK) and Scottish legislation and policy;
- Relevant climate change legislation and policy;
- Scottish offshore wind consenting legislation, including the consent applications required for the construction, Operation and Maintenance (O&M), and decommissioning of the Proposed Development; and
- Other legislation that may be relevant to the Proposed Development.

2.1.8. The consents required are dictated by the location, nature and scale of the Proposed Development and the consenting requirements are explained with reference to different legislative requirements within Scottish inshore waters (within 12 nautical miles (nm)) and within Scottish offshore waters (12 nm to 200 nm). Section 2.6 describes the consents and legislation relevant to the Proposed Development.

2.1.9. Legislation and policy relating to specific topics, particularly in respect to the impact assessment, is discussed in the relevant topic Chapters of the EIA Report.

2.1.10. For the purpose of this Chapter (and throughout this EIAR), where legislation has been amended (for example, by European Union (EU) Exit Amendment Regulations), following an initial acknowledgement of the amending legislation, the legislation is referred to as amended.

2.1.11. Volume 2, Chapters 7 to 21 of the EIAR, include summaries of legislation and policy applicable to that topic, and how each individual topic assessment has considered relevant legislation and policy.

2.2. INTERNATIONAL POLICY AND LEGISLATION

UN FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC)

2.2.1. The 28th Conference of the Parties (COP), 'COP28' took place in Dubai in 2023. The conference determined more work was required regarding global climate action, reiterating that governments must transition away from fossil fuels to renewables like wind and solar power for the next round of climate commitments (UNFCCC, 2024).

THE PARIS AGREEMENT

2.2.2. The Paris Agreement is a legally binding, international treaty on climate change, adopted at COP21 in December 2015, coming into force in November 2016. Its overarching goal is to hold "the increase in the global average temperature to well below 2°C above pre-industrial levels" and pursue efforts "to limit the temperature increase to 1.5°C above pre-industrial levels. There is an additional overall aim to reduce GHG emissions by 43% by 2030. The Paris Agreement also provides a framework for technical, financial, and capacity building support for representative countries (UNFCCC, 2024).

THE KYOTO PROTOCOL

2.2.3. The Kyoto Protocol commits industrialised countries to limit and reduce GHG, using policies and mitigation measures based on principles and provisions of convention. These emission limits were agreed between the 192 parties for their respective countries. The protocol was adopted on December 11th, 1997, coming into force on February 16th, 2005, amended in Doha on December 8th, 2012. These amendments had a commitment period between 2013 to 2020, before coming into force December 31st, 2020 (UNFCCC, 2019).

2.3. EU LEGISLATION AND POLICY

EUROPEAN UNION EXIT

2.3.1. On the January 31st, 2020, the UK formally left the European Union (EU) after triggering Article 50 of the Lisbon Treaty. Subsequently the UK Government has committed to implementing international environmental obligations and maintaining existing environmental and legislative commitments in accordance with the European Union (Withdrawal) Act 2018 (HM Government, 2018).

2.3.2. The existing EU renewable energy targets for the UK remain the same since the EU Exit, including the EU Renewable Energy Directive (RED) 2009/28/EC. However, updated EU legislation to existing directives will not be required to be transposed into UK law.

EU RENEWABLE ENERGY DIRECTIVE

2.3.3. The 'EU Renewable Directive' was the first legal framework created for the development of clean energy sectors of the EU Economy. The EU is required to revisit the directive regularly to ensure the right measures are being put in place and utilized. The current directive sets a renewable energy target of at least 42.5% (aiming for 45%) utilization by 2030 (European Commission, 2023).

2.4. UK LEGISLATION AND POLICY

BRITISH ENERGY SECURITY STRATEGY

2.4.1. The British Energy Security Strategy (HM Government, 2022) sets out the UK Government's ambition to deliver up to 50 Gigawatt (GW) of offshore wind energy development by 2030, including up to 5 GW of innovative floating wind, which aligns with Scottish Government's national ambitions of the same.

THE ENERGY ACT 2013

2.4.2. The 2013 Energy Act makes provisions to incentivise investment in low carbon electricity generation, ensure security of supply, and help the UK meet its emissions reduction and renewables targets. These provisions are as followed:

- The Secretary of State is granted authority to set a 2030 decarbonisation target range for electricity in secondary legislation; and
- Electricity Market Reform – consists of measures aimed at attracting the £110 billion investment needed for the low-carbon transition. The Act includes the framework for Contracts for Difference (CfD) as well as introducing requirements to enable a statutory 2030 decarbonisation target range for the UK's electricity sector.

THE ENERGY ACT 2023

2.4.3. The 2023 Energy Act makes provisions to enhance energy security, affordability, and sustainability. The Act is designed to support the UK's transition to a cleaner, more resilient energy system. These provisions include the following:

- Setting ambitious targets for offshore wind capacity to be achieved by 2030 and beyond, aligning with the UK's broader renewable energy goals;
- Increasing public and private investment in offshore wind projects, establishing financial mechanisms to de-risk investments in offshore wind, encouraging more private sector participation;
- Simplifying the planning and licensing processes, reducing timeframes for obtaining necessary permits;
- Investing in the development and upgrading of grid infrastructure to accommodate the increased electricity generation from OWFs; and
- Ensuring efficient integration of offshore wind power into the National Grid.

CLIMATE CHANGE ACT 2008

2.4.4. The Climate Change Act committed the UK to a net reduction in GHG emissions by 34% of 1990 emissions by 2022, and an 80% reduction by 2050. The Act was then amended in 2019, requiring EU countries to reduce emissions by 100% of 1990 baseline emissions. The Act's legal framework implements a delivery pathway to net zero by 2050, and 40 GW of offshore wind by 2050 (UK Parliament, 2011).

2.5. SCOTTISH LEGISLATION AND POLICY

MARINE PLANNING FRAMEWORK

National Marine Plan

2.5.1. Scotland's National Marine Plan (NMP) was published in March 2015 and details strategic policies for the sustainable development of Scotland's marine resources out to 200 nm (i.e., the contribution of waters offshore from Scotland to the UK's Exclusive Economic Zone (EEZ)). It is required to be compatible with the UK Marine Policy Statement (HM Government, 2011) and existing marine plans across the UK, notably where there is interaction between England's inshore and offshore marine plans and Northern Ireland's Marine Plans. Sector-specific objectives (Offshore Wind and Marine Renewable Energy) of Scotland's National Marine Plan to the Proposed Development are as follows:

- 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 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_2/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
- Co-ordinated government and industry-wide monitoring.

2.5.2. The NMP also sets objectives for other users of the sea that the offshore wind sector needs to align with, for example, commercial fisheries.

2.5.3. The 2021 Review of NMP (Scottish Government 2021a) aimed to evaluate the progress and effectiveness of the plan since its adoption in 2015 and identify areas for improvement. The review found the NMP has been largely effective in guiding the sustainable use and management of Scotland's marine resources. Recommendations included strengthening policy integration and stakeholder engagement and further improving environmental protections.

2.5.4. Scotland's NMP is currently undergoing a significant update, transitioning to the National Marine Plan 2 (NMP2). This update aims to address contemporary challenges and opportunities in marine management. The new plan is guided by the Blue Economy Vision, promoting sustainable development and environmental stewardship.

National Planning Framework 4

2.5.5. The National Planning Framework 4 (NPF4) received government approval in January 2023 and utilised in February 2023. The Framework sets spatial principles, regional priorities, national developments, and national planning policy, whilst incorporating the updated 'Scottish Planning Policy', putting spatial and thematic policies in one place. The NPF4 replaces the 'National Planning Framework 3', and it is hoped that it contributes to the United Nations Sustainable Development Goals (UNSDG) and national outcomes, as well as looking to be a long-term plan until 2045 (Scottish Government, 2023).

2.5.6. NPF4 is highly supportive of all forms of renewable energy, including offshore wind. Policy 11 within NPF4 explicitly encourages renewable energy projects, emphasising the expansion of low-carbon and zero-emission technologies.

Regional Marine Plan (RMP)

2.5.7. The Marine (Scotland) Act 2010 enables the delegation of regional marine planning to a party nominated by Scottish Ministers. Regional Marine Plans (RMPs) are therefore delivered by Marine Planning Partnerships but adopted by Scottish Ministers. RMPs must be produced in conformity with and are directly linked to the NMP.

2.5.8. RMPs focus on marine planning and conservation issues specifically to a local area. Key objectives include sustainable economic growth, environmental protection, integrated management and community engagement. RMP will need to consider the PO areas identified in the ScotWind leasing round, including E2, and will need to take into consideration grid connection requirements.

2.5.9. In July 2023, Mairi McAllan as Cabinet Secretary for Transport, Net Zero and Just Transition, provided an official update to changes to the RMP system in Scotland. This update was provided directly to the Convenor of Net Zero, Energy and Transport Committee and the Convenor Rural Affairs and Islands Committee. Key update was that only the Orkney, Shetland, Outer Hebrides and Clyde RMPs will be progressed, while other RMPs would be put on hold until the NMP2 is adopted. This includes the plan for the North East Marine Region, where the proposed development is located. If a RMP for the North East Marine Region were to be adopted in the future, the Developer will ensure compliance with relevant policies.

Sectoral Marine Plan (SMP) for Offshore Wind Energy

2.5.10. The first Sectoral Marine Plan for Offshore Wind Energy (Marine Scotland, 2011) was adopted in 2011. In July 2013, Marine Scotland published the Draft Sectoral Marine Plan for Offshore Wind, Wave and Tidal energy in Scotland. It identified potential future options for commercial scale offshore wind energy developments. These draft plans were never formally adopted by Scottish Ministers, but the draft options were included in Scotland's National Marine Plan and are retained on Marine Scotland Maps for reference (Scottish Government, 2019).

2.5.11. In November 2017, Crown Estate Scotland (CES) announced their intention to run a further leasing round for commercial scale offshore wind energy projects in Scottish Waters. To inform the spatial development of this leasing round, the Scottish Government, as Planning

Authority for Scotland's Seas, were required to undertake a planning exercise in accordance with relevant UK and Scottish legislation. In practice this was carried out by the Marine Directorate on behalf of the Scottish Ministers.

2.5.12. The SMP for Offshore Wind Energy (Scottish Government, 2020a), published in October 2020, provided the strategic framework for offshore wind development in Scotland. It identified the most sustainable Plan Options (PO) for the future development of commercial-scale offshore wind energy in Scotland, including deep water wind technologies and covered both Scottish inshore and offshore waters. It also contributed to achieving Scottish and the UK's energy and climate change objectives and was developed to ensure consistency with Scotland's National Marine Plan (reference: page 12). In the recent ScotWind Leasing process, a total of 20 proposed OWF projects were awarded option agreements within 15 of these PO, reaching ~30 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' process.

2.5.13. The SMP for Offshore Wind Energy (Scottish Government, 2020a) refers to the Strategic Environmental Assessment of the SMP (Scottish Government, 2019a) which states:

"there is potential for significant effects on bird species, for which previous wind farm consultations have raised significant concerns. The conclusion of these consultations based on potential risk to bird populations, specifically Kittiwake, Great Black-backed Gull, Razorbill, Gannet and Guillemot is that currently there may be very limited capacity for further development on the east coast of Scotland, although these concerns are recognised to be more applicable to the inshore sites and risks are reduced in this case by the distance of E1 offshore.

In addition, within E2 there is potential for a significant effect on spawning fish and navigational safety. Effects on spawning fish have the potential to be mitigated through avoidance of piling activities during key spawning periods, whilst effects on navigational safety can be managed through appropriate spatial planning…"

2.5.14. These key issues relating to offshore and intertidal ornithology, fish and shellfish, and shipping and navigation will be addressed as part of the EIA (and parallel Habitat Regulations Appraisal (HRA) process for nature conservation designated sites).

2.5.15. The Developer acknowledges the Marine Directorate is undertaking an iterative plan review of the SMP, and assessments are being updated. These will provide specific conclusions for the E2a PO (Note the Proposed Development Array Area is termed E2a within the E2 PO area).

2.5.16. It is noted that if the assessment of the Proposed Development concludes adverse effects on integrity, it may be necessary for the Developer to seek a derogation and agreement on compensation measures.

2.5.17. CES has also announced the results of the first leasing round designed to enable offshore wind energy to directly supply offshore oil and gas platforms, termed Innovation and Targeted Oil & Gas (INTOG). In March 2023, 13 INTOG projects were offered initial agreements to start offshore wind development, while the Scottish Government completes the planning process and assessments for the INTOG projects. In April 2024, the Green Volt project was granted offshore planning approval and entered into an Option Agreement with CES.

2.5.18. In March 2024, the Scottish Government confirmed revised timelines for the publication of the updated SMP for Offshore Wind Energy which will incorporate the INTOG SMP. They have indicated that the final plan will be adopted in Spring 2025.

SCOTTISH ENERGY STRATEGY

2.5.19. The Scottish Energy Strategy: The Future of Energy in Scotland (Scottish Government, 2017) outlines the Scottish Government's vision for the future energy system in Scotland. Renewable energy and low carbon energy solutions are two of six defined priorities. These priorities aim to enable Scotland to reach its 2050 vision. By 2030 Scotland aims to produce 50% of its heat, transport, and electricity consumption from renewable sources. The Scottish Energy Strategy highlights the success of Scottish projects in Offshore Wind and the potential of future development both coastal and offshore.

2.5.20. The Proposed Development will contribute to achieving the goals set out by the Scottish Government. With targets being continuously reviewed, such as those outlined in The Climate Change (Scotland) Act 2009, the need for renewable development is increasingly important.

2.5.21. The importance of offshore wind development is highlighted in both the Position Statement for the Scottish Energy Strategy (Scottish Government, 2021), and in Scotland's National Strategy for Economic Transformation, (Scottish Government, 2022). Scotland's Energy Strategy and Just Transition Plan (Draft), (Scottish Government, 2023b), further outlines the benefits of Offshore Wind whilst identifying it as one of the lowest cost forms of electricity and as a more secure energy system than those of international markets. The Energy Strategy and Transition Plan is now under review following consultation.

SCOTLAND'S OFFSHORE WIND ROUTE MAP

2.5.22. The Offshore Wind Route Map was published in 2010 states that Scotland has great offshore wind potential. This provides opportunities, challenges and the priority recommendations for actions which can provide employment and investment opportunities (Offshore Wind Group (OWIG), 2010).

CLIMATE CHANGE (EMISSIONS REDUCTIONS TARGETS) (SCOTLAND) ACT 2019

2.5.23. An amendment of the Climate Change (Scotland) Act 2009 (HM Government, 2009) was made by the Scottish Parliament creating the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (HM Government, 2019). This act set firm targets on the Scottish Government to reduce GHG emissions with the aim to deliver appropriately to the Paris Agreement, the world's GHG reduction targets set out at COP21 of the UNFCC (UNFCCC, 2024).

2.5.24. The amended Act outlined a net-zero emissions target and stated the Scottish Government were to reduce GHG emissions by 100% (lower than baseline levels) by 2045 in order to meet this target.

2.5.25. Interim targets (% lower than the baseline levels) were set out to achieve the net-zero emissions target and are as follows:

- 51.1% by 2021;
- 75% by 2030; and
- 90% by 2040 (Scottish Government, 2019).

2.5.26. The 2021 annual target of a 51.1% reduction from baseline levels was not met (Scottish Government, 2023a). The interim target of 75% by 2030 has been removed however the net-zero target year remains the same.

OFFSHORE WIND POLICY STATEMENT

2.5.27. The Scottish Offshore Wind Energy Policy Statement (Scottish Government, 2020), building upon the ambitions outlined within the Scottish Energy Strategy (Scottish Government, 2017) sets out the Scottish Government's ambition to capitalise on the potential that offshore wind development can bring to Scotland and the role this technology could play in meeting the commitment to reach net zero by 2045.

2.5.28. The Offshore Wind Policy Statement aims to have net-zero emissions of all GHG by 2045. Other interim targets included:

- Reducing emissions by 75%, by 2030, against 1990 baseline;
- Reduce emissions by 90% by 2040; and
- Limit global average temperature increase to 15°C or less.

2.5.29. The Scottish Government announced in April 2024 that they are to discard the target of reducing emissions by 75% by 2030 compared to 1990 levels. The government has stated that it remains committed to achieving net-zero emissions by 2045 and will continue to work towards this goal.

2.5.30. It is important to note that achieving these targets would require great change by Scottish residents, and the increased development and support for renewable energy (Scottish Government, 2020).

THE ELECTRICITY GENERATION POLICY STATEMENT (EGPS) 2013

2.5.31. The statement was initially published in November 2010, before being further revised in March 2012, then published in June 2013. The statement presents methods as to how Scotland can generate electricity and consider changes that will be required to meet targets. The overarching aim of the statement is the creation of a pathway to meet Scottish Government targets of delivering at least 100% of gross electricity consumption from renewables by 2020 (Scottish Government, 2013). The Scottish Government has released other targets within the statement that include:

- Lowering final energy consumption by 12% in Scotland;
- Demonstrate carbon capture and storage (CCS) at a commercial scale in Scotland by 2020; and
- Seeking increased interconnection and transmission upgrades capable of supporting projected growth in renewable capacity.

2.5.32. Offshore wind is highlighted in the statement for its potential to contribute to economic growth through job creation and investment in the local economy. Additionally, the EGPS 2013 stresses the environmental benefits of offshore wind, including reductions in greenhouse gas emissions and reliance on fossil fuels.

BLUE ECONOMY VISION 2045

2.5.33. Aligned with global principles of sustainable development, Scotland's Blue Economy Vision focuses on leveraging the nation's extensive marine and coastal resources to drive sustainable economic growth, environmental stewardship, and social well-being. The key action areas and outcomes include the following:

- By 2045 Scotland's shared stewardship of the marine environment supports ecosystem health, improved livelihoods, economic prosperity, social inclusion and wellbeing;

- Environment - Scotland's marine ecosystems are healthy and functioning, resistant to climate change, with nature protected and activities managed using an ecosystem-based approach to ensure negative impacts on marine ecosystems are minimised and, where possible, reversed;
- Social - Thriving, resilient, regenerated, healthy communities have more equal access to the benefits that ocean resources provide. Scotland is an ocean literate and aware nation; and
- Economic - Established and emerging marine sectors are innovative, entrepreneurial, productive and internationally competitive. Scotland is a global leader in healthy, quality, sustainably harvested and farmed Blue Foods, for our own population and beyond.

2.6. CONSENTING PROCESS

2.6.1. The EIAR Volume 1, Chapter 1 (Introduction) outlines the consents and licences which will be sought for the Proposed Development:

- A Section 36 consent under the Electricity Act 1989 (as amended);
- A Marine Licence under the Marine and Coastal Access Act (MCAA) 2009 for the generating assets of the Proposed Development which are located beyond 12nm limit within the EEZ; and
- A Marine Licence under the Marine (Scotland) Act 2010 (for the offshore transmission infrastructure which is within 12 nm of the coast) and under the MCAA (for the offshore transmission infrastructure, which is located within the EEZ, beyond 12 nm off the coast).

2.6.2. The Developer will not seek deemed planning permission as part of the Section 36 consent application, however a separate application for onshore infrastructure will be made under the Town and Country Planning (Scotland) Act 1997. A separate Muir Mhòr Onshore EIA Report is being prepared for submission in Q1 2025 which will provide a description of the onshore elements of the Project landward of MLWS. This will support the onshore consent and licence applications.

2.6.3. Whilst the offshore elements of the Project are the focus of this Offshore EIAR, where the potential exists for onshore elements of the Project to impact the offshore receptors, this has been identified and assessed in this Offshore EIAR with a Whole Project Assessment presented in each topic-specific Chapter. This approach ensures this Offshore EIAR provides a full assessment of any combined effects of the offshore and onshore elements of the Project and ensures neither the Proposed Development nor the onshore project elements are considered in isolation

2.6.4. The Proposed Development is consistent with National Grid's Holistic Network Design (HND) which was published in July 2022 and which details *"a single, first-of-its-kind, integrated design for connecting 23 GW of offshore wind, and was the first step towards a more centralised, strategic network planning"*[1]. The HND seeks to coordinate the development of infrastructure *"…to bring power to the grid cohesively, ensuring maximum benefit for consumers, local communities and the environment"*[2]. The Proposed Development is identified in the HND 'Beyond 2030 Report' as a project that is *"in scope for coordination"*[3].

2.6.5. The Project will have an anticipated generation capacity of approximately 1 GW using floating offshore wind technology. The Proposed Development is required to transmit and connect the generated wind power to the grid and has been designed to accommodate up to 2 GW of power, providing a 'coordinated connection' to facilitate future coordination as advocated in the HND.

MARINE (SCOTLAND) ACT 2010

2.6.6. The Marine (Scotland) Act 2010 provides the legislative and management framework for the marine environment within Scottish Territorial Waters (from MHWS out to 12 nm). Under section 21 of the Marine (Scotland) Act 2010, the Proposed Development requires a Marine Licence for the construction and deposit of structures below MHWS.

2.6.7. Part 4 (Marine Licensing) of the Marine (Scotland) Act 2010 includes licensable marine activities (Section 21) for which the following would apply to the Proposed Development.

(1) To deposit any substance or object within the Scottish marine area, either in the sea or on or under the seabed, from any of the following:

(a) a vehicle, vessel, aircraft, or marine structure,

(b) a container floating in the sea, or

(c) a structure on land constructed or adapted wholly or mainly for the purpose of depositing solids in the sea.

(2) To deposit any substance or object anywhere in the sea or on or under the seabed from a vehicle, vessel, aircraft, marine structure, or floating container which was loaded with the substance or object either:

(a) in Scotland, or

(b) in the Scottish marine area.

(5) To construct, alter or improve any works within the Scottish marine area either:

(a) in or over the sea, or

(b) on or under the seabed.

(6) To use a vehicle, vessel, aircraft, marine structure, or floating container to remove any substance or object from the seabed within the Scottish marine area.

(7) To carry out any form of dredging within the Scottish marine area (whether or not involving the removal of any material from the sea or seabed).

2.6.8. The Scottish Ministers can grant a Marine Licence under Part 4 of the Marine (Scotland) Act 2010 with consideration of input and recommendations from MD-LOT.

MARINE AND COASTAL ACCESS ACT 2009

2.6.9. The Marine and Coastal Access Act 2009 provides devolved authority to Scottish Ministers for marine planning and conservation powers in the Scottish Offshore Region (from 12 to 200 nm). Under section 66 of the Marine and Coastal Access Act 2009 (in the context of the Scottish Offshore Region), the Proposed Development requires a Marine Licence for the construction and deposit of structures beyond 12 nm.

2.6.10. Part 4 (Marine Licensing) of the Marine and Coastal Access Act 2009 includes licensable marine activities (Section 66) for which broadly the same activities listed above for the Marine (Scotland) Act 2010 would apply to the Proposed Development (e.g., deposits, removals, and construction). Scottish Ministers can grant a Marine Licence under Part 4 of the Marine and Coastal Access Act 2009 with consideration of input and recommendations from MD-LOT.

SECTION 36 CONSENT

2.6.11. The Proposed Development will be subject to an application to the Scottish Ministers under Section 36 of the Electricity Act 1989 (as amended) for consent to construct and operate an electricity generating station. The scope of this consent will include the construction, installation and O&M of WTG and Inter Array Cables (IAC).

2.6.12. Consent under Section 36 of the Electricity Act 1989 (as amended) is required for any proposal to construct, extend, or operate a generating station (an OWF) situated in:

- Scottish Territorial Waters (from shore out to 12 nm), which have a generating capacity more than 1 Megawatt (MW); or
- Scottish Offshore Region (from 12 to 200 nm), with a generating station more than 50 MW.

2.6.13. Scottish Ministers can grant consent under Section 36 of the Electricity Act 1989 with consideration of input and recommendations from MD-LOT.

THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

2.6.14. The Developer plans to submit separate applications for the offshore and onshore elements of the Project and so the onshore elements of the Project will require separate planning consent under the Town and Country Planning (Scotland) Act 1997 as amended. The onshore application will be submitted to Aberdeenshire Council.

2.6.15. The onshore and offshore EIAR applications are fully integrated. Both applications include Whole Project Assessments to understand where the potential exists for onshore elements to impact the offshore, and vice versa. This approach ensures both onshore and offshore EIAR provide a full assessment of any combined effects, and neither offshore or onshore Project elements are considered in isolation.

THE WATER FRAMEWORK DIRECTIVE

2.6.16. Activities that have the potential to cause ecological stress to waterbodies (ground and otherwise) have a requirement to follow the 'Water Framework Directive' (WFD). The WFD was established in 2000 and aims to prevent the deterioration and enhance the status of aquatic ecosystems, including ground water (NatureScot, 2020). This is achieved by:

- Promoting sustainable water use;
- Reducing pollution; and
- Contributing to mitigation of floods and droughts.

2.6.17. In relation to the Proposed Development, this piece of legislation covers certain activities in coastal waters (3 nm from the limit of the highest tide (Scottish Environmental Protection Agency (SEPA), 2018).

2.6.18. In compliance with the WFD a WFD report has been submitted as part of the EIAR, see Volume 3, Appendix 8.1 (Water Framework Directive Report). Relevant regulation to water management in Scotland is set out in the WFD Assessment.

2.7. ENVIRONMENTAL IMPACT ASSESSMENT

2.7.1. Requirements for EIA are defined in the EIA Directive (2011/92/EU, as amended by Directive 2014/52/EU) which has been transposed into Scottish law. The purpose of the EIA Directive is to ensure the potential effects of a project on the environment are taken into consideration before relevant consents are granted. If a development is deemed to have the potential to have a significant effect on the environment by virtue of its scale, size and location, then an EIA is required. The competent authority cannot grant consent for an EIA development without considering the EIAR.

2.7.2. The requirements of the EIA Directive are enacted through relevant Scottish legislation for electricity generation projects requiring consent under Section 36 of the Electricity Act 1989 by the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended). In relation to marine licensing under the Marine (Scotland) Act 2010 and Marine and Coastal Access Act 2009, the requirements of the EIA Directive are enacted by the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) and the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended). These EIA Regulations set out the statutory process and minimum requirements for EIA, to which the Proposed Development has adhered to.

2.7.3. There are certain pre-requisites required for an EIA to be submitted. The Proposed Development is equal to or exceeds the following three relevant pre-requisites:

- The EIA Directive (2011/92/EU) applies to wind turbines and any plant or structure that exceeds a height of 15 meters;
- Wind turbine development which involves the installation of more than two turbines; and
- The project is likely to have significant effects on the environment.

2.7.4. The full EIAR methodology is provided in Volume 1, Chapter 6 (Environmental Impact Assessment Methodology). The main stages of the EIA are as follows:

- Decision to undertake an EIA (screening);
- EIA scoping to establish the key issues of concern for the EIA, and to identify Likely Significant Effect (LSE);
- Review of available baseline data and/or undertaking baseline surveys to collate project site-specific data;
- Design decisions and potential impacts are assessed for all stages of the Proposed Development through an iterative feedback process. The aim is to avoid, prevent, reduce and/or offset significant adverse effects on the environment;
- Identification of required mitigation or compensation;
- Identification of residual effects;
- Development of the EIAR;
- Ongoing consultation with regulatory bodies, statutory consultees and non-statutory stakeholders and the community, in accordance with all relevant requirements (the Marine (Scotland) Act 2010, the MCAA 2009, EIA Regulations and the associated regulations and guidance);
- Consideration of the EIAR by MD-LOT; and

- Implementation of the mitigation measures established in the EIAR and applicable licenses, supported by monitoring, as required, of any LSE of the Proposed Development during construction, O&M, and decommissioning.

2.8. PRE-APPLICATION CONSULTATION (PAC)

2.8.1. The Marine Licensing (Pre-Application Consultation (PAC)) (Scotland) Regulations 2013, commonly referred to as the PAC Regulations, apply to activities occurring within Scottish Territorial Waters (i.e., from MHWS out to 12 nm). Whilst these requirements do not apply in respect of relevant applications in the Scottish Offshore Region (beyond 12 nm), the principles of the PAC Regulations have been followed for all offshore aspects of the Proposed Development. Further information is provided in EIAR Volume 1, Chapter 5 (Consultation) and Volume 4, Appendix 1 (Pre-Application Consultation (PAC) Report).

2.8.2. For a prescribed class of activity, within which offshore wind developments and the transmission infrastructure are captured, the PAC Regulations require developers to notify the Marine and Coastguard Agency (MCA), Northern Lighthouse Board (NLB), NatureScot and SEPA along with any delegate for a relevant marine region (regulation 6). Developers must hold at least one PAC event for which notification is given to these bodies, and members of the public may provide comments to the developer. Developers must publish, within at least one local newspaper, a notice containing a description of the activity, detail as to where further information may be obtained, the date and place of the PAC event, how and when comments should be submitted to the developer, and a statement that comments made to the developer are not representations to the Scottish Ministers and that if an application is made by the developer, there will be an opportunity for representations to be made to the Scottish Ministers (regulation 7). Under regulation 8, a PAC Report must then be submitted alongside the Marine Licence application to MD-LOT. Regulation 5 (Consultation Procedure) provides further details of planned consultation to support the Proposed Development.

2.9. NATURE CONSERVATION

HABITATS REGULATIONS

2.9.1. Article 3 of the EU Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora, commonly known as the Habitats Directive (92/43/EEC), requires the establishment of a European network of important high-quality conservation sites known as Special Areas of Conservation (SACs) that will contribute to conserving habitats and species identified in Annexes I and II of the Directive. The listed habitat types and species are those considered to be most in need of conservation at a European level (excluding birds). In accordance with Article 4 of the EU Directive on the conservation of wild birds, commonly known as the Birds Directive (2009/147/EC), Special Protection Areas (SPAs) are strictly protected sites classified for rare and vulnerable birds (Annex I of the Directive), and for regularly occurring migratory species.

2.9.2. As relevant for an OWF in Scotland's terrestrial and marine environment, the requirements of the Habitats and Birds Directives are largely transposed by the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) (up to 12 nm), the Conservation of Habitats and Species Regulations 2017 (of relevance to consents under Section 36 of the Electricity Act 1989), the Conservation of Offshore Marine Habitats and Species Regulations 2017 (beyond 12 nm) and the Wildlife and Countryside Act 1981 (as amended).

2.9.3. Following the UK's departure from the EU on 31 December 2020, the UK is no longer an EU Member State. Notwithstanding, the Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 and the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 have transferred functions from the European Commission to the appropriate authorities in the UK/Scotland, with SACs and SPAs in the UK no longer forming part of the EU's Natura 2000 ecological network. These Habitats Regulations have created the UK's National Site Network on land and at sea, including both the inshore and offshore marine areas in the UK. This includes all existing SACs and SPAs, and new SACs and SPAs designated under the Habitats Regulations, noting policy on the protections and standards afforded to these sites remains unchanged. These European sites are still protected in Scotland and the rest of the UK, and the terms "European site", "European marine site" and "European offshore marine site" have been retained.

2.9.4. Scottish Government policy notes that in Scotland, all Ramsar sites are also SACs and/or SPAs or Sites of Scientific Special Interest (SSSIs). Ramsar sites are wetlands of international importance designated under the Ramsar Convention (adopted in 1971 and came into force in 1975), providing a framework for the conservation and wise use of wetlands and their resources. For the purposes of the Muir Mhòr Report to Inform Appropriate Assessment (RIAA), all relevant Ramsar sites were considered alongside designated European sites.

2.9.5. The Habitats Regulations require that wherever a plan, project or activity, that is not directly connected to, or necessary to the management of a European/Ramsar site, is to have a LSE on a European/Ramsar site (directly, indirectly, alone or in-combination with other plans, projects or activities), then an Appropriate Assessment (AA) of the implications of that site in view of that site's Conservation Objectives must be undertaken by the competent authority. 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 and there is no regulatory timescale for the competent authority to provide a HRA consent.

2.9.6. The Offshore HRA process has been progressed alongside the EIA and has been reported upon separately. The Muir Mhòr HRA Offshore Screening Report was submitted to MD-LOT alongside the Offshore Scoping Report (Volume 3, Appendix 5.1 Offshore Scoping Report) in June 2023. This detailed the outcome of LSE screening on the qualifying features of relevant European sites for the Proposed Development. The Muir Mhòr RIAA has been submitted to MD-LOT alongside this EIAR (Muir Mhòr Offshore Wind Farm Limited, 2024).

NATURE CONSERVATION MARINE PROTECTED AREA (NC MPA)

2.9.7. Under the Marine (Scotland) Act 2010 and the Marine and Coastal Access Act 2009, MD-LOT is required to consider whether a licensable activity can affect (other than insignificantly) a protected feature of an NC MPA or any protected ecological or geomorphological process on which the conservation of any protected feature of an NC MPA is dependent. Impacts on relevant NC MPAs are considered within the EIAR (Volume 3, Appendix 9.2 (Marine Protected Area Assessment)).

EUROPEAN PROTECTED SPECIES (EPS)

2.9.8. EPS are animals and plants listed within Annex IV of the Habitats Directive and as such protected under the Habitats Regulations. Under these Regulations certain activities likely to cause disturbance or injury to EPS which would otherwise constitute an offence, can be carried out legally under an EPS Licence, as follows:

- Within 12 nm of the coast (Scottish Territorial Water): An EPS Licence may be required under the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) where an

activity is likely to cause disturbance or injury to an EPS. EPS Licences are granted by NatureScot (for scientific research) or MD-LOT on behalf of the Scottish Ministers (e.g., for commercial activities); and

- Outside 12 nm (Scottish Offshore Region): An EPS Licence may be required under the Conservation of Offshore Marine Habitats and Species Regulations 2017 where an activity is likely to cause disturbance or injury to an EPS (population level effect rather than individual animals). MD-LOT is the licencing authority for EPS Licences.

2.9.9. Activities which can be licensed under EPS licences include those such as subsea noise disturbance to marine mammals due to piling construction activities. Separate EPS licences may be required for different construction activities.

BASKING SHARK

2.9.10. Basking sharks (*Cetorhinus maximus*) are protected under section 4A and Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) which prohibits the killing, injuring, or taking by any method of those wild animals listed on Schedule 5 of the Act. The Nature Conservation (Scotland) Act 2004, Part 3 and Schedule 6 make amendments to the Wildlife and Countryside Act 1981 (as amended), strengthening the legal protection for threatened species to include 'reckless' acts. The Act makes it an offence to intentionally or recklessly disturb basking sharks.

2.9.11. Licensing requirements under the Wildlife and Countryside Act 1981 (as amended) are similar to those for EPS described above. For basking sharks, a licence is required for any activities that may occur during the duration of the Proposed Development that may cause harm or disturb basking sharks. MD-LOT (on behalf of the Scottish Ministers) is the licensing authority under sections 16 and 16A of the Wildlife and Countryside Act 1981 (as amended).

PRIORITY MARINE FEATURES (PMF)

2.9.12. In July 2014, Scottish Ministers adopted a list of 81 Priority Marine Features (PMFs), many of which are features characteristic of the Scottish marine environment. The list, which covers a variety of habitats and species that are a priority for conservation in Scotland's seas, was developed by Marine Scotland, the Joint Nature Conservation Committee (JNCC) and NatureScot. PMFs include a range of intertidal and continental shelf habitats, deep sea habitats, mammals, fish, shellfish, and other invertebrates. NatureScot made specific reference to consideration of PMFs that could be present in the Proposed Development area in the 2023 Muir Mhòr Scoping Opinion (Volume 3, Appendix 5.2 (Offshore Scoping Opinion)). 2023 offshore surveys specific to the Proposed Development recorded the presence of PMFs. Any potential effects on PMFs are assessed within the EIAR, See Volume 2, Chapter 9, (Benthic Subtidal and Intertidal Ecology).

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