



Offshore Wind Power Limited

# West of Orkney Windfarm Offshore EIA Report

Volume 1, Chapter 3 -  
Planning Policy and  
Legislative Context

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## 3 PLANNING POLICY AND LEGISLATIVE CONTEXT

### 3.1 Introduction

This chapter of the Offshore Environmental Impact Assessment (EIA) Report sets out the key legislation, policies, and other material considerations applicable to the offshore Project. Additional legislation, policies, and other material considerations for specific receptors are listed within the relevant topic-specific chapters of this Offshore EIA Report (chapters 8 to 20).

The key legislation and policies covered within this chapter include:

- United Kingdom (UK) marine planning policy and legislation;
- Scottish marine planning policy and legislation;
- Scottish offshore wind consenting requirements;
- EIA legislation;
- Habitats Regulations; and
- Other permits and licensing requirements.

The key international, European Union (EU), UK and Scottish climate change and renewable energy legislation and policies that establish the need for the Project are discussed in chapter 2: Need for the Project.

Additionally, OWPL has submitted a separate Offshore Planning Statement alongside the Section 36 Consent and Marine Licence applications (OWPL, 2023a). The Offshore Planning Statement provides further detail on the key legislation and policies applicable to the offshore Project and includes an assessment of compliance against these.

### 3.2 EU Exit

On 31<sup>st</sup> January 2020, after triggering Article 50 of the Lisbon Treaty, the UK formally left the EU, in what is often referred to as 'Brexit' or 'EU Exit'. Since formally leaving the EU, the UK Government has committed to implementing international environmental obligations in accordance with the European Union (Withdrawal) Act 2018 and to maintain existing environmental and legislative commitments. Table 3-1 outlines the key EU Exit Regulations.

*Table 3-1 European legislation*

RELEVANT LEGISLATION	DESCRIPTION
<b>EU Exit Regulations</b>	The policies and procedures under the EIA Regulations remain unchanged (addressed fully in section 3.6). However, as the UK is no longer part of the EU, amendments were made to the EIA Regulations in Scotland to ensure that they continue to work in the same manner. Many of the amendments made are minor and technical in nature. Amendments were made by The Marine Environment (EU Exit) (Scotland) (Amendment) Regulations 2019, The Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019 and The



RELEVANT LEGISLATION	DESCRIPTION
	<p>Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019.</p> <p>The Conservation (Natural Habitats, &amp;c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 and The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, ensure that policy on the protections and standards afforded by the Habitats Regulations remains unchanged, but there have been some changes in terminology and the Scottish Ministers now exercise some functions that were previously carried out at an EU level.</p> <p>Guidance on the implications of Brexit on marine environmental legislation (including EIA) and HRA are available through the Scottish Government website (Scottish Government, 2020a, Scottish Government, 2020b).</p>

### 3.3 UK marine planning policy and legislation

The key UK-wide marine planning policies and legislation are outlined in Table 3-2, including the Marine and Coastal Access Act 2009 and UK Marine Policy Statement (2011) which establish the framework for marine planning in the UK.

Table 3-2 UK legislation and marine policy

RELEVANT LEGISLATION POLICY	DESCRIPTION
<b>Marine and Coastal Access Act 2009</b>	<p>The 2009 Act established provisions for the management and protection of the marine environment. In relation to Scotland, the Act applies to the offshore marine region (12 -200 Nautical Miles (nm)). It sets out requirements for a UK Marine Policy Statement, a marine licensing regime, powers to designate marine protected areas, a duty to contribute to a UK network of marine sites, and associated enforcement powers. Under the Marine and Coastal Access Act 2009 Scottish Ministers have responsibility for marine licensing and enforcement in the Scottish offshore marine region.</p>
<b>UK Marine Policy Statement (2011)</b>	<p>The UK Marine Policy Statement (UK Government, 2011), which was created and adopted by the UK Government and devolved administrations, facilitates an integrated approach to marine planning across the UK and sets out the high-level framework for preparing marine plans and taking decisions affecting the marine environment. Importantly, the UK Marine Policy Statement outlines the requirement for marine plans within UK waters to be developed taking into account environmental, social, and economic objectives.</p>

### 3.4 Scottish marine planning policy and legislation

Table 3-3 outlines the main Scottish marine planning legislation and policies relevant to the offshore Project, including the Marine (Scotland) Act 2010, which in addition to the Marine and Coastal Access Act 2009 (discussed in section 3.3), establishes the marine planning framework in Scotland. National and regional Scottish marine planning policies and



objectives which have been formed under the Marine (Scotland) Act 2010 and the Marine and Coastal Access Act 2009 are also discussed, along with relevant onshore planning policy and legislation.

Table 3-3 Scottish legislation and marine policy

RELEVANT LEGISLATION / POLICY	DESCRIPTION
Scottish marine planning	
<p><b>Marine (Scotland) Act 2010</b></p>	<p>The Marine (Scotland) Act 2010 applies to the Scottish inshore region (0 – 12 nm) and came into force in March 2010 in response to demands for improved management of the marine environment and its resources. The Act introduced provisions for marine planning, marine licensing, marine conservation, seal conservation and enforcement. Under the Marine (Scotland) Act 2010 the Scottish Ministers are responsible for marine licensing and enforcement in the Scottish inshore region (out to 12 nm) and it is an offence to carry on, or cause or permit another person to carry on, a ‘licensable marine activity’ without a Marine Licence.</p> <p>Under Part 3, section 5 of the Marine (Scotland) Act 2010, a National Marine Plan must be produced for the Scottish inshore region and must include policies for the sustainable development of Scotland's seas and set objectives for economic, social and marine ecosystems and mitigation of and adaptation to climate change. This legislation also facilitated the designation of 11 Scottish Marine Regions under the Scottish Marine Regions Order 2015 for which regional marine plans will be developed.</p>
<p><b>National Marine Plan (2015)</b></p>	<p>In March 2015, the Scottish Government published ‘Scotland’s National Marine Plan – a Single Framework for Managing our Seas’ (the NMP) (Scottish Government, 2015). The National Marine Plan 2015 sets out strategic policies for the sustainable development of Scotland’s marine resources out to 200 nm (370 km). It is required to be compatible with the UK Marine Policy Statement and existing marine plans across the UK. The National Marine Plan was reviewed in 2018 and 2021 and an announcement was made in October 2022 on the development of the National Marine Plan 2.</p> <p>Under the NMP, Regional Marine Plans (RMPs) are currently being prepared within Scottish Marine Regions where a RMP Partnership has been established. The planning competence of these partnerships extends out to 12 nm (22 km). RMPs must be developed in accordance with the NMP unless relevant considerations indicate otherwise.</p>
<p><b>The National Islands Plan</b></p>	<p>The Islands’ (Scotland) Act 2018 introduced measures to help create the right environment for sustainable growth in and around Scotland’s islands now and in the future. The provisions of the Act covers six key parts:</p> <ol style="list-style-type: none"> <li>1. Key definitions;</li> <li>2. National Islands Plan;</li> <li>3. Duties in relation to island communities;</li> <li>4. Representation of island communities;</li> <li>5. Additional power requests; and</li> <li>6. Development in the Scottish island marine area.</li> </ol> <p>The National Islands Plan was published in 2019 and sets out 13 strategic objectives that aim to address crucial sectors within island communities (Scottish Government, 2019). An island communities impact assessment was undertaken as part of the Sectoral Marine Plan (SMP) for Offshore Wind Energy. The Plan</p>



RELEVANT LEGISLATION / POLICY	DESCRIPTION
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has a duration of five years with a requirement for annual reports on progress and a review at the end of the five-year period. The Plan committed to publishing an Implementation Route Map that addresses each of the 13 Strategic Objectives, the first of which was published in May 2021, and was recently updated in September 2022.

National Islands Plan 13 strategic objectives:

- To address population decline and ensure a healthy, balanced population profile;
- To improve and promote sustainable economic development;
- To improve transport services;
- To improve housing;
- To reduce levels of fuel poverty;
- To improve digital connectivity;
- To improve and promote health, social care and wellbeing;
- To improve and promote environmental wellbeing and deal with biosecurity;
- To contribute to climate change mitigation and adaptation and promote clean, affordable and secure energy;
- To empower diverse communities and different places;
- To support arts, culture and language;
- To promote and improve education for all throughout life; and
- To support effective implementation of the National Islands Plan.

**Sectoral Marine Plan for Offshore Wind Energy**

The Scottish Government published the SMP for Offshore Wind Energy in October 2020 following over two years of extensive analysis, consideration and engagement with a wide range of stakeholders (Scottish Government, (2020c). The plan was developed to identify sustainable Plan Options (POs) for future commercial-scale offshore wind energy in Scotland. The plan identified 15 POs across four regions within Scottish waters, the Project is being developed in the north region (N1). The SMP highlights consideration of cumulative impacts on bird species considering barrier effects, increased collision risk and increased energetic requirements. There is potential for cumulative effects on marine mammals from potential concurrent construction activities in the north region and will need to be considered and mitigated at both a project and regional level.

The Iterative Plan Review (IPR) process is considered to be a key aspect of the SMP implementation. The IPR allows for new evidence to be submitted for consideration and implementation to the SMP. The evidence for the IPR process can be provided by a variety of sources which include:

The following documents support the SMP and were updated and finalised alongside the planning process for the SMP:

- Final Regional Location Guidance;
- Post Adoption Statement;
- Appropriate Assessment;
- Final Islands Communities Impact Assessment; and
- Final Equalities Impact Assessment.
- In addition a sustainability appraisal was undertaken on the Draft Plan Options (DPOs) comprising of a Strategic Environmental Assessment (SEA), Habitats Regulations Appraisal (HRA) and Socio-Economic Impact Assessment (SEIA).

- Published scientific papers, with accompanying accessible brief for non-expert audience;





RELEVANT LEGISLATION / POLICY	DESCRIPTION
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- Datasets;
- Grey literature, not published in research publications, includes:
  - research reports;
  - baseline characterisation data and analysis;
  - post consent monitoring reports;
  - working papers, conference proceedings;
  - theses;
  - pre-prints; and
  - white paper and reports produced by government departments, academics and industry.

The process for development of the SMP for Innovation and Targeted Oil and Gas (INTOG) Decarbonisation is outlined by the Initial Plan Framework (IPF). The IPF outlines the requirements to allow for projects to be progressed through the areas of seabed leasing. The IPF also sets out projects which are considered for INTOG Decarbonisation should not be considered if they are located within the ScotWind PO sites.

**Orkney Islands Regional Marine Plan / Pilot Pentland Firth and Orkney Waters Marine Spatial Plan (2016)**

The Option Area Agreement (OAA) falls within the Orkney Islands Region (around Sule Skerry and Sule Stack). However, at this time no RMP for this Region has been published. Currently a RMP for the Orkney Islands has been drafted (Orkney Islands Council, 2021). The most recent planning update for this draft states that the Orkney Islands Regional Marine Plan: Consultation Draft went to the OIC committee process for endorsement in November 2022 and sent onto Marine Scotland<sup>1</sup> in December 2022 for approval by Scottish Ministers for public consultation. It is proposed that, once approved, the Orkney Islands Regional Marine Plan will be published over a 12-week public consultation period in 2023 (Orkney Islands Council, 2022). There has been some background work published in November 2020 for the 'Orkney Islands Marine Region: State of the Environment Assessment' (Orkney Islands Council, 2020).

The SEA Scoping Report is expected to be published—to prepare for the development of the SEA Environmental Report alongside the Orkney Islands Regional Marine Plan. Submission of the Orkney Islands RMP to Scottish Ministers for approval and publishing is expected to take place in 2024 / 2025.

Ahead of the formal adoption of the Orkney Islands RMP, the Pilot Pentland Firth and Orkney Waters Marine Spatial Plan (Scottish Government, 2016), developed by Marine Scotland, OIC and The Highland Council (THC), sets out an integrated planning policy framework to guide marine development and activities and management decisions, whilst ensuring the quality of the marine environment is protected. As this plan has informed the development of the Orkney Islands Regional Marine Plan. Offshore Wind Power Limited (OWPL) will refer to this plan, to ensure best practice in delivering its planning policy framework. Should the plan be submitted to Marine Directorate and approved for public consultation (OIC, 2022), then OWPL will refer to this plan. THC and OIC have adopted the plan as non-statutory planning guidance and Marine Directorate - Licensing Operations Team (MD-LOT) will also use the plan when considering Marine Licence and Section 36 Consent applications in the Pentland Firth and Orkney waters area (Scottish Government, 2016).

<sup>1</sup> Now the Marine Directorate.



RELEVANT LEGISLATION / POLICY	DESCRIPTION
Relevant onshore planning policy	

**Onshore Policy and Legislation**

This Offshore EIA Report considers the policy and legislation relevant to the offshore windfarm and offshore Export Cable Corridor (ECC). The Scottish onshore policies and legislation additionally covers areas landward of Mean Low Water Springs (MLWS) and will be considered for the onshore Project. This includes The National Planning Framework 4 (NPF4), which outlines a national spatial strategy, and associated national planning policies, for reducing Greenhouse Gas (GHG) emissions, adapting to future impacts of climate change and aligning with the delivery of United Nations (UN) Sustainable Development Goals (SDGs) up until 2045 (Scottish Government, 2023). NPF4 was adopted in February 2023, following extensive engagement, collaboration and consultation, and replaces National Planning Framework 3 (NPF3) and the Scottish Planning Policy (SPP).

The Project will also need to consider the relevant policy and legislation of Local Development Plans (LDP), including the Highland-wide LDP and the Caithness and Sutherland LDP (CaSPlan). The Highland-wide LDP outlines the planning policy for THC area and contains general policies for the THC area that planning applications are assessed against (The Highland Council, 2012). The CaSPlan is used to guide decisions on future development in the Highlands (The Highland Council, 2018). The CaSPlan outlines the spatial planning policy, strategy and vision for the Caithness and Sutherland area which developments should consider for their planning applications (Highland Islands Council, 2018). The Orkney Local Development Plan 2017 sets out a vision and spatial strategy for the development of land in Orkney over the next ten to twenty years (Orkney Islands Council, 2017). The Plan contains the land use planning policies which Orkney Islands Council will use for determining applications, including those relating to natural heritage and landscape.

### 3.5 Consenting requirements

As noted within chapter 1: Introduction, the following consents and marine licences are being sought for the offshore Project:

- Section 36 Consent for the offshore Project as required under the Electricity Act 1989; and
- Marine Licences as required under the Marine (Scotland) Act 2010 (within Scottish Territorial Waters (STW)) and the Marine and Coastal Access Act 2009 (within the Scottish Offshore Region).

Further information on these licensing and consenting requirements, as well as others relevant to the offshore Project are outlined in Table 3-4.

*Table 3-4 Licensing and consenting requirements*

RELEVANT REQUIREMENTS	DESCRIPTION
<b>Section 36 of the Electricity Act 1989</b>	To construct and operate an electricity generating station, such as a wind farm, with a capacity greater than 1 Megawatt (MW) in STW (up to 12 nm offshore) and greater than



RELEVANT REQUIREMENTS	DESCRIPTION
	<p>50 MW in the Scottish Offshore Region (between 12 nm and 200 nm offshore), consent is required under Section 36 of the Electricity Act 1989 (as amended). The offshore Project is situated across the 12 nm boundary (45% of the OAA is located within the 12 nm limit, which in the case for this Project is the Scottish Island Marine Area, as defined under the Islands' (Scotland) Act 2018) and therefore falls under the requirements of both categories.</p> <p>The application is supported by this Offshore EIA Report which has been prepared in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, as amended. Section 36 Consent will allow for the installation, operation and maintenance and decommissioning of the Wind Turbine Generators (WTGs) and inter-array cables for the offshore Project.</p> <p>A declaration under Section 36A of the Electricity Act 1989 to extinguish public rights of navigation so far as they pass through those places within the Scottish Marine Area and the UK Marine Licensing Area where the WTGs will be located (and not the areas of sea between those structures) is also being made. This Section 36A declaration would be made by Scottish Ministers when the Section 36 Consent is granted.</p>
<p><b>Marine Licence</b></p>	<p>The Marine (Scotland) Act 2010, which applies to STW (between 0 and 12 nm from Mean High Water Springs (MHWS)) and the Marine and Coastal Access Act 2009, which applies between the 12 and 200 nm limit, states that a Marine Licence is required to construct, alter, or improve any works, or deposit any object in or over the sea, or on or under the seabed. As the Project is located both within and beyond the 12 nm limit, a Marine Licence under both of these regulations will be required to deposit Project components in / on the seabed.</p> <p>As with the Section 36 Consent application above, the Marine Licence applications will be made to MD-LOT. This Offshore EIA Report is also prepared in accordance with the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017, as amended, and the Marine Works (Environmental Impact Assessment) Regulations 2007, as amended.</p>
<p><b>The Islands' (Scotland) Act 2018</b></p>	<p>The Islands' (Scotland) Act 2018 introduced measures to help create the right environment for sustainable growth in and around Scotland's islands now and in the future. Part six of the Islands Act provides a regulation-making power for the Scottish Ministers to create a licensing scheme in relation to any works in or under the sea in the coastal waters surrounding islands for up to 12 nm. Local authorities apply to the Scottish Ministers for an island licensing area designation to be made. OIC have not yet applied for island licensing designation.</p>
<p><b>Pre-Application Consultation</b></p>	<p>The Marine Licensing (Pre-Application Consultation) (Scotland) Regulations 2013 and Sections 22 to 24 of the Marine (Scotland) Act 2010 require Pre-Application Consultation (PAC) to be undertaken in respect of developments of a certain scale or involving particular works. The process provides opportunities to receive feedback from the public and third party organisations that can then be addressed in the application and supporting Offshore EIA Report.</p> <p>Details of the PAC process undertaken to inform this Offshore EIA Report are presented in chapter 6: Stakeholder engagement and within the associated PAC Report (OWPL, 2023b) accompanying the applications.</p>



### 3.6 EIA legislation

The requirement for an EIA was defined through the EIA Directive (85/337/EEC) (as amended). 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 is deemed to have the potential to cause a significant effect on the environment by virtue of its scale, size, and/or location, then an EIA is required. The results of any such EIA must be provided by the developer to the decision-maker in the form of an EIA Report. The Competent Authority cannot grant consent for an EIA development without considering the EIA Report.

The EIA Directive was transposed into Scottish law through Domestic legislation prior to the UK's withdrawal from the EU, and relevant EU Exit legislation has ensured that the EIA requirements have remained effective in the UK, as described in section 3.2. The EIA Regulations which transpose the requirements of the EIA Directive for electricity generation projects are presented in Table 3-5. These EIA Regulations establish the statutory process and minimum requirements for the EIA, with which this Offshore EIA Report has been compiled. Chapter 7: EIA methodology includes further details on how the EIA Regulations and EIA guidance have guided the offshore Project EIA.

Table 3-5 EIA legislation

RELEVANT LEGISLATION	DESCRIPTION
<b>Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended)</b>	The requirements of the EIA Directive are enacted through relevant UK legislation for electricity generation projects requiring consent under Section 36 of the Electricity Act 1989 by the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended).
<b>The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended)</b>	These EIA Regulations apply to applications for a Marine Licence out to the 12 nm limit. An EIA is specifically required under Schedule 2 of the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 for installations for the harnessing of wind power for energy production (wind farms) if: <ul style="list-style-type: none"> <li>• The development involves the installation of more than two WTGs; or</li> <li>• The hub height of any WTG or height of any other structure exceeds 15 m.</li> </ul> As this offshore Project exceeds these requirements, an EIA must be undertaken.
<b>The Marine Works (Environmental Impact Assessment) Regulations 2007</b>	These EIA Regulations apply to applications for a Marine Licence from 12 to 200 nm. Schedule A1 and A2 list the types of projects which may require an EIA. Schedule A2 includes "Installations for the harnessing of wind power for energy production". Schedule 1 of these regulations is then used to understand whether an EIA is required for a Schedule A2 project by considering whether the project is likely to have significant effects on the environment. Matters requiring consideration include the characteristics (e.g. size, design, waste, pollution, risks etc.) and location (e.g. environmental sensitive areas) of the project as well as the types and characteristics of the potential impact (e.g. magnitude and spatial extent). Given the nature and scale of the Project, it is considered that an EIA must be undertaken.



### 3.7 Assessment of effects on designated sites

An assessment of the potential effects of the offshore Project on protected sites is a requirement under EU, national and Scottish legislation. This Offshore EIA Report, as well as the Habitats Regulations Appraisal (HRA) Screening Report and the Offshore Report to Inform the Appropriate Assessment (RIAA) have adhered to the relevant regulations, outlined in Table 3-6.

Table 3-6 Habitats legislation

RELEVANT LEGISLATION	DESCRIPTION
<p><b>Habitats and Birds Directive</b></p>	<p>Both the Habitats Directive and the Birds Directive form a network of designated ‘European Sites’. Under this legislation, these sites include Special Areas of Conservation (SACs), Special Protected Areas (SPAs), and Ramsar sites. As these directives aim to maintain the biodiversity of European Sites to a favourable conservation status, EU Member States must afford these sites robust protection measures.</p> <p>Following Brexit, the Habitats Regulations, detailed below, which transpose the requirements of the Habitats and Birds Directives into Scottish Law, remain in force. This includes the general provisions for the protection of European Sites, policy and standards, and the procedural requirements to undertake HRA to assess the implications of plans or projects for European sites.</p> <p>Recent legislative amendments focused on the changes necessary to ensure that the Habitat Regulations remain operable now that the UK has left the EU; however, there have been some changes to terminology and Scottish Ministers now exercise some functions which were previously carried out at EU level. Within the UK, the Habitats Regulations now apply to the ‘UK National Site Network’, which covers SACs, SPAs, and Ramsar sites designated at various points in time before Brexit (i.e. UK sites that formed part of the EU Natura 2000 network prior to the UK’s exit from the EU) and any sites designated under the Habitats and Birds Directives post-Brexit.</p>
<p><b>Habitats Regulations</b></p>	<p>The Conservation (Natural Habitats &amp;c.) Regulations 1994 (as amended), The Conservation of Habitats and Species Regulations 2017 and The Conservation of Offshore Marine Habitats and Species Regulations 2017 (‘The Habitat Regulations’), transpose the requirements of Directive 92/43/EEC (the ‘Habitats Directive’) and Directive (2009/147/EC) on the conservation of wild birds (the ‘Birds Directive’) into domestic legislation regulating developments in Scottish Waters.</p> <p>Where there is potential for a project to have an adverse effect on a SAC, SPA, or Ramsar site, including proposed or candidate sites (e.g. Candidate SACs), an Appropriate Assessment is required per the UK legislation that gave effect to the Habitats Directive (as detailed above), and which continues to apply post-Brexit (i.e. the Habitats Regulations), to ascertain whether a project will adversely affect the integrity of a site given the conservation objectives of the site. In accordance with the Habitat Regulations, and as part of the HRA process, where it is identified that there is potential for a Likely Significant Effect (LSE) on a European Site, the applicant is required to provide a RIAA. The RIAA details information on the effects of the Project on the integrity of a European Site to the Competent Authority (i.e. MD-LOT) to enable them to undertake an Appropriate Assessment of the Project.</p> <p>As such, OWPL has produced an Offshore RIAA to support the Section 36 Consent and Marine Licences being sought for the offshore Project. This has been submitted to MD-LOT alongside this Offshore EIA Report. The RIAA identifies European Sites that are protected for their</p>



RELEVANT LEGISLATION	DESCRIPTION
	<p>conservation interests and their qualifying features that have potential connectivity to the offshore Project (in respect of which the Section 36 Consent and Marine Licences are being sought) that are to be assessed for LSE under the Habitats Regulations to fulfil the requirements of HRA.</p> <p>It should also be noted that the N1 PO has already undergone a Plan Level HRA as part of the SMP (the SMP is discussed in section 3.4) (Scottish Government, 2020d). This Plan Level HRA concluded that there will no adverse effect on the site integrity of European Sites from the SMP providing that certain mitigations were adhered to. It should be noted that the completion of an HRA individual projects is still required.</p>
<p><b>Section 82 of the Marine (Scotland) Act 2010</b></p>	<p>Under Section 82 of the Marine (Scotland) Act 2010, MD-LOT is required to consider whether a licensable activity is capable of affecting (other than insignificantly) a protected feature in a Nature Conservation Marine Protected Area (NCMPA) or a historic marine asset in a Historic Marine Protected Area (MPA). As such, this Offshore EIA Report includes an assessment of any effects on NCMPAs or MPAs from the offshore Project, where relevant, within the applicable topic-specific chapters to aid MD-LOT's assessment.</p>

### 3.8 Other permits and licensing requirements

Other permits and licences will be required across the offshore Project lifecycle. These are outlined within Table 3-7. For each permit or licence, separate applications will be submitted to the regulators, with supporting information as required. Should additional licences be required across the lifecycle of the Project, these will be discussed and agreed with the relevant licensing authority. The legislative context under which these will be sought, if required, will be further detailed in the relevant applications.

Once the operation and maintenance strategy is finalised, any construction works required in relation to the operation and maintenance base of operations will also be subject to separate consent applications either undertaken by OWPL or the existing facility operator.

*Table 3-7 Other permits, licences, and statutory sanction applications required during offshore Project lifecycle*

<p><b>PRE-CONSTRUCTION</b></p>	<ul style="list-style-type: none"> <li>• Pre-construction survey licences:                             <ul style="list-style-type: none"> <li>– European Protected Species (EPS) Licence and basking shark derogation licence, as required;</li> <li>– Marine Licences or Marine Licence exemptions as required;</li> <li>– Crown Estate Scotland (CES) marine works licence;</li> <li>– Designated sites assessment;</li> </ul> </li> <li>• Marine Licence and EPS Licence for Unexploded Ordnance (UXO) clearance; and</li> <li>• Northern Lighthouse Board (NLB) Statutory Sanction Application (if required).</li> </ul>
<p><b>CONSTRUCTION</b></p>	<ul style="list-style-type: none"> <li>• EPS licence and basking shark derogation licence for construction;</li> <li>• Safety Zone Applications;</li> <li>• Marine Licence for dredging (if required);</li> <li>• Marine Licence for boulder clearance (if required); and</li> <li>• NLB Statutory Sanction Application (if required).</li> </ul>



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<b>OPERATION &amp; MAINTENANCE</b>	<ul style="list-style-type: none"><li>• Safety Zone Applications;</li><li>• Licences and consents for any unscheduled or major maintenance work that has not been considered within the EIA; and</li><li>• NLB Statutory Sanction Application (if required).</li></ul>
<b>DECOMMISSIONING</b>	<ul style="list-style-type: none"><li>• Decommissioning Programme(s);</li><li>• Relevant licences as listed for pre-construction and construction; and</li><li>• NLB Statutory Sanction Application (if required).</li></ul>

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## 3.9 References

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### 3.10 Abbreviations

ACRONYM	DEFINITION
CaSPlan	Caithness and Sutherland Local Development Plan
CES	Crown Estate Scotland
DPO	Draft Plan Option
EIA	Environmental Impact Assessment
EPS	European Protected Species
EU	European Union
GHG	Greenhouse Gas
HRA	Habitats Regulations Appraisal
INTOG	Innovation and Targeted Oil and Gas
IPF	Initial Plan Framework
IPR	Iterative Plan Review
km	kilometre
LSE	Likely Significant Effect
MLWS	Mean Low Water Spring
MHWS	Mean High Water Spring
MPA	Marine Protected Area
MD-LOT	Marine Directorate - Licensing Operations Team
MW	Megawatt



ACRONYM	DEFINITION
NCMPA	Nature Conservation Marine Protected Area
NLB	Northern Lighthouse Board
nm	nautical mile
NMP	National Marine Plan
NPF3	National Planning Framework 3
NPF4	National Planning Framework 4
OAA	Option Area Agreement
OIC	Orkney Islands Council
OWPL	Offshore Wind Power Limited
PAC	Pre-Application Consultation
PO	Plan Option
RIAA	Report to Inform Appropriate Assessment
RMP	Regional Marine Plan
SAC	Special Area of Conservation
SDG	Sustainable Development Goal
SEA	Strategic Environmental Assessment
SEIA	Socio-Economic Impact Assessment
SMP	Sectoral Marine Plan
SPA	Special Protected Area



ACRONYM	DEFINITION
SPP	Scottish Planning Policy
STW	Scottish Territorial Waters
THC	The Highland Council
UK	United Kingdom
UN	United Nations
UXO	Unexploded Ordnance
WTG	Wind Turbine Generator