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2 Policy and Legal Background

2.1 Introduction

- 1 This chapter describes the policies and legislation which support, or are drivers for, the development of offshore renewable energy and are relevant to the Inch Cape Offshore Wind Farm and Offshore Transmission Works. Chapters 12 to 22 of this Environmental Statement (ES) take into account the legislation and policy outlined in this chapter. Specific guidance relevant to the individual assessments is detailed in each technical chapter.
- 2 This chapter is supported by the *Offshore Planning and Policy Statement*, a separate element of the application.

2.2 Identification of Relevant Policy and Legislation

- 3 A number of international, United Kingdom (UK), Scottish and other relevant policies and legislation have been taken into account during the preparation of this ES as they help to demonstrate the need for the Project and the way in which the Project has been developed.
- 4 The policies and legislation considered in this chapter have been split into specific topics, which relate to the range of considerations appropriate for development of this nature:
 - climate change (see *Section 2.3*);
 - energy (see *Section 2.4*);
 - development (see *Section 2.5*);
 - marine (see *Section 2.6*); and
 - other (see *Section 2.7*).

2.3 Climate Change

- 5 Current awareness of Climate Change has resulted in commitments, legislation and policy designed to reduce carbon emissions and those of most relevance to the Project are described below.

2.3.1 The Kyoto Protocol

- 6 “*The Kyoto Protocol is an international agreement linked to the United Nations Framework Convention on Climate Change, which commits its Parties by setting internationally binding emission reduction targets (United Nations, 2013)*”. By ratifying the Protocol countries agree to meet their targets primarily through national measures, in the UK this Protocol led to the Climate Change legislation and policy described in *Sections 2.3.2 to 2.3.4* below.

2.3.2 Climate Change Act 2008

- 7 The *Climate Change Act 2008* requires that UK emissions are reduced by at least 80 per cent by 2050, compared to 1990 levels. The Act provides a legal framework for ensuring that the

UK Government meets its commitments to tackle climate change. Devolved administrations have defined their own legally binding targets which are the same or more stringent than those defined by the UK Government. The Act also introduced a system of legally binding carbon budgets to set a ceiling on carbon emissions over successive five yearly periods. The first three budgets require emissions to be reduced by at least 34 per cent on baseline levels by 2020.

2.3.3 Climate Change (Scotland) Act 2009

- 8 The *Climate Change (Scotland) Act 2009* contains provisions that set a legally binding target for reducing carbon dioxide emission by at least 42 per cent by 2020 and at least 80 per cent by 2050, compared to 1990 levels. These targets are more stringent than the UK targets (see *Section 2.3.2*).
- 9 The Act places sustainable development duties on Scottish Ministers and public bodies relating to climate change. The way in which offshore wind farm developments contribute towards achieving the governments carbon reduction commitments has been considered in *Section 6.4*.
- 10 The Act is underpinned in Scotland by a series of strategies and policies which provide further detail on how climate change targets can be achieved. The *Climate Change Delivery Plan: Meeting Scotland's Statutory Climate Change Targets* (Scottish Government 2009a) sets a framework for action to achieve emissions reductions including a series of ten pledges, the first of which directly relates to the implementation of renewable energy to promote large scale, decentralised and sustainable generation. Subsequent strategies include *Low Carbon Scotland - Meeting the Emissions Reduction Targets 2010-2022: The Report on Proposals and Policies* (Scottish Government, 2011a) and its updated draft document *Low Carbon Scotland: Meeting our Emissions Reduction Targets 2013-2027: The Draft Second Report on Proposals and Policies* (Scottish Government, 2013a). These documents set out proposals and policies to achieve the statutory emissions targets and identify decarbonisation of electricity generation as a key driver of progress towards a low carbon economy. The commitment to renewable energy is clearly set out along with the Scottish Government's commitment to supply 100 per cent of energy demand from renewable sources by 2020.

2.3.4 A Low Carbon Economic Strategy for Scotland: Scotland – A Low Carbon Society

- 11 The Low Carbon Economic Strategy (Scottish Government, 2010a) is an integral part of the Government's plan to secure sustainable economic growth. It is also a key component of the Scottish Government's broader approach to meet Scotland's climate change targets and secure the transition to a low carbon economy.

2.4 Energy

- 12 Energy policy and national planning policy (see *Section 2.5* below) are material to the determination of Project consents and provide a clear framework and strategy which are central to the background and context of the Project. In addition to information in this

chapter, the legislation specific to the determination of the application is detailed in *Chapter 3: Regulatory Requirements*. The energy policies detailed below have been central to the preparation of this ES.

2.4.1 European Renewable Energy Directive

- 13 The Renewable Energy Directive (2009/28/EC) sets renewable energy targets from EU Member States such that the EU will reach 20 per cent of energy from renewable sources by 2020. The UK's individual target is to generate 15 per cent of energy from renewable sources by 2020.

2.4.2 National Renewable Energy Action Plan for the United Kingdom

- 14 The Action Plan (Department of Energy and Climate Change (DECC), 2010) produced under Article 4 of the *European Renewable Energy Directive* (2009/28/EC) requires each Member State to submit a National Renewable Energy Action Plan. The *Renewables Action Plan* (Scottish Government, 2009b) sets out the Scottish Government renewable energy targets but this has subsequently been revised by the publication of the *2020 Routemap for Renewable Energy in Scotland* (Scottish Government, 2011b). This updated and expanded Routemap reflects the Scottish Governments target to meet an equivalent of 100 per cent demand for electricity from renewable energy by 2020.

2.4.3 The UK Low Carbon Transition Plan – National Strategy for Climate and Energy

- 15 The White Paper (Her Majesty's (HM) Government, 2009a) sets out the UK's first low carbon transition plan to 2020 and how the Government plans to meet its binding carbon budget – an 18 per cent cut in emissions on 2008 levels by 2020 (34 per cent on 1990 levels). The plan details the UK Government intention to invest up to £120 million in offshore wind and an additional £60 million to cement the UK's position as a global leader in marine energy.

2.4.4 The UK Renewable Energy Strategy

- 16 The Strategy (HM Government, 2009b) details how the UK can reach its goal of 15 per cent of energy from renewables by 2020. The aim of this strategy is, by 2020, renewable energies will be used to supply the equivalent of nearly all 26 million homes in the UK with their current electricity needs, and four million homes with their current heating needs. This strategy predicted that 30 per cent of UK electricity will come from renewable sources by 2020 with more than two-thirds of that coming from on and offshore wind developments.

2.4.5 UK Renewable Energy Roadmap

- 17 The Roadmap (DECC, 2011) sets out the analysis undertaken by the Office of Renewable Energy Deployment to understand recent trends in renewables deployment in the UK, proposed/pipeline projects and barriers to delivering these projects successfully and cost effectively. This document also sets out a targeted programme of action that the UK Government is taking to increase renewables deployment.

2.4.6 Draft Plan for Offshore Wind Energy in Scottish Territorial Waters

18 The Draft Plan (Marine Scotland, 2010a) and its supporting Strategic Environmental Assessment (Marine Scotland, 2010b) identify that offshore wind has the potential to deliver 30 Gigawatts (GW) of capacity on top of that anticipated by the original Scottish Territorial Waters (STW) offshore sites (including Inch Cape) and the Round 3 offshore sites.

2.5 Development

19 There are several development policies which are relevant to renewable energy developments which have been considered in the preparation of this ES.

2.5.1 National Planning Framework for Scotland 2 (NPF2)

20 NPF2 (Scottish Government, 2009c) sets out a strategy for Scottish development until 2030 with one of the main elements being *'to realise the potential of Scotland's renewable energy resources and facilitate the generation of power and heat from all clean, low carbon sources'*. The framework notes that The Crown Estate has identified a zone to the east of the Firths of Tay and Forth as locations with potential for the development of offshore wind farms. Scottish Ministers have confirmed that *National Planning Framework 3: A Plan for Scotland: Ambition, Opportunity, Place* is due to be published in June 2014, which focuses *"strongly on economic recovery and the transition to a low carbon economy (Scottish Government, 2012, p.4)"*.

2.5.2 Scottish Planning Policy (SPP)

21 SPP (Scottish Government, 2010b) sets out how terrestrial development plans should be prepared and planning applications determined, including promoting the development of renewable energy proposals.

2.6 Marine

22 There are several policies which specifically relate to works within the marine environment which have been considered in the preparation of this ES.

2.6.1 UK Marine Policy Statement

23 The Policy Statement (HM Government, 2011) provides the framework for preparing Marine Plans and taking decisions affecting the marine environment. A draft Marine Spatial Plan for STW was published for consultation in March 2011, along with *Scotland's Marine Atlas: Information for The National Marine Plan* (Scottish Government 2011c), and the final version is expected to be published by the end of 2014. The Policy Statement assumes a significant part of the renewable energy required to meet targets and objectives will come from marine sources. Of these marine sources, offshore wind is expected to provide the largest single renewable electricity contribution towards 2020 targets and beyond.

2.6.2 Blue Seas - Green Energy: A Sectoral Marine Plan for Offshore Wind Energy in Scottish Territorial Waters: Part A The Plan

24 The Plan (Marine Scotland, 2011) confirmed a number of offshore wind development areas within identified regions around Scotland. Within the defined 'East' region, Inch Cape and Neart na Gaoithe are being progressed. One further site was identified, Forth Array, but has since been withdrawn.

2.6.3 Marine Protected Areas (MPAs)

25 Currently in the process of being developed, the MPA network aims to protect biodiversity, geodiversity and contribute to the UK's agreement with international partners to create an ecologically coherent network of well-managed MPAs in the North East Atlantic (Scottish Government, 2013b). Further information is included in *Chapter 9: Designated Nature Conservation Sites* (see *Section 9.3.4*).

2.6.4 Marine (Scotland) Act 2010

26 The Act introduced statutory powers for marine planning in Scotland's seas. The Scottish Government has consulted on a draft *Scotland's National Marine Plan: Pre-Consultation Draft* (Scottish Government, 2011d) which will set national objectives and policies for marine and coastal planning when formally introduced. The 2011 Pre-Consultation Draft Plan acknowledged the importance of turning Scotland's offshore energy resources into a fully developed industry contributing to economic and climate change objectives. The draft identifies that 10 GW of renewables capacity should be in place or under construction by 2020 and it proposes a presumption in favour of development. Offshore wind is anticipated to grow strongly from 2015.

2.7 Other Policies

27 Other policies, such as terrestrial, regional and local plans, relevant to the determination of the application have been taken into consideration during the preparation of this ES. These topic specific policies are detailed in the relevant technical chapters.

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