

Cenos Offshore Windfarm Limited



# Cenos EIA

## Chapter 3 – Policy and Legislative Context

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## ACRONYMS

ACRONYM	DEFINITION
AA	Appropriate Assessment
BEIS	Department for Business, Energy and Industrial Strategy
°C	Degrees Celsius
CBD	Convention on Biological Diversity
CCC	Climate Change Committee
CES	Crown Estate Scotland
COP21	21 <sup>st</sup> Conference of the Parties
COP26	26 <sup>th</sup> Conference of the Parties
COVID-19	Coronavirus Disease of 2019
DESNZ	Department for Energy Security and Net Zero
EC	European Commission
EIA	Environmental Impact Assessment
EIAR	Environmental Impact Assessment Report
EN-1	Overarching National Policy Statement for Energy
EN-3	National Policy Statement for Renewable Energy Infrastructure
EPS	European Protected Species
EU	European Union
GES	Good Environmental Status
GHG	Greenhouse Gas
GW	Gigawatts
HRA	Habitats Regulations Appraisal
HVAC	High Voltage Alternating Current
IAC	Inter-Array Cable
INTOG	Innovation and Targeted Oil & Gas
IPCC	Intergovernmental Panel on Climate Change
JNCC	Joint Nature Conservation Committee
km	Kilometre
LSE	Likely Significant Effects
m	Metre
MCA	Maritime and Coastguard Agency
MD-LOT	Marine Directorate - Licensing Operations Team

ACRONYM	DEFINITION
MEP	Marine Environmental Policy
MHWS	Mean High Water Springs
MLA	Marine Licence Application
MPA	Marine Protected Area
MSFD	Marine Strategy Framework Directive
MW	Megawatt
MPA	Marine Protected Area
NLB	National Lighthouse Board
NM	Nautical Mile
NMP	National Marine Plan
NPF4	National Planning Framework 4
NPS	National Policy Statement
NSN	National Site Network
NSTA	North Sea Transition Authority
OREI	Offshore Renewable Energy Installations
OSCPs	Offshore Substation Converter Platforms
PAC	Pre-Application Consultation
RED I	Renewable Energy Directive (2009/28/EC)
RED II	Renewable Energy Directive (2018/2001/EU)
REZ	Renewable Energy Zone
RIAA	Report to Inform Appropriate Assessment
s.36	Section 36
SAC	Special Area of Conservation
SEPA	Scottish Environment Protection Agency
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest
TOG	Targeted Oil and Gas
UK	United Kingdom
UN	United Nations
UNFCCC	United Nations Framework Convention on Climate Change
UXO	Unexploded Ordnance
WFD	Water Framework Directive

## GLOSSARY

TERM	DEFINITION
<b>2023 Scoping Opinion</b>	Scoping Opinion received in June 2023, superseded by the 2024 Scoping Opinion.
<b>2023 Scoping Report</b>	Environmental Impact Assessment (EIA) Scoping Report submitted in 2023, superseded by the 2024 Scoping Report.
<b>2024 Scoping Opinion</b>	Scoping Opinion received in September 2024, superseding the 2023 Scoping Opinion.
<b>2024 Scoping Report</b>	EIA Scoping Report submitted in April 2024, superseding the 2023 Scoping Report.
<b>Area of Opportunity</b>	The area in which the limits of electricity transmission via High Voltage Alternating Current (HVAC) cables can reach oil and gas assets for decarbonisation. This area is based on assets within a 100 kilometre (km) radius of the Array Area.
<b>Array Area</b>	The area within which the Wind Turbine Generators (WTGs), floating substructures, moorings and anchors, Offshore Substation Converter Platforms (OSCPs) and Inter-Array Cables (IAC) will be present.
<b>Cenos Offshore Windfarm ('the Project')</b>	'The Project' is the term used to describe Cenos Offshore Windfarm. The Project is a floating offshore windfarm located in the North Sea, with a generating capacity of up to 1,350 Megawatts (MW). The Project which defines the Red Line Boundary (RLB) for the Section 36 Consent and Marine Licence Applications (MLA), includes all offshore components seaward of Mean High Water Springs (MHWS) (WTGs, OSCP, cables, floating substructures moorings and anchors and all other associated infrastructure). The Project is the focus of this Environmental Impact Assessment Report (EIAR).
<b>Cenos Offshore Windfarm Ltd. (The Applicant)</b>	The Applicant for the Section 36 Consent and associated Marine Licences.
<b>Cumulative Assessment</b>	The consideration of potential impacts that could occur cumulatively with other relevant projects, plans, and activities that could result in a cumulative effect on receptors.

TERM	DEFINITION
<b>Developer</b>	Cenos Offshore Windfarm Ltd., a Joint Venture between Flotation Energy and Vårgrønn As (Vårgrønn).
<b>Environmental Impact Assessment (EIA)</b>	The statutory process of evaluating the likely significant environmental effects of a proposed project or development. Assessment of the potential impact of the proposed Project on the physical, biological and human environment during construction, operation and maintenance and decommissioning.
<b>Environmental Impact Assessment Regulations</b>	This term is used to refer to the Environmental Impact Assessment Regulations which are of relevance to the Project. This includes the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended); and the Marine Works (Environmental Impact Assessment) Regulations 2007.
<b>Environmental Impact Assessment Report</b>	A report documenting the findings of the EIA for the Project in accordance with relevant EIA Regulations.
<b>Export/Import Cable</b>	High voltage cable used to export/import power between the OSCPs and Landfall.
<b>Export/Import Cable Bundle (EICB)</b>	Comprising two Export/Import Cables and one fibre-optic cable bundled in a single trench.
<b>Export/Import Cable Corridor (EICC)</b>	The area within which the Export/Import Cable Route will be planned and the Export/Import Cable will be laid, from the perimeter of the Array Area to MHWS.
<b>Export/Import Cable Route</b>	The area within the Export/Import Export Corridor (EICC) within which the Export/Import Cable Bundle (EICB) is laid, from the perimeter of the Array Area to MHWS.
<b>Floating Turbine Unit (FTU)</b>	The equipment associated with electricity generation comprising the WTG, the floating substructure which supports the WTG, mooring system and the dynamic section of the IAC.
<b>Flotation Energy</b>	Joint venture partner in Cenos Offshore Windfarm Ltd.

TERM	DEFINITION
<b>Habitats Regulations</b>	The Habitats Directive (Directive 92/43/ECC) and the Wild Birds Directive (Directive 2009/147/EC) were transposed into Scottish Law by the Conservation (Natural Habitats &c) Regulations 1994 ('Habitats Regulations') (up to 12 NM); by the Conservation of Offshore Marine Habitats and Species Regulations 2017 ('Offshore Marine Regulations') (beyond 12 NM); the Conservation of Habitats and Species Regulations 2017 (of relevance to consents under Section 36 of the Electricity Act 1989); the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001; and the Wildlife and Countryside Act 1981. The Habitats Regulations set out the stages of the Habitats Regulations Appraisal (HRA) process required to assess the potential impacts of a proposed project on European Sites (Special Areas of Conservation, Special Protection Areas, candidate SACs and SPAs and Ramsar Sites).
<b>Habitats Regulations Appraisal</b>	The assessment of the impacts of implementing a plan or policy on a European Site, the purpose being to consider the impacts of a project against conservation objectives of the site and to ascertain whether it would adversely affect the integrity of the site.
<b>High Voltage Alternating Current (HVAC)</b>	Refers to high voltage electricity in Alternating Current (AC) form which is produced by the WTGs and flows through the IAC system to the OSCP. HVAC may also be used for onward power transmission from the OSCP to assets or to shore over shorter distances.
<b>High Voltage Direct Current (HVDC)</b>	Refers to high voltage electricity in Direct Current (DC) form which is converted from HVAC to HVDC at the OSCP and transmitted to shore over longer distances.
<b>Horizontal Directional Drilling (HDD)</b>	An engineering technique for laying cables that avoids open trenches by drilling between two locations beneath the ground's surface.
<b>Innovation and Targeted Oil &amp; Gas (INTOG)</b>	In November 2022, the Crown Estate Scotland (CES) announced the Innovation and Targeted Oil & Gas (INTOG) Leasing Round, to help enable this sector-wide commitment to decarbonisation. INTOG allowed developers to apply for seabed rights to develop offshore windfarms for the purpose of providing low carbon electricity to power oil and gas installations and help to decarbonise the sector. Cenos is an INTOG project and in November 2023 secured an Exclusivity Agreement as part of the INTOG leasing round.



TERM	DEFINITION
<b>Inter-Array Cable (IAC)</b>	The cables which connect the WTGs to the OSCPs. WTGs may be connected with IACs into a hub or in series as a 'string' or a 'loop' such that power from the connected WTGs is gathered to the OSCPs via a single cable.
<b>Joint Venture</b>	The commercial partnership between Flotation Energy and Vårgrønn, the shareholders which hold the Exclusivity Agreement with CES to develop the Cenos site as an INTOG project.
<b>Landfall</b>	The area where the Export/Import Cable from the Array Area will be brought ashore. The interface between the offshore and onshore environments.
<b>Marine Licence</b>	Licence required for certain activities in the marine environment and granted under the Marine and Coastal Access Act 2009 and/or the Marine (Scotland) Act 2010.
<b>Marine Protected Area (MPA)</b>	Marine sites protected at the national level under the Marine (Scotland) Act 2010 out to 12 NM, and the Marine and Coastal Access Act 2009 between 12-200 NM. In Scotland MPAs are areas of sea and seabed defined so as to protect habitats, wildlife, geology, underseas landforms, historic shipwrecks and to demonstrate sustainable management of the sea.
<b>Marine Protected Area (MPA) Assessment</b>	A three-step process for determining whether there is a significant risk that a proposed development could hinder the achievement of the conservation objectives of an MPA.
<b>Mean High Water Springs (MHWS)</b>	The height of Mean High Water Springs is the average throughout the year, of two successive high waters, during a 24-hour period in each month when the range of the tide is at its greatest.
<b>Mean Low Water Springs (MLWS)</b>	The height of Mean Low Water Springs is the average throughout a year of the heights of two successive low waters during periods of 24 hours (approximately once a fortnight).
<b>Mitigation Measures</b>	<p>Measures considered within the topic-specific chapters in order to avoid impacts or reduce them to acceptable levels.</p> <ul style="list-style-type: none"> <li>• Primary mitigation - measures that are an inherent part of the design of the Project which reduce or avoid the likelihood or magnitude of an adverse environmental effect, including location or design;</li> <li>• Secondary mitigation – additional measures implemented to further reduce environmental effects to 'not significant' levels (where</li> </ul>

TERM	DEFINITION
	<p>appropriate) and do not form part of the fundamental design of the Project; and</p> <ul style="list-style-type: none"> <li>• Tertiary mitigation – measures that are implemented in accordance with industry standard practice or to meet legislative requirements and are independent of the EIA (i.e. they would be implemented regardless of the findings of the EIA).</li> </ul> <p>Primary and tertiary mitigation are referred to as embedded mitigation. Secondary mitigation is referred to as additional mitigation.</p>
<b>Mooring System</b>	<p>Comprising the mooring lines and anchors, the mooring system connects the floating substructure to the seabed, provides station-keeping capability for the floating substructure and contributes to the stability of the floating substructure and WTG.</p>
<b>Nature Conservation Marine Protected Area (NCMPA)</b>	<p>MPA designated by Scottish Ministers in the interests of nature conservation under the Marine (Scotland) Act 2010.</p>
<b>Offshore Substation Converter Platforms (OSCPs)</b>	<p>An offshore platform on a fixed jacket substructure, containing electrical equipment to aggregate the power from the WTGs and convert power between HVAC and HVDC for export/import via the Export/Import Cable to/from the shore. The OSCP's will also act as power distribution stations for the Oil &amp; Gas platforms.</p>
<b>Onward Development</b>	<p>Transmission projects which are anticipated to be brought forward for development by 3<sup>rd</sup> party oil and gas operators to enable electrification of assets via electricity generated by the Project. All Onward Development will subject to separate marine licensing and permitting requirements.</p>
<b>Onward Development Area</b>	<p>The area within which oil and gas assets would have the potential to be electrified by the Project.</p>
<b>Onward Development Connections</b>	<p>Oil and gas assets located in the waters surrounding the Array Area will be electrified via transmission infrastructure which will connect to the Project's OSCP's. These transmission cables are referred to as Onward Development Connections.</p>
<b>Project Area</b>	<p>The area that encompasses both the Array Area and EICC.</p>
<b>Project Design Envelope</b>	<p>A description of the range of possible elements that make up the Project design options under consideration and that are assessed as part of the EIA for the Project.</p>

TERM	DEFINITION
<b>Study Area</b>	Receptor specific area where potential impacts from the Project could occur.
<b>Transboundary Assessment</b>	The consideration of impacts from the Project which have the potential to have a significant effect on another European Economic Area (EEA) state's environment. Where there is a potential for a transboundary effect, as a result of the Project, these are assessed within the relevant EIA chapter.
<b>Transmission Infrastructure</b>	The infrastructure responsible for moving electricity from generating stations to substations, load areas, assets and the electrical grid, comprising the OSCPS, and associated substructure, and the Export/Import Cable.
<b>Vårgrønn As (Vårgrønn)</b>	Joint venture partner in Cenos Offshore Windfarm Ltd.
<b>Wind Turbine Generator (WTG)</b>	The equipment associated with electricity generation from available wind resource, comprising the surface components located above the supporting substructure (e.g., tower, nacelle, hub, blades, and any necessary power transformation equipment, generators, and switchgears).
<b>Worst-Case Scenario</b>	The worst-case scenario based on the Project Design Envelope which varies by receptor and/or impact pathway identified.

## 3 POLICY AND LEGISLATIVE CONTEXT

### 3.1 Introduction

This chapter provides an overview of the relevant legislation and policy for the Project. This chapter supports a legislation and policy led approach to Environmental Impact Assessment (EIA) by providing an overview of the applicable consenting legislative framework, identifying the strategic policy context relevant to the Project, and outlining the applicable policy framework to guide proportionate technical assessments.

The purpose of this chapter is to help inform the scope of the EIA and demonstrate how the Project will comply with legislative and policy requirements. The EIA process will take into account all applicable legislation, policy, guidance, and best practice. Relevant legislative and policy frameworks will guide the scope of the EIA and help to inform the types of receptors, potential significant effects and environmental issues that should be assessed. Where specific legislation, policy or guidance requirements inform the proposed scope of assessment for technical areas within the EIA, this is set out in the relevant sections of the **Environmental Impact Assessment Report (EIAR) Vol. 3, Chapters: 8 to 22**. The implications of relevant statutory and policy requirements, as identified below, will subsequently be considered in further detail within the EIAR and associated Section 36 (s.36) Consent and Marine Licence Applications (MLA) for the Project.

### 3.2 Climate change policy and legislation

The United Kingdom (UK) is a signatory to international agreements which commits state parties to reduce Greenhouse Gas (GHG) emissions. These commitments have been transposed into national legislation (see also **EIAR Vol. 2, Chapter 2: Need for the Project**). The Tables below provide descriptions about climate change-related agreements, legislation and policies at international (Table 3-1) and national levels (Table 3-2).

Table 3-1 International climate-change agreements

AGREEMENT	SUMMARY
<b>United Nations (UN) Framework Convention on Climate Change (UNFCCC), 1992<sup>1</sup></b>	At the international level, action to tackle climate change is informed by the Intergovernmental Panel on Climate Change (IPCC) and is underpinned by the UNFCCC. The UNFCCC aims to stabilise atmospheric GHG concentrations at a level sufficiently low “to prevent dangerous anthropogenic interference with the climate system” (Article 2).
<b>The Kyoto Protocol, 1997<sup>2</sup></b>	The Kyoto Protocol was adopted on 11 <sup>th</sup> December 1997 and came into force in 2005. There are 192 parties to the Kyoto Protocol at present. The Kyoto Protocol commits industrialised countries and economies in transition to limit and reduce GHG emissions in accordance with agreed individual targets. The Doha Amendment was adopted on 8 <sup>th</sup> December 2012, lasting until 2020. The Amendment includes new commitments for

<sup>1</sup> <https://unfccc.int/resource/docs/convkp/conveng.pdf>

<sup>2</sup> [https://unfccc.int/kyoto\\_protocol](https://unfccc.int/kyoto_protocol)

AGREEMENT	SUMMARY
	<p>Annex I Parties to the Kyoto Protocol, a revised list of GHG to be reported on by Parties and amendments to several articles of the Kyoto Protocol. The UK is a signatory to the Kyoto Protocol and its commitments were transposed into UK law by the Climate Change Act 2008. The Climate Change Act 2008 (2050 Target Amendment) Order 2019 has since been passed to require the net UK carbon account for the year 2050 to be 100% lower than the 1990 baseline.</p>
<p><b>The Paris Agreement<sup>3</sup> - 21<sup>st</sup> United Nations Climate Change Conference of the Parties (COP21), 2015</b></p>	<p>The Paris Agreement is a legally binding international treaty on climate change. It was adopted by 196 countries at COP21 on 12<sup>th</sup> December 2015 and entered into force on 4<sup>th</sup> November 2016. The Agreement sets out a target to limit global warming to well below 2 degrees Celsius (°C) above pre-industrial global average temperature levels, with the preferable aim of limiting global warming to 1.5°C.</p> <p>In accordance with the Paris Agreement, on 12<sup>th</sup> December 2020, the UK communicated its Nationally Determined Contribution. The current Nationally Determined Contribution commits the UK to reducing economy-wide GHG emissions by at least 68% by 2030, compared to 1990 levels.</p>
<p><b>26<sup>th</sup> United Nations Climate Change Conference of the Parties (COP26)<sup>4</sup>, 2021</b></p>	<p>The COP26 summit brought parties together to accelerate action towards the goals of the Paris Agreement and the UNFCCC. COP26 marked a step forward in global effort to address climate change, and an increase in ambitions to reduce emissions across the world. 197 countries agreed to a new climate deal 'The Glasgow Climate Pact', and the Paris Rulebook was finalised. The 2018 Paris Rulebook governs how the world's communities must pledge emissions reduction targets in the Paris Agreement.</p>

<sup>3</sup> [https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf)

<sup>4</sup> [https://unfccc.int/sites/default/files/resource/cma3\\_auv\\_2\\_cover%2520decision.pdf](https://unfccc.int/sites/default/files/resource/cma3_auv_2_cover%2520decision.pdf)

Table 3-2 National climate-change related legislation and policy

POLICY/LEGISLATION	SUMMARY
<p><b>The Climate Change Act 2008<sup>5</sup>, amended by the 2050 Target Amendment Order 2019<sup>6</sup></b></p>	<p>The Climate Change Act 2008 is the basis for the UK's approach to tackling and responding to climate change. It establishes the framework to deliver on these requirements.</p> <p>The Act was amended in 2019 so that the minimum percentage by which the net UK carbon account for the year 2050 must be lower than the 1990 baseline is increased from 80% to 100%.</p>
<p><b>The Climate Change (Scotland) Act 2009<sup>7</sup> amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019<sup>8</sup></b></p>	<p>The Climate Change (Scotland) Act 2009 is an act of the Scottish Parliament creating the statutory framework for GHG emissions reductions in Scotland. The Climate Change (Scotland) Act 2009 was amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, and shortly after the Scottish Government declared a Climate Emergency in April 2019. The objective of this Act is to contribute appropriately to the world's efforts to deliver on the Paris Agreement reached at the 21<sup>st</sup> COP of the UNFCCC.</p>
<p><b>The Climate Change Plan, Third Report on Proposals and Policies (2018-2032) (Scottish Government, 2020a)</b></p>	<p>This Climate Change Plan is the Scottish Government's third report on proposals and policies for meeting its climate change targets. It sets out how Scotland can deliver its target of 66% emissions reductions, relative to the baseline for the period 2018–2032.</p> <p>Part 1 of the plan shows the emissions reductions pathway to 2032, and states that <i>"by 2032, Scotland's energy system will be largely decarbonised and be increasingly important as a power source for heat and transport."</i></p>

<sup>5</sup><https://www.legislation.gov.uk/ukpga/2008/27/contents>

<sup>6</sup><https://www.legislation.gov.uk/ukdsi/2019/9780111187654>

<sup>7</sup><https://www.legislation.gov.uk/asp/2009/12/contents>

<sup>8</sup><https://www.legislation.gov.uk/asp/2019/15/enacted>

### 3.3 European legislation and policy on renewables

The Renewable Energy Directive (2009/28/EC) (RED I) was enacted in 2009 and mandates levels of renewable energy use in European Union (EU) countries between 2009 and 2021. The UK was committed to sourcing 15% of its total energy needs from renewable sources by 2020 under RED I, including electricity, heat and transport. RED I was revised in 2018 with the passage of the Renewable Energy Directive (2018/2001/EU) (RED II). Under RED II, the UK is committed to sourcing 32% of its total energy needs from renewable sources by 2030.

Following its exit from the European Union, the UK Government has pledged, to uphold international environmental obligations aligned with the EU (Withdrawal) Act 2018<sup>9</sup> (see Section 3.6). Additionally, the commitment extends to preserving environmental pledges and legislation enacted post-UK departure from the EU. On this basis, the EU's renewable energy targets for the UK, including those established by the Renewable Energy Directive (2009/28/EC) remain applicable. The UK and Scottish Governments have also made legally binding commitments through the Climate Change Act 2008 and the Climate Change (Scotland) Act 2009 (Table 3-2).

### 3.4 UK legislation and policy on energy strategy

The UK has set targets to achieve net zero emissions to address climate change. This has been set out in the legislative and policy measures detailed in Table 3-3.

*Table 3-3 UK legislation and policy on energy strategy*

LEGISLATION / POLICY	SUMMARY
<p><b>The Energy Act (2023)</b></p>	<p>The Energy Act 2023<sup>10</sup> is one of the biggest pieces of energy legislation in the UK's history and will transform the energy system by strengthening energy security and supporting delivery of Net Zero. Measures have been set to accelerate development of offshore wind and help deliver the UK's Net Zero commitments.</p> <p>The Energy Act 2023 makes provisions affecting the energy sector, focused on three areas:</p> <ul style="list-style-type: none"> <li>• Leveraging investment in clean technologies;</li> <li>• Reforming the UK's energy system and protecting consumers; and</li> <li>• Maintaining the safety, security, and resilience of the energy systems across the UK.</li> </ul> <p>The measures in the Act will help to enable the increase in offshore wind necessary to deliver the 50 Gigawatts (GW) ambition for the UK (as set by the British Energy Security Strategy, see below), whilst maintaining environmental protections.</p>

<sup>9</sup> <https://www.legislation.gov.uk/ukpga/2018/16/contents/enacted>

<sup>10</sup> <https://www.legislation.gov.uk/ukpga/2023/52>

LEGISLATION / POLICY	SUMMARY
<p><b>UK Government’s Clean Growth Strategy (2017)</b></p>	<p>The UK Government’s clean growth strategy<sup>11</sup> presents the UK’s proposed policies and strategies to facilitate decarbonisation in the UK whilst delivering economic growth. The strategy commits to working with the industry to “develop an ambitious sector deal for offshore wind” and to “work with The Crown Estate and Crown Estate Scotland (CES) to understand the potential for deployment of offshore wind in the late 2020s and beyond”.</p>
<p><b>Energy White Paper 2020 and the Net Zero Strategy: Build Back Greener 2021</b></p>	<p>The Energy White Paper<sup>12</sup> builds on the Ten point plan for a green industrial revolution, including policies and goals for the decarbonisation of the energy system in the UK, such as the continued deployment of clean electricity generation, including offshore wind.</p> <p>The Net Zero Strategy: Build Back Greener<sup>13</sup> builds on the Ten point plan for a green industrial evolution and the Energy White Paper to outline a strategy to achieve the UK’s sixth carbon budget (between 2033 and 2037) and ultimately Net Zero by 2050. Key commitments are laid out to achieve the decarbonisation of the power system by 2035 and include a commitment to take action for all electricity to be from low carbon sources by 2035.</p>
<p><b>British Energy Security Strategy (2022)</b></p>	<p>The British Energy Security Strategy<sup>14</sup> outlines how the UK Government plans to bring clean, affordable, secure power to future generations. Specifically, in relation to renewables it states:</p> <p><i>“Accelerating the transition from fossil fuels depends critically on how quickly we can roll out new renewables. Our ‘Ten point plan for a green industrial revolution’ has already put the UK at the forefront of many renewable technologies, delivering £40 billion of private investment in under two years. By the end of 2023 we are set to increase our capacity by a further 15%. But now we must go further and faster, building on our global leadership in offshore wind”.</i></p> <p>The British Energy Security Strategy establishes the ambition to deliver up to 50 GW of offshore wind by 2030, an increase of 10 GW from the previous 40 GW target set by the Energy White Paper.</p>
<p><b>Overarching National Policy Statement for Energy (EN-1) (Department for Energy Security &amp; Net Zero (DESNZ) (2023a)</b></p>	<p>The Overarching National Policy Statement (NPS) for Energy (EN-1)<sup>15</sup> sets out the UK Government’s policy for delivery of major energy infrastructure in the UK over the next 40 years. It considers that 59 GW of new build electricity generation capacity is required in that period, of which 33 GW should be from renewables in order to achieve 2050 emission targets for the UK.</p>

<sup>11</sup> <https://www.gov.uk/government/publications/clean-growth-strategy>

<sup>12</sup> <https://www.gov.uk/government/publications/energy-white-paper-powering-our-net-zero-future>

<sup>13</sup> <https://www.gov.uk/government/publications/net-zero-strategy>

<sup>14</sup> <https://www.gov.uk/government/publications/british-energy-security-strategy/british-energy-security-strategy>

<sup>15</sup> <https://www.gov.uk/government/publications/overarching-national-policy-statement-for-energy-en-1>



## LEGISLATION / POLICY

## SUMMARY

The EN-1 was published in November 2023 and looks to align with Net Zero emissions targets for 2050. In order for this to occur the NPS (EN-1) states that:

*"Meeting these objectives necessitates a significant amount of new energy infrastructure, both large nationally significant developments and small-scale developments determined at a local level. This includes the infrastructure needed to convert primary sources of energy (e.g. wind) into energy carriers (e.g., electricity or hydrogen) and to store and transport primary fuels and energy carriers into and around the country...We need to dramatically increase the volume of energy supplied from low carbon sources...We need to transform the energy system, tackling emissions while continuing to ensure secure and reliable supply, and affordable bills for households and businesses."*

In terms of geographical coverage, section 1.4.2 of the EN-1 states that in Scotland and in those areas of the UK Renewable Energy Zone (REZ) where Scottish Ministers have functions, the Secretary of State will have no functions under the Planning Act 2008 in relation to consenting energy infrastructure projects except as set out in section 1.4 of the EN- 1. However, energy policy is generally a matter reserved to UK Ministers and EN-1 may therefore be a relevant consideration in planning decisions in Scotland.

### National Policy Statement for Renewable Energy Infrastructure (EN-3) (DESNZ, 2023b)

This NPS (EN-3)<sup>16</sup>, taken together with the Overarching NPS for Energy (EN-1) (see above) provides the primary policy for decisions by the Secretary of State on applications they receive for nationally significant renewable energy infrastructure. EN-3 applies to onshore renewable electricity generating stations in England and Wales, and nationally significant offshore renewable electricity generating stations in waters in or adjacent to England or Wales up to the seaward limits of the territorial sea, or in the UK REZ (defined in section 84 (4) of the Energy Act 2004), except any part of a REZ in relation to which Scottish Ministers have functions.

### Offshore Wind Sector Deal (BEIS, 2020b)

The Offshore Wind Sector Deal<sup>17</sup> is an agreement between the UK Government and the offshore wind industry. This agreement took place in 2019 and was updated in 2020<sup>18</sup>. Originally targeting 30 GW of operating capacity by 2030, this figure was increased to 40 GW in the Energy White Paper published in 2020<sup>19</sup>, as part of the plan for the green industrial revolution. In its Sixth Carbon Budget<sup>20</sup>, published in 2020, the Climate Change Committee (CCC) recommended that offshore wind should become the backbone of the whole UK energy system, growing from 40 GW of capacity in 2030 to 100 GW or more by 2050. In October

<sup>16</sup> <https://www.gov.uk/government/publications/national-policy-statement-for-renewable-energy-infrastructure-en-3>

<sup>17</sup> <https://www.gov.uk/government/publications/offshore-wind-sector-deal/offshore-wind-sector-deal>

<sup>18</sup> <https://www.gov.uk/government/publications/offshore-wind-sector-deal/offshore-wind-sector-deal>

<sup>19</sup> <https://www.gov.uk/government/publications/energy-white-paper-powering-our-net-zero-future>

<sup>20</sup> <https://www.theccc.org.uk/publication/sixth-carbon-budget/>

LEGISLATION / POLICY	SUMMARY
	2021, the UK Government committed to decarbonise the UK's electricity system by 2035 <sup>21</sup> .

### 3.5 Scottish legislation and policy on energy strategy

Scotland has set out goals and targets to achieve net zero targets five years earlier than the rest of the UK. Scotland has set out goals and targets to achieve this through the use of the marine environment, the key Scottish national legislation and policies relating to climate change are detailed in Table 3-2 above. Policies and position statements relating to Scottish energy strategy, including renewable energy have been identified in Table 3-4 below.

Table 3-4 Scottish policy on energy strategy

POLICY	SUMMARY
<p><b>The Scottish Energy Strategy (Scottish Government, 2017)</b></p>	<p>Scotland's Energy Strategy: The Future of Energy in Scotland<sup>22</sup> sets out a vision for the energy system in Scotland to 2050. The strategy sets a 2030 target for the equivalent of 50% of the energy for Scotland's heat, transport, and electricity consumption to be supplied by renewable sources. In accordance with the 2017 Strategy, Scotland's Energy Strategy Position Statement<sup>23</sup> was published in 2021. The Position Statement notes that:</p> <p><i>"Since the publication of the 2017 strategy, the Scottish Government has committed to achieving our ambitious targets of Net Zero GHG emissions by 2045 and a 75% reduction by 2030. In light of the economic crisis created by the Coronavirus Disease of 2019 (COVID-19) pandemic, the Scottish Government is now striving to deliver a green economic recovery aligned to those Net Zero ambitions."</i></p> <p>The Position Statement sets out the programme of work required across the energy sector to support the energy targets and outlines key energy priorities for Scotland, including priorities for renewable energy.</p> <p>The Position Statement also states that the 2017 Strategy will remain in place until an Energy Strategy refresh is adopted by the Scottish Ministers.</p>
<p><b>Draft Scottish Energy Strategy and Just Transition Plan (Scottish Government, 2023a)</b></p>	<p>The Scottish Government has published the 'Draft Energy Strategy and Just Transition Plan – delivering a fair and secure zero carbon energy system for Scotland<sup>24</sup>' in January 2023. Key themes in relation to new energy infrastructure required for Scotland are apparent.</p>

<sup>21</sup> <https://www.gov.uk/government/publications/british-energy-security-strategy>

<sup>22</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2017/12/scottish-energy-strategy-future-energy-scotland-9781788515276/documents/00529523-pdf/00529523-pdf/govscot%3Adocument/00529523.pdf>

<sup>23</sup> <https://www.gov.scot/publications/scotlands-energy-strategy-position-statement/>

<sup>24</sup> <https://www.gov.scot/publications/draft-energy-strategy-transition-plan/>

## POLICY

## SUMMARY

*"To realise our climate change ambitions, we need to transform the way Scotland generates, transports and uses energy. We must seize the huge opportunity this presents and deliver maximum benefits to Scotland's people, workers, communities and economy from our vast renewable energy resource."*

The draft emphasises the need for Scotland to ensure systems are put in place to allow for net zero emissions by 2045 and provides a road map of how this can be accomplished. The draft heavily references a need to reduce reliance on fossil fuel consumption, in particular those produced from the oil and gas sector.

The draft sets out key ambitions for Scotland including producing more than 20 GW of additional renewable electricity both on and offshore by 2030 and energy security through the development of Scotland's own resources and additional energy storage.

The draft also makes a reference to Innovation and Targeted Oil & Gas (INTOG) as a leasing round designed to enable development of a potential further 5.7 GW of new offshore wind projects targeting oil and gas decarbonisation, plus a further potential 0.5 GW of offshore wind innovation projects (for INTOG see also Section 3.7.1).

The Draft Energy Strategy and Just Transition Plan reiterates a strong dedication to the oil and gas sector. Amongst the context of the oil and gas sector, the UK and Scottish Government have also identified offshore wind development as an important contribution towards energy security, with a target of 50 GW of new offshore wind capacity to be installed by 2030, with 5 GW from floating offshore wind.

### Scottish Government Offshore Wind Policy Statement (Scottish Government, 2020b)

The Offshore Wind Policy Statement<sup>25</sup> sets out ambitions to capitalise on offshore wind development and discusses the role this technology could play in meeting the Net Zero by 2045 target. It builds upon the ambitions outlined in the 2017 Strategy, which establishes the 2050 energy vision. The 2017 Strategy is integral to the implementation of the Offshore Wind Policy Statement, through the identification of suitable offshore wind farm development areas.

### National Planning Framework 4 (NPF4) (Scottish Government, 2023b)

NPF4<sup>26</sup> was adopted by Scottish Ministers on 13<sup>th</sup> February 2023 and replaces National Planning Framework 3 and the Scottish Planning Policy. NPF4 sets out a spatial strategy until 2045 to coincide with the GHG Net Zero emission and sustainability targets. The strategy and policies are in support of developments that helps to meet GHG emissions targets. The global climate emergency and the nature crisis have formed the foundations for the spatial strategy as a whole. The strategy focuses on three key aims including sustainable liveable and productive places which support the underlying draft policies of the strategy.

<sup>25</sup> <https://www.gov.scot/publications/offshore-wind-policy-statement/>

<sup>26</sup> <https://www.gov.scot/publications/national-planning-framework-4/>

**POLICY****SUMMARY**

Of these three key aims, 'Sustainable Places' is of most relevance to the Project, key points include:

- *"Scotland's high quality environment, and the natural capital it supports, underpin our approach to tackling climate change and the economy and is fundamental to our health and wellbeing;*
- *Scotland's Energy Strategy will set a new agenda for the energy sector in anticipation of continuing innovation and investment. The interplay between land and sea will be critical, given the scale of offshore renewable energy resources; and*
- *Scotland's future places will be net zero, nature-positive places that are designed to reduce emissions and adapt to the impacts of climate change, whilst protecting, recovering, and restoring our environment. Meeting our climate ambition will require a rapid transformation across all sectors of our economy and society."*

The national spatial strategy also states that *"We will encourage low and zero carbon design and energy efficiency, development that is accessible by sustainable travel, and expansion of renewable energy generation. It is also crucial that we build resilience to the future impacts of climate change including water resources and assets and development on our coasts."*

The policies of relevance to the Project, which underly these aims, include:

- Policy 1 which gives significant weight to the global climate emergency in order to ensure that it is recognised as a priority in all plans and decisions;
- Policy 2 which will ensure that emissions from new development are minimised as far as possible;
- Policy 11 which supports renewable energy development; and
- Policy 33 which explicitly states that fossil fuel exploration, development, and production (excluding unconventional oil and gas) will not be supported other than in exceptional circumstances.

In addition to these key aims and policies, NPF4 details the regional spatial priorities across Scotland which will inform the preparation of regional spatial strategies and Local Development Plans by planning authorities. For the Project this is relevant to the 'North East' region.

### 3.6 EU Exit

On 31<sup>st</sup> January 2020, after triggering Article 50 of the Lisbon Treaty, the UK formally left the EU, in what is often referred to as 'Brexit' or 'EU Exit'. Since formally leaving the EU, the UK Government has committed to implementing international environmental obligations in accordance with the EU (Withdrawal) Act 2018 and to maintain existing environmental and legislative commitments. Table 3-5 outlines the key EU Exit Regulations.

*Table 3-5 EU Exit regulations*

RELEVANT LEGISLATION	DESCRIPTION
<p><b>EU Exit regulations</b></p>	<p>The policies and procedures under the EIA Regulations remain unchanged (see Section 3.9). However, as the UK is no longer part of the EU, amendments were made to the EIA Regulations in Scotland to ensure that they continue to work in the same manner. Many of the amendments made are minor and technical in nature. Amendments were made by The Marine Environment (EU Exit) (Scotland) (Amendment) Regulations 2019, The Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019 and The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019.</p> <p>The Conservation (Natural Habitats, &amp;c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 and The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, ensure that policy on the protections and standards afforded by the Habitats Regulations remains unchanged, but there have been some changes in terminology and the Scottish Ministers now exercise some functions that were previously carried out at an EU level.</p> <p>Guidance on the implications of Brexit on marine environmental legislation (including EIA) and Habitats Regulations Appraisal (HRA) are available through the Scottish Government website (Scottish Government, 2020c, Scottish Government, 2020d).</p>

It is of note that the Renewable Energy Directive EU/2018/2001 (European Commission (EC), 2001) was revised in 2023 and the amending Directive EU/2023/2413 (EC, 2023) entered into force on 20<sup>th</sup> November 2023 as regards the promotion of energy from renewable sources, and repealing Council Directive European Union (EU) 2015/652.

In November 2021, the Environment Act 2021<sup>27</sup> received legislative approval, establishing a framework for environmental governance post-EU Exit. Whilst the majority of the provisions within the Act are applicable to England, it does include clauses that extend its impact to Scotland, Wales, and Northern Ireland. Specifically, the legislation grants delegated powers for the regulation of devolved environmental policy areas at a UK-wide level, subject to the consent of Scottish Ministers. Additionally, certain provisions within the Act are relevant to Scotland due to their classification as reserved areas.

<sup>27</sup><https://www.legislation.gov.uk/ukpga/2021/30/contents/enacted>

Specific EU Exit legislation has been implemented to ensure legislative instruments continued to operate in a similar way after EU Exit Day.

### 3.7 UK and Scottish marine planning policy and legislation

The key UK and Scottish-wide marine planning policies and legislation are outlined in Table 3-6, including the Marine and Coastal Access Act 2009, Marine (Scotland) Act 2010 and the National Marine Plan (NMP) (2015) which establish the framework for marine planning in Scotland.

Table 3-6 UK and Scottish legislation and marine policy

RELEVANT LEGISLATION / POLICY	DESCRIPTION
<b>Marine and Coastal Access Act 2009</b>	<p>The 2009 Act<sup>28</sup> established provisions for the management and protection of the marine environment. In relation to Scotland, the Act applies to the offshore marine region (between 12 and 200 Nautical Miles (NM)). It sets out requirements for a UK Marine Policy Statement, a marine licensing regime, powers to designate Marine Protected Areas (MPAs), a duty to contribute to a UK network of marine sites, and associated enforcement powers. Under the Marine and Coastal Access Act 2009 Scottish Ministers have responsibility for marine licensing and enforcement in the Scottish offshore marine region.</p>
<b>Marine (Scotland) Act 2010</b>	<p>The Marine (Scotland) Act 2010<sup>29</sup> applies to the Scottish inshore region (between 0 and 12 NM) and came into force in March 2010 in response to demands for improved management of the marine environment and its resources. The Act introduced provisions for marine planning, marine licensing, marine conservation, seal conservation and enforcement. Under the Marine (Scotland) Act 2010 the Scottish Ministers are responsible for marine licensing and enforcement in the Scottish inshore region (out to 12 NM) and it is an offence to carry on, or cause or permit another person to carry on, a 'licensable marine activity' without a Marine Licence. Under Part 3, section 5 of the Marine (Scotland) Act 2010, a National Marine Plan must be produced for the Scottish inshore region and must include policies for the sustainable development of Scotland's seas and set objectives for economic, social and marine ecosystems and mitigation of and adaptation to climate change. This legislation also facilitated the designation of 11 Scottish Marine Regions under the Scottish Marine Regions Order 2015 for which regional marine plans will be developed.</p>
<b>National Marine Plan (Scottish Government, 2015)</b>	<p>In March 2015, the Scottish Government published 'Scotland's National Marine Plan – a Single Framework for Managing our Seas'<sup>30</sup> (the NMP).</p>

<sup>28</sup> <https://www.legislation.gov.uk/ukpga/2009/23/contents>

<sup>29</sup> <https://www.legislation.gov.uk/asp/2010/5/contents>

<sup>30</sup> <https://www.gov.scot/publications/scotlands-national-marine-plan/>

RELEVANT LEGISLATION / POLICY	DESCRIPTION
<p><b>UK Marine Policy Statement (2011)</b></p>	<p>The NMP 2015 sets out strategic policies for the sustainable development of Scotland’s marine resources out to 200 NM (370 kilometre (km)). It is required to be compatible with the UK Marine Policy Statement and existing marine plans across the UK.</p> <p>Following the most recent review of the NMP in 2021, the Scottish Ministers announced, in 2022, their intention to update the National Marine Plan. This update is underway but has not yet reached a draft consultation stage. A stakeholder engagement strategy and statement of public participation was published in August 2024.</p> <p>The UK Marine Policy Statement<sup>31</sup>, which was created and adopted by the UK Government and devolved administrations, facilitates an integrated approach to marine planning across the UK and sets out the high-level framework for preparing marine plans and taking decisions affecting the marine environment. Importantly, the UK Marine Policy Statement outlines the requirement for marine plans within UK waters to be developed taking into account environmental, social, and economic objectives.</p>

### 3.7.1 Innovation and Targeted Oil & Gas (INTOG) leasing round

In August 2021, the Scottish Government confirmed it would be undertaking a spatial planning exercise for the Innovation and Targeted Oil & Gas (INTOG) projects. Through the INTOG leasing process, the Applicant successfully secured an Exclusivity Agreement as a Targeted Oil and Gas (TOG) project in November 2023. More information about INTOG can be found in the **EIAR Vol. 2, Chapter 2: Need for the Project**.

As a TOG decarbonisation project, Cenoss forms an integral part of a large-scale multi-industry integration project being developed under the direction of the CES three stage lease approach (as outlined in – INTOG Leasing Offer Document and INTOG Leasing Guidance Notes), alongside the Initial Plan Framework or INTOG. The aim of the TOG component of INTOG is to facilitate the effective integration of renewable energy development projects with existing and future offshore oil and gas assets to provide for their sustainable electrification. The North Sea Transition Deal (NSTD) establishes the need to reduce emissions from the oil and gas production sector and identifies electrification of oil and gas infrastructure as a key component.

Policy and guidance about which brownfield or greenfield assets are to be electrified, and on what timescale, is still under development and is a matter for the North Sea Transition Authority (NSTA) and the national and devolved governments to resolve. However, the Applicant has positioned itself, in consultation with the NSTA, to maximise the number of oil and gas assets which could be electrified, including consideration of expected remaining production life and potential for additional greenfield development requiring electrification. Assets which intend to connect to the Project for electrification will undertake a separate licensing process which the asset owners apply for marine licences to lay High Voltage Alternating Current (HVAC) interconnecting cables to the Project’s electricity hubs (i.e.,

<sup>31</sup> <https://www.gov.uk/government/publications/uk-marine-policy-statement>

Offshore Substation Converter Platforms (OSCPs)) and the associated infrastructure and activities to enable electrification.

### 3.8 Consenting legislation

The following key consents / licences will be required for the construction, operation and maintenance and decommissioning of the project.

- A Section.36 Consent under the Electricity Act 1989<sup>32</sup>;
- A Marine Licence under the Marine and Coastal Access Act 2009<sup>33</sup> (between 12 and 200 NM) for the Generation Assets; and
- A Marine Licence under the Marine and Coastal Access Act 2009<sup>34</sup> (between 12 and 200 NM) and the Marine (Scotland) Act 2010<sup>35</sup> (between 0 and 12 NM) for the Transmission Assets.

In terms of Pre-Application Consultation (PAC), The Marine Licensing (Pre-Application Consultation (Scotland) Regulations 2013 applies to the inshore region (0-12 NM). There is no provision for PAC in the Marine and Coastal Access Act 2009, so these requirements do not apply in respect of relevant applications in the Scottish Offshore Region. The consultation requirements of relevance to these consenting and licensing regimes are discussed in **EIAR Vol. 2, Chapter 6: Stakeholder Engagement**.

Figure 3-1 illustrates the applicable consenting and licensing regimes and jurisdictions across the marine-terrestrial interface of relevance to the Project. The Town and Country Planning (Scotland) Act 1997 is the principal piece of legislation applicable to onshore development only, and therefore not applicable to this EIAR. A detailed description of the Project is provided in **EIAR Vol. 2, Chapter 5: Project Description**.

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<sup>32</sup><https://www.legislation.gov.uk/ukpga/1989/29/contents>

<sup>33</sup><https://assets.publishing.service.gov.uk/media/5a7ffa2c40f0b62305b886e0/pb13855-marine-coastal-access.pdf>

<sup>34</sup><https://assets.publishing.service.gov.uk/media/5a7ffa2c40f0b62305b886e0/pb13855-marine-coastal-access.pdf>

<sup>35</sup><https://www.legislation.gov.uk/asp/2010/5/contents>



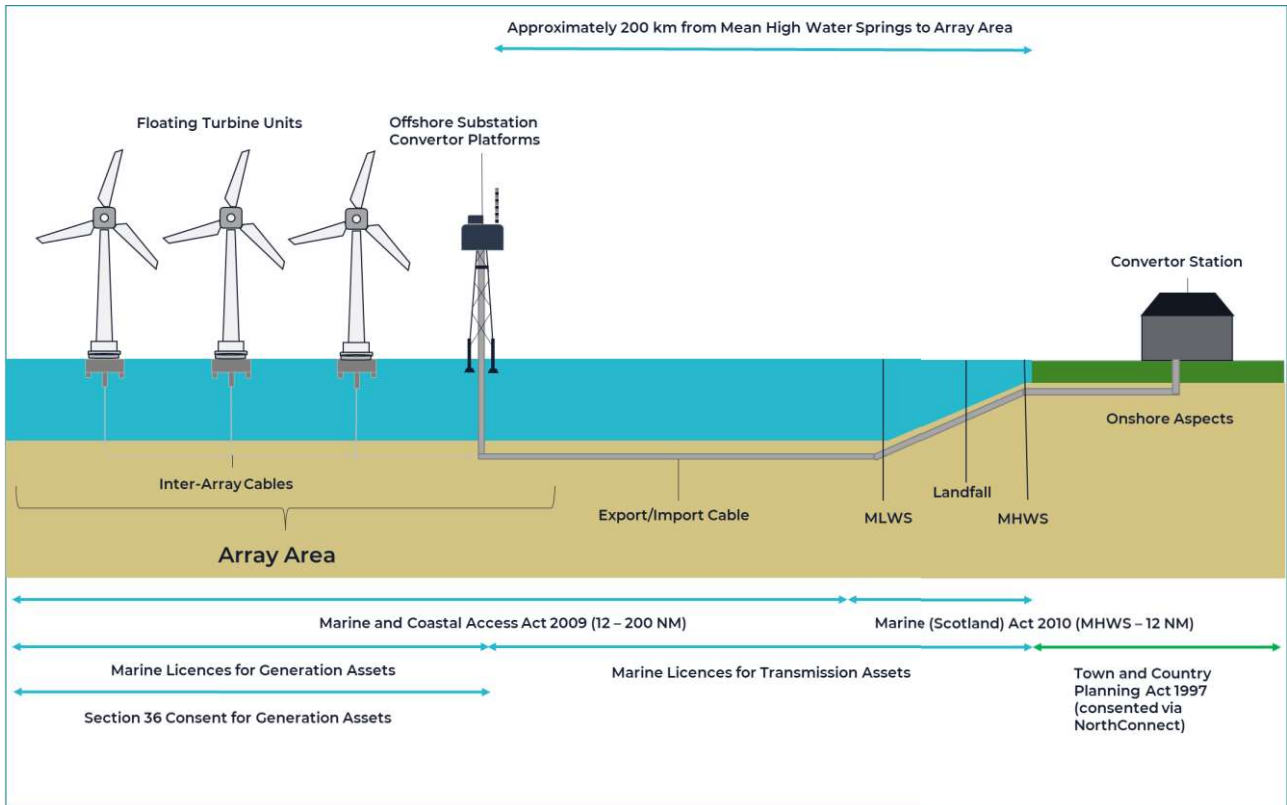


Figure 3-1 Offshore consenting and licensing regimes which apply to the Project

### 3.8.1 Section 36 Consent under the Electricity Act 1989

Scottish Ministers are responsible for determining applications under Section 36 of the Electricity Act 1989<sup>32</sup> for offshore generating stations with an installed capacity exceeding 1 Megawatt (MW) in Scottish territorial waters, and over 50 MW in the Scottish REZ. Such applications are processed on behalf of Scottish Ministers by the Marine Directorate - Licensing Operations Team (MD-LOT). S.36A covers the public rights of navigation and s.36B sets out duties in relation to navigation.

S.36 Consent is required for the generating station and ancillary infrastructure, including the offshore windfarm array and Inter-Array Cables (IAC).

The application is supported by the EIAR, prepared in accordance with the EIA regulations (see Section 3.9).

### 3.8.2 Marine and Coastal Access Act 2009 and the Marine (Scotland) Act 2010

The Marine and Coastal Access Act 2009 (the 2009 Act) provides a statutory framework for sustainable management of the UK seas, including around Scotland, beyond 12 NM. The requirement for a marine licence to undertake certain licensable activities was introduced under the 2009 Act.

The Marine (Scotland) Act 2010 (the 2010 Act) introduces a duty to protect and enhance the marine environment within Scottish territorial waters (from Mean High Water Springs (MHWS) out to 12 NM), including measures to help boost economic investment and growth in areas such as marine renewables. Key measures included within the Act include marine planning, marine licensing, marine conservation, and enforcement.

The Project requires to undertake prescribed marine licensable activities within and outwith 12 NM, therefore requiring marine licences under both the 2009 Act and the 2010 Act. Prescribed marine licensable activities include the deposition or installation of any necessary infrastructure.

Scottish Ministers, as the determining authority, may issue a note to the Applicant stating that both the Marine Licence Applications (MLA) and s.36 Consent application will be subject to the same administrative procedure. Where that is the case, the two related applications may be considered at the same time.

### 3.8.3 Marine Licensing (Pre-Application Consultation) (Scotland) Regulations 2013

For activity in the Scottish Inshore Region, the Marine Licensing (PAC) (Scotland) Regulations 2013 lists 'prescribed classes' of activity to which the PAC Regulations apply. There is no provision for PAC in the Marine and Coastal Access Act 2009, so these requirements do not apply in respect of relevant applications in the Scottish Offshore Region (Scottish Government 2018).

Applicants for a 'prescribed class' of activity must notify the Maritime and Coastguard Agency (MCA), Northern Lighthouse Board (NLB), NatureScot, Scottish Environment Protection Agency (SEPA) and any delegate for a relevant marine region. Applicants must hold at least one pre-application event at which the bodies notified, and members of the public may provide comments to the Applicant. Applicants must publish in a local newspaper a notice containing a description of the activity, detail where further information may be obtained, the date and place of the event, how and when comments should be submitted to the Applicant. A PAC report, as per the schedule to the PAC Regulations should be submitted alongside the MLAs. PAC events may not be needed if a suitable event has been held in the year before the application is made (Scottish Government 2018). PAC was undertaken for the Project and a PAC Report has been submitted as part of the applications.

## 3.9 EIA regulations

In compliance with the EU Directive on the assessment of the effects of certain public and private projects on the environment (EIA Directive) (2011/92/EU, as amended by Directive 2014/52/EU), when applying for s.36 consent, a marine licence or planning permission, an EIAR is required to be prepared and submitted to support these applications if they are likely to have a significant effect on the environment due to factors such as their size, nature or location.

Three sets of EIA Regulations which transpose the requirements of the EIA directive for electricity generating projects, are applicable to the Project. Where relevant, these are collectively referred to as the 'EIA Regulations':

- The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) (applies to all applications for s.36 Consent in Scottish waters out to 200 NM);
- The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended)<sup>36</sup> (applies to applications that require an EIA for a marine licence between 0 and 12 NM),<sup>37</sup>; and
- The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) (applies to applications that require an EIA, for a marine licence between 12 and 200 NM).

The EIA Regulations set out procedures for assessing, consulting upon and informing decision making for projects that are likely to have significant environmental effects. The EIA Regulations require the provision of an EIAR alongside the applications for the s.36 Consent and MLA (see Chapter 5: Approach to Scoping and EIA in the 2024 Scoping Report<sup>38</sup> for details). In addition to the EIA Regulations, a range of environmental legislation at international and national level will apply to the EIA, as described in Section 3.2 and from Section 3.4 to Section 3.10.

### 3.9.1 The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017

The requirement for an EIA for electricity generation projects requiring consent under s.36 of the Electricity Act 1989 is provided for in Scotland by the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (hereafter referred to as 'Electricity Works EIA Regulations 2017'). These regulations set out the statutory process and minimum requirements for EIA.

The Electricity Works EIA Regulations 2017 identify that certain developments will be, or may be, subject to EIA. An offshore windfarm falls under Schedule 2 of the Electricity Works EIA Regulation 2017 as 'a generating station'. Where a Schedule 2 project is likely to have significant effects on the environment by virtue of factors such as its nature, size or location, (the development involves the installation of more than two turbines, or ii) the hub height of any turbine or height of any other structure exceeds 15 metres (m)), an EIA is required. Due to the location and scale of the Project an EIAR has been prepared under the Electricity Works EIA Regulations 2017.

### 3.9.2 The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 and the Marine Works (Environmental Impact Assessment) Regulations 2007

The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017<sup>39</sup> (hereafter referred to as the 'Marine Works EIA Regulations 2017') are relevant to the marine licences in respect of the offshore works, including the Export/Import Cable connection, on or under the seabed within the 12 NM limit of Scottish territorial waters.

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<sup>36</sup><https://www.legislation.gov.uk/ssi/2017/115/contents>

<sup>37</sup><https://www.legislation.gov.uk/uksi/2018/1399/contents/made>

<sup>38</sup> <https://marine.gov.scot/node/23676>

<sup>39</sup><https://www.legislation.gov.uk/uksi/2007/1518/data.xht?view=snippet&wrap=true>

The Marine Works (Environmental Impact Assessment) Regulations 2007 (hereafter referred to as the 'Marine Works EIA Regulations 2007') are relevant for the marine licences for the offshore works on or under the seabed in Scottish offshore waters beyond 12 NM out to 200 NM.

The Marine Works EIA Regulations 2017 identify that an EIA is required for certain developments likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

An offshore windfarm falls under Schedule 2 as an offshore element of the Marine Works EIA Regulations 2017. Where a Schedule 2 project is likely to have significant effects on the environment by virtue of factors such as its nature, size or location, an EIA is required. Due to the location, size and nature of the Project an EIA is required under Marine Works EIA Regulations 2017 and the Marine Works EIA Regulations 2007.

## 3.10 Environmental Legislation and Policy

### 3.10.1 Habitats and Birds Directive and Regulations

The Council Directive (92/43/EEC) (the 'Habitats Directive') was adopted in 1992 and aims to maintain or restore the natural habitats and wild flora and fauna species listed in the Annexes of the Directive at a favourable conservation status.

The EU Directive (2009/147/EC) on the conservation of wild birds (the 'Birds Directive') provides a framework for the conservation and management of wild birds within Europe.

The Habitats and Birds Directives have been transposed into domestic legislation; those of relevance to the Project include:

- The Conservation (Natural Habitats etc.) Regulations 1994 (as amended);
- The Conservation of Habitats and Species Regulations 2017;
- The Conservation of Offshore Marine Habitats and Species Regulations 2017; and
- The Wildlife and Countryside Act 1981.

Both the Habitats Directive and the Birds Directive form a network of designated 'European sites'. Under this legislation these sites include Special Areas of Conservation (SACs), Special Protection Areas (SPAs), and Ramsar sites. Legislative amendments focused on the changes necessary to ensure that the Habitats Regulations remain operable following UK exit from the EU. There have been some changes in terminology and Scottish Ministers exercise some functions which before EU Exit were carried out at EU level. In the UK, the Habitats Regulations now are applicable to the 'UK National Site Network' (NSN), which covers SACs, SPAs and Ramsar sites designated before EU exit (i.e. UK sites that formed part of the EU Natura 2000 network) and any sites designated under the Habitats Directive post EU Exit.

The Habitats Regulations include the general provisions for the protection of European sites, policy and standards, and the procedural requirements to undertake Habitats Regulations Appraisal (HRA) to assess the implications of plans or projects on European sites. In those cases that a project is likely to have a significant effect on a National Site

Network site, regardless of whether the project location is within or beyond the 12 NM boundary, there is a requirement for the competent authority (Scottish Ministers) to carry out an Appropriate Assessment (AA).

In accordance with the HRA Regulations, an HRA has been undertaken for the Project. The HRA documentation has been co-ordinated with the EIA and is reported separately in the **Report to Inform Appropriate Assessment (RIAA)** to support the application for s.36 Consent and MLAs for the Project submitted alongside this EIAR. The RIAA has been prepared to support the HRA of the Project in the determination of the implications for European sites, and compliance with all relevant statutory requirements guidance and best practice. The Scottish Ministers, as the competent authority, must determine whether the Project will adversely affect the integrity of any relevant marine or terrestrial European site. A HRA Stage One Screening Report<sup>40</sup> (**RIAA, Appendix A: HRA Stage One Screening Report**) was submitted alongside the 2024 Scoping Report.

The RIAA builds upon the HRA Stage One Screening Report which the Applicant submitted to MD-LOT. The report provided supporting information to enable the evaluation of potential pathways for the presence of Likely Significant Effects (LSE) on the qualifying features and conservation objectives of sites designated as part of the National Site Network which display potential connectivity with the Project.

The RIAA considers the likely significant environmental effects of the Project as it relates to relevant European site integrity at Stage Two of the HRA process. The RIAA provides MD-LOT with the information required to undertake an HRA Stage Two Appropriate Assessment.

### 3.10.2 Marine Strategy Regulations

The Marine Strategy Regulations (2010)<sup>41</sup> provide a UK-wide framework for maintaining or achieving 'Good Environmental Status' (GES) in the marine environment and protect the resource based upon which marine-related economic and social activities depend. The UK Marine Strategy Part Three details the Programme of Measures the UK will use until 2027 to support progress towards GES. The aims of the Marine Strategy Regulations 2010 have been adopted and incorporated into Scotland's NMP. The UK has made amendments to the Marine Strategy Regulations 2010<sup>42</sup>, under the Marine Environment (Amendment) (EU Exit) Regulations 2018<sup>43</sup>, which transpose the requirements into domestic law.

### 3.10.3 The Convention on Biological Diversity (CBD)

The Convention on Biological Diversity (CBD) is a legally binding treaty to which the UK is a signatory and came into force in December 1993. It has three main objectives:

- The conservation of biological diversity;
- The sustainable use of the components of biological diversity; and

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<sup>40</sup><https://marine.gov.scot/node/25179>

<sup>41</sup> *The Marine Strategy Regulations 2010 transpose The Marine Strategy Framework Directive (Directive 2008/56/EC) within the UK*

<sup>42</sup><https://www.legislation.gov.uk/uksi/2010/1627/made/data.pdf>

<sup>43</sup><https://www.legislation.gov.uk/uksi/2018/1399/contents/made>

- The fair and equitable sharing of the benefits arising from the utilisation of genetic resources.

The CBD recognised for the first time in international law that the conservation of biological diversity is ‘a common concern of humankind’ and is an integral part of the development process. The CBD covers all ecosystems, species and genetic resources. A number of major UN and EU initiatives are aimed at contributing towards meeting the objectives of the CBD. These include the Bern and Bonn conventions and the establishment of the Natura 2000 network across Europe.

Scotland has signed up to a number of international conventions (known as Multilateral Environmental Agreements) of which the CBD is one of them.

### 3.10.4 The Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention)

The Ramsar Convention is the intergovernmental treaty that provides the framework for the conservation and wise use of wetlands and their resources. The Convention was adopted in Ramsar (Iran) 1971 and ratified by the UK in 1976. The criteria for assessing a site for designation as a Ramsar site include whether the wetland supports 20,000 water birds and/or supports 1% of the individuals in a population of one species or subspecies of water bird.

### 3.10.5 Marine Protected Areas

Scotland’s network of Marine Protected Areas (MPAs) consists of 247 sites, with 233 for conservation purposes providing protection to 37% of our seas (NatureScot, 2024). Whilst many of these MPAs are aligned with existing SACs, SPAs, Ramsar sites or Sites of Special Scientific Interest (SSSI), a number have been designated directly under MPA legislation, through the 2010 Act, and the 2009 Act, for Scottish territorial, and offshore waters, respectively.

MPAs are designated to protect biodiversity and heritage, with specific focus on protected features (species, habitats, large scale features or geomorphological features). Where a project may have risk of hindering the achievement of the MPA’s conservation objectives, the EIAR should include the necessary information to inform an MPA assessment. The MPA assessment is undertaken by the competent authority (Scottish Ministers for marine licences and s.36 consents) in consultation with NatureScot / Joint Nature Conservation Committee (JNCC).

An MPA Screening Assessment was undertaken for the Project and was submitted alongside the 2024 Scoping Report. The 2024 Scoping Report was submitted to MD-LOT in April 2024, relevant stakeholders were consulted. The Scoping Opinion was received in September 2024. The 2024 Scoping Report and Scoping Opinion supersedes the 2023 Scoping Report and Scoping Opinion for the Project.

The EIA assesses the potential for impacts on MPAs, informed by the Scoping Opinion, engagement with MD-LOT and Statutory Nature Conservation Bodies and any other relevant information deemed appropriate.

## 3.11 Other permits and licensing requirements

### 3.11.1 Water Framework Directive (WFD)

The Water Framework Directive (WFD) (Directive 2000/60/EC) (EC, 2000) aims to ‘prevent deterioration and enhance the status of aquatic ecosystems, including groundwater, promote sustainable water use, reduce pollution and contribute to the mitigation of floods and droughts.’ These aims are to make sure that the water environment will be improved and protected on a catchment scale. The WFD was transposed into Scottish legislation by the Water Environment and Water Services (Scotland) Act 2003<sup>44</sup> and the Water Environment (Controlled Activities) (Scotland) Regulations 2011<sup>45</sup>, with Scottish Environment Protection Agency (SEPA) being the competent authority, having the responsibility to consider whether proposals for developments have the potential to:

- Cause a deterioration of a WFD water body from its current status or potential; and/or
- Prevent future attainment of good status or potential where not already achieved.

The Water Environment and Water Services (Scotland) Act 2003 covers coastal waters up to 3 NM and must have regard to the requirements of the WFD to ensure that all surface water bodies achieve ‘Good Ecological Status’ and that there is no deterioration in status. Five classifications of water quality status are defined: High (near natural), Good, Moderate, Poor and Bad; and each classification is accorded a degree of confidence (high, medium or low) in the overall quality assessment. **EIAR Vol. 3, Chapter 9: Marine Water and Sediment Quality** provides a detailed assessment of the Project in relation to surface coastal waters.

### 3.11.2 Marine Strategy Framework Directive (MSFD)

The Marine Strategy Framework Directive (MSFD) (2008/56/EC) (EC, 2008) of the European Parliament and the Council was published on 17<sup>th</sup> June 2008. The MSFD establishes a framework for community action in the field of Marine Environmental Policy (MEP) adopted in 2008, with the overall aim of protecting the marine environment across Europe. The MSFD is transposed for the whole of the UK by the Marine Strategy Regulations 2010. The UK has made amendment to the Marine Strategy Regulations 2010<sup>46</sup>, under the Marine Environment (Amendment) (EU Exit) Regulations 2018<sup>47</sup>, which transpose the requirement into domestic law, so that MSFD can continue to be effective now the UK is no longer part of the EU.

MD-LOT carry out the assessment on behalf of the Scottish Ministers, as the competent authority, to determine whether the Project has the potential to influence GES of the UK’s marine water and therefore the UK Government’s ability to uphold its responsibilities under the MSFD. **EIAR Vol. 3, Chapter 9: Marine Water and Sediment Quality** provides a detailed assessment of the Project in relation to the marine environment.

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<sup>44</sup><https://www.legislation.gov.uk/asp/2003/3/contents>

<sup>45</sup><https://www.legislation.gov.uk/ssi/2011/209/contents/made>

<sup>46</sup><https://www.legislation.gov.uk/uksi/2010/1627/made/data.pdf>

<sup>47</sup><https://www.legislation.gov.uk/uksi/2018/1399/contents/made>

### 3.11.3 Decommissioning of Offshore Renewable Energy Installations (OREI)

Sections 105 to 114 of the Energy Act 2004<sup>48</sup> (amended by the Scotland Act 2016)<sup>49</sup> contain statutory requirements in relation to the decommissioning of Offshore Renewable Energy Installations (OREI) and their related electricity lines. Under the terms of the Energy Act 2004, Scottish Ministers may require a person who is responsible for these installations or lines in Scottish Waters or in a Scottish part of an REZ to prepare (and carry out) a costed Decommissioning Programme for submission to and approval by Scottish Ministers (Scottish Government, 2022a).

Responsibilities and powers associated with decommissioning for OREI within Scottish Waters transferred from the Secretary of State to Scottish Ministers in 2017. Before this BEIS was responsible for requiring decommissioning programmes (BEIS, 2019). Marine Directorate are seeking to establish robust policies and procedures covering decommissioning. The Guidance Note for Decommissioning of Offshore Renewable Energy Installation in Scottish Waters (Scottish Government, 2022b) or in the Scottish Part of the REZ, under the Energy Act 2004 (Scottish Government, 2022b), was finalised in August 2022.

Scottish Ministers have the power to determine specific approaches to decommissioning, including stipulating the form, timing and size of financial securities required. The expected content of a Decommissioning Programme includes decommissioning standards, financial security, residual liability and industrial cooperation and collaboration.

Section 5 of the Guidance Note states that: "An indication of the decommissioning proposals should be included as part of the statutory consenting or licensing process so that the feasibility of removing the infrastructure can be assessed as part of the application process." (Scottish Government, 2022a).

The decommissioning requirements in Scotland relate to the area between the MHWS mark and the seaward limits of the territorial waters, including coastal water and the Scottish part of the REZ. The Energy Act 2004<sup>48</sup> does not cover the intertidal waters.

## 3.12 Other consents and licences that may be required

Table 3-7 presents an outline of other consents and licences that may be required for the Project.

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<sup>48</sup><https://www.legislation.gov.uk/ukpga/2004/20/contents>

<sup>49</sup><https://www.legislation.gov.uk/ukpga/2016/11/contents/enacted>



Table 3-7 Other consents and licences that may be required by the Project

LICENCE / PERMIT / CONSENT	REGULATORY BODY	CONSENT REQUIREMENTS
<b>Marine licences or exemptions</b>	Scottish Ministers	For carrying out site investigations, buoy deployment, surveys and Unexploded Ordnance (UXO) inspection / clearance.
<b>European Protected Species (EPS) licence applications (under the Conservation (Natural Habitats, &amp;c.) Regulations 1994 Conservation of Habitats and Species Regulations 2017 and the Offshore Marine Regulations 2017)<sup>50</sup></b>	NatureScot / Scottish Ministers	For carrying out activities that could result in the disturbance of EPS, such as site investigation, buoy deployment, surveys and UXO inspection / clearance, or disturbance identified as part of the EIA.
<b>Protected Species licences (under the Wildlife and Countryside Act 1981 (as amended) (for example for basking shark, grey seal) and Wildlife and Natural Environment (Scotland) Act 2011)<sup>51</sup></b>	NatureScot / Scottish Ministers	For carrying out site investigations, buoy deployment, surveys and UXO inspection / clearance, or disturbance identified as part of the EIA.
<b>Safety Zone applications (under the Energy Act 2004)<sup>48</sup></b>	Scottish Ministers	To be established for any phase of an offshore renewable energy project but are normally applied for the construction or aspects of operation and maintenance phases.
<b>Decommissioning Programmes (Sections 105 to 114 under the Energy Act 2004)<sup>48</sup></b>	Scottish Ministers	Decommissioning Programme will be required prior to construction.
<b>Controlled activities licence (under the Water Environment (Controlled Activities) (Scotland) Regulations 2011)<sup>45</sup></b>	SEPA	Licences for coastal water environments for pollution prevention and / or waste.

<sup>50</sup><https://www.legislation.gov.uk/ukxi/2007/1842/made/data.pdf>

<sup>51</sup><https://www.legislation.gov.uk/asp/2011/6/contents/enacted>

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