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Chapter 2: Policy and Legislation

Array EIA Report
2024

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2. POLICY AND LEGISLATION

2.1. INTRODUCTION

1. The policy and legislation chapter of the Array Environmental Impact Assessment (EIA) Report refers to the Ossian Array only (hereafter referred to as the "Array"), therefore, this report focuses on legislation relating to offshore waters (12 nm to 200 nm). The aim of this chapter is to provide a summary of the policy and legislative background for the Array application, relating particularly to:

   - international commitments and strategy in relation to climate change, the reduction of greenhouse gas (GHG) emissions and the role that renewable energy can play in reducing said emissions, including policy taken from European legislation;
   - legislation and policy relating to climate change, energy and marine planning relevant to both the United Kingdom (UK) and Scotland;
   - consenting legislation relating to Scottish offshore wind generation, including the consent applications required for the construction, operation and maintenance, and decommissioning of the Array; and
   - other relevant legislation to the Array.

2. Topic specific policy and legislation is included in the relevant chapters of the Array EIA Report (volume 2, chapters 7 to 20), particularly in respect to the assessment of environmental effects.

3. The location, nature and size of the Array determines the consents that are required. These requirements for consenting are explained along with reference to differing legislative obligations within Scottish offshore waters, with section 2.3 describing the relevant consents and legislation for the Array.

4. Section 2.2 shows that the provision of new renewable energy capacity will assist the Scottish Government to meet legally binding national and international commitments on climate change. In support of this, Scotland is committed to making steps towards becoming a net zero country and working towards a climate resilient future (Scottish Government, 2023a). Offshore wind generation has been identified at both a Scottish and UK level as being capable of providing a significant contribution towards such commitments (Scottish Government, 2023b; HM Government, 2023a).

5. For the purposes of this chapter and throughout this Array EIA Report, where legislation has been amended (for example, by European Union (EU) Exit Amendment Regulations), the legislation is referred to 'as amended'.

2.2. CLIMATE CHANGE POLICY AND THE NEED FOR THE DEVELOPMENT

2.2.1. INTERNATIONAL COMMITMENTS

6. During the 21st Conference of the Parties (COP21) in December 2015, the first ever legally binding global climate deal was adopted by 195 countries. A global action plan was set out in the Paris Agreement (2016) with the aim of limiting global warming to 1.5 C and halting the increase in global average temperature to below 2°C above pre-industrial levels, as well as moving globally towards net zero.

2.2.2. EUROPEAN LEGISLATION AND POLICY

EU Exit

7. After triggering Article 50 of the Lisbon Treaty on 31 January 2020, the UK officially left the EU (hereafter referred as 'EU Exit'). Since then, the UK Government has committed, as a minimum, to abide by international obligations in line with the EU (Withdrawal) Act 2018 and to maintain environmental commitments made, and legislation enacted following the departure of the UK from the EU (HM Government, 2018).

8. Where specific EU Exit legislation has been implemented to ensure legislative instruments continue to operate in a similar way after EU Exit Day, these are discussed in this chapter.

2.2.3. UK CLIMATE CHANGE AND ENERGY LEGISLATION

The Climate Change Act 2008

9. Under the Climate Change Act 2008, the UK committed to a net reduction in GHG emissions by 2050 of 80% against the 1990 baseline for carbon dioxide (CO_2) and other GHGs (HM Government, 2008a). Secondary legislation, in the form of The Climate Change Act 2008 (2050 Target Amendment) Order 2019, amended the 2050 UK targets from 80% of the 1990 baseline to at least 100% by 2050 (HM Government, 2019a). In October 2021, additional interim targets were added to the UK legislation set in 2019 stating that by 2035 emissions were to be reduced by 78% compared to 1990 levels (HM Government, 2021b).

10. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 also updated the Climate Change (Scotland) Act 2009 to include interim targets of a 56% reduction of the 1990 baseline by 2020, a 75% reduction by 2030 and a 90% reduction by 2040, in addition to pledging to be at least 100% lower than the 1990 baseline by 2045 (Scottish Government, 2019a).

11. The Climate Change Act 2008 established the independent, statutory body, the Climate Change Committee (CCC), which advises the UK government on emissions targets and reports to Parliament on progress made in reducing GHG emissions. The CCC has so far produced six carbon budgets, split into four-year blocks, covering years 2008 to 2037. These carbon budgets constitute a progressive limitation on the total volume of GHG emissions to be emitted over the four-year period as outlined in Table 2.1 (CCC, 2020). There are currently no amendments to the Climate Change Act 2008 as a result of the EU Exit.

12. A recent speech from the UK Prime Minister in September 2023 indicated that the UK government may plan to backtrack on policies such as mandatory heat pumps, bans on diesel cars and the ban on new oil and gas licences in the North Sea, all of which were put in place to move the UK closer to its net zero target and reduce the impact of the UK on the changing climate (HM Government, 2023b). The CCC released an assessment in October 2023 following this announcement, stating that "*Taking all recent developments into account, our assessment remains that the UK is unlikely to meet its Nationally Determined Contribution (NDC) to reduce emissions by 68% between 1990 and 2030"* (CCC, 2023a).

13. Ossian is considered to be a key project to enable movement towards achievement of the UK's target of reaching net zero by 2050 and the goals set out by UK Government in the position statements of both the 2050 Amendment of The Climate Change Act 2008 (HM Government, 2019a) and the Industry Strategy Offshore Wind Sector Deal (see paragraphs 36 and 37) (HM Government, 2019b).

Table 2.1: Summary of the Six Carbon Budgets Produced by the Climate Change Committee

Budgetary Period	Years Covered	Carbon Budget ($MtCO_2$)	Average Annual Reduction of Emissions (cf 1990)	Progress on Budgetary Period
1	2008–2012	3,018	-26%	-27%
2	2013–2017	2,782	-31%	-42%
3	2018–2022	2,544	-37%	-48.7%[1]
4	2023–2027	1,950	-52%	N/A
5	2028–2032	1,725	-58%	N/A
6[2]	2033–2037	1,105 to 885	-75% to -80%	N/A

14. The UK has met the target set for the first two carbon budgets, and are still on track to meet, and outperform, the third carbon budget, however, GHG emissions figures presented by HM Government (2023d) are currently estimates and will not be confirmed until 2024 (HM Government, 2023c, HM Government, 2023d). After the Government granted licenses to new coal mines in Cumbria (December 2022) and oil rigs in the North Sea (October 2022) the CCC stated "*despite new details from Government, [Carbon Budget Delivery Plan] our confidence in the UK meeting its medium-term targets has decreased in the past year"* making the targets set in the remaining budgetary periods unlikely to be met without an influx in green initiatives (CCC, 2023b).

15. The UK produced an updated Carbon Budget Delivery Plan in 2023, laying out an approach towards 2050 and providing a roadmap to achieve the decarbonisation frameworks set in both the 2009 and 2011 Carbon Plans (HM Government, 2023e). The Carbon Budget Delivery Plan summarised the delivery confidence for the sectors listed below:

- power;
- industry;
- fuel supply;
- heat and buildings;
- natural resources, waste and fluorinated gases;
- transport; and
- GHG removals.

16. Delivering decarbonisation of the power sector is essential to providing sector carbon savings and "*unlocking the path to net zero across transport, industry, and heating buildings*" (HM Government, 2023e). In order to meet growing energy demands whilst decarbonising and providing energy security means that there will be an onus on low carbon energy generation. The underpinning strategy for decarbonisation of the power sector is set out in the Energy White Paper, the Net Zero Strategy Paper, British Energy Security Strategy and the Energy Security Plan (HM Government, 2020a, 2021b, 2022a, 2023f). The vital role that offshore renewables, and offshore wind in particular, will play in meeting these targets is noted throughout the Carbon Budget Delivery Plan where it is stated that HM Government's Contracts for Difference (CfD) policy "*…is the government's main mechanism for supporting low-carbon electricity generating projects in Great Britain, including the goal to deliver up to 50 GW offshore wind (including 5 GW floating wind) by 2030"* (HM Government, 2023e).

17. The generation capacity of Ossian relies on the number and capacity of the wind turbines installed within the parameters of the Project Design Envelope (PDE) defined for this assessment (volume 1, chapter 3). It is expected that the Array will be a great contribution towards meeting the net zero targets set in both Scotland and the UK.

Climate change

18. The Intergovernmental Panel on Climate Change (IPCC) stated that "*widespread and rapid changes in the atmosphere, ocean, cryosphere and biosphere have occurred*" as a result of human influence (IPCC, 2021). Two years on, in reference to the challenge faced with limiting global warming to the 1.5 °C benchmark they stated: "*that challenge has become even greater due to a continued increase in greenhouse gas emissions*", and that "*the pace and scale of what has been done so far, and current plans, are insufficient to tackle climate change*" (IPCC, 2023).

19. As discussed in paragraph 6, following COP21 195 countries took a proactive approach in adopting legislation to communicate their post-2020 climate actions, otherwise known as NDCs. The UK's NDC was originally drafted in 2020 before being amended in September 2022. These updates draw on the Clean Growth Strategy (HM Government, 2017), which contains the current policies and measures to decarbonise all sectors of the UK economy through the 2020s and beyond. The UK submitted its updated NDC in September 2022 to the United Nations Framework Convention on Climate Change (UNFCCC) and the Glasgow Climate Pact from November 2021, covering England, Scotland, Wales and Northern Ireland (HM Government, 2022b). This NDC includes a commitment for a reduction of at least 68% of UK GHG emissions by 2030 compared to 1990 levels (HM Government, 2022b).

20. A net zero date of 2045 for Scotland was recommended by the CCC in 2019, recognising that Scotland has a "*greater relative capacity to remove emissions than the UK as a whole*" (CCC, 2019). In October 2020 the UK Government responded to the CCC's 2020 Progress Report highlighting that "*the truly global challenge presented by climate change cannot be underestimated"* and "*meeting net zero will require reductions in emissions across the economy on a scale not previously seen"* (HM Government, 2020b). Following this, the UK Government published the Energy White Paper in December 2020, which provided a credible case for tackling the climate issue, with a substantial increase in offshore wind capacity as part of the ten point plan (HM Government, 2020a).

21. Scotland's Climate Change Plan 2018–2032, was published in 2020 and listed policies and proposals to contribute to the achievement of net zero targets. This report built on the 42% reduction of GHG by 2020 and 80% reduction by 2050 (of the 1990 Baseline) by introducing interim targets of at least 56% by 2020, 75% by 2030[3] and 90% by 2040 with Scotland becoming net zero (100% reduction) by 2045. Further policies and proposals were also included to help contribute to limiting GHG emissions.

22. The Scottish Government recognise the problem faced by world leaders and the wider population, and in 2019 published a statement, stating that "*there is a global climate emergency*" (Scottish Government, 2019b). The legally binding targets that were set in the Scottish Government's indicative NDC include a "*75% reduction in economy wide GHG emissions by 2030, relative to 1990 levels of carbon dioxide, methane and nitrous oxide and 1995 levels of hydrofluorocarbons, perfluorocarbons, sulphur hexafluoride and nitrogen trifluoride*", and 90% reduction by 2040 with net zero emissions proposed for 2045 (Scottish Government, 2021a). In their first five-yearly review, the CCC has suggested, in reference to Scotland's proposed 75% reduction, that "*Our updated pathway to Net Zero confirms that this remains extremely challenging and suggests a 65-67% reduction in Scotland's emissions by 2030 is both feasible and consistent with Scotland's Net Zero commitment*" (CCC, 2022a).

[1] At the time of writing, this figure is a provisional estimate and will not be confirmed by HM Government until 2024 (HM Government, 2023c; HM Government, 2023d).

[2] Four level options have been shortlisted as part of the sixth carbon budget advice to government. Included in the table is the looser budget option (in line with CCC's 'headwind' scenario) and a tighter budget option (in line with CCC's 'widespread innovation' scenario).

[3] The Scottish Government withdrew the 75% target in April 2024.

23. Furthermore, on 10 May 2023 the Scottish First Minister gave a speech at the All Energy Conference in Glasgow, commenting on the priorities of the Scottish Government stating that "*the scale of the investment, and the pace we have to do that has to influence with urgency, given the threat of the climate emergency we are currently facing*" (Scottish Government, 2023b). Later in 2023, the Scottish First Minister pledged £500 million to Scotland's offshore wind supply chain (Scottish National Party (SNP), 2023).

24. A route map to the Scottish 2045 target, including funding, and what the funding will be directed towards, was highlighted in the recent Draft Energy Strategy and Just Transition Plan (2023) (Scottish Government, 2023c). The draft plan states that Scotland must limit its dependence on oil and gas and that "*Scotland is well positioned to do so in a way that ensures we have sufficient, secure and affordable energy to meet our needs, to support economic growth and to capture sustainable export opportunities*". This plan, which follows on from Scotland's Offshore Wind Route Map (OWIG, 2013), is currently under consultation but due to be formally published in summer 2024, details how Scotland will harness offshore wind, and other renewable generation techniques, to become a "*renewable powerhouse"* (Scottish Government, 2023c).

25. Ossian is considered to be a key project in moving towards the end goal of reducing Scotland's contribution to climate change and achieving net zero within the target dates set out within Government policy. This contribution will be considered thoroughly in the Climatic Effects chapter (volume 2, chapter 17) of this Array EIA Report.

The Energy Act 2013

26. The Energy Act 2013 makes provisions to incentivise investment in low carbon electricity generation, ensure security of supply, and help the UK meet its emission reduction and renewables targets.

27. The Energy Act 2013 contains provisions for Electricity Market Reform (EMR), which sets out the framework for replacing Renewables Obligation Certificates (ROCs) with CfD to provide stable financial incentives to encourage investment in low carbon electricity generation.

28. CfDs are private contracts between a low carbon electricity generator and the UK Government owned Low Carbon Contracts Company (LCCC). The objective of the CfDs is to give more certainty and stability of revenues to the electricity generators by reducing exposure to volatile wholesale prices, whilst at the same time protecting the consumer from paying for higher generation support costs when the electricity prices are high (Business Energy and Industrial Strategy (BEIS), 2022). CfDs aim to support development of renewable energy in the UK by incentivising development.

29. Table 2.2 summarises these projects and subsequent CfDs awarded between 2014 and 2023 (BEIS, 2022; CfD Allocation Round, 2022). Out of the 95 projects accepted in round 5 of the CfD applications in 2023, there were no applications for funding granted from any offshore wind projects (CfD Allocation Round, 2023).

Table 2.2: CfDs Allocated Between 2014 and 2023

Allocation Round	Year	Number of CfDs Awarded per Allocation Round	CfDs for Offshore Wind Projects	Name of Projects
-	2014	8	5	• Beatrice; • Burbo Bank Extension; • Dudgeon; • Hornsea Project One; and • Walney Extension.
1	2015	27	2	• East Anglia One; and • Neart na Gaoithe.
2	2017	11	3	• Triton Knoll; • Hornsea Project Two; and • Moray Offshore (East).
3	2019	12	6	• Dogger Bank Creyke Beck B P1; • Dogger Bank Teeside A P1; • Forthwind; • Seagreen 1 Offshore Wind Farm; and • Sofia Offshore Wind Farm Phase 1.
4	2022	93	5	• Inch Cape Phase 1; • East Anglia 3 Phase 1; • Norfolk Boreas Phase 1; • Hornsea Project Three; and • Moray West.
5	2023	95	0	-

The Energy Act 2023

30. The Energy Act 2023 makes provisions about energy production and the regulation of the energy market, including stipulations about offshore energy production, as well as environmental protection, licensing and decommissioning.

31. The Energy Act 2023 reiterates support for offshore wind in the provision of clean energy and energy security by delivering the implementation of the Offshore Wind Environmental Improvement Package (OWEIP) with new measures that are expected to half the consenting times for offshore wind projects whilst simultaneously protecting the environment. These measures include providing strategic compensation to offshore wind farm projects for any inadvertent environmental impacts that are encountered during the project, which will be coordinated through the Strategic Compensation Framework and Marine Recovery Funds (MRFs) (HM Government, 2023g).

UK Marine Policy Statement

32. In March 2011, the UK wide Marine Policy Statement (MPS) was published. This was followed by updates in September 2020, under Section 44 of the Marine and Coastal Access Act (MCAA) 2009. This provided a framework for marine spatial planning, particularly for the preparation of Marine Plans, and to ensure the marine resources are used in a sustainable way (HM Government, 2011). Scottish Ministers, the UK's Secretary of State, Welsh Ministers and the Department of the Environment Northern Ireland (DOENI) all

jointly adopted the MPS, which confirmed that all public authorities, in examining and determining applications for all energy infrastructure, ensure the relevant MPS followed and that the following is considered:

- the national level of need for energy infrastructure;
- the positive wider environmental, societal and economic benefits of low carbon electricity generation;
- that renewable energy resources can only be exploited where the resource exists and where economically feasible; and
- the potential for inward investment on energy related manufacturing and deployment activity and employment opportunities and regeneration of local national economies, supporting the objective of developing the UK's low carbon manufacturing capability.

33. The MPS states that "*Marine Plans should take into account and identify areas of potential for the deployment of different renewable energy technologies*", and notes that offshore wind "*has the potential to have the biggest impact in the medium-term on security of energy supply and carbon emission reductions through its commercial scale output"* (HM Government, 2011).

34. The MPS states that: "*Renewable energy offers the potential for significant broad-scale environmental benefits through mitigating greenhouse gas emissions from energy production*" (HM Government, 2011).

35. Decision makers should also consider any cumulative impacts of the proposal with other projects and activities, when considering potential benefits and adverse effects in relation to the proposal. The MPS also confirms that the level of assessment undertaken for any project should be proportionate to the potential impacts, and their scale, as well as the sensitivity of the environment concerned and in accordance with the EIA Directive, where applicable (HM Government, 2011).The Array does not fall under the category of a Nationally Significant Infrastructure Projects (NSIP) as the Planning Act 2008 (HM Government, 2008b) does not apply to Scottish waters and therefore the Array cannot apply for a Development Consent Order (DCO). This National Policy Statement for Renewable Energy Infrastructure (EN-3) does however highlight the UK Government's support for offshore wind by stating "*the Government expects that offshore wind (including floating wind) will play a significant role in meeting demand and decarbonising the energy system"* (HM Government, 2023h).

UK Offshore Wind Sector Deal

36. The UK Government along with the Offshore Wind Industry Council (OWIC) published the Offshore Wind Sector Deal in 2019, which sets out the key commitments and actions from the UK Government to support offshore wind energy development (HM Government, 2019b). The Sector Deal states: "*The Deal will drive the transformation of offshore wind generation, making it an integral part of a low-cost, low-carbon, flexible grid system and boost the productivity and competitiveness of the UK supply chain"* (HM Government, 2019b). The Sector Deal is divided in terms of ideas, people, infrastructure, business environment and places, laying key commitments for each of these. In relation to infrastructure, it outlines:

- how clean, affordable energy is essential for economic prosperity;
- the need to reduce energy costs for consumers;
- how to deliver up to 30 GW of energy in a sustainable way; and
- the plans for offshore wind energy beyond 2030.

37. In 2020, the UK Government prepared a policy paper to reflect on the status of the offshore wind industry one year after the publication of the Offshore Wind Sector Deal (HM Government, 2020c). Since the launch of the Sector Deal in 2019, the UK Government and the offshore wind energy sector have made progress on delivering the commitments set out within the Sector Deal. Examples of these include:

- the development and establishment of the Offshore Wind Growth Partnership;
- the provision of two further CfD rounds in 2022 and 2023 totalling £512 million;
- creation of the Clearing the Pathway for Women in Wind Scheme to increase representation of women in the offshore wind sector;
- the development of Regional Clusters; and
- the appointment of a Diversity Champion.

2.2.4. SCOTTISH POLICY AND LEGISLATION

The Climate Change (Scotland) Act 2009 and Climate Change (Emissions Reduction Targets) (Scotland) Act 2019

38. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 amends the Climate Change (Scotland) Act 2009 to introduce binding targets on the Scottish Government to reduce net Scottish GHG emissions by at least 100% by 2045 from 1990 levels, with interim targets of at least:

- 56% by 2020;
- 75% by 2030; and
- 90% by 2040 (HM Government, 2009d).

39. The CCC stated that "*using the 'base inventory', against which emissions targets in Scotland are measured, emissions have fallen by 59% since 1990*" meaning that Scotland surpassed the 2020 target of 56% reductions (CCC, 2022b). The objective of this Act is to contribute appropriately to the world's efforts to deliver on the Paris Agreement reached at the COP21 of the UNFCCC. However, countries worldwide may be forced to increase their efforts to further reduce emissions as it was agreed at COP27 in Sharm el-Sheikh that there was "*only modest, incremental progress on reducing emissions, despite a clear emissions gap between current national climate plans and what's needed to limit temperature rise to 1.5 degrees C*" (UNFCC, 2022).

40. There are currently no amendments to The Climate Change (Scotland) Act 2009 as a result of EU Exit.

41. Due to the size of Ossian and its potential to reduce GHG emissions once operating, it is considered to be a key offshore wind project for the delivery of those targets identified in the bullets under paragraph 38.

The Scottish Energy Strategy

42. The Scottish Energy Strategy: The Future of Energy in Scotland (Scottish Government, 2017) sets out the Scottish Government's vision for the future energy system in Scotland. The strategy outlines six priorities around Scotland's 2050 vision:

- "*Consumer engagement and protection – we will work hard to protect consumers from excessive or avoidable costs, and promote the benefits of smarter domestic energy applications and systems.*
- *Energy efficiency – we will continue to take direct and supporting actions to improve the use and management of energy in Scotland's homes, buildings, industrial processes and manufacturing.*
- *System security and flexibility – Scotland should have the capacity, the connections, the flexibility and resilience necessary to maintain secure and reliable supplies of energy to all of our homes and businesses as our energy transition takes place.*
- *Innovative local energy systems – we will empower our communities by supporting the development of innovative and integrated local energy systems and networks.*
- *Renewable and low carbon solutions – we will continue to champion and explore the potential of Scotland's huge renewable energy resource, and its ability to meet our local and national heat, transport and electricity needs – helping to achieve our ambitious emissions reduction targets.*
- *Oil and gas industry strengths – we will support investment, innovation and diversification across our oil and gas sector, working with industry to advance key priorities such as maximising the recovery of remaining resources, subsea engineering, decommissioning and carbon capture and storage – collaboratively addressing the challenges of today and preparing the sector and its workforce for a beneficial role in Scotland's future energy system*."

43. The strategy sets targets of the equivalent of 50% of the energy for Scotland's heat, transport and electricity consumption to be supplied from renewable sources; and an increase by 30% in the productivity of energy use across the Scottish economy, by 2030. The strategy highlights the success of Scottish offshore wind

farm projects in recent CfD auctions and highlights the great potential for future development, particularly within deeper waters.

44. This strategy was followed up with the Draft Energy Strategy and Just Transition Plan, discussed in paragraph 24, which sets out the plan for Scotland to transition towards cleaner energy generation to ensure they meet the 2050 vision laid out in the Scottish Energy Strategy. Key ambitions that were set out in the Draft Energy Strategy and Just Transition Plan (Scottish Government, 2023c) are:

- More than 20 GW of additional renewable electricity on- and offshore by 2030.
- An ambition for hydrogen to provide 5 GW or the equivalent of 15% of Scotland's current energy needs by 2030 and 25 GW of hydrogen production capacity by 2045.
- Increased contributions from solar, hydro and marine energy to Scotland's energy mix.
- Accelerated decarbonisation of domestic industry, transport and heat.
- Establishment of a national public energy agency – Heat and Energy Efficiency Scotland.
- By 2030, the need for new petrol and diesel cars and vans phased out and car kilometres reduced by 20%.
- Generation of surplus electricity, enabling export of electricity and renewable hydrogen to support decarbonisation across Europe.
- Energy security through development of Scotland's own resources and additional energy storage.
- A just transition by maintaining or increasing employment in Scotland's energy production sector against a decline in North Sea production.
- Maximising the use of Scottish manufactured components in the energy transition, ensuring high-value technology and innovation.

National Planning Framework 4

45. National Planning Framework (NPF) 4 is the long term strategy adopted in 2023 by the Scottish Government, which expresses plans for development, and investment, in infrastructure to meet the 2045 net zero target (Scottish Government, 2023d).

46. In relation to renewable energy and specifically offshore wind energy, one of the key visions for Scotland's development is that proposals "*for all forms of renewable, low-carbon and zero emissions technologies will be supported"* for the enhancement of the low carbon economy and help Scotland move towards low carbon energy generation, both onshore and offshore (Scottish Government, 2023d). NPF4 commits Scottish Ministers to maximising the economic benefits arising from the manufacturing, construction, operation, and maintenance activities associated with offshore wind energy developments in Scottish waters.

47. Policy 11 of NPF4 further emphasises the support for renewable energy generation, with development proposals for repowering, expanding the use of, and extending the life of offshore and onshore wind farms, as well as outlining its intent to "*encourage, promote and facilitate all forms of renewable energy development onshore and offshore"* (Scottish Government, 2023d). Under definitions set out in NPF4 'Annex B – National Developments Statements of Need', Ossian is designated as a national development under the designation "*on and off shore electricity generation, including electricity storage, from renewables exceeding 50 megawatts capacity*" (Scottish Government, 2023d).

48. NPF4 replaces NPF3 (2014) and the Scottish Planning Policy (SPP) (2014), by setting out national plans and strategies, such as Just Transition, to provide a vision of how Scotland should evolve in the future. This includes policy on a series of topics, including renewable energy, green belts and climate mitigation, acknowledging Scotland's offshore renewable energy sources stating that "*The interplay between land and sea will be critical, given the scale of offshore renewable energy resources"* (Scottish Government, 2023d).

Scotland's Offshore Wind Route Map

49. The Offshore Wind Industry Group (OWIG) (consisting of industry, government and public sector bodies) published Scotland's Offshore Wind Route Map in 2010, highlighting the opportunities, challenges and recommendations in building a strong a sustainable offshore wind industry in Scotland (OWIG, 2010). The offshore wind industries ambition was highlighted, noting that "*with 25% of Europe's offshore wind potential, the manufacturing, supply chain, job creation and training opportunities"* Scotland is presented *"with huge scope for sustainable economic growth"* (OWIG, 2010).

50. The route map presented recommendations to support offshore wind making a significant contribution to the now superseded target of achieving 80% of Scotland's electricity consumption coming from renewable sources by 2020. The route map has allowed the Scottish Government to move towards greener energy generation, with just over 85% of all energy used in Scotland coming from renewable sources in 2021, which was an increase of over 13% from 2020 (Scottish Government, 2022a). The Draft Energy Strategy and Just Transition Plan further sets out the route map to meeting the 2045 net zero targets and identifies the offshore wind industry as having a crucial role in the delivery of this target (Scottish Government, 2023c).

Offshore Wind Policy Statement

51. The Offshore Wind Policy Statement (OWPS) (Scottish Government, 2020b) set out ambitions to capitalise on offshore wind development and the role this technology could play in meeting commitments of net zero by 2045, as required by The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (paragraph 9). The OWPS built upon the ambitions outlined in Scotland's Energy Strategy (paragraph 42) (Scottish Government, 2017). It also refers to the Offshore Wind Sector Deal published in 2019 and policy paper reflecting the status of the offshore wind sector one year on from the release of the Strategy (paragraph 36) (HM Government, 2019b, HM Government, 2020c) which detailed specific actions to be undertaken by governments and industry, designed to promote and grow the sector. Furthermore, the Draft Energy and Just Transition Plan (paragraph 44) expands on the ambition set out in the OWPS of achieving 11 GW of offshore wind by aiming to boost the consented capacity of Scotland's offshore wind to over 30 GW by 2030 (Scottish Government, 2023c).

52. The OWPS detailed the aim of the Scottish Government to achieve up to 11 GW of offshore wind capacity in Scottish waters by 2030 (Scottish Government, 2020b). Furthermore, the OWPS states "*Looking beyond 2030, we know that huge increases in renewable capacity and generation are likely to be needed in order to decarbonise our energy use, and to meet the potential for much greater demand for clean electricity – as well as for green hydrogen – to reduce emissions associated with heat, transport and industrial energy demand as we move towards 2045 and net zero. The 2020 Future Energy Scenarios, published by National Grid Electricity System Operator (ESO), includes the potential requirement for 24 GW of offshore wind capacity dedicated solely to hydrogen production*" (Scottish Government, 2020b).

53. The OWPS also states that the current 2 GW of operational and under construction offshore wind capacity in Scottish waters could grow to between 8 GW to 11 GW by 2030, based on estimated forecasts of growth trends (Scottish Government, 2020). The Draft Energy Strategy and Just Transition Plan continues this ambition set out in the OWPS, expanding that the addition of the ScotWind Leasing Round will boost Scotland's active and consented capacity to over 30 GW by 2030, with the Innovation and Targeted Oil and Gas Decarbonisation (INTOG) leasing round adding a further 6.2 GW capacity thereafter (Scottish Government, 2023c).

54. Ossian will be a key contributor towards the offshore wind capacity growth required in Scottish waters to achieve net zero targets.

2.2.5. SCOTTISH MARINE PLANNING POLICY

55. The Scottish Government has introduced a system of marine planning that covers Scottish offshore waters (12 nm to 200 nm) waters under the MCAA 2009 and Scottish territorial waters (within 12 nm) under the Marine (Scotland) Act 2010. As such, decisions are made based on this Act and in accordance with the appropriate Marine Plans, which are summarised below.

Scottish National Marine Plan

56. The Scottish National Marine Plan (NMP) was adopted in 2015, covering the management of both Scottish territorial waters (within 12 nm) and offshore waters (12 nm to 200 nm). The NMP "*sets out strategic policies for the sustainable development of Scotland's marine resources and is compatible with the UK MPS and existing Marine Plans across the UK"* (Marine Scotland, 2015). The NMP has been prepared in accordance with, and gives consideration to, the EU Directive 2014/89/EU, which introduces a framework for marine spatial planning and aims to promote the sustainable development of marine areas, as well as the sustainable use of marine resources. It also sets several minimum requirements including:

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

57. These five strategic objectives are supported by general policies, all being used for context when presenting the sectoral objectives (e.g. offshore wind and marine renewable energy). The NMP sets out ambitions for Scotland's renewables and clean electricity to go beyond the 2020 targets (Marine Scotland, 2015). The NMP is relevant to Ossian as it addresses the potential for interactions between renewable energy development and other marine users, whilst recognising that significant development of the offshore wind energy sector will require investment.

58. The NMP was reviewed in 2021 (Marine Scotland, 2021), covering the following:

- findings set out in the Scottish Marine Assessment (2020);
- existing data monitoring programmes;
- the global climate emergency;
- the COVID-19 pandemic;
- UK Exit from the EU; and
- implications of wider Marine Scotland strategies including the Blue Economy Action Plan and the Future Fisheries Management Strategy.

59. At the time of writing, an updated NMP2 is currently being discussed with relevant stakeholders, with the aim of delivering a plan that considers the changes to the policy and legislative landscape, rapid developments in technology and the need to achieve a green recovery from the COVID-19 pandemic, as well as reflecting the improved understanding of the marine environment and the successful delivery of the Blue Economy Approach (Marine Scotland, 2022).

Sectoral Marine Plan for Offshore Wind Energy

60. The first Sectoral Marine Plan (SMP) for Offshore Wind Energy was adopted in 2011 (Marine Scotland, 2011). This was updated in 2013, when draft wind, wave and tidal SMPs were produced for consultation (Marine Scotland, 2013).

61. Expanding upon the work undertaken in the 2011 and 2013 plans, the SMP for Offshore Wind Energy published in October 2020 includes recent technological, policy, regulatory and market developments to produce a new strategic planning process (Scottish Government, 2020c). The SMP seeks to contribute to the achievement of Scottish and UK energy and climate change policy objectives and targets, through the provision of a spatial strategy to inform the seabed leasing process for commercial offshore wind energy in Scottish waters, which:

- minimises the potential adverse effects on other marine users, economic sectors and the environment resulting from further commercial scale offshore wind development; and
- maximises opportunities for economic development, investment and employment in Scotland, by identifying new opportunities for commercial scale offshore wind development, including deeper water wind technologies.

62. The 2020 SMP for Offshore Wind Energy identified 15 Plan Option (PO) Areas, split across four regions, which can generate several GW of renewable energy. The PO Areas identified were subject to Strategic Environmental Assessment (SEA), Habitats Regulations Appraisal (HRA) and socio-economic assessments, and reports were produced to summarise these.

63. The SMP aims to identify sustainable options for commercial scale offshore wind energy and provides a spatial strategy to inform the seabed leasing process via the identification of PO Areas available for development. It should be noted that the identification of SMP PO Areas does not predetermine decision making processes. The SMP has been developed to ensure consistency with the objectives and principles set out within Scotland's NMP (Marine Scotland, 2015) and the UK MPS (HM Government, 2011). As part of the ScotWind Leasing Round, 20 potential development sites were awarded, with a total generating capacity of just under 27.6 GW. The partnership between SSE Renewables (SSER), Copenhagen Investment Partners (CIP) and Marubeni Corporation were one of these recipients of an Option for Lease in this leasing round with their application for Ossian (Crown Estate Scotland, 2022).

64. In November 2022 a roadmap of actions was published for the SMP, concluding that further verifiable evidence was needed for five of the 15 PO Areas to reduce the risk to seabirds to an acceptable level (Scottish Government, 2022b). The SMP SEA noted that the PO Area which Ossian is located within (the E1 PO Area) was considered to have a likely impact of "*minor negative – moderate negative*" on designated features of protected sites due to the distance offshore making it likely to have a lower bird density (Scottish Government, 2022b). However, the SMP HRA highlighted the developments within the E1 PO Area would be required to reduce the uncertainty regarding the scale of cumulative impacts on seabird species, as well as collect data in relation to seabird densities and behaviours during the non-breeding season (Scottish Government, 2022b).

65. It should be noted that the SMP is subject to an iterative review process to ensure that the SMP and its underpinning assessments are informed by the most up-to-date scientific research and understanding, the spatial/regional context of the SMP (i.e. level of construction, operational and other activity within the region) and the potential transboundary impacts are reflected accurately, and the prevailing market conditions, technological advancements and regulatory environment are reflected in the SMP, including grid connections and connections to coastal infrastructure. To support this iterative review process, requests for new evidence which could impact the implementation of the SMP and resulting development will be submitted to key stakeholder representatives, who form part of the Sectoral Evidence Group, on at least an annual basis. The iterative review of the SMP is expected to take place every two years following adoption (Scottish Government, 2020c). At the time of writing (March 2024), the iterative review process is currently ongoing.

2.3. CONSENTING PROCESS AND ASSOCIATED LEGISLATION

2.3.1. INTRODUCTION

66. This section provides a summary of the consenting process and associated legislative requirements being followed for the Array.

67. As the Array is a generating station with a capacity over 50 MW and located in the Scottish offshore waters (12 nm to 200 nm) within the Scottish Renewable Energy Zone (REZ), it will require the following consents, licenses and permissions:

- a Section 36 consent under the Electricity Act 1989; and
- a marine licence(s) under the MCAA 2009.

68. Should additional pre-construction licences be required, these will be discussed and agreed with the relevant consent authority during the pre-construction phase of the Array.

69. Figure 2.1 illustrates the stages of the licensing process.

2.3.2. SECTION 36 CONSENTS

70. Section 36 consent will allow for the installation, operation and maintenance of the following:

- wind turbines and their supporting structures;
- wind turbine anchors and mooring systems;
- Offshore Substation Platform (OSPs); and
- subsea cabling including inter-array and interconnector cables.

71. A comprehensive description of the Array components is provided in volume 1, chapter 3.

72. Under Section 36B, Scottish Ministers may not grant Section 36 consent where the generating station, whether in the territorial seas or the REZ, would interfere with recognised sea lanes essential to international navigation. Potential impacts on shipping and navigation are considered in volume 2, chapter 13.

73. Schedule 9 of the Electricity Act 1989, in relation to preservation of amenity and fisheries, requires the licence holder, when formulating any relevant proposals to:

- have regard to the desirability of preserving natural and historical features of special interest; and
- do what they reasonably can to mitigate any effects which the proposals would have on such interests.

74. When considering the application for consent under Section 36 of the Electricity Act 1989, the Scottish Ministers must factor in the extent to which there has been compliance with the duty to do what can reasonably be done to mitigate the effects of the proposal. This Array EIA Report sets out in full the assessment and proposed mitigation of any potential environmental effects as a result of the construction, operation and maintenance and decommissioning phases of the Array. Accordingly, the Applicant has acknowledged the benefit of preserving the natural and historical features of special interest and has done what it reasonably can to mitigate any effects which the proposal will have on these interests.

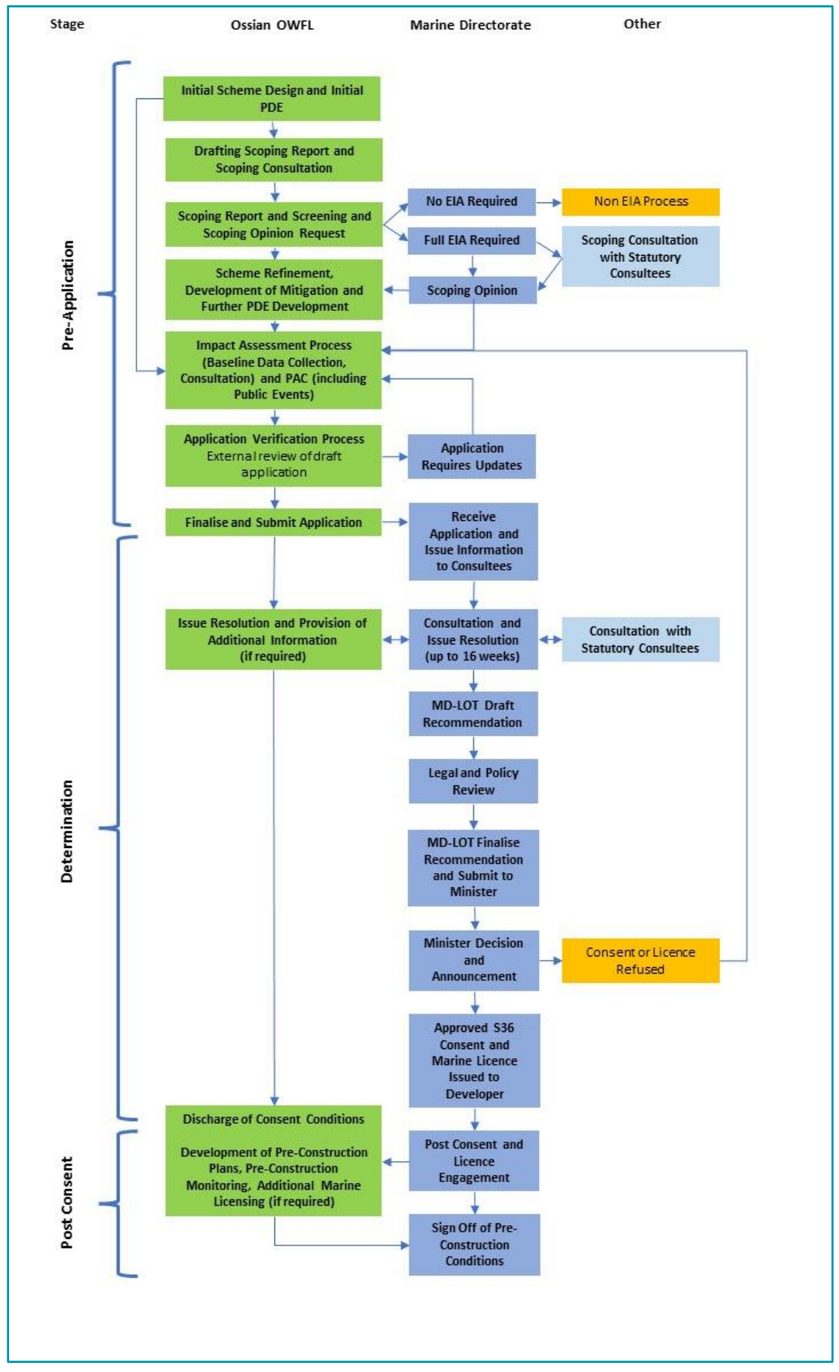

Figure 2.1: Stages of the Licensing Process in Scottish Waters

2.3.3. MARINE LICENSING

75. The MCAA 2009 applies within the REZ in UK offshore waters (12 nm to 200 nm). Under the MCAA 2009 there is the requirement for a marine licence to be obtained prior to the construction, alteration or improvement of any works or deposit of any object in or over the sea, or on or under the seabed (HM Government, 2009e).

76. Infrastructure forming part of the Array, including the wind turbines and blades, along with the cables and all necessary scour and cable protection, which are located within the REZ, will require a Marine Licence under the MCAA 2009. The OSPs within offshore waters also require a Marine Licence under the MCAA 2009.

77. Where applications are made for both a marine licence under the MCAA 2009 and consent under Section 36 of the Electricity Act 1989 where the Scottish Ministers are the determining authority, a note to the Applicant stating that both applications will be subject to the same administrative procedure may be issued. This ensures that the related applications are considered at the same time.

2.3.4. ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS

78. The EIA Directive (2011/92/EU, as amended by Directive 2014/52/EU) has traditionally directed the assessment of effects on certain public and private projects on the environment in Scotland. After EU Exit, EU-derived legislation continues to have effect in domestic law under the European Union (Withdrawal) Act 2018. The Marine Environment (EU Exit) (Scotland) (Amendment) Regulations 2019, which came into force on EU Exit Day (31 January 2020), applied minor changes to the Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 in respect to the Marine Works (Environmental Impact Assessment) Regulations 2007[4]. As such, the EIA Directive continues to apply to any application in Scottish waters for a Section 36 consent and/or marine licence, and continues to set the framework for the EIA process in Scotland.

79. An EIA Report is required to be prepared and submitted to support applications for a Section 36 consent as part of the EIA process, together with a marine licence or planning permission relating to offshore renewable energy developments if the proposed activities are likely to have a significant effect on the environment due to factors such as the size, nature or location of the proposal. The aim of the EIA Directive is to ensure that any consenting authority gives due consideration to likely significant effects (LSE[1]) on the environment when giving consideration to or giving consent for a proposed project. Under the Marine Works (Environmental Impact Assessment) Regulations 2007, an EIA is specifically required (Schedule A2) for installations for the harnessing of wind power for energy production (wind farms) if the project is likely to have significant effects on the environment.

80. Under the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, an EIA is required for the undertaking of any development to provide a generating station which is likely to have significant effects on the environment.

81. The Array meets these criteria and therefore requires an EIA to be completed.

82. This Array EIA Report has been undertaken in accordance with the following regulations and therefore, fulfils their requirements:

- in relation to the Section 36 consent application: The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017; and
- in relation to the marine licence application: The Marine Works (Environmental Impact Assessment) Regulations 2007.

83. Regulation 4 of the Marine Works (Environmental Impact Assessment) Regulations 2007[5] sets out what the environmental assessment process comprises, while Schedule 3 specifies the requirements of the information for inclusion in environmental impact assessment reports.

84. In addition to this, the EIA Report must consider the following factors during the assessment:

- population and human health;
- biodiversity, in particular species and habitats protected under the Habitats Directive;
- land, soil, water, air and climate; and
- material assets, cultural heritage and the landscape[6].

85. These requirements are further detailed within the EIA methodology chapter where relevant (volume 1, chapter 6).

86. The main stages of the EIA process include the following:

- decision to undertake an EIA (screening);
- scoping to determine the subject matter of the EIA and to identify potentially significant effects;
- data review involving compiling and reviewing available baseline data and/or undertaking of baseline surveys to generate site-specific data;
- production of a Project Design Envelope (PDE) and identification of topic-specific Maximum Design Scenarios (MDS), from which the LSE[1] of the development during the construction, operation and maintenance, and decommissioning stages of its life are assessed. Feedback is provided to the design and engineering team(s) to modify the design of the development where practicable in order to avoid, prevent, reduce and/or offset any significant adverse effects on the environment;
- identifying any further mitigation or compensation requirements;
- identifying residual effects;
- preparing the EIA Report (i.e. reporting on the EIA process and continuing with design iteration and consultation);
- consultation with the regulatory bodies, stakeholders and the community, in accordance with all relevant requirements (the Electricity Act 1989, the MCAA 2009, EIA Regulations and the associated regulations and guidance);
- consideration of the EIA Report by the Marine Directorate; and
- controlling and, where necessary, monitoring the effects of the project during construction, operation and maintenance, and decommissioning in accordance with the mitigation measures identified in the EIA Report and/or the requirements identified in the relevant licences which have been drawn from the findings of the EIA.

87. Table 2.3 below outlines where the requirements of Schedule 3 of the Marine Works (Environmental Impact Assessment) Regulations 2007[7] are addressed within the Array EIA Report.

[4] Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017.

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

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

[7] Similar provisions are set out in Schedule 4 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017.

Table 2.3: Where Requirements Under Schedule 3 of The Marine Works (Environmental Impact Assessment) Regulations 2007 are Addressed in the Array EIA Report

Information Required Under Schedule 3 of the EIA Regulations	How Requirements are Addressed in the Array EIA Report
Information Requirement	
A description of the qualifications and experience of the technical authors involved in the preparation of the Array EIA Report.	Qualifications and experience of the relevant technical authors are included in volume 1, chapter 1.
A description of the development and of the regulated activity, including in particular: • a description of the location of the project and regulated activity; • a description of the physical characteristics of the whole project and regulated activity, including where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases; a description of the main characteristics of the operational phase of the project and the regulated activity (in particular any production process): for instance, energy demand and energy used, the nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used; an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases) resulting from the operation of the proposed project and the regulated activity.	The Array EIA Report contains a detailed Project Description (volume 1, chapter 3). This includes details of the physical characteristics and expected residues and emissions of the Array including construction, operation and maintenance, and decommissioning phases. The Array EIA Report also provides consideration of the mitigation measures adopted by the Applicant and will set out the MDS for each topic (volume 2, chapters 7 to 20).
A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the applicant, which are relevant to the proposed project, the regulated activity and their specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.	The Array EIA Report provides detail of the site selection process undertaken by the Applicant, including the consideration of alternatives and the rationale for the selection and progression of the Array (volume 1, chapter 4). A comparison of the environmental effects of alternatives and consideration of potential alternatives for topic specific mitigation is provided, where relevant.
A description of the relevant aspects of the current state of the environment (baseline scenario), and an outline of the likely evolution thereof without implementation of the project, as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.	Each of the technical topics within the Array EIA Report will outline the baseline and provide consideration of the likely future baseline and natural changes which may occur for the given technical topic without the development of the Array.
A description of the factors specified in regulation 21A(2)(a) to (e) likely to be significantly affected by the project and the regulated activity: population, human health, biodiversity (for example, fauna and flora), land (for example, land take), soil (for example, organic matter, erosion, compaction, sealing), water (for example, hydromorphological changes, quantity and quality), air, climate (for example, greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.	The Array EIA Report contains technical chapters with descriptions of the existing conditions and identification of the topic specific receptors which may be impacted by the Array. A stand-alone chapter for human health has not been developed within the Array EIA Report as the Ossian Array Scoping Opinion (MD-LOT, 2023) has confirmed that there are no LSE[1] on human heath, in relation to air and water quality and therefore these can be scoped out of the EIA. A stand-alone chapter for air quality has not been developed within the Array EIA Report as the Ossian Array Scoping Opinion (MD-LOT, 2023) has confirmed that there are no LSE[1] on human health and therefore can be scoped out of the EIA. A stand-alone chapter for water quality has not been developed within the Array EIA Report as the Ossian Array Scoping Opinion (MD-LOT, 2023) has confirmed that there are no LSE[1] on visibility, prey availability and low light levels and therefore these can be scoped out of the EIA. A stand-alone assessment for benthic subtidal ecology has been developed as part of the Array EIA Report (volume 2, chapter 8). A stand-alone assessment for climatic effects has been developed as part of the Array EIA Report (volume 2, chapter 17). A stand-alone assessment for marine archaeology has been developed as part of the Array EIA Report (volume 2, chapter 19).

Information Required Under Schedule 3 of the EIA Regulations	How Requirements are Addressed in the Array EIA Report
A description of the LSE[1] of the project and the regulated activity on the environment resulting from, *inter alia*: • the construction and existence of the project and the regulated activity, including, where relevant, demolition works; the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources; the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste; the risks to human health, cultural heritage or the environment (for example due to accidents or disasters); • the cumulation of effects with other existing or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources; the impact of the project on climate (for example, the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change; and • the technologies and the substances used.	Each of the topic chapters within the Array EIA Report provides an assessment of the LSE[1] for each topic. This assessment follows the process for assessment of significance. Likewise, the Array EIA Report contains the cumulative effects assessment following the EIA methodology outlined in volume 1, chapter 6. The cumulative effects assessment has been developed and can be found in volume 3, appendices 6.4 and 6.5. A stand-alone chapter for human health has not been developed within the Array EIA Report as the Ossian Array Scoping Opinion (MD-LOT, 2023) has confirmed that there are no LSE[1] on human health, in relation to air and water quality and therefore these can be scoped out of the EIA. A stand-alone chapter covering the assessment of marine archaeology has been developed as part of the Array EIA Report (volume 2, chapter 19). A stand-alone chapter covering the assessment of major accidents and disasters has been developed as part of the Array EIA Report (volume 2, chapter 16). A stand-alone chapter covering the assessment of climatic effects has been developed as part of the Array EIA Report (volume 2, chapter 17).
The description of the LSE[1] on the factors specified in regulation 21A(2)(a) to (e) must cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the project and the regulated activity. This description must take into account the environmental protection objectives in retained EU law or under the law of any part of the United Kingdom which are relevant to the project and the regulated activity.	The approach and methodology which has been followed in the Array EIA Report is outlined in volume 1, chapter 6 and covers direct, indirect, secondary, cumulative, transboundary, short term, medium term and long term, permanent and temporary, positive and negative effects of the Array, taking into account environmental protection objectives applicable in law as detailed in this chapter of the Array EIA Report. An assessment of the potential for adverse effects on European and Ramsar site integrity will be presented within the Ossian Array Report to Inform Appropriate Assessment (RIAA) (Ossian OWFL, 2024).
A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.	Each of the topic chapters of the Array EIA Report contain a summary of the topic specific methodology, including modelling methods and an overview of the evidence used and any limitations of the data. There is also consideration of the uncertainty of assessment in each of the topic chapters of the Array EIA Report where assumptions and desk based methods have been used, including a discussion on how this uncertainty has been dealt with (volume 2, chapters 7 to 20).
A description of the measures envisaged to avoid, prevent, reduce or if possible offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example, the preparation of a post-project analysis). That description must explain the extent to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and must cover both the construction and operational phases.	The Array EIA Report contains a detailed Project Description (volume 1, chapter 3), which contains primary 'built in' mitigation measures for the Array. Topic specific mitigation measures are discussed within each relevant topic chapter of the Array EIA Report (volume 2, chapters 7 to 20). Where mitigation measures are required, these are discussed and summarised in volume 3, appendix 6.3, together with how they will be secured, their means of delivery, and how they mitigate the significant effects identified as arising from the Array as well as being discussed, where applicable, in the technical chapters (volume 2, chapters 7 to 20).
A description of the expected significant adverse effects of the project and the regulated activity on the environment deriving from the vulnerability of the project and the regulated activity to risks of major accidents or disasters which are relevant to the project and the regulated activity concerned. Relevant information available and obtained through risk assessments pursuant to retained EU law such as any law that implemented Directive 2012/18/EU of the European Parliament and of the Council on the control of major accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC or Council Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations or UK environmental assessments may be used for this purpose provided that the requirements of any law that implemented the EIA Directive are met. Where appropriate, this description must include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.	Relevant assessments will be carried out in relation to major accidents in the major accidents and disasters chapter (volume 2, chapter 16). This chapter will detail mitigation proposed to reduce significant adverse effects relevant to the Array.
A Non-Technical Summary of the information.	A Non-Technical Summary (NTS) of the Array EIA Report is submitted with this Array EIA Report.
A reference list detailing the sources used for the descriptions and assessments included in the report.	Each topic chapter contains a list of key sources of information used to support the development of the technical assessment. Further, all cited literature and webpages are detailed in a bibliography that will be part of each chapter and appendices in the Array EIA Report. Project specific data such as survey data is discussed in the relevant topic chapter, with a full survey report appended to the Array EIA Report.

2.4. OTHER CONSENTS AND LEGISLATION

2.4.1. THE HABITATS AND BIRDS DIRECTIVES

88. The Council Directive (92/43/EEC) (the Habitats Directive) was adopted in 1992, offering a means for the EU to meet its obligations under the Bern Convention. The Habitats Directive provides for the conservation of natural habitats and of wild flora and fauna, including offshore waters. This protection is granted through the designation of European sites and European Protected Species (EPS).

89. The European Directive (2009/147/EC) on the conservation of wild birds (The Birds Directive) provides a framework for the conservation and management of wild birds in Europe, including their eggs, nests and habitats.

90. The UK is no longer an EU Member State. Notwithstanding this, the Habitats Directive (and transposed Regulations) continue to provide the legislative backdrop for HRA in the UK through the EU (Withdrawal) Act 2018 and the EU Exit Regulations. The HRA process implemented under the Habitats Directive continues to apply (subject to minor changes effected by the EU Exit Regulations) and the UK is bound by HRA judgments handed down by The Court of Justice of the European Union (CJEU) prior to 31 December 2020[8].

91. The Directives were transposed into Scottish law by various regulations (collectively known as the Habitats Regulations), with those of relevance to the Array listed below:

- the Conservation of Habitats and Species Regulations 2017 – transposes the Habitats Directive in England and Wales. Applies in Scotland in relation to certain activities (reserved matters), including consents granted under Sections 36 and 37 of the Electricity Act 1989; and
- the Conservation of Offshore Marine Habitats and Species Regulations 2017 – applies to Scottish waters beyond 12 nm.

92. Under the Habitats Regulations, a network of protected sites for birds and certain habitats and species have been established in the UK. Following EU Exit, the network of sites is collectively known as the Natura 2000 network (where the sites are located within Member State countries) and the National Site Network (or UK Site Network[9]) where the sites are located within the UK. These sites are hereafter collectively (whether located in the UK or the EU) referred to as 'European sites' and include:

- Special Areas of Conservation (SACs), candidate SACs or proposed SACs (pSACs);
- Special Protection Areas (SPAs) or proposed SPAs (pSPAs);
- Sites of Community Importance (SCIs); and
- Ramsar sites (where also designated as one of the above).[10]

Habitats Regulations Appraisal

93. In situations where a plan or project is likely to have a significant effect on a European site, the competent authority (Marine Directorate) is required, under the Habitats Regulations, to carry out an 'appropriate assessment'. The Habitats Regulations require sufficient information to be provided to the competent authority to allow it to assess if there are likely to be any significant effects, and to carry out the appropriate assessment (and any subsequent stages of the HRA), where necessary, as part of an HRA. This information, and the legislative and policy background to the assessment, is provided by the Applicant in the Ossian Array Report to Inform Appropriate Assessment (RIAA) (Ossian OWFL, 2024) which accompanies this Array EIA Report and has not been re-iterated here. There is an overlap between the information presented to support the baseline in the Array EIA Report and the HRA, and between some of the assessments undertaken, although the appropriate thresholds and benchmarks (tests) are applied appropriately and independently to each assessment. The main international and national policy and legislation that form the framework for the consideration of nature conservation designations in relation to the Array are set out in the relevant topic chapters (volume 2, chapters 7 to 20).

2.4.2. EUROPEAN PROTECTED SPECIES LICENCE

94. European Protected Species (EPS) are animals and plants (species listed in Annex IV of the Habitats Directive and referred to in the schedules of the Habitats Regulations) that are provided protection under the Habitats Regulations. All cetacean species (whales, dolphins and porpoises) are EPSs. If an activity is likely to cause disturbance or injury to an EPS, a licence is required to legally undertake the activity.

95. Activities that can be licensed under EPS licences include those such as underwater noise disturbance to marine mammals due to geophysical surveying. EPS licences are obtained from NatureScot or the Scottish Ministers, depending on the reason for the licence application. The granting of such a licence is separate to the main Section 36 and Marine Licence application process.

2.4.3. ENERGY ACT 2004

Safety zones

96. Safety zones are intended to assure the safety of renewable energy installations, or other installations in the vicinity, during the different phases of a project. As a result, they may exclude non-project vessels from navigating through a designated area for a designated period.

97. The safety zone scheme, as set out in the Energy Act 2004 (hereafter referred to as the 'Energy Act') and the Electricity (Offshore Generating Stations) (Safety Zones) (Applications Procedures and Control of Access) Regulations 2007, applies to territorial waters (within 12 nm) in Scotland and to waters in the UK REZ. This scheme applies to all Offshore Renewable Energy Installations (OREIs) but not to offshore export cables or inter-array cables (DECC, 2011).

98. The Scotland Act 2016 amends the Energy Act 2004, devolving functions to Scottish Ministers in relation to the declaration of safety zones around offshore renewable energy developments in Scottish offshore waters.

99. Further information on safety zones can be found in volume 1, chapter 3 and in volume 2, chapter 13.

Decommissioning

100. Sections 105 to 114 of the Energy Act (as amended by the Energy Act 2008 and the Scotland Act 2016) contain statutory requirements relating to the decommissioning of OREIs and their respective electricity lines. Under the terms of the Energy Act, Scottish Ministers may require a person who is responsible for these installations or lines in Scottish waters or in a Scottish part of a REZ to prepare (and carry out) a costed decommissioning programme for submission to, and approval by, Scottish Ministers (Scottish Government, 2022c).

101. The responsibilities and powers associated with decommissioning for OREIs within Scottish waters transferred from the Secretary of State to Scottish Ministers in April 2017. Up to this point, BEIS was responsible for requiring decommissioning programmes and securities for OREIs (Scottish Government,

[8] The UK Supreme Court may overturn binding pre-EU Exit case law if they consider it 'right to do so'

[9] The term "national site network" is used in the Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and Species Regulations 2017. The two terms refer to the same network of sites (Scottish Government, 2020d).

[10] Whilst not defined as 'European sites' under the Habitats Regulations, Policies 4(b) and (c) of NPF4 extend the same protection to pSPAs, pSACs and Ramsar sites as a matter of policy.

2022c). As part of this change in responsibilities, Marine Directorate are working towards the establishment of robust policies and procedures covering decommissioning, including securities, for offshore wind, wave and tidal projects. Consultation on future plans for decommissioning for OREIs in Scottish waters ended in March 2020, and guidance was finalised and shared with the industry (Scottish Government, 2022c) as described in paragraph 102.

102. The offshore renewable energy decommissioning guidance (Section 5 – Submission, approval and review of decommissioning programmes) states that "*an indication of the decommissioning proposals should be included as part of the statutory consenting or licensing process so that the feasibility of removing the infrastructure can be assessed as part of the application process".* Furthermore, it states that "*a full description should be provided, supported by diagrams, of all items associated with the generating station to be decommissioned*" prior to construction, and that *"the Scottish Ministers expect that decommissioning programmes should be submitted for approval no later than six months in advance of construction, and that the first drafts should be submitted about 18 months in advance*" (Scottish Government, 2022c).

103. Scottish Ministers also have the power to determine specific approaches to decommissioning, including specifying what form, timing and size of financial securities are necessary. The expected content of a decommissioning programme includes:

- decommissioning standards;
- financial security;
- residual liability; and
- industry cooperation and collaboration.

2.4.4. MARINE STRATEGY FRAMEWORK DIRECTIVE

104. The Marine Strategy Framework Directive (MSFD) came into force on 15 July 2008 and was transposed into UK law by the Marine Strategy Regulations in 2010. The UK's approach and targets for achieving Good Environmental Status (GES) by 2020 were outlined subsequently in a "*UK programme of measures"* (Department for Environment, Food and Rural Affairs (DEFRA), 2015). To follow this approach, all developments must comply with the regulatory regime, and regulatory assessments must take full consideration of any potential impacts that may compromise GES. This is currently implemented in the UK through the Marine Strategy Regulations SI 2010/1627. Slight amendments have been made to this guidance after EU Exit and are listed below (Scottish Government, 2020d):

- Requirements to notify and report to European Commission have been removed, with amendments made to provisions in relation to public participation.
- References to 'Member States' in certain Marine Strategy Regulations should be read as if the UK were still a member state. When document refers to 'other Member States' this now refers to EU Member States.
- Functions previously relating to European Commission have been transferred to relevant UK authorities and bodies.
- Where guidance refers to 'Natura 2000' these sites are now part of a UK-wide network (national site network) including SAC's and SPA's designated before and after EU Exit.

2.4.5. MARINE PROTECTED AREA REGULATIONS

105. The Marine (Scotland) Act 2010 and the MCAA 2009 introduced arrangements to aid the management of Nature Conservation Marine Protected Areas (MPAs). Under section 126 of the MCAA 2009 and section 83 of the Marine (Scotland) Act 2010, Marine Directorate - Licensing Operations Team (MD-LOT), as the public authority, are obligated to consider if an activity is capable of affecting (other than insignificantly) a protected feature of a NC MPA, or any ecological or geomorphological process, on which the conservation of any protected feature of a NC MPA is dependent.

106. MD-LOT must not grant authorisation for the activity unless the person applying for the authorisation satisfies MD-LOT that either (a) there is no significant risk of the activity hindering the achievement of the conservation objectives for the NC MPA; or (b) there is no other means of proceeding with the activity which would create a substantially lower risk of hindering the achievement of those objectives, that the benefit to the public of proceeding with the act clearly outweighs the risk of damage to the environment that will be created by proceeding with it, and that the person will undertake measures of equivalent environmental benefit to the damage which the act will or is likely to have on the NC MPA concerned. If MD-LOT believe that there is, or may be, a significant risk of the proposal hindering the achievement of the conservation objectives, then they must notify the appropriate statutory conservation bodies (NatureScot for MPAs within 12 nm or the Joint Nature Conservation Committee (JNCC) for MPAs out with 12 nm) of that fact.

2.4.6. PRE-APPLICATION CONSULTATION

107. Where an activity is planned within the Scottish territorial waters, the Marine Licensing (Pre-application Consultation (PAC)) (Scotland) Regulations 2013 apply. There is no provision for PAC in the MCAA 2009, so these requirements are not applicable in respect of relevant applications in the Scottish Offshore Region. Consultation during the pre-application stage for Section 36 consent applications is not a statutory requirement, however, the principles of the PAC Regulations will be followed for all offshore components of the Array. The stakeholder engagement and public consultation carried out in relation to the Array is detailed in volume 1, chapter 5.

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