



# Morven South Offshore Wind Array Project

Environmental Impact Assessment Report

Volume 1, Chapter 2: Policy and Legislation

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## Table of contents

<b>2</b>	<b>Policy and Legislation .....</b>	<b>1</b>
2.1	Introduction.....	1
2.2	Climate change policy, legislation and the need for the development.....	1
2.2.1	International commitments.....	1
2.2.2	European policy and legislation (including EU Exit) .....	2
2.2.3	UK policy and legislation .....	2
2.2.4	Scottish policy and legislation .....	4
2.3	Marine planning framework.....	5
2.3.2	UK Marine Policy Statement .....	6
2.3.3	Scottish National Marine Plan .....	6
2.3.4	Sectoral Marine Plan for Offshore Wind.....	8
2.4	Consenting process and legislative background .....	8
2.4.1	Consenting process for infrastructure in Scottish Offshore Waters .....	8
2.4.2	The Electricity Act 1989 .....	9
2.4.3	Marine and Coastal Access Act 2009 .....	9
2.4.4	Environmental Impact Assessment Regulations.....	9
2.4.5	The Energy Act 2004 (as amended) .....	10
2.4.6	Habitats Regulations .....	12
2.4.7	European Protected Species.....	13
2.4.8	Priority Marine Features .....	13
2.4.9	Marine Strategy Framework Directive .....	13
2.4.10	Marine Protected Areas .....	14
2.4.11	Wildlife and Countryside Act 1981 .....	14
2.4.12	Pre-Application Consultation .....	14
2.4.13	National Planning Framework 4 .....	14
2.5	References .....	16

## List of tables

Table 2.1: High-level draft objectives from National Marine Plan 2 Planning Position Statement (Scottish Government, 2024c).....	7
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## 2 Policy and Legislation

### 2.1 Introduction

2.1.1.1 This chapter of the Morven South Offshore Wind Array Project (hereafter “Morven South”) Environmental Impact Assessment (EIA) Report (hereafter, the EIA Report) presents a summary of the key policies and legislation relevant to Morven South. This includes both Scottish and wider United Kingdom (UK) policies and legislation in relation to planning, consenting and climate change as well as setting out the need for the project in a policy context, including associated consent and licensing requirements.

2.1.1.2 The chapter follows the following general structure:

- International policy, legislation and obligations relating to renewable energy, offshore wind and climate change.
- UK and Scottish policy, legislation and obligations relating to renewable energy, offshore wind and climate change including marine planning.
- Scottish offshore wind specific policy, legislation and guidance relating to consenting including coverage of construction, operations and maintenance (O&M) phases of the project.
- Any other relevant consents and legislation.

2.1.1.3 Where specific policies apply to specialist topics and associated assessments and considerations, these will be specifically covered within the relevant topic chapter, as opposed to this chapter. This extends to any onshore policy which may require to be covered in terms of potential impacts for specific topic receptors.

2.1.1.4 Legislation and policy will be appropriately listed and referenced, where these have been amended this will also be set out.

## 2.2 Climate change policy, legislation and the need for the development

### 2.2.1 International commitments

2.2.1.1 The Climate Change Act 2008 transposes into UK law the commitments made following signature of the Kyoto Protocol, which came into effect in 2005. This protocol sets international binding greenhouse gas (GHG) emission reduction targets and was transcribed into UK and Scottish law.

2.2.1.2 The Paris Agreement 2016 (Paris Agreement Under the United Nations Framework Convention on Climate Change) is a legally binding global climate deal, agreed at the Paris Climate Conference (COP), which came into force on 4 November 2016. Generally, this agreement aims to improve resilience to climate change impacts and provide support to developing countries to implement climate change mitigation. The targets in this agreement supersede those made in the Kyoto Protocol, aiming to keep the global temperature to below 2°C above pre-industrial levels, and limit global warming to 1.5°C.

2.2.1.3 In December 2023, COP28 was held in Dubai with a focus on the goal of starting a transition towards renewable energy generation such as wind and solar (UNFCCC, 2023a). This collective move towards this goal was acknowledged by 133 countries (including the UK) signing the Global Renewables and Energy Efficiency Pledge which was a commitment to tripling the global renewable energy capacity by 2030 through:

- accelerating permitting of renewable projects and infrastructure;
- developing and expanding grid connections;
- providing clarity on market design and incentive schemes in renewables and energy efficiency;
- promoting energy efficiency, electrification and energy demand management;
- raising public awareness and encouraging behaviour change;
- encouraging private investment; and

- enhancing new technological solutions (UNFCC, 2023b).

2.2.1.4 COP29, which closed in November 2024, saw all countries reminded that in 2025, stronger climate plans were due; the UK delegation clearly signalled that the UK plans to ramp up climate actions because delivering these actions will be entirely in the interests of the UK economy and peoples (UNFCC, 2024).

2.2.1.5 In January 2026, the UK and Europe signed the Hamburg Declaration (HM Government, 2026) at the North Sea Summit. This historic, clean energy security pact intends to deliver major offshore wind projects in shared waters and reaffirms the existing ambition to build 300GW of offshore wind in the North Sea by 2050 (which was pledged three years ago by North Sea countries).

## **2.2.2 European policy and legislation (including EU Exit)**

2.2.2.1 The UK officially left the European Union (EU) (hereafter referred to as “EU Exit”) on 31 January 2020 after triggering Article 50 of the Lisbon Treaty. Since the EU Exit, the UK Government has maintained environmental commitments made, along with the legislation enacted after the departure of the UK from the EU, according to the European Union (Withdrawal) Act 2018 (HM Government, 2018).

2.2.2.2 The Scottish Government’s alignment with EU law is detailed in the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 which outlines the Scottish Ministers’ ability to make supporting legislation on devolved Scots law (of which environment is included), wherever appropriate, to align with EU law (Scottish Government, 2022a).

## **2.2.3 UK policy and legislation**

### ***The Climate Change Act 2008***

2.2.3.1 The Climate Change Act 2008, as amended by the Climate Change Act 2008 (2050 Target Amendment) Order 2019, sets an emission reduction target of 100% by 2050 against the 1990 baseline for Carbon Dioxide (CO<sub>2</sub>) and other GHGs (HM Government, 2008). The establishment of this act marked the start of the UK’s adopted policies to address the climate emergency and made the UK the first Group of Seven (G7) nation to set a climate change goal in reference to the Kyoto Protocol.

2.2.3.2 As required by the Climate Change Act 2008, the Carbon Budget Delivery Plan (HM Government, 2023c) outlines a package of measures and associated timings, and details how they will contribute to meeting the UK’s 4th to 6th Carbon Budget. The ability to meet future Carbon Budgets requires the delivery of further offshore wind development, including the goal to deliver up to 50GW of offshore wind by 2035.

2.2.3.3 To support the Climate Change Act 2008, the Energy Act 2013 encourages low-carbon electricity generation within the UK and aids the goals set for low-carbon industries. The Energy Act 2013 provides the framework for setting a decarbonisation target of 2030 for electricity generation within the UK and includes a framework for Energy Market Reform (EMR) to help deliver low-carbon electricity generation while reducing costs for consumers (HM Government, 2013). The EMR included the implementation of Contracts for Difference (CfD) which aims to provide long-term price stabilisation and low-carbon energy investment. To further support the Climate Change Act 2008, the Energy Act 2023 encourages the development of hydrogen, Carbon Capture and Storage (CCS) and heat infrastructure within the UK. The Energy Act 2023 aims to increase the resilience of energy systems across the UK, support the delivery of the UK’s climate change commitments and reform the UK’s energy system, while also minimising cost to consumers and providing protection from unfair pricing (HM Government, 2023a). The Energy Act 2023 is anticipated to be accompanied by a raft of secondary legislation and guidance, which will provide further details on the implementation and operation of the new regimes and measures, and which will have relevance to offshore wind.

2.2.3.4 Part 13 of the Energy Act 2023 also delivers the UK Government's Offshore Wind Environmental Improvement Package initiative, which aims to significantly reduce the offshore wind consenting process while also ensuring protection for marine ecosystems surrounding offshore wind developments. Key elements of the Offshore Wind Environmental Improvement Package include The Conservation of Habitats and Species (Offshore Wind) (Amendment etc.) Regulations 2026 (due to come into force 21 May 2026), which will amend existing elements of the Habitats Regulations (discussed further in section 2.4.6) for offshore wind projects, including introducing a compensation hierarchy allowing for approval of offshore wind projects provided appropriate compensation measures are secured, disapply certain duties in the interests of proportionality and add in further flexibility with regard to compensation by introducing a compensation hierarchy. This may involve new strategic compensatory measures to enable collaboration between developers and the UK Government to compensate for negative environmental effects which cannot be avoided or mitigated, via the Marine Recovery Fund, with the aim to help to deliver the strategic measures for any adverse environmental impacts arising from an offshore wind development.

#### ***UK Offshore Wind Sector Deal (withdrawn)***

2.2.3.5 In March 2019, the UK Government and the Offshore Wind Industry Council (OWIC) signed the UK Offshore Wind Sector Deal (HM Government, 2019). The Sector Deal is a long-term strategy which sets out an ambitious partnership between government and industry to raise the productivity and competitiveness of UK companies to ensure the UK continues to play a leading role as the global market grows in the decades to come. The Sector Deal aims to maximise the advantages for UK industry in the shift to net zero by providing clarity on future CfD rounds, increasing UK content of offshore wind to 60% by 2030 and increasing investment in UK supply chain. The ongoing development of the renewable energy sector will be required to meet these targets, with offshore wind playing a significant role as the development and operation costs are reduced. The UK Offshore Wind Sector deal was withdrawn on 26 June 2025, when the government published its Modern Industrial Strategy (see below for further details).

#### ***British Energy Security Strategy***

2.2.3.6 In 2022, UK Government published the British Energy Security Strategy (HM Government, 2022) in response to global rises in energy costs. It sets out the UK ambition to deliver 50GW of offshore wind energy by 2030. This is an increase of 10GW of offshore wind when compared to the Net Zero Strategy: Build Back Greener policy set out in 2021 (HM Government, 2021). The British Energy Security Strategy also sets out steps that the UK Government aims to take to reduce the time taken to develop and deploy offshore wind projects (HM Government, 2022).

#### ***Offshore Wind Net Zero Investment Roadmap***

2.2.3.7 The Offshore Wind Net Zero Investment Roadmap, published by the UK Government in 2023 emphasised the UK's ambitions to reach up to 50GW of offshore wind deployment by 2030 and how it aims to ensure investments will further support the sector through streamlining of planning, supporting sustainability and development of facilitatory infrastructure (HM Government, 2023b).

#### ***Powering Up Britain policy papers***

2.2.3.8 The Department for Energy Security and Net Zero (DESNZ) published the Powering Up Britain policy papers including an Energy Security Plan and Net Zero Growth Plan in 2023 (DESNZ, 2023). These policies aim to encourage the use of renewable energies, including from Offshore Wind Farms (OWF), as part of a solution to the climate emergency and details how the UK Government will improve energy security, take advantage of the economic opportunities of the transition to low-carbon energy generation and deliver on the commitment to achieving net zero by 2050. Offshore wind is a key element of these publications which includes the commitment made in the British Energy Security Strategy for 50 GW of offshore wind by 2050 and details on the boost to the supply chain, through initiatives such as the Offshore Wind Manufacturing Investment Scheme alongside highlighting planning reform which includes streamlining the offshore wind consenting process and

the measures within in the Offshore Wind Environmental Improvement Package, contained within the Energy Act 2023.

### ***UK Modern Industrial Strategy***

- 2.2.3.9 The Industrial Strategy is a 10-year plan to increase business investment and grow the industries of the future in the UK. It is intended for the Strategy to make it quicker and easier for business to invest and will provide the certainty and stability needed for long-term investment decisions. The Strategy identified eight sectors that have the greatest growth potential over the next decade and a critical role to play in supporting economic security and resilience, net zero and regional growth. The Clean Energy Industry was identified as one sector, with the ambition for the clean energy industries sector to double in investment levels across clean energy industries to over £30 billion per year by 2035.
- 2.2.3.10 The Clean Energy Industries Sector Plan (HM Government, 2025) was launched in 2025 as a plan to create investment, growth and good jobs in clean energy industries and focuses on eight priority sectors, including wind. It aims to create jobs across the country and position the UK as a global leader in clean energy with key areas of focus being grid reform, financing and market support, carbon capture and net zero strategy with emphasis placed on the importance of a skilled workforce and the need for resilient and prosperous supply chains.

### ***Clean Power 2030 Action Plan: A new era of clean electricity***

- 2.2.3.11 In addition, the Clean Power 2030 Action Plan: A new era of clean electricity was published by DESNZ in December 2024, supported by the Scottish Government. It details the strategy to secure a sustainable and resilient energy system by 2030, aiming to reduce reliance on gas-fired power/generating stations and promote clean energy investments while streamlining the planning processes to achieve these aims. The primary aim is for the UK to achieve clean power by 2030, to increase energy security and improve affordability, while reducing greenhouse gas emissions. The Action Plan seeks to have 43GW to 50GW of offshore wind in 2030 and considers offshore wind to play “a particularly important role as the backbone of the clean power system” (DESNZ, 2024).

## **2.2.4 Scottish policy and legislation**

- 2.2.4.1 The challenges associated with climate change, energy supply and security of supply are driving government policy and decision making on renewable energy developments. As a result, there are a variety of national policies, strategies and regulations relating to climate change and the development of renewable energy in Scotland.
- 2.2.4.2 The Climate Change (Scotland) Act 2009, as amended by the Climate Change (Emission Reduction Targets) (Scotland) Act 2019, sets out a legally binding target to decrease GHG emissions by 100% from 1990 levels by 2045. The act relies on the Scottish Ministers and other public entities to ensure that future developments are made sustainably and that low emission options are encouraged. This act is also in accordance with the Paris Agreement goals of limiting global warming levels to below 2°C, while pursuing efforts to stop them reaching over 1.5°C. The Scottish Emissions Reductions Targets aimed to reduce GHG emissions by at least 75% by 2030, 90% by 2040, and fully to net zero by 2045. However, the Scottish Government has since dropped the interim 2030 target, stating that the Climate Change Committee had advised that the target was beyond their recommendation and is now beyond what can be achieved. The targets of 90% reduction by 2040 and fully net zero by 2045 are still being pursued (Scottish Government, 2024a).
- 2.2.4.3 The Scottish Energy Strategy: The Future of Energy in Scotland (Scottish Government, 2017), presented the plan for decarbonising and improving energy infrastructure within Scotland including a 2030 and 2050 vision for Scotland to deliver secure, affordable, clean energy for Scotland's households, communities and businesses. In setting out this vision the strategy relies on future delivery of renewable energy with a target of the equivalent of 50% of the energy for Scotland's heat, transport and electricity consumption to be supplied from renewable sources by 2030. Also

emphasised is the importance of CfD auctions for Scottish offshore wind projects and outlines how the same process can be used and expanded upon for future marine energy developments.

- 2.2.4.4 In April 2019, the First Minister of the Scottish Government declared a climate emergency, which was followed by the UK Parliament declaring a climate emergency, along with an environmental emergency, through an opposition motion in May 2019 (Scottish Government, 2019; UK Parliament, 2019). These announcements demonstrate the UK and Scottish Governments' commitment to tackling climate change, which is further demonstrated through the policies outlined within this chapter.
- 2.2.4.5 The Offshore Wind Policy Statement (OWPS) (Scottish Government, 2020a) details expectations for offshore wind developments in the future and how they can help the Scottish Government reach its Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 goals. The OWPS builds on the renewable energy targets outlined in the Scottish Energy Strategy (Scottish Government, 2017).
- 2.2.4.6 After the United Nations (UN) warned that during the next five years global temperatures were likely to breach the target to limit global warming to less than 1.5°C, the Scottish Government released a statement that 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 as being capable of providing a significant contribution towards such commitments (Scottish Government, 2023b).
- 2.2.4.7 The Update to the 2020 Offshore Wind Policy Statement: Scotland's Offshore Wind Ambition (Scottish Government, 2026) was published in January 2026 and sets out an increased offshore wind ambition for Scotland, and reflects and underlines the commitment to delivering the existing project pipeline at scale, including all ScotWind and INTOG projects. This includes a reset of the Scottish Government's offshore wind policy ambition to deliver up to 40GW of new offshore wind capacity by 2040, in addition to the already operational or consented capacity (as of August 2025 at the end of consultation). The updated ambition reaffirms the Scottish Government's commitment to supporting the delivery of the existing project pipeline, clarifies that no further offshore wind leasing rounds are planned in the near term and establishes a clear timetable of 2040, rather than 2035-2040. In addition, a number of additional actions have been committed to, in order to realise the full potential of Scotland's offshore wind sector.
- 2.2.4.8 On 10 January 2023, the Scottish Government published the 'Energy Strategy and Just Transition Plan' for consultation, which will eventually replace the Scottish Energy Strategy (Scottish Government, 2023c). The Draft Strategy and Plan sets out a "clear policy position and a route map of actions with a focus out to 2030 that the Scottish Government will take and the changes that the UK Government must deliver", while establishing a vision that by 2045 "Scotland will have a flourishing, climate friendly energy system that delivers affordable, resilient and clean energy to Scottish households, communities and business". Consultation on the draft Energy Strategy and Just Transition Plan closed in May 2023 with anticipated publication of the final version of the document in late 2024. At the time of writing (March 2026) a final version has not been published.

## 2.3 Marine planning framework

- 2.3.1.1 Scottish marine planning is governed by two acts: the Marine (Scotland) Act 2010 for Scottish Territorial Seas (out to 12nm); and the Marine and Coastal Access Act 2009 (MCAA) 2009 for Scottish Offshore Waters (between 12nm to 200nm). Given the location of the Morven South site, the Marine (Scotland) Act 2010 is not considered below, aside from offering context for the policy hierarchy as set out.
- 2.3.1.2 The two acts established a legislative framework for marine planning to enable demands on the marine environment to be managed in a sustainable way, while providing a regulatory framework for licensing marine developments.

2.3.1.3 A tiered approach is set out to developing marine planning in the UK and Scotland. The framework includes the following elements:

- UK Marine Policy Statement (MPS);
- Scottish National Marine Plan (NMP);
- Sectoral Marine Plan for Offshore Wind Energy (SMP-OWE);
- Regional Marine Plans (RMPs).

## 2.3.2 UK Marine Policy Statement

2.3.2.1 The UK MPS (UK Government, 2011), prepared under the MCAA (2009), was created by the UK Government and adopted by the devolved administrations including the Scottish Government. The UK MPS provides a framework for preparing marine plans within the UK and for taking decisions on matters affecting the marine environment in the absence of adopted marine plans.

## 2.3.3 Scottish National Marine Plan

2.3.3.1 The Scottish Government adopted and published the first NMP (Scottish Government, 2015) in March 2015. Within the NMP, policies are provided for developments and use of marine resources in Scottish Offshore Waters out to 200nm from the coast. The Scottish NMP, which is compatible with the UK MPS (UK Government, 2011) and other marine plans, supports marine development in Scottish Offshore Waters while incorporating appropriate protections and safeguards for the environment, other sea users and existing marine activities. There are a number of strategic objectives which aim to deliver a robust approach to managing Scotland's marine area including:

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

2.3.3.2 The NMP provides both general policies to support delivery of strategic objectives, and specific sectoral objectives which may be achievable over the plan period or set direction for longer term goals. The objectives for offshore wind and other marine renewables are:

- sustainable development of offshore wind, wave and tidal renewable energy in the most suitable locations;
- economic benefits from offshore wind, wave and tidal energy developments maximised by securing a competitive local supply chain in Scotland;
- alignment of marine and terrestrial planning and efficient consenting and licensing processes including but not limited to data sharing, engagement and timings, where possible;
- aligned marine and terrestrial electricity transmission grid planning and development in Scottish Offshore Waters;
- contribute to achieving the renewables target to generate electricity consumption from renewable sources by 2020;
- contribute to achieving the decarbonisation target of 50 gCO<sub>2</sub>/kWh by 2030 (to cut carbon emissions from electricity generation by more than four-fifths);
- sustainable development and expansion of test and demonstration facilities for offshore wind and marine renewable energy devices; and
- coordinated government and industry-wide monitoring.

2.3.3.3 The NMP has been reviewed, and the effectiveness of its implementation has been reported on two separate occasions since its adoption. The latest review in 2021, identified that while the plan is still effective, it needs to be updated to account for significant national and global developments, which impact the use and management of Scottish marine resources. Key developments include the withdrawal of the UK from the EU on 31 January 2020, the Global Climate Emergency, Scottish Government's commitment to net zero by 2045, the COVID-19 pandemic, rapid pace of change and interest in the marine sphere and the delivery of the Scotland's Blue Economy approach (Scottish

Government, 2021). The second iteration of the NMP (NMP2), which is currently at an early stage of preparation, is likely to take into account the key elements highlighted in the 2021 review, particularly around the climate emergency. The NMP2 will be supported by a Strategic Environmental Assessment (SEA) and will be informed by the SEA Scoping Report which was consulted upon in 2023 (Scottish Government, 2023e).

2.3.3.4 On 15 August 2024, Scottish Ministers announced an update to the NMP2 development timeline (NMP2 - Stakeholder Engagement Strategy and Statement of Public Participation) (Scottish Government, 2024b). The updated timeline introduces further opportunity for stakeholder engagement as the plan is developed, including consultation on the Planning Position Statement which was released in Autumn 2024 (Scottish Government, 2024c). The Planning Position Statement sets out the intended policy direction for NMP2 in relation to all stakeholder feedback and provides stakeholders with an early opportunity to help shape the plan policies prior to consultation on the draft plan but has not yet commenced. After considering stakeholder feedback, the Planning Position Statement laid out 12 draft high-level objectives, alongside associated policy ideas generated through extensive engagement. These 12 high-level draft objectives can be found in Table 2.1.

**Table 2.1: High-level draft objectives from National Marine Plan 2 Planning Position Statement (Scottish Government, 2024c)**

Theme	Draft high-level objective
Climate Mitigation and Adaptation	Respond to the Global Climate Emergency, achieving net zero by 2045 and realising adaptation opportunities
Ecosystem health, protection and restoration	Respond to the Global Biodiversity Crisis, protecting Scotland's marine and coastal biodiversity
	Restore and enhance Scotland's marine and coastal ecosystem services in line with Scotland's Biodiversity Strategy
Sustainable marine economy	Enable multi-use of Scotland's seas to reduce conflict for marine space
	Safeguard opportunities for marine economic sectors to operate, based on available evidence and in line with Scotland's ambitions
	Enable use of Scotland's seas to support the development of Net Zero sectors in line with Scotland's ambitions
Island and coastal community development	Enhance and safeguard opportunities for sustainable, resilient and diverse marine economies within Scotland's island and coastal communities
Cultural Heritage	Protect, and where appropriate, enhance access to – and appreciation of – Scotland's marine and coastal cultural heritage
Social and Cultural Wellbeing	Facilitate equitable access to Scotland's seas and shared stewardship to benefit wellbeing and to support thriving communities
Implementation	Use evidence-based decision making to manage marine space in line with Scotland's wider ambitions
	Contribute to monitoring and evaluation of NMP2 implementation
Food production	Support the growth and development of sustainable marine food production which supports thriving and resilient communities across Scotland

2.3.3.5 The Planning Position Statement highlighted the Scottish Government's maintained support for sectoral planning for marine renewables (including offshore wind) and a plan-led approach to leasing. Extensive work aims to maximise the benefits of offshore wind and address the social and environmental issues highlighted in Table 2.1.

## **2.3.4 Sectoral Marine Plan for Offshore Wind**

2.3.4.1 The first SMP-OWE (Blue Seas Green Energy) (Marine Scotland, 2011) was adopted in 2011, following which, draft SMPs for wind, wave and tidal were produced in 2013 (Marine Scotland, 2013).

2.3.4.2 Subsequently, in 2017, Crown Estate Scotland (CES) announced their intention to run a leasing round for commercial-scale offshore wind energy projects in Scottish waters, which was named the ScotWind Leasing Round. To inform the spatial development of this leasing round, the Marine Planning and Policy Division of the Scottish Government, undertook a planning exercise to identify areas suitable for the development for offshore wind.

2.3.4.3 The SMP-OWE (Scottish Government, 2020b) built upon the work undertaken in the 2011 and 2013 plans, and incorporated technological, policy, regulatory and market development to create a new strategic planning process. The SMP-OWE seeks to contribute to achieving Scotland's energy and climate change objectives by providing a spatial strategy and was used to inform the ScotWind leasing process which concluded in 2022. A SEA, Habitats Regulations Appraisal (HRA) and Socio-Economic Impact Assessment (SEIA) were carried out for the SMP.

2.3.4.4 In the recent ScotWind Leasing Round process – which the Morven Option Lease Agreement Site (which was subsequently split into Morven North and Morven South) was part of - a total of 20 proposed OWF projects were awarded option agreements within 15 Plan Options Areas (POAs), for a total of 27.6GW of capacity. This includes 17 proposed OWF projects awarded in January 2022, with a further three sites awarded in August 2022 as part of the 'ScotWind Clearing Round'.

2.3.4.5 The SMP is subject to the Iterative Plan Review (IPR) process to ensure that it is underpinned by best available evidence, taking into account updates and progression of developments (e.g. detailed site survey results and assessments for projects, the construction of projects, Innovation and Targeted Oil and Gas (INTOG) leasing round and further changes to policy and regulatory context). Work on the next iteration of the SMP-OWE is underway; a consultation on the Draft Updated Sectoral Marine Plan for Offshore Wind Energy held between 30 May 2025 and 22 August 2025. The consultation draft updated the planning baseline from the 2020 SMP-OWE and, inter alia, sought to "maximise the delivery of low-carbon electricity from OWF in Scottish waters in support of the Scottish Government's target to cut greenhouse gas emission to net zero by 2045 and to do so by maximising the delivery of CES's ScotWind and INTOG leasing rounds between now and 2035." The Consultation Analysis Report for the Draft Updated SMP-OWE (2025) (Scottish Government, 2025) was published in November 2025 and provided a summary of responses to the questions asked within the consultation. In terms of next steps, the draft updated SMP-OWE will be revised to take into account the formal consultation responses with any additional supporting information that may be necessary or available at the time. Any major changes may require further consultation, and no time frame was provided for the final adoption and publication of the updated SMP-OWE.

## **2.4 Consenting process and legislative background**

### **2.4.1 Consenting process for infrastructure in Scottish Offshore Waters**

2.4.1.1 The proposed development is a generating station with a capacity of greater than 50MW located in Scottish Offshore Waters (between 12nm to 200nm) and therefore it requires the following consent and licences:

- a Section 36 Consent under the Electricity Act 1989 for the offshore generating station located in the Morven South Boundary;

- a marine licence for the Morven South generating station (wind turbines, foundation and inter-array cables) under the MCAA 2009;
- a marine licence for the Morven South Offshore Substation Platforms (OSP) infrastructure (OSPs, OSP foundations and interconnector cables within the site boundary) under the MCAA 2009.

2.4.1.2 A decommissioning scheme, as well as any additional pre-construction licences or Safety Zone declarations, will be discussed and agreed with the relevant consenting authority during the pre-construction phase of the proposed development as required.

## **2.4.2 The Electricity Act 1989**

2.4.2.1 Under the Electricity Act 1989, a Section 36 Consent is required for the construction and operation of an energy generation station of capacity greater than 50MW where it is located between 12nm and 200nm off the Scottish coast. The proposed development will have a generating capacity in excess of 50MW, and therefore a Section 36 Consent is required. In accordance with Schedule 9 of the Electricity Act 1989, regard is to be given and reasonable mitigation of any effect of proposals to the desirability of preserving natural beauty, conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. An application for consent has been submitted to MD-LOT, which acts on behalf Scottish Ministers to process the application.

2.4.2.2 During October and November 2024, the UK and Scottish Governments held a consultation on proposals to reform the consenting process under the Electricity Act 1989 for electricity infrastructure in Scotland. Following this consultation, a package of reforms are to be progressed to make the electricity consenting process in Scotland more efficient including to ensure local communities are consulted on project proposals at an early stage. Such reforms include amendments to the pre-application process, including the introduction of mandatory pre-application requirements. The Planning and Infrastructure Bill seeks to deliver the proposed reforms and had its first reading in the House of Commons on 11 March 2025, followed by its second on 24 March 2025. The bill achieved Royal Assent on 18<sup>th</sup> December 2025 and is now the Planning and Infrastructure Act 2025 (HM Government, 2025a).

## **2.4.3 Marine and Coastal Access Act 2009**

2.4.3.1 The MCAA 2009 applies to all UK offshore waters out to 200nm, except Scottish Territorial Seas which are covered by the Marine (Scotland) Act 2010. Under the MCAA 2009 (Part 4) there is the requirement for a marine licence to be obtained prior to the construction, alteration or improvement of any works or deposit any object in or over the sea, or on or under the seabed.

2.4.3.2 Scottish Ministers may grant a marine licence under Part 4 of the MCAA 2009 with consideration of input and recommendations from MD-LOT.

## **2.4.4 Environmental Impact Assessment Regulations**

2.4.4.1 The requirement for EIA in Scotland originates from 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) and the EIA Regulations. When applying for Section 36 Consent or a marine licence as set out in paragraph 2.4.4.3 below, an EIA Report is a requirement to support these applications if Morven South is likely to have a significant effect on the environment due to factors such as the scale, location or nature of the project.

2.4.4.2 Any EU-derived legislation still has effect in domestic law under the European Union (Withdrawal) Act 2018. The Marine Environment (EU Exit) (Scotland) (Amendment) Regulations 2019 has further applied minor changes to regulations, such as the Environment, Food and Rural Affairs (EIA)

(Amendment) (EU Exit) Regulations 2019 with respect to the Marine Works (EIA) Regulations 2017<sup>1</sup>. These changes ensure the continued operability of EIA Regulations to any application in Scottish waters which are seeking a Section 36 Consent and/or a marine licence, as well as continuing to set the framework for the EIA process in Scotland.

2.4.4.3 This Offshore EIA Report has been carried out in accordance with the following regulations (collectively referred to as the EIA Regulations):

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

2.4.4.4 Under the EIA Regulations, an EIA Report is required to be prepared and submitted to support applications for a Section 36 Consent or a marine licence relating to offshore renewable energy developments. The primary objective of EIA is to protect the environment by ensuring that the likely significant environmental effects of a project are properly understood and mitigated where appropriate before relevant consents are granted. An EIA Report is necessary for installations aiming to harness the power of wind for energy production (wind farms) if the project is likely to have significant effects on the environment. As the proposed development meets both of these criteria, an EIA is required as part of the application.

2.4.4.5 The Morven South EIA Report specifically:

- provides detailed technical information to support both statutory and non-statutory consultees in gaining a comprehensive understanding of Morven South, including their design and location;
- presents potential environmental impacts, and proposed mitigation measures, to inform stakeholder consultation;
- current environmental baseline data, gathered through desktop studies, site specific surveys, and consultations;
- explains the EIA methodology used in the assessments;
- describes the potential environmental impacts arising from Morven South, when considering the baseline information and gathered data, and the analysis and impact assessments completed as part of the EIA process;
- carries out an assessment of likely significant effect and considers mitigating actions for these;
- outlines the level of confidence in the data used in the assessment along with any data limitations, including where any data gaps or shortfalls exist;
- recommends embedded mitigation measures designed to avoid, reduce, or offset significant adverse environmental effects, and, where relevant, proposes monitoring strategies to validate the findings. Where additional mitigation is proposed, the residual significance of effects is also presented; and
- justifies the site selection and outlines the reasonable alternatives considered for Morven South.

## 2.4.5 The Energy Act 2004 (as amended)

2.4.5.1 The Energy Act 2004 (as amended) makes provision for, among other aspects, the development, regulation and encouragement of the use of renewable energy sources and giving effect to international agreements relating to pipelines and offshore installations.

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<sup>1</sup> Part 3 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 with part 4 detailing the EIA Report process.

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### **Safety Zones**

- 2.4.5.2 Under Section 95 of the Energy Act, where a renewable energy installation is proposed to be constructed, and the Scottish Ministers consider it appropriate for safety reasons, designated areas may be declared as Safety Zones.
- 2.4.5.3 Safety Zones are intended to ensure the safety of the renewable energy installation or other installations in the vicinity during construction, O&M, extension or decommissioning. Safety Zones may exclude non-OWF vessels from navigating through a designated Safety Zone area for a specific period.
- 2.4.5.4 The proposed development expects to apply for Safety Zones during construction and major maintenance activities, around certain offshore structures (i.e. wind turbines).
- 2.4.5.5 Scottish Ministers have the power to declare Safety Zones around offshore renewable energy developments in Scottish Offshore Waters devolved through the Scotland Act 2016, which was an amendment of the Energy Act 2004.

### **Decommissioning**

- 2.4.5.6 The statutory requirements for the decommissioning of Offshore Renewable Energy Installations (OREIs), and their respective electricity lines, are contained within Sections 105 to 114 of the Energy Act 2004 (as amended by the Energy Act 2008 and the Scotland Act 2016). Under the terms of the Energy Act, any persons responsible for these installations or lines in Scottish waters or in a Scottish part of a Renewable Energy Zone (REZ) can be requested by the Scottish Ministers to prepare, and carry out, a costed decommissioning programme. This decommissioning programme will be prepared for submission to, and approval from, Scottish Ministers (Scottish Government, 2022b).
- 2.4.5.7 In April 2017, the responsibilities and the powers that are associated with decommissioning for OREIs within Scottish waters were transferred from the Secretary of State to Scottish Ministers. There is an aim to establish robust policies and procedures covering decommissioning, which include 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, 2022b).
- 2.4.5.8 This offshore renewable energy decommissioning guidance 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.” Additionally, 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, 2022b).
- 2.4.5.9 The power to determine specific approaches to decommissioning is held by Scottish Ministers, including specifying what form, timing and size of financial securities are necessary. The content expected within decommissioning programmes includes:
- decommissioning standards;
  - financial security;
  - residual liability; and
  - industry cooperation and collaboration.
- 2.4.5.10 Further details on decommissioning can be found in Volume 1, Chapter 3: Project Description.

## 2.4.6 Habitats Regulations

- 2.4.6.1 Article 3 of EU Council Directive 92/43/EEC on the conservation of natural habitats and wild flora and fauna (hereafter referred to as the 'Habitats Directive') required the establishment of a European network of conservation sites, referred to as Special Areas of Conservation (SACs), in order to help protect and conserve habitats and species identified in Annex I and II of the Directive. These habitats and species (excluding birds) were considered to be most at risk at a European level.
- 2.4.6.2 Under Article 4 of the EU Council Directive 2009/147/EC on the conservation of wild birds (hereafter referred to as the 'Birds Directive') lists of vulnerable bird species (detailed in Annex I of the Birds Directive) are provided protection through the implementation of Special Protection Areas (SPAs).
- 2.4.6.3 The requirements of the Habitats and Birds Directive relevant to the proposed development are transposed into the Conservation of Offshore Marine Habitats and Species Regulations 2017 (hereafter referred to as the 'Habitats Regulations').
- 2.4.6.4 By virtue of the Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019, functions relating to SACs and SPAs have been transferred to the appropriate authorities or bodies in the UK/Scotland, as these no longer form part of the EU Natura 2000 Network.
- 2.4.6.5 Instead, the Habitats Regulations have created a UK-wide network of protected sites, including both the inshore and offshore marine areas in the UK, which retain the same protections as previous Natura 2000 sites and is referred to as the National Site Network. It includes all existing SACs and SPAs, and subsequent new SACs and SPAs which may be designated, and continue to be referred to as European Sites. Furthermore, under Scottish Government policy, Ramsar Sites (wetlands of international importance designated under the Ramsar Convention) are also protected under the same statutory regimes.
- 2.4.6.6 Under the Habitats Regulations, Scottish Ministers must consider whether any plan or project, is likely to have a significant effect on a European Site before it can be authorised or carried out. If there is potential for a Likely Significant Effect (LSE) to occur, then an Appropriate Assessment (AA) of the implications on that site and its conservation objectives must be undertaken by the competent authority. This process is known as the HRA.
- 2.4.6.7 The HRA process, comprising Stage 1 (HRA screening) and, if required, Stage 2 AA, must be carried out before consent or authorisation can be given for the proposed development. Permission should only be granted at Stage 2 by the competent authority where it is determined that the plan or project will not result in an adverse effect on the integrity of a designated site either alone or in-combination with other plans and projects, unless a HRA derogation requirements, including the identification of compensation measures, are met. A HRA Stage 1 report was submitted to MD-LOT in July 2023 which screened a number of sites to be progressed into a Report to Inform Appropriate Assessment which has been submitted as part of the application.
- 2.4.6.8 The Scottish Marine Recovery Fund has not yet been fully adopted, however is in the process of being established. The Marine Recovery Fund covering England and Wales was launched in December 2025. Marine Recovery Funds are voluntary funds into which offshore wind developers can pay into, to deliver environmental compensation for their projects unavoidable impacts on Marine Protected Areas (MPAs). Any unavoidable impacts from offshore wind on MPAs must be compensated for appropriately. The Marine Recovery Fund operator will use funds from developers to deliver strategic compensatory measures that can be delivered across multiple offshore wind projects and/or at scale. Interim guidance on the Scottish Marine Recovery Fund was produced in July 2025 (Scottish Government, 2025a), highlighting the intention for a more streamlined process for securing compensation for adverse environmental effects of relevant offshore wind activities.

## 2.4.7 European Protected Species

- 2.4.7.1 European Protected Species (EPS) are species of plants and animals (other than birds) protected by law throughout the EU. They are listed within Annex IV of the Habitats Directive. It is an offence, with certain exceptions, to deliberately or recklessly capture/collect, disturb or injure an EPS.
- 2.4.7.2 Certain activities likely to cause disturbance or injury which would otherwise constitute an offence, can be carried out legally under an EPS Licence, as follows:
- Within Scottish Territorial Seas, an EPS Licence may be required under the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) where there is potential for activities to injure or cause disturbance to an EPS. NatureScot is responsible for the administration of most licences in relation to EPS in Scotland. The exception is for purely marine species for purposes under regulation 44(2)(e) to (f), where MD-LOT on behalf of the Scottish Ministers, is the licensing authority.
  - Within Scottish Offshore Waters (the area between the seaward boundary of Scottish Territorial Seas and the seaward boundary of the Scottish part of the Exclusive Economic Zone (EEZ)), an EPS Licence may be required under the Conservation of Offshore Marine Habitats and Species Regulations 2017 where there is potential for activities to injure or cause significant disturbance to an EPS (defined as a population level effect rather than at the level of individuals). MD-LOT is the licensing authority for these EPS Licences.
  - Guidance from the Scottish Government (2023) states that if an activity taking place in the Scottish Territorial Sea (0nm to 12nm) is likely to cause to disturbance or injury to basking sharks, a licence is required to undertake activity legally. Basking sharks are protected from disturbance in Scotland under the Wildlife and Countryside Act 1981.

## 2.4.8 Priority Marine Features

- 2.4.8.1 Scottish Ministers formally adopted a list of 81 Priority Marine Features (PMFs) in 2014. The PMFs cover a variety of habitats and species that are a priority for conservation in Scottish Offshore Waters. PMFs include a range of intertidal and continental shelf habitats, deep sea habitats, mammals, fish and shellfish and other invertebrates.
- 2.4.8.2 The Priority Marine Features Guidance (Scottish Natural Heritage (SNH), 2016) addresses the policy requirement to conserve and protect PMFs, included in The Scottish Government Strategy for Marine Nature Conservation in Scotland's Seas (Scottish Government, 2010), and the NMP (including via policy Gen 9 Natural heritage) (Scottish Government, 2015).
- 2.4.8.3 It should be noted that some PMFs are already protected as qualifying features of European Sites, or via EPS legislation, and therefore will be considered from the HRA perspective as well as in the EIA where relevant.

## 2.4.9 Marine Strategy Framework Directive

- 2.4.9.1 On 15 July 2008, the Marine Strategy Framework Directive (MSFD) came into force and was officially written into UK law by the Marine Strategy Regulations in 2010. The UK's Good Environmental Status (GES) targets, as well as the approach for achieving these, were outlined in a "UK programme of measures" (Department for Environment, Food and Rural Affairs (DEFRA), 2015).
- 2.4.9.2 When determining whether to grant approval for developments, Scottish Ministers must ensure that in doing so it would not compromise achieving or maintaining GES. This is implemented in the UK through the Marine Strategy Regulations 2010 with some slight interpretation amendments made after EU Exit (Scottish Government, 2020c).

## **2.4.10 Marine Protected Areas**

- 2.4.10.1 The management of Nature Conservation MPAs is aided by arrangements that are laid out in both the Marine (Scotland) Act 2010 and the MCAA 2009. Section 126 of the MCAA 2009 refers to Marine Conservation Zones (MCZs), which by virtue of Section 116 MCAA 2009 are the same as MPAs in Scotland). Under Section 126, 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 Nature Conservation MPA, or any ecological or geomorphological process on which the conservation of any protected feature of a Nature Conservation MPA is dependent.
- 2.4.10.2 Full authorisation for the activity must not be granted by MD-LOT 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 Nature Conservation MPA;
  - B. if there is a significant risk of the activity hindering the achievement of the conservation objectives for the MPA, that: (i) there is no other means of proceeding with the activity which would create a substantially lower risk of hindering the achievement of those objectives, (ii) 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 (iii) the person will undertake measures of equivalent environmental benefit to the damage which the act will or is likely to have on the Nature Conservation MPA concerned.
- 2.4.10.3 If MD-LOT are of the belief that there is, or could be, a significant risk of the proposal hindering the achievement of the conservation objectives, then they are obliged to notify the appropriate statutory nature conservation bodies (NatureScot for MPAs within 12nm or the Joint Nature Conservation Committee (JNCC) for MPAs out with 12nm) of that fact.

## **2.4.11 Wildlife and Countryside Act 1981**

- 2.4.11.1 The Wildlife and Countryside Act 1981 contains provisions to protect native wildlife and their habitats. It was primarily enacted to implement the Birds Directive and the Bern Convention and enhancing the protection of Sites of Special Scientific Interest. The Act controls the release of non-native species and serves as a primary mechanism for wildlife protection in Britain (HM Government, 2025b).

## **2.4.12 Pre-Application Consultation**

- 2.4.12.1 The Marine Licensing (Pre-Application Consultation) (Scotland) Regulations 2013 apply whenever an activity is planned within the Scottish Territorial Seas. However, these requirements are not applicable in respect of relevant applications in the Scottish Marine Region and the Scottish Offshore Region due to their being no provision for statutory Pre-Application Consultation (PAC) in the MCAA 2009. Notwithstanding this, The Planning and Infrastructure Act 2025 received Royal Assent on 18 December 2025, introducing significant updates to the electricity infrastructure consenting process under Section 36 of the Electricity Act 1989. These updates include, amongst other things, proposed provision for pre-application requirements in the form of consultation and information submissions. At the time of writing, these procedures remain as “good practice” for Section 36 applications rather being enshrined in legislation, but this is subject to change with the introduction of public consultation requirements and the need for a statement of consultation and PAC Report expected in the future. At this point, these are not relevant to this application and the consultation work undertaken by Morven South is considered to be more than sufficient.

## **2.4.13 National Planning Framework 4**

- 2.4.13.1 NPF4 was adopted in February 2023 and is the national spatial strategy for Scotland and sets out spatial principles, regional priorities, national developments and national planning policy (Scottish

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Government, 2023e). This includes the overall vision for working towards a net zero Scotland by 2045. The overarching spatial principles are:

- just transition;
- conserving and recycling assets;
- local living;
- compact urban growth;
- rebalanced development; and
- rural revitalisation.

2.4.13.2 Whilst NPF4 is largely onshore focused, Policy 11 supports the development of all forms of renewable, low-carbon and zero emissions technologies, subject to any adverse impacts being addressed and mitigated, both onshore and offshore.

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