






**Cambois Connection – Marine Scheme
Environmental Statement – Volume 2
ES Chapter 2: Policy and Legislative Context**

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Acronyms


Acronym	Description
BBWF	Berwick Bank Wind Farm
BEIS	Department for Business, Energy and Industrial Strategy
CCC	Climate Change Committee
CCS	Carbon Capture and Storage
CES	Crown Estate Scotland
DEFRA	Department for Environment, Food and Rural Affairs
EC	European Commission
ECF	European Climate Foundation
EIA	Environmental Impact Assessment
EPS	European Protected Species
ES	Environmental Statement
EU	European Union
GES	Good Environmental Status
GHG	Greenhouse Gas
HPMA	Highly Protected Marine Area
HRA	Habitats Regulations Appraisal / Assessment
iNDC	Indicative Nationally Determined Contribution
LSE	Likely Significant Effect
MCZ	Marine Conservation Zone
MHWS	Mean High Water Springs
MMO	Marine Management Organisation
MNG	Marine Net Gain
MPA	Marine Protected Area
MSFD	Marine Strategy Framework Directive
MD-LOT	Marine Directorate Licensing Operations Team
MSS	Marine Scotland Science
ncMPA	Nature Conservation Marine Protected Area
NDC	Nationally Determined Contribution
NERC	Natural Environment and Rural Communities Act 2006

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Acronym	Description
NPF4	National Planning Framework 4
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NSIP	Nationally Significant Infrastructure Projects
OCSP	Offshore Converter Station Platform
RBMP	River Basin Management Plan
RIAA	Report to inform Appropriate Assessment
SAC	Special Area of Conservation
SPA	Special Protection Area
TCE	The Crown Estate
UK	United Kingdom
UNFCCC	United Nations Framework Convention on Climate Change
WFD	Water Framework Directive

Units

Unit	Description
%	Percent
C	Degrees Celsius
GW	Gigawatt
km / km ²	Kilometre / Kilometre ²
MtCO ₂ e	Million tonnes of carbon dioxide equivalent
nm	Nautical mile

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2. Policy and Legislative Context

2.1. Introduction

1. This chapter of the Environmental Statement (ES) provides an overview of the legislation and policy relevant to the Marine Scheme (as defined in Volume 2, Chapter 1: Introduction) of the Cambois Connection (hereafter referred to as ‘the Project’). The Marine Scheme will facilitate the export of renewable energy from the generation assets within the Berwick Bank Wind Farm (BBWF), located in the outer Firth, which are the subject of a separate Section 36 consent and Marine Licence applications that were submitted to Marine Directorate Licence Operations Team (MD-LOT) in December 2022. The Offshore Export Cables for the Marine Scheme will connect into the offshore converter station platforms (OCSPs) located within the BBWF array area.
2. The Marine Scheme is required in addition to the existing planned grid connection to Branxton, East Lothian to enable the BBWF to reach full generating capacity by 2030. As detailed in section 2.2, the Marine Scheme will contribute to realising renewable energy capacity in the United Kingdom (UK) and will help reach the Scottish Government offshore wind capacity targets. This in turn will contribute to the UK’s international and domestic climate change commitments. For further details on the needs and objectives of the Cambois Connection, refer to Volume 2, Chapter 6: Route Appraisal and Consideration of Alternatives.
3. The Marine Scheme extends from Scottish to English waters and therefore this chapter considers all of the following:
 - International and domestic climate change commitments which aim to reduce greenhouse gas (GHG) emissions, in the context of avoiding emissions through investment in renewable energy (section 2.2);
 - Legislation and Policy (including Marine Planning) relevant to climate change and renewable energy relevant to the elements of the Marine Scheme in Scottish offshore waters (section 2.3); and
 - Legislation and Policy (including Marine Planning) relevant to climate change and renewable energy relevant to the elements of the Marine Scheme in English territorial and offshore waters (section 2.4).
4. Policy and legislation relating to specific EIA topics is provided in the relevant technical chapters (Volume 2, Chapters 7 to 15) of the Marine Scheme ES.
5. An overview of the EIA legislative requirements applicable to the Marine Scheme is provided in section 2.2, section 2.3 (as applicable only to Scottish offshore waters) and section 2.4 (as applicable only to English territorial and offshore waters), and details of other consents and legislation that relate to the Marine Scheme are provided in sections 2.6 to 2.8.

2.2. International and Domestic Climate Change Commitments


6. The Kyoto Protocol is an international agreement linked to the United Nations Framework Convention on Climate Change (UNFCCC) which commits industrialised nations, including the UK, to limit and reduce GHG emissions. The Kyoto Protocol has been in effect since 2005. The commitments of the Kyoto Protocol were transposed into UK law through the Climate Change Act 2008.
7. In 2015, the Paris Agreement was established to commit countries to reduce global GHG emissions and limit the global temperature increase in this century to 2°C while pursuing efforts to limit global warming to 1.5°C compared to pre-industrial levels. The Paris Agreement entered into force as a legally binding internationally treaty on climate change in 2016.

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8. The European Union (EU) Roadmap 2050 sets out a plan for a low-carbon economy in Europe by 2050 with a goal of achieving an overall 80% reduction in the EU's emissions by 2050 (compared to 1990) through investment in clean energy and clean technology (European Climate Foundation, 2010).
9. The UK is currently committed to implement international environmental obligations in accordance with the EU (Withdrawal) Act 2018, in which the UK Government maintains environmental commitments following the withdrawal from the EU on 31 January 2020. The UK Government established a roadmap to 2050 through the UK Net Zero Strategy (2021) (UK Government, 2021a).
10. The Climate Change Act 2008 (2050 Target Amendment) Order 2019 revised the Climate Change Act 2008 to set a 'net zero target' requiring GHG emissions to be 100% lower than the 1990 levels by 2050. In Scotland, the Climate Change (Scotland) Act 2009 as amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 has established a net zero target to reduce net Scottish GHG emissions by at least 100% by 2045 from 1990 levels.
11. The Climate Change Act 2008 also established the Committee on Climate Change (CCC), an independent statutory body which advises the UK and devolved governments on emission targets and reports to the UK Parliament on progress in reducing GHG emissions. To date, the CCC have produced six 'Carbon Budgets' which provide a limit on total GHG emissions to be emitted during their budgetary periods of four-year intervals. The UK Carbon Budget Order 2021 set the level of the Sixth Carbon Budget (2033 – 2037) to 965 million tonnes of carbon dioxide equivalent (MtCO_{2e}) in line with an interim target of 78% reduction in emissions by 2035 (UK Government, 2021b).
12. Chapter 6 of CCC's 'Net Zero – The UK's Contribution to Stopping Global Warming' report (CCC, 2019) refers to delivering a net zero emissions target for the UK. The chapter sets out a number of actions, including the transition to a net zero emissions economy and what is needed to underpin delivery of net zero emissions in the UK. 'Part B' sets out key near term actions to put the UK on track for to net-zero greenhouse gases emissions by 2050 and recommends that more rapid electrification must be accompanied with greater build rates of low carbon generation capacity.
13. In 2019, the Scottish Government announced a global climate emergency and set forth the commitment to act. In 2020, the UK communicated its Nationally Determined Contribution (NDC) to the UNFCCC. The UK committed to reducing economy wide GHG emissions by at least 68% by 2030 (UK Government, 2022). In 2021, Scotland announced an indicative NDC (iNDC) to reduce GHG emissions by at least 75% by 2030 (Scottish Government, 2021a).
14. Owing to the nature of the Marine Scheme and its purpose to facilitate the export of green energy from the generation assets associated with the BBWF, the Marine Scheme is considered to be in accordance with and legislatively compliant with these international and domestic climate change commitments. Table 2.1 provides a summary of the key climate change targets and commitments outlined in this chapter.

2.3. Scottish Legislation and Policy (including Marine Planning)


15. The Draft Energy Strategy and Just Transition Plan (Scottish Government, 2023a) outlines an ambition for Scotland's energy system to 2045. It details a route map of ambitions and actions that, alongside detailed sectoral plans and the forthcoming Climate Change Plan, will guide decision-making and policy support.
16. The draft strategy states, "As one of the cheapest forms of electricity, offshore wind has a vital role to play in decarbonising our energy demand and securing a just transition to net zero" and details the key ambitions for Scotland's energy future including:
 - More than 20 GW of additional renewable electricity on and offshore by 2030; and
 - Generation of surplus electricity, enabling export of electricity and renewable hydrogen to support decarbonisation across Europe.

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17. The draft Energy Strategy states that Scotland's National Marine Plan (NMP) (2015) will be revised to "help to facilitate sustainable delivery of offshore renewable energy".
18. The draft Energy Strategy also states that the Offshore Wind Sectoral Marine Plan (SMP) Iterative Plan Review will be used to assist consenting and future planning in Scotland. The Marine Scheme is considered to be in accordance with the Draft Energy Strategy.

2.3.1. SCOTLAND'S NATIONAL MARINE PLAN

19. The management of Scottish territorial (between 0 and 12 nautical miles (nm)) and offshore waters (between 12 nm and 200 nm) is covered within the Scottish NMP (Scottish Government, 2015). The Scottish NMP aims to "integrate both the ecosystem approach and the guiding principles of sustainable developments to deliver a robust approach to managing human impact on Scotland's Seas" (Scottish Government, 2015). The NMP states that, under the Marine Acts, marine licence authorisation decisions must be taken in accordance with the NMP, unless relevant considerations indicate otherwise.
20. The strategic objectives integrate the ecosystem approach through the adoption of the eleven descriptors of Good Environmental Status (GES) from the Marine Strategy Framework Directive (MSFD) (EU Directive 2014/89/EU) (see section 2.8.2), and integrate the guiding principles to sustainable development through the adoption of the UK High Level Marine Objectives (DEFRA, 2009):
 - Achieving a sustainable marine economy;
 - Ensuring a strong, healthy and just society;
 - Living within environmental limits;
 - Promoting good governance; and
 - Using sound science responsibly.
21. Volume 3, Appendix 2.2: Marine Plan Conformance Checklist demonstrates the conformance of the Marine Scheme with the Scottish NMP.
22. A three-year review of Scotland's NMP took place in 2018, and most recently in 2021 (Scottish Government, 2021b). The 2021 review considered two main areas:
 - An assessment of the effectiveness of the plan via:
 - The findings of the Scottish Marine Assessment 2020; and
 - Existing data monitoring programmes with feedback from MD-LOT and Marine Scotland Science (MSS).
 - A review of the 'relevant matters' with a focus on the impact of significant national and global developments including:
 - The Global Climate Emergency;
 - The COVID-19 pandemic; and
 - UK exit from the EU.
23. The 2021 review also considered wider Marine Scotland strategies such as the Blue Economy Action Plan and the Future Fisheries Management Strategy.
24. In October 2022, Scottish Ministers announced their intention to start the process of developing a new National Marine Plan (NMP2) and are currently undertaking objective setting for NMP2 and a strategic appraisal of NMP1. The stakeholder engagement strategy document for NMP2 published on 27 October 2022 anticipates the adoption and publication of NMP2 in Spring/Summer 2025.

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2.3.2. MARINE PROTECTED AREAS (MPAS)


25. Nature Conservation Marine Protected Areas (ncMPAs) are designated under the Marine (Scotland) Act 2010 and the Marine and Coastal Access Act 2009 in Scottish territorial and offshore waters respectively.
26. At this time, Marine Scotland’s Nature Conservation Marine Protected Areas: Draft Management Handbook (Marine Scotland, 2014a) remains archived, and replacement or updated guidance has not been issued. Although this document remains archived, it contains guidance which (in the absence of an update) is still considered to be relevant to the completion of an MPA assessment. Marine Scotland and the Joint Nature Conservation Committee (JNCC) have also set out founding principles of MPAs, and preliminary guidance on management of MPAs (also now archived) (Marine Scotland, 2014b). Although this guidance is archived, in lieu of an update or replacement the MPA assessment is cognisant of this guidance as it is considered to remain relevant.
27. Based on the location of the Marine Scheme (i.e., beyond 12 nm) and in the absence of updated guidance on the assessment of Scottish MPAs in relation to offshore developments, the methodology followed for the MPA assessment has been informed by the archived guidance described, as well as the published available guidance regarding Marine Conservation Zone (MCZ) assessments (the high-level process described in both Scottish and English guidance is considered complementary). Importantly, the approach followed and indeed the content of the assessment is consistent with the MPA assessment carried out by the Applicant for the Firth of Forth Banks Complex ncMPA as part of the separate BBWF consent applications detailed in section 2.1 above.
28. By following this approach, the Applicant will ensure that an appropriate level of information has been provided to allow MD-LOT to make an informed decision on the potential impacts of the Marine Scheme on Scottish MPAs. By following an approach consistent with that which was followed for the BBWF, the Applicant will ensure maximum efficiency during the Marine Licence assessment and determination process, thereby seeking to maximise the efficiency of the process for MD-LOT and other stakeholders.
29. The robust approach which the Applicant has followed complies with the requirements of Section 83 of the Marine (Scotland) Act 2010.
30. The MPA Assessment is provided alongside the MLA for the Marine Scheme which demonstrates the Marine Scheme’s accordance with the ncMPA designation.

2.3.3. HIGHLY PROTECTED MARINE AREAS

31. On 12 December 2022, Marine Scotland launched an open consultation regarding Scottish Highly Protected Marine Areas (HPMAs), which have been proposed to protect and allow recovery of marine ecosystems, contribute to halting biodiversity loss and aid efforts to mitigate and adapt to the effects of climate change. HPMAs will build upon the existing network of Marine Protected Areas (MPAs).
32. The consultation closed in April 2023 and in June 2023, the Cabinet Secretary for Transport, Net Zero and Just Transition confirmed that the proposals for HPMAs would not be taken forward. It is understood that the Scottish Government is committed to introducing HPMAs covering at least 10% of territorial and offshore waters by 2026, as set out in the Bute House Agreement (Scottish Government, 2021b), however the timescales and method to how this will be secured is currently to be confirmed and therefore timescales do not allow for this to be considered within the Project’s application process.

2.4. English Legislation and Policy (including Marine Planning)

33. The UK has established plans to reach net zero through the Ten Point Plan for a Green Industrial Revolution (BEIS and Prime Minister’s Office, 2020) and the Energy White Paper (BEIS, 2020) as well as prioritising offshore wind development. This is seen through the British Energy Security

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Strategy target to increase offshore wind development to 50 GW by 2030, including up to 5GW of floating offshore wind (BEIS and Prime Minister’s Office, 2022).

34. In March 2023 the UK Government published Powering Up Britain, the UK Government’s blueprint for energy in the country which brings together the UK’s Energy Security Plan and Net Zero Growth Plan (UK Government 2023).
35. The Energy Security Plan focuses on reducing reliance on fossil fuels and boosting home grown energy. The Net Zero Growth Plan focuses on long term decarbonisation trajectory of the UK. The Net Zero Growth Plan follows on from the Net Zero Strategy (UK Government, 2021a), it takes into account expert recommendations on the Net Zero Strategy and demonstrates actions to ensure the UK remains a leader in the net zero transition by ensuring investment into industries like offshore wind.
36. One of the key ambitions of Powering Up Britain is to fully decarbonise the power system by 2035 (subject to security and supply). The Marine Scheme is considered to be a contribution to these policy objectives.

2.4.1. UK MARINE POLICY STATEMENT

37. The UK Marine Policy Statement (MPS) was published in September 2011¹ and updated in September 2020. It was prepared and adopted for the purposes of Section 44 of the Marine and Coastal Access Act 2009. The UK MPS was prepared to rationalise planning in the marine environment and provide a framework for marine spatial planning, specifically for the context of Marine Plans. The UK MPS aims to contribute to the achievement of sustainable development in the UK marine area.
38. The UK MPS is implemented throughout the UK through marine plans which provide detailed policy and spatial guidance for a marine area that will contribute to the overall aims of the UK MPS.
39. The UK MPS forms a relevant part of the marine licencing decision making process for the Marine Scheme (DEFRA, 2011). The UK MPS sets out that when relevant authorities are determining applications for energy infrastructure, the following should be considered as relevant to projects such as the Marine Scheme:
 - The national level of need for energy infrastructure, as set out in the Overarching National Policy Statement for Energy (EN-1) which applies in England and Wales, the National Planning Framework which applies in Scotland and the Strategic Energy Framework in Northern Ireland;
 - The positive wider environmental, societal and economic benefits of low carbon electricity generation and carbon capture and storage as key technologies for reducing carbon dioxide emissions;
 - Renewable energy resources can only be developed where the resource exists and where economically feasible; and
 - The potential impact of inward investment in offshore wind, wave, tidal stream and tidal range energy related manufacturing and deployment activity; as well as the impact of associated employment opportunities on the regeneration of local and national economies. All these activities support the objective of developing the UK’s low carbon manufacturing capability.


¹ An update was published in September 2020 which provided a guidance note on how references to EU law in the UK MPS should be interpreted following the UK’s withdrawal from the EU.

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2.4.2. NATIONAL POLICY STATEMENTS

40. National Policy Statements (NPS) are produced by Government. They set out the Government's policy for the delivery of Nationally Significant Infrastructure Projects (NSIPs) for particular sectors within England and Wales and provide the legal framework for planning decisions. They were first designated and published in 2011 (DESNZ, 2023).
41. There are 12 NPSs setting out government policy on different types of national infrastructure including energy, transport, water, wastewater and waste. Of the six NPSs for energy, three are relevant to renewable energy projects (Planning Inspectorate, 2012):
 - The Overarching NPS for Energy (EN-1);
 - NPS for Renewable Energy Infrastructure (EN-3); and
 - NPS for Electricity Networks Infrastructure (EN-5).
42. The BBWF does not comprise a NSIP, on the basis that it is located in Scottish Waters, and therefore does not require development consent under the Planning Act 2008. Similarly, the Marine Scheme is not an NSIP and does not form part of a NSIP. Therefore, the Marine Scheme does not require development consent under the Planning Act 2008 and does not fall to the Planning Inspectorate to consider².
43. However, EN-1 (2011) notes that although the NPSs are of direct relevance to the development of NSIPs in England energy policy is generally a matter reserved to UK Ministers and EN-1 may therefore be a relevant consideration in planning decisions in Scotland.
44. The 2023 Draft NPS EN-1 also notes that NPSs have a role in the wider planning system and can be a material consideration in decision making on applications that fall under the Town and County Planning Act 1990 (as amended). They may also be a relevant consideration for the MMO in making decisions on applications for marine licences for other energy infrastructure that falls outside the scope of the Planning Act 2008 or the Electricity Act 1989 (where applicable in England and Wales) (DESNZ, 2023).
45. As such it is necessary to take the NPSs into consideration in the preparation of this EIA and the application for the Marine Scheme.
46. In 2020, the government announced that it was reviewing the energy NPSs to ensure that they were brought up to date to reflect the policies set out in the 2020 Energy White Paper: powering our net zero future.
47. Public consultation on revisions to NPSs EN-1, EN-3 and EN-5 was held between September 2021 and November 2021. This consultation sought views on:
 - Whether the revised energy NPS provide a suitable framework to support decision making for nationally significant energy infrastructure; and
 - The appraisals of sustainability and habitats regulations assessments that have been carried out in relation to the draft energy NPS (BEIS, 2021a).
48. Since 2021, the government has strengthened the process for delivering major new energy infrastructure in England and Wales, reinforcing the country's national priorities regarding energy security, reducing costs, and delivering on net zero, while creating new green jobs and industries for the UK (DESNZ, 2023). These changes are reflected in further revisions to the NPSs.

² This matter was discussed with both MD-LOT and the MMO during pre-application discussions in August 2022. As requested by the MMO, the Applicant provided clarity regarding the relevance of the Planning Act 2008, and the fact that the Cambois Connection is not an NSIP.

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49. Further public consultation was held on these Draft NPSs between March 2023 and June 2023. This was more focused and sought views on (DESNZ, 2023):
- Clarifying that offshore wind is now a critical national priority, including the related onshore and offshore network infrastructure.
 - To deliver the 50GW of offshore wind including 5GW of floating wind, we need to cut the process time by over half. The government therefore announced it was introducing the offshore wind environmental improvement package to help accelerate deployment of offshore wind, whilst protecting and enhancing the marine environment.
 - Strengthening the electricity networks NPS to include more detail on the role of strategic planning of networks, which considers the network as a whole, rather than just individual transmission projects.
 - Updating the civil and military aviation and defence interests to reflect the status of energy developments, including offshore wind, and how impacts to civil and military aviation, meteorological radars and other types of defence interests should be managed.
50. EN-1, as designated (2011) sets out national policy for developing energy infrastructure including renewable energy with a focus on achieving 2050 targets for reducing GHG emissions by 80% compared to 1990 levels and security of supply. EN-1 recognises that offshore wind is likely to provide the largest single contribution to tackling climate change and achieving 2020 renewable energy targets, but new electricity transmission and distribution infrastructure is urgently required for this to happen.
51. 2023 revisions to EN-1 (Draft EN-1) sets out policy for delivering the major energy infrastructure required to achieve net zero by 2050. Emphasis is placed on the requirement to transform the energy system and that a step change is required to achieve decarbonisation. The Draft EN-1 identifies the requirement for different types of electricity infrastructure to delivery energy objectives (generation, storage, interconnection and networks) and that a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind and solar.
52. Most notably Draft EN-1 2023 places a requirement on the secretary of state to treat development consent applications for the types of infrastructure included in the NPS as urgent with a presumption in favour of granting development consent subject to considering impacts on the environment and any social and economic benefits.
53. The NPS for Renewable Energy Infrastructure EN-3 provides the basis for consent decisions for renewable energy NSIPs. The 2023 Draft EN-3 defines renewable energy NSIPs as Nationally Significant Renewable Energy Infrastructure, recognising in section 3.8.12 that there is a critical national priority (CNP) for the provision nationally significant new offshore wind development and supporting onshore and offshore network infrastructure and related network reinforcements (“CNP Infrastructure”).
54. Draft EN-3 section 3.8.13 notes that applicants for CNP infrastructure must continue to show how their application meets the requirements of EN-1 and this NPS, applying the mitigation hierarchy as well as other legal and regulatory requirements. Where the applicant has done so and there are residual impacts that are non-HRA and do not present an unacceptable risk or interference to human health, national defence or navigation, these are unlikely, in all but exceptional cases, to outweigh the urgent need for this type of infrastructure and therefore unlikely to result in an application being refused. Any HRA residual impacts will continue to be considered under the framework set out in the Habitat Regulations.
55. Draft EN-3 (2023) also notes that transmission cabling associated with offshore wind farms can negatively impact (both during installation and over their lifetime) seabed habitats and protected sites. Where applications for transmission cable connections are being taken forward separately applicants are required to define a route or corridor for the transmission connection (offshore and onshore) and assess the effects of the cable(s) and any associated infrastructure on the marine, coastal and onshore environment. This ES considers the effects of the transmission infrastructure associated with the BBWF Cambois Connection (Marine Scheme) on the marine and coastal

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environment. The ES for the Onshore Scheme considers the effects of the onshore transmission infrastructure on the coastal and onshore environment.


56. EN-5 (2011) recognises that the new electricity generating infrastructure that the UK needs to move to a low carbon economy will be “heavily dependent on the availability of a fit for purpose and robust electricity network”. EN-5 (2011) also highlights that “when considering impacts for electricity networks infrastructure, all of the generic impacts covered in EN-1 are likely to be relevant, even if they only apply during one phase of the development [...] or only apply to one part of the development”.
57. The Draft EN-5 (2023) further recognises offshore wind, and the supporting onshore and offshore transmission infrastructure and related network reinforcements as critical national priority (CNP) noting that the electricity network infrastructure is as important as the offshore wind generation infrastructure, and that without it the offshore wind ambition cannot be achieved. The Draft EN-5 reiterates the importance of adopting a strategic and coordinated approach to onshore and offshore transmission network planning with specific reference to the DESNZ-led Offshore Transmission Network Review (OTNR) and the Ofgem-led Electricity Transmission Network Planning Review (ETNPR).
58. The timescales for the designation and publication of the revised NPS (EN-1, EN-3 and EN-5) is not yet known. There is also potential for the 2023 draft NPSs to be subject to change based on outcome from the most recent round of consultation. Specific detail relating to the Draft NPSs has therefore not been included in the technical chapters of this ES. However, the content of the Draft NPSs, as summarised above, including the information presented in the General Assessment and Technology Specific Sections has been taken into considered in the EIA and the preparation of this ES.

2.4.3. OFFSHORE TRANSMISSION NETWORK REVIEW

59. Point 1 of The Ten Point Plan for a Green Industrial Revolution includes initiatives such as the Offshore Transmission Network Review (OTNR), which aims to ensure that the transmission connections for offshore wind generation are delivered in the most appropriate way, considering the increased ambition for offshore wind to achieve net zero and the recent (2022) establishment of the British Energy Security Strategy (BESS).
60. The OTNR aims to deliver improvements in the way that offshore generation is connected to the onshore transmission network and facilitate a more supportive approach for multi-purpose interconnectors, that combine market-to-market interconnectors with offshore transmission. To achieve the objectives of the OTNR, there are four workstreams operating in parallel: Early Opportunities, Pathway to 2030 (PT2030), Multipurpose Interconnectors (MPIs) and Future Framework. The Marine Scheme will therefore contribute to achieving this policy objective.

2.4.4. NORTH EAST INSHORE AND OFFSHORE MARINE PLAN

61. The North East Inshore and Offshore Marine Plan (MMO, 2021), prepared for the purposes of Section 51 of the Marine and Coastal Access Act 2009, aims to help, enhance and protect the marine environment and promote sustainable economic growth for communities both within the marine plan area and for adjacent marine plan areas.
62. The North East Inshore Marine Plan covers the marine area between Mean High Water Springs (MHWS) and 12 nm, covering an area of approximately 6,000 km² from the Scottish Borders to Flamborough Head in Yorkshire. Within this defined area, the plan extends 13 local authorities, three tidal rivers and economically important ports, including the Ports of Tyne, Tees and Blyth (MMO, 2021).
63. The North East Offshore Marine Plan covers the marine area from 12 nm extending seaward to the limits of English offshore waters (MMO, 2021). The offshore plan covers a number of commercially

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valuable shipping lanes, oil and gas production fields and marine areas considered important for tourism and recreational activities (MMO, 2021).


64. The objectives of the North East Inshore and Offshore Marine Plan align with the UK High Level Marine Objectives, as there are 13 objectives which fall under the following categories:
- Achieving a sustainable marine economy;
 - Ensuring a strong, healthy and just society; and
 - Living with environmental limits.
65. The alignment of the Marine Scheme with the policies and objectives of the North East Inshore and Offshore Marine Plan are detailed in Volume 3, Appendix 2.2: Marine Plan Compliance Checklist, in line with the MMO Marine Plan Policy Assessment guidance (MMO, 2022).

2.4.5. WATER FRAMEWORK DIRECTIVE REGULATIONS

66. The Water Framework Directive 2000/60/EC (WFD) provides protection to water in Europe by regulating pollutants and setting corresponding regulatory standards to protect and, where necessary, restore water bodies in order to reach good status, and to prevent deterioration. The WFD is applied in England via the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017. The WFD applies to inland, transitional, and coastal surface waters as well as groundwaters. The WFD is implemented through River Basin Management Plans (RBMP).
67. The WFD applies to the Marine Scheme for activities in coastal waters (i.e., up to 3 nm from MHWS). The Northumbria RBMP applies to the Marine Scheme (Environment Agency, 2022).
68. The Marine Scheme WFD Assessment, which accompanies this application, provides further information on how the Marine Scheme is compliant with the WFD Regulations.

2.4.6. MARINE CONSERVATION ZONES (MCZS)

69. In accordance with the Marine and Coastal Access Act 2009, consideration is required of the potential of the Marine Scheme to affect the protected features of Marine Conservation Zones (MCZs) and any ecological or morphological process on which the protected features depend.
70. MCZs seek to protect a range of nationally important marine habitats, species, geological features, and geomorphological features in English and Welsh territorial Waters, as well as UK offshore waters.
71. Section 126 of the Marine and Coastal Access Act (2009) places specific duties on the MMO relating to MCZs and marine licence decision making. A summary of the MCZ assessment process through Screening, Stage 1 assessment, and Stage 2 assessment is provided in Plate 2.1. An MCZ assessment has been carried out and accompanies the MLA for the Marine Scheme.

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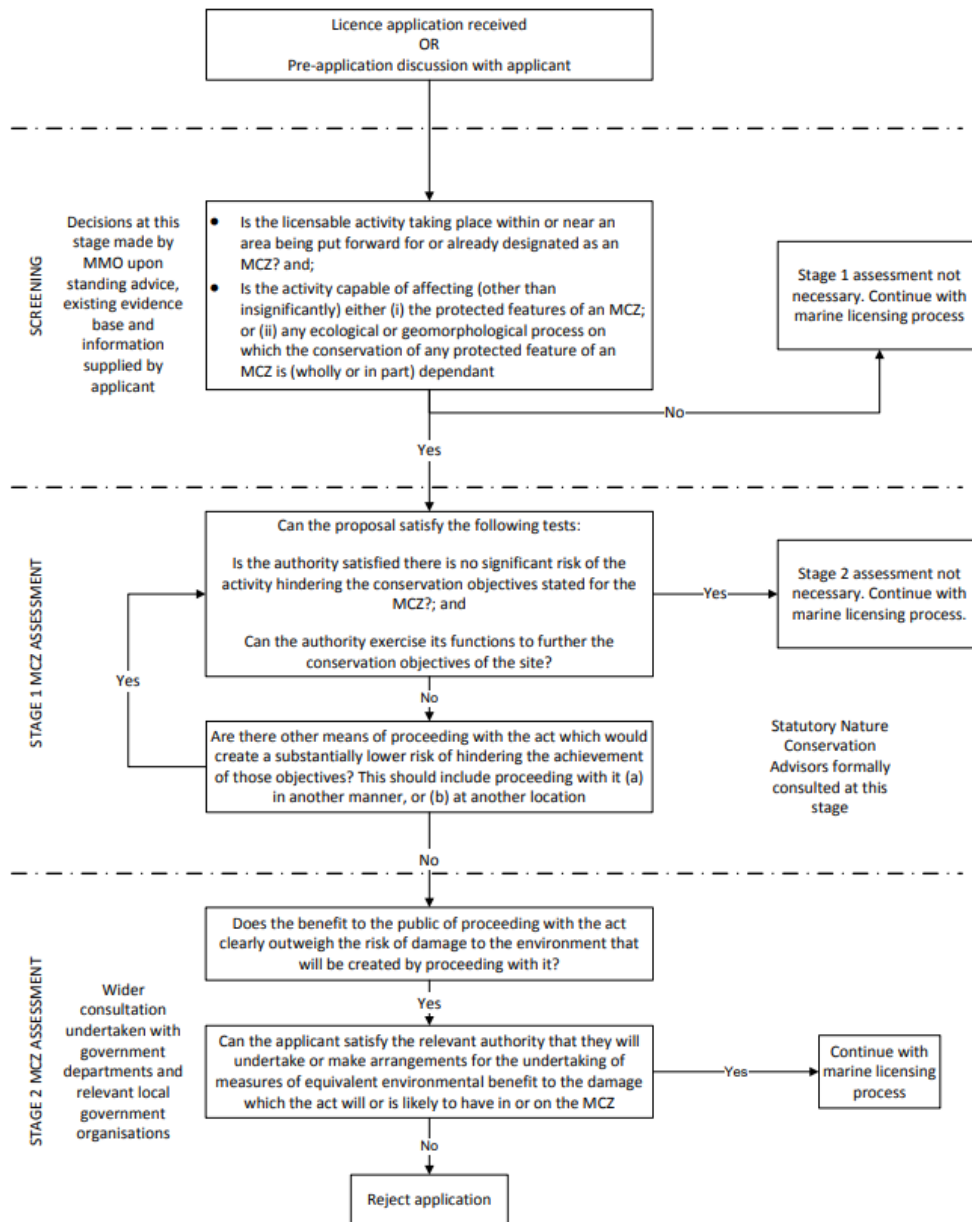



Plate 2.1 Summary of MCZ assessment process used by the MMO in Marine Licence decision making (MMO, 2015)

2.4.6.1. HIGHLY PROTECTED MARINE AREAS (HPMAS)

72. Between 6 July and 28 September 2022, the Department for Environment, Food and Rural Affairs (DEFRA) undertook an open consultation regarding HPMAs, which are defined as areas of the sea that allow the protection and recovery of marine ecosystems by prohibiting “extractive, destructive and depositional uses and allowing only non-damaging levels of other activities to the extent permitted by international law” (Benyon Review, 2021; DEFRA, 2022a).
73. Whilst still subject to further refinement and formal (potential) designation, it is anticipated that HPMAs would be designated as MCZs in English territorial and offshore regions through the provisions of the Marine and Coastal Access Act 2009.

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74. In February 2023, DEFRA published a summary of the outcome of the HPMA consultation which included a number of notable updates such as the intention to designate the first of three HPMA sites (North East of Farnes Deep, a modified version of Allonby Bay and a modified version of Dolphin Head) (DEFRA, 2023). The update also confirmed that DEFRA no longer intend to designate either Lindisfarne or Inner Silver Pit South HPMA's.
75. The closest of these three proposed HPMA's (North East of Farnes Deep) is located approximately 14.3 km east of the Marine Scheme at their closest points, and is depicted in Figure 2.1.
76. There is currently very limited detail on how the HPMA's, once designated, will be considered by the MMO as part of the marine licensing process however based on the information available within the HPMA consultation documents, the process is anticipated to be almost identical to that which is followed for MCZ's, as detailed above.
77. In anticipation of the forthcoming designation of the North East of Farnes Deep (designation orders must be laid before 06 July 2023) yet in the absence of a formal published assessment methodology, the MCZ Assessment provided in Volume 3, Appendix 8.1: Benthic Survey Report – Phase 1 and 2 considers the site in further detail as agreed with the MMO during pre-application consultation in April 2022.

2.4.7. MARINE NET GAIN

78. Between June and September 2022, DEFRA carried out consultation on the founding principles of Marine Net Gain (MNG) (DEFRA, 2022b). This consultation was carried out to gather views from stakeholders on the 'first principles' of MNG, and how they may be applied. The consultation also set out DEFRA's position that MNG will, like Biodiversity Net Gain in the terrestrial environment, be a mandatory requirement for marine developments in English waters.
79. In March 2023, DEFRA published an initial analysis of a total of 92 responses to the MNG consultation (DEFRA, 2023). The current initial analysis provides an update on consultation outcomes related to the definition of MNG (Section 1), scope of MNG (Section 2), defining interventions (Section 3), a strategic approach to MNG (Section) and MNG and additionality in marine protected areas (Section 5).
80. DEFRA is currently building on this engagement with consultees to inform the government response to this consultation, which is due to be published later this year. The Applicant has considered the information publicly available at this time to inform the EIA.

2.4.8. NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006

81. Section 40(1) of the Natural Environment and Rural Communities (NERC) Act 2006 states that "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity" by imposing duties upon public authorities (UK Government, 2006). The NERC Act applies to England only and is therefore only relevant to the elements of the Marine Scheme which are in English waters.
82. Section 41 of the NERC Act requires that the Secretary of State publish "a list of habitats and species which are of principal importance for the conservation of biodiversity in England". The list includes 56 habitats and 943 species which have been determined in consultation with Natural England and draws upon the UK Biodiversity Action Plan List of Priority Species and habitats (JNCC, 2019).
83. The current published list includes taxon groups which may be of potential relevance to the Marine Scheme; this includes birds, cetaceans, fish (both bony and jawless), mammals (common seal *Phoca vitulina* only), molluscs, the shark/skate/ray taxon group and turtles. Section 41 habitats of principal importance in England also include broad habitats which may be of potential relevance to the Marine Scheme; this includes littoral sediments, sublittoral rock, sublittoral sediment and supralittoral sediment.

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84. The technical chapters within the Marine Scheme ES (Volume 2, Chapters 7 to 15) consider NERC species as required based on the extent of potential interaction between NERC habitats and species and the Marine Scheme. The NERC Act 2006 has been considered within this ES with regards to the UK list of priority habitats and species listed of principal importance and are further considered in Volume 2, Chapter 8: Benthic Subtidal and Intertidal Ecology. The Marine Scheme is therefore considered to be compliant with this legislative framework.

2.5. Summary of Key Targets

85. Table 2.1 below provides a summary of the key climate change targets and commitments outlined in this chapter.

Table 2.1 Summary of key climate change targets and commitments

Key Target	Policy Implemented	Target Date	Relevant Legislation/Policy
80% Reductions in emissions compared to 1990 levels.	2010	2050	The European Union (EU) Roadmap 2050
Limit global temperature rise to below 2°C this century.	2015	This century	Paris Agreement
Ambitions to limit global warming to 1.5°C compared to pre-industrial levels.	2015	N/A	Paris Agreement
100% reduction in emissions compared to 1990 levels.	2019	2050	The Climate Change Act 2008 (2050 Target Amendment) Order 2019
To increase offshore wind development to 40GW	2020	2030	The Ten Point Plan for a Green Industrial Revolution
1GW capacity from floating offshore windfarms	2020	2030	The Ten Point Plan for a Green Industrial Revolution
To reduce economy wide GHG emissions by at least 68%	2020	2030	UK's Nationally Determined Contribution to UNFCCC 2022
Limit of total emissions of to 965 million tonnes of carbon dioxide equivalent (MtCO ₂ e)	2021	2033 – 2037	The Carbon Budget Order 2021
Ambitions for a fully decarbonised economy	2021	2050	Net Zero Strategy: Build Back Greener
To increase offshore wind development to 50GW	2022	2030	British Energy Security Strategy
To increase floating offshore wind development to 5GW	2022	2030	British Energy Security Strategy

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2.6. Consent Requirements

86. As detailed in Volume 2, Chapter 1: Introduction, the primary consents that will be sought in support of the Marine Scheme are as follows:
- A Marine Licence from MD-LOT under the Marine and Coastal Access Act 2009 for the Offshore Export Cables between 12 nm and the outer boundary of the Exclusive Economic Zone (EEZ) in Scotland; and
 - A Marine Licence from the MMO under the Marine and Coastal Access Act 2009 for Offshore Export Cables, Landfall works and supporting activity for the portion of the Marine Scheme in English territorial and offshore waters.
87. Further detail is provided below specific to Scotland and England.

2.6.1. SCOTLAND (OFFSHORE)


88. The extent of the Marine Scheme within Scotland is located entirely within Scottish offshore waters, between 12 nm and the outer boundary of the Scottish EEZ.
89. A Marine Licence application is being sought under the Marine and Coastal Access Act 2009 for the Marine Scheme in Scottish offshore waters. This will be submitted to MD-LOT as the regulator responsible for determining Marine Licence applications on behalf of Scottish Ministers.
90. It should be noted that the Marine (Scotland) Act 2010 does not apply to the Marine Scheme as it covers licensable activities in territorial waters (0 to 12 nm only).

2.6.2. ENGLAND (OFFSHORE AND TERRITORIAL)

91. The extent of the Marine Scheme within England is in both territorial and offshore waters. A single Marine Licence is being sought under the Marine and Coastal Access Act 2009 for the licensable activities of the Marine Scheme in both territorial and offshore English waters. The Marine Licence application will be submitted to the Marine Licensing team within the MMO.
92. Consent for the Onshore Scheme will be via a separate application for planning permission to Northumberland County Council (NCC) as the local planning authority under Section 57 of the Town and Country Planning Act 1990. A separate ES has been prepared to accompany the planning application to NCC for the Onshore Scheme. The relationship between the Marine Scheme and the Onshore Scheme is detailed within Volume 2, Chapter 1: Introduction. Volume 2, Chapter 3: EIA Methodology details how the Onshore Scheme is assessed within this ES.

2.7. Environmental Impact Assessment Regulations

93. Requirements for an Environmental Impact Assessment (EIA) were defined in the EIA Directive (85/337/EEC codified by EIA Directive 2011/92/EU and then amended by EU Directive 2014/52/EU) which were transposed into UK law. The purpose of the EIA Directive is to ensure that the potential effects of a project on the environment are taken into consideration before development consent is granted. If a development of a specified nature is deemed likely to have a significant effect on the environment by virtue of factors such as size or location, then an EIA is required. The results from an EIA must be provided by the Applicant to the decision maker in the form of an ES.
94. The requirements of the EIA Directive are enacted in English territorial and offshore waters and Scottish offshore waters by the Marine Works (Environmental Impact Assessment) Regulations 2007 (hereinafter referred to as ‘the EIA Regulations’).

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95. The EIA Regulations set out the statutory process and minimum requirements for an EIA, as addressed within Schedule 3 of the EIA Regulations. Table 2.2 sets out these EIA requirements and where they have been addressed within the Marine Scheme ES.



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Table 2.2 Where requirements under Schedule 3 of the EIA Regulations are addressed in the Marine Scheme ES

Requirement	Addressed
<p>A description of the project and of the regulated activity, including in particular:</p> <ul style="list-style-type: none"> • a description of the location of the project and the 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 	<p>A detailed project description for the Marine Scheme is included in Volume 2, Chapter 5: Project Description. The project description covers the realistic ‘worst-case scenario’ for construction, operation and maintenance, and decommissioning of the Marine Scheme.</p>
<p>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.</p>	<p>A detailed description of the route appraisal and alternatives considered, including the rationale for the selection and progression of the Marine Scheme, is included in Volume 2, Chapter 6: Route Appraisal and Consideration of Alternatives.</p>
<p>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.</p>	<p>Within the structure of each of the technical chapters of the Marine Scheme ES is a ‘Baseline Environment’ section detailing the current state of the environment and a ‘Future Baseline’ section detailing the likely evolution of the baseline without implementation of the Marine Scheme.</p>

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Requirement	Addressed
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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.


Section 3.4.1 in Volume 2, Chapter 3: EIA Methodology outlines where these factors are incorporated into the Marine Scheme ES as addressed through Scoping (please see Volume 3, Appendix 3.2: MD-LOT Scoping Opinion and Volume 3, Appendix 3.3: MMO Scoping Opinion) and post-scoping consultation.

- A description of the likely significant effects of the project and the regulated activity on the environment resulting from, inter alia—
- (a) the construction and existence of the project and the regulated activity, including, where relevant, demolition works;
 - (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;
 - (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;
 - (d) the risks to human health, cultural heritage or the environment (for example, due to accidents or disasters);
 - (e) 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;
 - (f) 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;
 - (g) the technologies and the substances used.


Within each technical chapter of the Marine Scheme ES is an assessment of the likely significant effects resulting from the construction, operation and maintenance, and decommissioning of the Marine Scheme in addition to a cumulative effects assessment. The cumulative effects assessment is informed by Volume 2, Chapter 3: EIA Methodology and Volume 3, Appendix 3.4: Long-list of Cumulative Developments.

The description of the likely significant effects 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 are outlined in Volume 2, Chapter 3: EIA Methodology, and covers the direct effects, indirect, secondary, cumulative, transboundary, short-term, medium-term, and long-term, permanent and temporary, positive and negative effects of the Marine Scheme ES.


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Requirement	Addressed
<p>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.</p>	<p>Within each technical chapter of the Marine Scheme ES is a description of the topic-specific methodology, including the relevant data-sources (including site-specific survey data where applicable), modelling and assessments performed, and details of the data gaps and uncertainties associated with the identification and assessment of likely significant environmental effects.</p>
<p>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.</p>	<p>Within the project description (Volume 2, Chapter 5: Project Description) there is detail of the designed in mitigation measures for the overall Marine Scheme. Additionally, within each technical chapter is a description of the topic-specific mitigation and monitoring measures, which are summarised in Volume 2, Chapter 17: Summary of Mitigation and Commitments.</p>
<p>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.</p>	<p>An assessment of the likely significant effects arising from major accidents and disasters associated with the Marine Scheme was agreed to be scoped out of the ES by MD-LOT and the MMO. Although there will be no standalone chapter assessing major accidents and disasters, this impact assessment will be adequately covered within Volume 2, Chapter 12: Commercial Fisheries and Volume 2, Chapter 13: Shipping and Navigation to the extent relevant to these chapters and in accordance with relevant Scoping Opinions.</p>
<p>A non-technical summary of the information provided under paragraphs 1 to 9.</p>	<p>A non-technical summary of the Marine Scheme ES is provided within the Marine Scheme ES in Volume 1, Non-Technical Summary.</p>


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Requirement	Addressed
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<p>A reference list detailing the sources used for the descriptions and assessments included in the report.</p>	<p>All in-text citations to literature and webpages are detailed in a reference list at the end of each chapter or appendix.</p>
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96. The Applicant has confirmed with MD-LOT and MMO the commitment to complete an EIA for the Marine Scheme (see Volume 2, Chapter 1: Introduction). This Marine Scheme ES has been undertaken in accordance with the EIA Regulations to fulfil their requirements.

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2.8. Other Consents and Legislation

97. Full details of the legislation applicable to the Marine Scheme is detailed within the topic specific legislation sections of each ES technical chapter. The key additional consents and licences and the legislation applicable to those are provided in sections 2.8.1 to 2.8.3.

2.8.1. THE HABITATS AND BIRDS DIRECTIVES

98. The EU Council Directive 2009/147/EC on the conservation of wild birds (the ‘Birds Directive’) provides a framework for the conservation and management of wild birds within the EU with protection to Annex I and regularly occurring migratory species through the identification and designation of Special Protection Areas (SPAs).

99. The EU Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (‘the Habitats Directive’) aims to maintain or restore natural habitats and wild species listed on the Annexes at a favourable conservation status.

100. The Birds Directive and Habitats Directive have been transposed into national law as the ‘Habitats Regulations’ which comprise of the following legislation applicable to the Marine Scheme:

- The Conservation of Offshore Marine Habitats and Species Regulations 2017, applies to Scottish and English offshore waters; and
- The Conservation of Habitats and Species Regulations 2017 (as amended), applies to English territorial waters.


101. The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (the ‘2019 Regulations’) amended the 2017 Habitats Regulations and grant protection through the designation of a UK national site network, which was previously granted through European Sites. The national site network consists of:

- Special Areas of Conservation (SACs);
- SPAs; and
- Ramsar Sites³.

102. The 2019 Regulations also maintained the requirement for the Competent Authority (or Authorities, where a project spans multiple jurisdictions) to complete a Habitats Regulations Assessment/Appraisal (HRA⁴) to determine whether there is potential for a proposal (in this case the Marine Scheme) to have an adverse effect on the integrity of a site designated as part of the National Site Network (collectively referred to as ‘European Sites’). Where it is identified that there is potential for a proposal to have a Likely Significant Effect (LSE) on a European Site, referred to as HRA Screening, Applicants are required to provide information to the Competent Authority to enable them to complete an Appropriate Assessment of the proposals to ascertain whether a project will adversely affect the integrity of a site in view of the conservation objectives of the site.

³ Ramsar Sites are not formally covered by the Regulations but are included in the process as a result of guidance in the National Planning Policy Framework (NPPF), as revised in 2021. Within the NPPF, Ramsar Sites are granted the same protection as habitats sites (UK Government, 2021c).

⁴ In Scotland, the term Habitats Regulations Appraisal is used whilst in England, the term Habitats Regulations Assessment is used. Recognising the consistency in process across both jurisdictions, ‘HRA’ therefore applies to both.

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103. The Applicant has carried out a detailed screening for LSE and completed a HRA Report to Inform Appropriate Assessment (RIAA) for the Marine Scheme, which has been submitted alongside this Marine Scheme ES.

2.8.2. MARINE STRATEGY FRAMEWORK DIRECTIVE

104. The MSFD (European Commission, 2008) aims to protect marine ecosystems and ensure sustainable use of marine resources. The aim of the MSFD is to achieve GES of the marine environment through an ecosystem-based approach, with GES determined based on 11 qualitative descriptors. Member states are required to develop strategies to achieve GES for the 11 descriptors. The MSFD has been implemented into UK law through the Marine Strategy Regulations (UK Government, 2010). The Commission Decision on Good Environmental Status (European Commission, 2017) expanded on the MSFD to include criteria and methodological standards along with specifications for monitoring and assessment.

2.8.3. EUROPEAN PROTECTED SPECIES LICENSING

105. European Protected Species (EPS) refers to the animals and plants listed in Annex IV of the Habitats Directive that are afforded protection under the Habitats Regulations (see section 2.8.1). All cetacean species (i.e., whales, dolphins and porpoises) are EPS. If an activity is likely to cause disturbance or injury to an EPS, then an EPS licence is required to undertake that activity. EPS licences are obtained from the MMO/Natural England or NatureScot/MD-LOT (on behalf of Scottish Ministers), depending on receptor and jurisdiction. Although the grant of EPS licences is separate to the Marine Licence application process, it can be considered in parallel by the competent authorities.

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