

MORGAN OFFSHORE WIND PROJECT: GENERATION ASSETS

Preliminary Environmental Information Report

Volume 1, chapter 2: Policy and legislation



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Final

Image of an offshore wind farm

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Glossary

Term	Meaning
Candidate Special Areas of Conservation (cSACs)	SACs that were submitted to the European Commission before the end of the Transition Period following the UK's exit from the European Union (EU), but not yet formally designated. See also Special Areas of Conservation (SAC).
Capacity market	Introduced by the UK Government to manage security of electricity supply and safeguard against the possibility of future blackouts.
Climate change	A change in global or regional climate patterns, in particular a change apparent from the mid to late 20th century onwards and attributed largely to the increased levels of atmospheric carbon dioxide produced by the use of fossil fuels.
Climate emergency	A situation in which urgent action is required to reduce or halt climate change and avoid potentially irreversible environmental damage resulting from it.
Climate resilience	The capacity of social, economic and ecosystems to cope with a hazardous event or trend or disturbance.
International commitments	Commitments made publicly on the international level.
Contracts for Difference (CfDs)	Private contracts between a low carbon electricity generator and the UK Government owned Low Carbon Contracts Company (LCCC).
Development Consent Order (DCO)	An order made under the Planning Act 2008 granting development consent for one or more Nationally Significant Infrastructure Project (NSIP).
Draft National Policy Statements (NPSs)	The draft National Policy Statements (NPSs) for energy that are undergoing consultation.
Emissions	An amount of a substance that is produced and sent out into the air that is harmful to the environment, especially carbon dioxide.
English offshore waters	English waters beyond 12nm from the English coast.
Environmental Statement	The document presenting the results of the Environmental Impact Assessment (EIA) process for the Morgan Offshore Wind Project Generation Assets.
European Protected Species (EPS)	European Protected Species (such as bats, great crested newts, otters and dormice) receive full protection under The Conservation of Species and Habitats Regulations 2010.
Favourable conservation status	Describes the situation in which a habitat or species is thriving throughout its natural range and is expected to continue to thrive in the future.
Fossil fuel	A hydrocarbon-containing material formed naturally in the earth's crust from the remains of dead plants and animals.
Greenhouse Gas (GHG)	A gas that absorbs and emits radiant energy within the thermal infrared range, causing the greenhouse effect. Examples include carbon dioxide and methane.
Greenhouse effect	The trapping of the sun's warmth in a planet's lower atmosphere, due to the greater transparency of the atmosphere to visible radiation from the sun than to infrared radiation emitted from the planet's surface.

Term	Meaning
Local Authority	A body empowered by law to exercise various statutory functions for a particular area of the United Kingdom. This includes County Councils, District Councils, County Borough Councils and unitary authorities.
Local impact report	A report in writing giving details of the likely impact of the proposed development on the authority's area.
Marine licence	The Marine and Coastal Access Act 2009 requires a marine licence to be obtained for licensable marine activities. Section 149A of the Planning Act 2008 allows an applicant for a DCO to apply for 'deemed marine licences' as part of the DCO process.
Marine spatial planning	A public process of analysing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic and social objectives that have been specified through a political process.
Maximum design scenario	The scenario within the design envelope with the potential to result in the greatest impact on a particular topic receptor, and therefore the one that should be assessed for that topic receptor.
Nationally Significant Infrastructure Project (NSIP)	Large scale development including power generating stations which requires development consent under the Planning Act 2008. An offshore wind farm project with a capacity of more than 100MW in England constitutes an NSIP.
Net zero	A target of completely negating the amount of greenhouse gases produced by human activity either worldwide or by a country or organisation, to be achieved by reducing emissions and implementing methods of absorbing carbon dioxide from the atmosphere.
National Policy Statement	A document setting out national policy against which proposals for NSIPs will be assessed and decided upon. See also Draft NPSs.
Offshore Wind Acceleration Task Force	A group of key global industry players working to accelerate the growth of the fast-moving offshore wind sector by developing a common view to address barriers to growth and provide best practices.
Policy	A set of decisions by governments and other political actors to influence, change, or frame a problem or issue that has been recognized as in the political realm by policy makers and/or the wider public.
Potential Special Protection Areas (pSPAs)	A site identified as potentially qualifying for SPA classification and for which a decision to classify has yet to be taken pending consultation.
Protected species	A species of animal or plant which it is forbidden by law to harm or destroy.
Ramsar sites	Wetlands of international importance that have been designated under the criteria of the Ramsar Convention. In combination with SPAs and SACs, these sites contribute to the national site network.
Relevant Local Planning Authority	The Relevant Local Planning Authority is the local planning authority in respect of an area within which a project is situated, as set out in Section 173 of the Planning Act 2008 (sometimes known as the district planning authority, albeit it may be a borough, district or unitary authority). Relevant Local Planning Authorities may have responsibility for discharging requirements and some functions pursuant to the Development Consent Order, once made.

MORGAN OFFSHORE WIND PROJECT: GENERATION ASSETS

Term	Meaning
Renewable energy	Energy from a source that is not depleted when used, such as wind or solar power.
Sites of Community Importance (SCIs)	Sites which, in the biogeographical region or regions to which they belong, contribute significantly to the maintenance or restoration at a favourable conservation status of a natural habitat type.
Special Areas of Conservation (SACs)	A site designation specified in the Conservation of Habitats and Species Regulations 2017. Each site is designated for one or more of the habitats and species listed in the Regulations. The legislation requires a management plan to be prepared and implemented for each SAC to ensure the favourable conservation status of the habitats or species for which it was designated. In combination with SPAs and Ramsar sites, these sites contribute to the national site network.
Special Protection Areas (SPAs)	A site designation specified in the Conservation of Habitats and Species Regulations 2017, classified for rare and vulnerable birds, and for regularly occurring migratory species. SPAs contribute to the national site network.
The Planning Inspectorate	The executive agency of the Department for Communities and Local Government responsible for operating the planning process for NSIPs.
The Secretary of State for Business, Energy and Industrial Strategy	The decision maker with regards to the application for development consent for the Morgan Offshore Wind Project Generation Assets.
Water quality	The chemical, physical, and biological characteristics of water based on the standards of its usage.

Acronyms

Acronym	Description
BEIS	Department for Business, Energy and Industrial Strategy
CCC	Committee on Climate Change
CfDs	Contracts for Difference
cSAC	Candidate Special Area of Conservation
DCO	Development Consent Order
EIA	Environmental Impact Assessment
EMR	Electricity Market Reform
EPS	European Protected Species
EU	European Union
GHG	Greenhouse Gas
HVAC	High Voltage Alternating Current
ISAA	Information to Support the Appropriate Assessment
LCCC	Low Carbon Contracts Company
MCZ	Marine Conservation Zone

Acronym	Description
MMO	Marine Management Organisation
MPA	Marine Protected Area
MPS	Marine Policy Statement
NIC	National Infrastructure Commission
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NSIP	Nationally Significant Infrastructure Project
OSP	Offshore Substation Platform
PEIR	Preliminary Environmental Information Report
pSPA	Potential Special Protected Area
SAC	Special Area of Conservation
SCI	Site of Community Importance
SPA	Special Protected Area
UK	United Kingdom
UNECE	The United Nations Economic Commission for Europe
UNFCCC	United Nations Framework Convention on Climate Change

Units

Unit	Description
°C	Degrees Celsius
nm	Nautical miles
%	Percentage
km ²	Square kilometres

2 Policy and legislation

2.1 Introduction

2.1.1.1 This section of the Preliminary Environmental Information Report (PEIR) provides a summary of the policy and legislative context for the Morgan Offshore Wind Project Generation Assets (hereafter referred to as the Morgan Generation Assets), with reference to the following:

- Climate change and renewable energy legislation and policy
- The consenting process, including details of the Planning Act 2008 and associated planning policy.

2.1.1.2 Policy and legislation specific to individual environmental topics and Environmental Impact Assessment (EIA) are set out within each topic chapter of this PEIR.

2.2 Renewable energy policy, legislation and strategy

2.2.1.1 This section provides a summary of policy, legislation and strategy in relation to the climate crisis and the role of renewable projects. This legislative and policy framework demonstrates the clear need for an increase in clean renewable energy to:

- Secure our energy supply
- Respond to the climate change crisis.

2.2.1 International climate change commitments

2.2.1.1 Climate change and renewable energy policy in the UK is underpinned by international commitments, which are summarised below.

United Nations Framework Convention on Climate Change

2.2.1.2 The United Nations Framework Convention on Climate Change (UNFCCC) came into force on 21 March 1994. Its objective was to achieve:

'stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system' (United Nations, 1992).

2.2.1.3 To date, the UNFCCC has been ratified by 197 signatories, including the UK.

Kyoto Protocol

2.2.1.4 The UK is a signatory to the Kyoto protocol, an international agreement for the implementation of the UNFCCC. The Kyoto Protocol commits industrialised countries and economies to limit and reduce greenhouse gas emissions in accordance with agreed individual targets. The protocol came into effect in 2005 and its commitments are transposed into UK law by the Climate Change Act 2008, as amended.

2.2.1.5 The protocol initially placed a duty on the UK to ensure that the net UK carbon account for the year 2050 was 80% lower than the 1990 baseline. Due to increasing awareness of the need for more urgent action, this was revised to a 'net zero target' of greenhouse

gas emissions for the year 2050 to be 100% lower than the 1990 levels by the Climate Change Act 2008 (2050 Target Amendment) Order 2019.

The United Nations Adoption of the Paris Agreement COP21

2.2.1.6 In December 2015, 195 signatories, including the UK, adopted the first universal, legally binding global climate deal at the Paris climate conference (COP21). The Paris Agreement (United Nations, 2015) seeks to reduce global greenhouse gas emissions and to limit the global temperature increase in this century to 2°C, while pursuing the means to limit this further to 1.5°C. This was ratified by the UK Government in November 2016 and now forms part of UK Government Policy.

The Glasgow Pact COP26

2.2.1.7 At the COP26 summit in November 2021, nearly 200 parties voted to adopt the Glasgow Climate Pact (UNFCCC, 2021). This included commitments to phase down the use of coal and supports a common timeframe and methodology for national commitments on emissions reductions. Countries were tasked to return in 2022 with more ambitious 2030 emissions reductions targets.

2.2.2 UK climate change and renewable energy commitments

2.2.2.1 The UK has several policies relating to climate change and renewable energy, a summary of which is provided below.

The Climate Change Act 2008 (as amended)

2.2.2.2 Under the Climate Change Act 2008, the UK committed to a net reduction in greenhouse gas (GHG) emissions of 80% by 2050 against the 1990 baseline in line with the commitments of the Kyoto Protocol.

2.2.2.3 In June 2019, secondary legislation (the Climate Change Act 2008 (2050 Target Amendment) Order 2019) was passed that extended that target to at least 100% against the 1990 baseline.

2.2.2.4 The Climate Change Act 2008 also established the Climate Change Committee (CCC), which advises the UK and devolved governments on emissions targets and reports to Parliament on progress made in reducing GHG emissions and preparing for and adapting to the impacts of climate change.

2.2.2.5 The CCC has produced six carbon budgets, covering 2008 to 2037. These carbon budgets represent a limitation on the total quantity of GHG emissions to be emitted over the five-year period. The sixth carbon budget is the most recent, covering 2033 to 2037 (Climate Change Committee, 2020).

The Energy Act 2013

2.2.2.6 The Energy Act received Royal Assent on 18 December 2013. The Energy Act introduced a legislative framework for delivering secure, affordable and low carbon energy. It included provisions to incentivise investment in low carbon electricity generation, ensure security of supply, and help the UK meet its emission reduction and renewables targets. In particular, the Energy Act contained provisions for Electricity Market Reform (EMR).

2.2.2.7 EMR was designed to enable the UK to develop a clean, diverse and competitive mix of electricity generation that will ensure we meet our targets on decarbonisation and security of supply, while keeping bills as low as possible for consumers now and in the future (BEIS, 2022).

2.2.2.8 EMR comprised two main policy areas to deliver the above:

- Capacity market – to ensure security of electricity supply at least cost to the customer
- Contracts for Difference (CfDs) – to provide long-term revenue stabilisation for new low carbon electricity generation in Great Britain (GB).

The Clean Growth Strategy 2017

2.2.2.9 The Clean Growth Strategy (HM Government, 2017) emphasised growing national income while cutting greenhouse gas emissions. It states the aim to achieve clean growth, while ensuring an affordable energy supply for businesses and consumers, is at the heart of the UK's Industrial Strategy.

National Infrastructure Assessment (2018 onwards)

2.2.2.10 The National Infrastructure Commission (NIC) provides advice on the UK's national infrastructure and an assessment of our infrastructure needs to 2050 and beyond.

2.2.2.11 The first National Infrastructure Assessment was published in 2018 (NIC, 2018), which highlighted the need for the UK to have low cost and low carbon electricity. It proposed a highly renewable generation mix as a low-cost option for the energy system, with at least 50% renewable generation by 2030. It proposed the continued use of mechanisms such as CfDs to achieve this. And set out that offshore wind should be recognised as cost competitive.

2.2.2.12 The case for at least 50% renewable generation by 2030 was reaffirmed by the NIC's Net Zero: Opportunities for the power sector paper (NIC, 2020). This paper confirmed that renewables costs have fallen faster than forecast. It states that:

'The government's ambition to deploy 40 GW of offshore wind will go a long way to delivering at least 50 per cent renewable generation by 2030. This positive progress needs to continue. Delivering the Commission's recommendations would allow government to take the needed concrete action in the near term, whilst not closing down options for the future.'

2.2.2.13 As part of the work towards the second National Infrastructure Assessment, a baseline report was published in 2021 (NIC, 2021). This identified the following area for improvement *'greenhouse gas emissions from economic infrastructure must reduce further, fast'*. It also identified two strategic themes for the second Assessment, relevant to climate change and renewable energy:

- Reaching net zero: all sectors have more to do to reach net zero, including energy, where government has committed to decarbonise electricity generation by 2035
- Climate resilience and the environment: while economic infrastructure has generally proved resilient to shocks and stresses over recent years, climate change will only increase pressures across all sectors, and infrastructure

sectors have significant impacts – both positive and negative – on the environment.

2.2.2.14 It is anticipated that the second National Infrastructure Assessment will be published in autumn 2023.

The UK Offshore Wind Sector Deal 2019

2.2.2.15 The UK Government published the Offshore Wind Sector Deal in 2019, which sets the key commitments and actions from the UK Government to support offshore wind energy development (HM Government, 2020a). In 2020, the UK Government prepared a policy paper to reflect on the status of the offshore wind industry one year after the publication of the Offshore Wind Sector Deal (HM Government, 2020b). Since the launch of the Sector Deal in 2019, the UK Government and the offshore wind energy sector have made progress on delivering the commitments set out within the Sector Deal.

National Infrastructure Strategy 2020

2.2.2.16 The National Infrastructure Strategy was published in November 2020 and sets out the plan for the UK's infrastructure revolution, alongside the plans for levelling up. It responds to the recommendations made in the National Infrastructure Assessment. Commitments include:

- Significant investment in offshore wind and into modern ports and manufacturing infrastructure to expand the share of energy generation from renewables
- Supporting jobs and growth across the UK, in particular in post-industrial and coastal towns, the government's decarbonisation agenda will build the UK's capability in new green industries. Infrastructure investment in offshore wind capacity (40GW by 2030) and port infrastructure will create jobs in coastal communities.

The Ten Point Plan for a Green Industrial Revolution 2020

2.2.2.17 The UK's Ten Point Plan (HM Government, 2020c) intends to set the foundations for a Green Industrial Revolution, creating jobs through harnessing British science and technology to create and use clean energy. Point 1 of the Ten Point Plan is 'Advancing Offshore Wind'.

2.2.2.18 The Plan notes that offshore wind is a critical source of renewable energy for our growing economy and that by 2030 the Government plans to quadruple our offshore wind capacity, backing new innovations to make the most of this proven technology and investing to bring new jobs and growth to our ports and coastal regions. It confirms the NIC's aim of 40 GW of offshore wind by 2030 and sets out a proposed £160 million investments into modern ports and manufacturing infrastructure.

The HM Government Energy White Paper - Powering our Net Zero Future 2020

2.2.2.19 Following the Prime Minister's ten-point plan for a green revolution (HM Government, 2020c), and National Infrastructure Strategy (HM Treasury, 2020), the White Paper (HM Government, 2020d) marked a significant milestone in the UK's net-zero

transition, setting a net-zero target by 2050 and outlining how this may be achieved. It relates to the generation, supply and use of energy with the drive towards net zero by 2050 at its core, along with energy efficient buildings and lower household bills. It signalled a decisive move away from fossil fuel generation and highlights how planned Government investment has the potential to leverage billions of pounds more in private sector funding and support for over 250,000 jobs in the green economy by 2030.

2.2.2.20 In particular, the White Paper set out an aim to quadruple offshore wind capacity by 2030, *'backing new innovations to make the most of this proven technology and investing to bring new jobs and growth to our ports and coastal regions'*. It included a target for 40GW of offshore wind by 2030 (in line with the National Infrastructure Strategy).

UK Net Zero Strategy 2021

2.2.2.21 Building on the Ten Point Plan, the Energy White Paper, the requirements of the Climate Change Act 2008 (2050 Target Amendment) Order 2019 and the commitments made at COP26, the Government published its Net Zero Strategy in 2021 (HM Government, 2021). This sets out the long-term plan to end the UK's contribution to man-made climate change by 2050. The key policies in the net zero strategy include:

- By 2035 the UK will be powered entirely by clean electricity, subject to security of supply
- 40GW of offshore wind by 2030.

2.2.2.22 The Strategy proposed that the UK lead the way in meeting the commitments made at COP26.

British Energy Security Strategy

2.2.2.23 On 7 April 2022, the UK Government published its British energy security strategy (BEIS and Prime Minister's Office, 2022). The strategy builds on the UK net zero target, placing a heavy reliance on a renewable and low carbon energy supply with a view to 'bring clean, affordable, secure power to the people for generations to come...'

2.2.2.24 The strategy plans to accelerate delivery of offshore wind by strengthening the renewable National Policy Statements (NPSs) to reflect the importance of energy security and net zero. It proposes work with an Offshore Wind Acceleration Task Force to work on reducing the consenting and delivery times for offshore wind projects and fast tracking priority projects. Specifically, the strategy states an ambition to deliver up to 50GW of offshore wind by 2030, an increase on previous targets of 40GW.

2.2.2.25 In July 2022, the UK Government published the Pathway to 2030 Holistic Network Design documents, which set out the approach to connecting 50GW of offshore wind to the UK electricity network (National Grid ESO, 2022).

2.3 Consenting regime

2.3.1.1 The Morgan Array Area is located in English offshore waters (beyond 12nm from the English coast). The key components of the Morgan Generation Assets include:

- Offshore wind turbines
- Foundations (for wind turbines, Offshore Substation Platforms (OSPs))
- Scour protection
- Inter-array cables linking the individual wind turbines to the OSPs
- High Voltage Alternating Current (HVAC) transmission system including:
 - OSPs
 - Offshore interconnector cable(s).

2.3.1.2 As set out in volume 1, chapter 1: Introduction of the PEIR, the Morgan Generation Assets require consent under the Planning Act 2008, as amended. This section provides a summary of the consenting process and describes the legal requirements for EIA.

2.3.2 The Planning Act 2008

2.3.2.1 The Planning Act 2008 (as amended) is the primary legislation that established the legal framework for the application, examination and determination of applications for Nationally Significant Infrastructure Projects (NSIPs). Offshore wind farms (or generating stations) in England with a capacity of over 100MW are defined as NSIPs within the Planning Act 2008.

2.3.2.2 Section 31 of the Planning Act 2008 states that a development consent order (DCO) is required for all NSIPs. The application for development consent for the Morgan Generation Assets will cover the components listed in paragraph 2.3.1.1, all of which are located in English offshore waters. Applications for development consent for NSIPs are examined by the Planning Inspectorate and determined by the Secretary of State.

2.3.2.3 The Planning Act 2008 defines the key stages in the application process for NSIPs. These are summarised in Figure 2.1. The Morgan Generation Assets are currently at the pre-application stage.

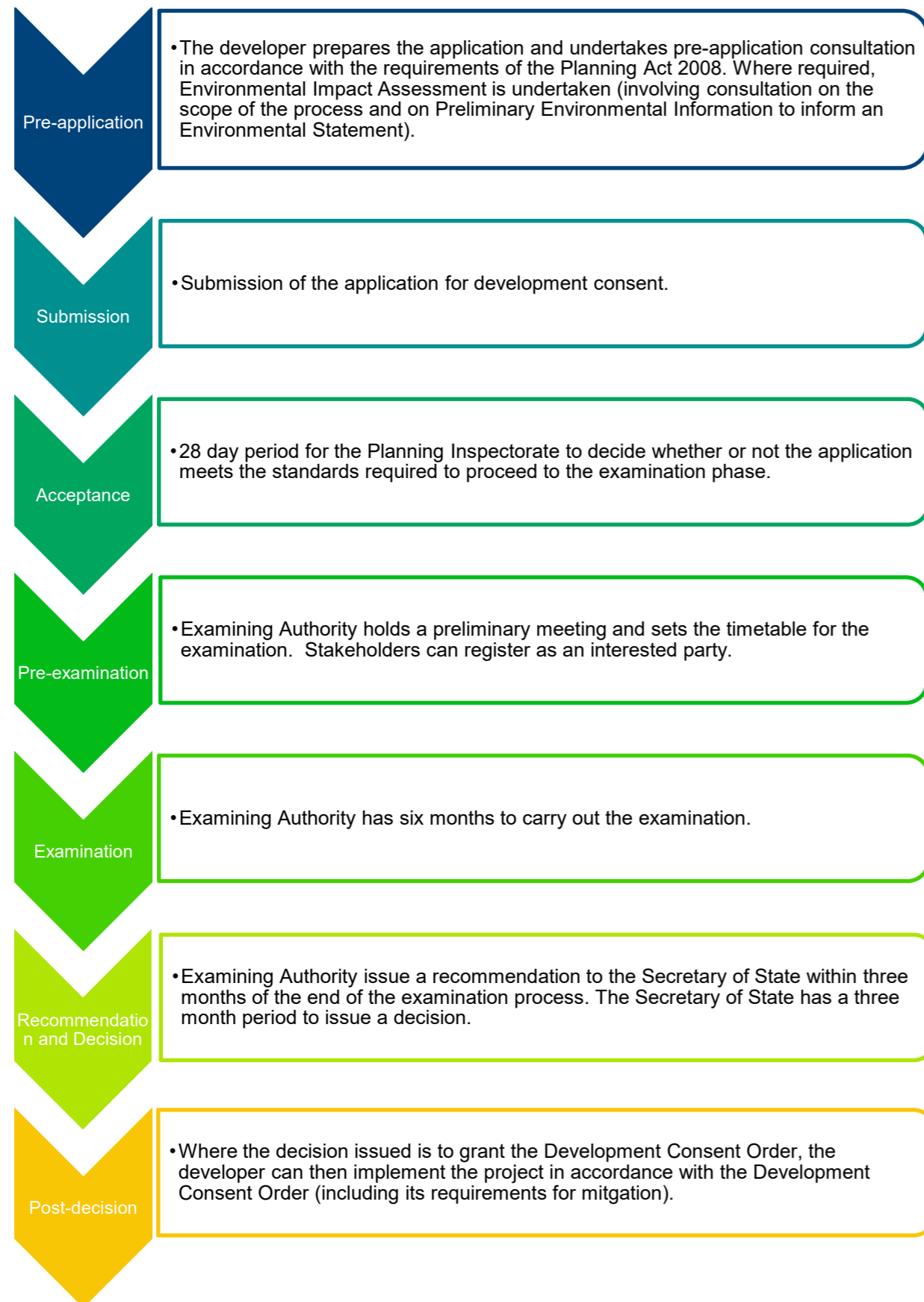


Figure 2.1: Overview of the DCO process.

2.3.2.4 In accordance with Section 104(2) of the Planning Act 2008, the Secretary of State must have regard to the following in determining applications for consent:

- Any national policy statement which has effect in relation to development of the description to which the application relates
- The appropriate marine policy documents
- Any local impact report
- Any matters prescribed in relation to development of the description to which the application relates
- Any other matters which the Secretary of State thinks are both important and relevant to its decision.

2.3.2.5 Section 104(3) of the Planning Act 2008 highlights the importance of NPSs in relation to decision making, requiring applications to be decided in accordance with any relevant national policy statement (see section 2.4), except where any of the following apply:

- The decision would lead to breaching of international obligations or statutory duty
- The decision would be unlawful by virtue of any enactment
- The adverse impact of the development is considered to outweigh its benefits
- A condition prescribed for deciding an application otherwise than in accordance with a national policy statement would be met.

2.3.3 The Marine and Coastal Access Act 2009

2.3.3.1 Parts 3 and 4 of the Marine and Coastal Access Act (MCAA 2009) introduced a new marine planning and licensing system for overseeing the marine environment and a requirement to obtain a marine licence for certain activities and works at sea.

2.3.3.2 Section 149A of the Planning Act 2008 allows an applicant for a DCO to apply for 'deemed marine licences' as part of the DCO process. The Marine Management Organisation (MMO) are the responsible authority for deemed marine licences in English waters and work with the Planning Inspectorate to ensure that deemed marine licences are transposed into the DCO. The MMO remain the regulatory and enforcement body in respect of the conditions and restrictions contained within the deemed marine licences.

2.3.3.3 This PEIR has been prepared in support of the DCO application.

2.3.4 Environmental Impact Assessment Regulations

2.3.4.1 EIA is the process of identifying and assessing the significant effects likely to arise from a project. This requires consideration of the likely changes to the environment, where these arise as a consequence of a project, through comparison with the existing and projected future baseline conditions.

2.3.4.2 An EIA is required for the assessment of the effects of certain projects on the environment under EU Directive 2011/92/EU (as amended by Directive 2014/52/EU)

(the EIA Directive). The EIA Directive is transposed into English law for NSIPs by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

2.3.4.3 The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) and the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) set out the requirements for Environmental Impact Assessment (EIA) under the Planning Act 2008 (in compliance with the EIA directive) and the Marine and Coastal Access Act 2009 respectively.

2.3.4.4 This ensures that the determining authority has sufficient information relating to the likely significant effects on the environment arising from a project. The approach to EIA for the Morgan Generation Assets is set out in volume 1, chapter 5; Environmental Impact Assessment methodology of the PEIR. This PEIR (and the subsequent Environmental Statement) present the findings of the EIA process and have been prepared in accordance with The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) and The Marine Works (Environmental Impact Assessment Regulations) 2007 (as amended).

2.3.5 Habitats Regulations

2.3.5.1 The Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) require the assessment of significant effects on internationally important nature conservation sites where these may arise as a result of a project.

2.3.5.2 These internationally important sites include Special Areas of Conservation (SACs), or candidate SACs (cSACs), Special Protection Areas (SPAs) or potential SPAs (pSPAs), sites of community importance (SCI) and Ramsar sites. These have been traditionally referred to as European Sites or Natura 2000 sites. Following the UK's departure from the EU they are now referred to as the National Site Network. The assessment is to be undertaken by the 'competent authority', which in the case of the Morgan Generation Assets is the Secretary of State for Business, Energy and Industrial Strategy (BEIS).

2.3.5.3 In order to carry out the Habitat Regulations Assessment, the competent authority requires a report to be submitted alongside the application for development consent. Information to Support the Appropriate Assessment (ISAA) is provided alongside this PEIR. An ISAA will be provided alongside the Environmental Statement with the application for development consent.

2.3.5.4 The Habitats Regulations also provide protection for certain species of plants and animals, referred to as European Protected Species (EPS). These Regulations set out those species that are protected and the activities that are prohibited, such as deliberate disturbance or creating damage to a breeding place.

2.3.5.5 The Habitat Regulations also provide for licences to be granted for certain operations, such as proposed developments that may affect protected species, subject to:

- There being no satisfactory alternative
- The action authorised not being detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

2.3.5.6 With respect to the Morgan Generation Assets, the species present have been identified and the likely effects assessed. Where possible, effects on protected species have been avoided or minimised. Where such effects cannot be avoided, then an application for an EPS licence will be made.

2.3.6 Environment Act 2021

2.3.6.1 The Environment Act sets out targets, plans and policies for environmental protection.

2.3.6.2 Schedule 15 of the Environment Act, which is not currently in force, sets out provisions for biodiversity net gain for NSIPs and amends the Planning Act 2008. This includes the requirement for the production of biodiversity net gain statements for NSIPs. The current consultation on implementation of the requirements of the Environment Act indicates that a single 'core' statement may be developed for NSIPs, with a view to incorporating the requirements into updated NPSs (Defra, 2022). The stated intention is for the requirements of the Environment Act in relation to biodiversity to be implemented no later than 2025.

2.3.6.3 It is noted that the requirement would not initially apply to elements of projects which are located in the marine environment (such as those taking place entirely below the low-water mark) (Defra, 2022).

2.3.7 The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017

2.3.7.1 These regulations set out objectives for surface and groundwater bodies, including water quality with the aim of improving the water environment. Objectives are set for waterbodies in terms of their status.

2.3.7.2 The effect of the Project in relation to The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 and the effect on environmental objectives for surface and groundwater bodies is considered within volume 6, annex 7.2: Water Framework Directive coastal waters assessment, volume 7, annex 7.3: Surface water abstraction licences, discharge consents and pollution incidents and volume 7, annex 17.4: Water Framework Directive surface water and groundwater assessment of this PEIR.

2.3.8 Environmental Permitting (England and Wales) Regulations 2016

2.3.8.1 The Environmental Permitting Regulations aim to ensure that authorised activities and their discharges do not endanger the environment or human health.

2.3.9 International conventions

The Ramsar Convention

2.3.9.1 The Ramsar Convention on Wetlands of International Importance (referred to as the Ramsar Convention) is an international treaty for the conservation and sustainable use of designated wetland areas, known as Ramsar sites. The Convention came into force in 1976.

2.3.9.2 Ramsar sites are wetlands of international importance designated under the criteria of the Ramsar Convention (i.e. the wetland supports 20,000 water birds and/or

supports 1% of the individuals in a population of one species or subspecies of water bird).

2.3.9.3 In the UK, Ramsar sites are protected under the National Site Network, in the same way as SPAs and SACs (see Section 2.3.5).

The OSPAR convention

2.3.9.4 The Convention for the Protection of the Marine Environment of the North-East Atlantic (referred to as the OSPAR Convention) was signed at the ministerial meeting of the Oslo and Paris Commissions in Paris in 1992. The Convention aims to protect the marine environment of the North-East Atlantic.

2.3.9.5 The OSPAR Convention includes a series of Annexes with details of measures for the prevention and elimination of pollution, assessment of quality of the marine environment and protection and conservation of marine ecosystems and biodiversity.

2.3.9.6 As part of this work, the need for a network of Marine Protected Areas (MPAs) has been identified. The UK has identified the following MPA designation types: Marine Conservation Zones (MCZs), SACs with marine components, SPAs with marine components, Nature Conservation MPAs and national MPAs in Scotland.

The Espoo Convention

2.3.9.7 The UN Economic Commission for Europe (UNECE) Convention on Environmental Impact Assessment (referred to as the Espoo Convention) came into force in 1997. The Convention sets out the obligations of Parties to notify and consult each other on all major projects under consideration that are likely to have a significant adverse impact across international boundaries (transboundary effects).

2.3.9.8 The Espoo Convention has been transposed into UK legislation by the EIA Regulations (see Section 2.3.4).

The Convention on Biological Diversity

2.3.9.9 The Convention on Biological Diversity entered into force in 1993 with three main objectives:

- The conservation of biological diversity
- The sustainable use of the components of biological diversity
- The fair and equitable sharing of the benefits arising out of the utilization of genetic resources.

2.3.9.10 The overall objective is to encourage actions that will lead to a sustainable future. The Secretariat of the Convention is based on Montreal in Canada and aims to assist governments to implement the Convention and its programmes of work.

2.4 National Policy Statements

2.4.1.1 The NPSs were designated under the Planning Act 2008. They describe the national case and establish the need for certain types of infrastructure development including energy, as well as identifying key issues that should be considered by the Examining

Authority and decision-maker when considering an application for development consent.

2.4.1.2 There are six energy NPSs, two of which are relevant to offshore wind development and therefore the Morgan Generation Assets, specifically:

- Overarching NPS for Energy (NPS EN-1) which sets out the UK Government’s policy for the delivery of major energy infrastructure (DECC, 2011a)
- NPS for Renewable Energy Infrastructure (NPS EN-3) (DECC, 2011b).

2.4.1.3 Key aspects from these NPSs of relevance to the Morgan Generation Assets are outlined in Table 2.1.

2.4.1.4 NPS EN-1 and NPS EN-3 are currently being updated and draft versions were published for consultation in September 2021 (BEIS, 2021a; BEIS, 2021b). This PEIR refers to the current NPSs only and draft NPSs are not included. If an NPS is updated prior to application, the text will be updated in the Environmental Statement. Until revised NPSs are formally adopted, the existing NPSs continue to provide the basis for applications for development consent to be prepared and for decisions to be made.

2.4.1.5 Each NPS sets out environmental topic-specific policy considerations. Where appropriate, these are outlined and taken into account within the relevant topic chapters of this PEIR.

Table 2.1: Summary of Relevant NPSs.

NPS	Key Aspects
NPS EN-1	Overarching energy NPS, setting out broad basis for considering applications for development consent.
	Sets out the Government's policy for the delivery of major energy infrastructure and support the overarching policy set out in section 2.2.
	States that Secretary of State should consider applications that fall within the scope of EN-1 on the basis that the government has demonstrated there is a need for those types of projects.
	States that in considering applications the Secretary of State should take into account: <ul style="list-style-type: none"> • The potential benefits of the project including its contribution to meeting the need for energy infrastructure, job creation and any long-term or wider benefits • Potential adverse impacts, including any long-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.
NPS EN-3	Sets out general assessment principles in relation to EIA and key environmental topic areas.
	NPS for renewable energy infrastructure.
	Confirmed the role of the Secretary of State in the offshore consenting process, including the power of the Secretary of State to grant deemed marine licences as part of a project's DCO.
	Highlighted the use of the 'Rochdale Envelope' method (referred to as the 'maximum design scenario' in this PEIR), which allows for the maximum adverse and positive scenario to be assessed in the EIA process, with DCO granted on this basis.
	Sets out assessment principles in relation assessment for renewable projects.

2.5 Other relevant national planning policy

2.5.1.1 Although reference to the NPSs is sufficient in principle for compliance purposes, the EIA process has had regard to other extant planning policy and guidance, where relevant.

2.5.2 The National Planning Policy Framework

2.5.2.1 The National Planning Policy Framework (NPPF) was published in 2012 and updated in 2018, 2019 and 2021 (Ministry of Housing, Communities and Local Government, 2021). The NPPF sets out the Government's planning policies for England and how these are to be applied in relation to the determination of planning applications made under the Town and Country Planning Act 1990 (as amended).

2.5.2.2 The NPPF states that planning law requires planning applications to be determined in accordance with the Development Plan for the relevant area unless material considerations indicate otherwise. Paragraph 2 states the NPPF:

'... is a material consideration in planning decisions'

2.5.2.3 Paragraph 5 states that the NPPF does not contain specific policies for NSIPs. These are to be determined in accordance with the decision-making framework set out in the Planning Act 2008 and relevant NPSs for nationally significant infrastructure, as well as any other matters that are considered both important and relevant (which may include the NPPF).

2.5.2.4 Where relevant, the NPPF is considered within the topic chapters of this PEIR.

2.6 Marine policy

2.6.1 UK Marine Policy Statement

2.6.1.1 The UK-wide Marine Policy Statement (MPS) was published in March 2011, under the MCAA 2009, in order to provide a framework for marine spatial planning, specifically for the preparation of Marine Plans and taking decisions that affect the marine environment (Defra, 2011). The MMO has taken a regional approach to the development of marine plans in English waters.

2.6.1.2 The MCAA requires all public authorities taking authorisation or enforcement decisions that affect or might affect the UK marine area to do so in accordance with the MPS and the relevant Marine Plans.

2.6.1.3 The MPS provides that the following issues should be taken into account by decision makers when examining and determining applications for energy infrastructure:

- The national level of need for energy infrastructure, as set out in NPS EN-1
- 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
- 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 of these activities support the objective of

developing the UK's low carbon manufacturing capability (MPS, paragraph 3.3.4).

2.6.1.4 The MPS does acknowledge that renewable energy developments can potentially have adverse impacts on fish, mammals and birds and that further research is required to better understand potential impacts, however it goes on to state that:

'The UK has some of the best wind resources in the world and offshore wind will play an important and growing part in meeting our renewable energy and carbon emission targets and improving energy security by 2020, and afterwards towards 2050' (MPS, paragraph 3.3.19).

2.6.1.5 In addition, the MPS states that offshore wind:

'.....has the potential to have the biggest impact in the medium-term on security of energy supply and carbon emission reductions through its commercial scale output' (MPS, paragraph 3.3.19).

2.6.1.6 The MPS identifies certain environmental topic-specific policy considerations. Where appropriate, these are outlined within the relevant topic chapters of this PEIR.

2.6.2 North West Marine Plan

2.6.2.1 The Morgan Array Area is located within English offshore waters, covered by the North West Inshore and North West Offshore Marine Plan (Figure 2.2). The North West Inshore and North West Offshore Marine Plan was published by the MMO in June 2021 (HM Government, 2021) and introduces a strategic approach to marine planning within the marine plan area. It is intended to inform decision-making by marine users and regulators on where, when or how activities may take place within the marine plan area.

2.6.2.2 The North West Inshore and North West Offshore Marine Plan sets out the following four objectives in relation to achieving a sustainable marine economy:

- Infrastructure is in place to support and promote safe, profitable and efficient marine businesses
- The marine environment and its resources are used to maximise sustainable activity, prosperity and opportunities for all, now and in the future
- Marine businesses are taking long-term strategic decisions and managing risks effectively. They are competitive and operating efficiently
- Marine businesses are acting in a way which respects environmental limits and is socially responsible. This is rewarded in the market place.

2.6.2.3 The policy provisions within the North West Inshore and North West Offshore Marine Plan relevant to each physical, biological and human environment topic of the EIA will be presented and addressed in the individual technical topic chapters of the Environmental Statement.

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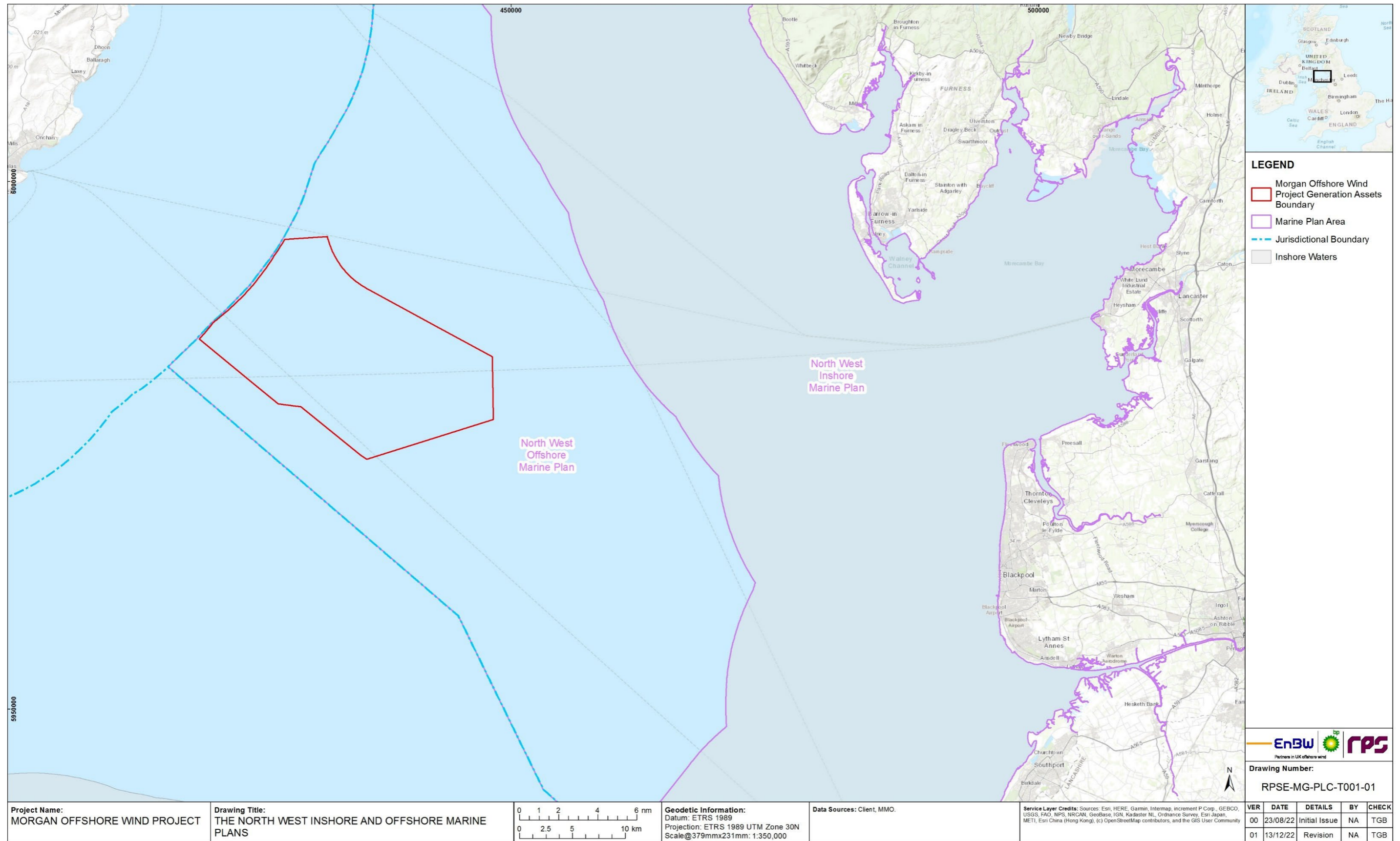


Figure 2.2: The areas covered by the North West Inshore and Offshore Marine Plans.

2.7 References

Climate Change Committee (2020) The Sixth Carbon Budget – The UK’s Path to Net Zero, December 2020. Available: [The-Sixth-Carbon-Budget-The-UKs-path-to-Net-Zero.pdf \(theccc.org.uk\)](https://theccc.org.uk/the-sixth-carbon-budget-the-uks-path-to-net-zero.pdf). Accessed June 2022.

Department for Business, Energy and Industrial Strategy (BEIS) (2021a) Draft Overarching National Policy Statement for Energy (EN-1). Available: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1015233/en-1-draft-for-consultation.pdf. Accessed June 2022.

Department for Business, Energy and Industrial Strategy (BEIS) (2021b) Draft National Policy Statement for Renewable Energy Infrastructure (EN-3). Available: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1015236/en-3-draft-for-consultation.pdf. Accessed June 2022.

Department for Business, Energy and Industrial Strategy (BEIS) (2022) Five Year Review of the Energy Act 2013. Available: [Five Year Review of the Energy Act 2013 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/five-year-review-of-the-energy-act-2013). Accessed June 2022.

Department for Business, Energy and Industrial Strategy (BEIS) and Prime Minister’s Office (2022). British Energy Security Strategy Available: [British energy security strategy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/british-energy-security-strategy). Accessed June 2022.

Department of Energy and Climate Change (DECC) (2011a) Overarching National Policy Statements for Energy (NPS EN-1). Available: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/37046/1938-overarching-nps-for-energy-en1.pdf. Accessed June 2022.

Department of Energy and Climate Change (DECC) (2011b) National Policy Statement for Renewable Energy Infrastructure (NPS EN-3). Available: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/37048/1940-nps-renewable-energy-en3.pdf. Accessed June 2022.

Department for Environment, Food and Rural Affairs (Defra) (2011) Marine Policy Statement. Available: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69322/pb3654-marine-policy-statement-110316.pdf. Accessed June 2022.

Department for Environment, Food and Rural Affairs (2022) Consultation on Biodiversity Net Gain Regulations and Implementation, January 2022. Available: [Consultation on Biodiversity Net Gain Regulations and Implementation January 2022.pdf \(defra.gov.uk\)](https://defra.gov.uk/consultation-on-biodiversity-net-gain-regulations-and-implementation-january-2022.pdf). Accessed July 2022.

HM Government (2017) The Clean Growth Strategy – Leading the way to a low carbon future. Available: [Clean Growth Strategy \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/clean-growth-strategy). Accessed June 2022.

HM Government (2020a) Offshore Wind Sector Deal. Available: <https://www.gov.uk/government/publications/offshore-wind-sector-deal/offshore-wind-sector-deal>. Accessed June 2022.

HM Government (2020b) Offshore wind Sector Deal – one year on. Available: <https://www.gov.uk/government/publications/offshore-wind-sector-deal/offshore-wind-sector-deal-one-year-on>. Accessed June 2022.

HM Government (2020c) The Ten Point Plan for a Green Industrial Revolution. Building back better, supporting green jobs, and accelerating our path to net zero. Available: [The Ten Point Plan for a Green Industrial Revolution \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/the-ten-point-plan-for-a-green-industrial-revolution). Accessed June 2022.

HM Government (2020d) Energy White Paper: Powering out net zero future. Available: [Energy White Paper \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/energy-white-paper). Accessed June 2022.

HM Government (2021a) Net Zero Strategy: Build Back Greener. Available: [net-zero-strategy-beis.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/net-zero-strategy-beis.pdf). Accessed June 2022.

HM Government (2021b) North West Inshore and North West Offshore Marine Plan. Available: [North West Inshore and North West Offshore Marine Plan \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/north-west-inshore-and-north-west-offshore-marine-plan). Accessed June 2022.

HM Treasury (2020) National Infrastructure Strategy: Fairer, faster, greener. Available: [CP 329 – National Infrastructure Strategy – Fairer, faster, greener – November 2020 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/cp-329-national-infrastructure-strategy-fairer-faster-greener-november-2020). Accessed June 2022.

Ministry of Housing, Communities and Local Government (MHCLG) (2021) National Planning Policy Framework. Available: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf. Accessed June 2022.

National Grid ESO (2022) Pathway to 2030 Holistic Network Design. Available: [download \(nationalgrideso.com\)](https://nationalgrideso.com/download). Accessed July 2022.

National Infrastructure Commission (2018) National Infrastructure Assessment, July 2018. Available: [National Infrastructure Assessment \(nic.org.uk\)](https://nic.org.uk/national-infrastructure-assessment). Accessed June 2022.

National Infrastructure Commission (2020) Net Zero: Opportunities for the power sector. Available: [Net-Zero-6-March-2020.pdf \(nic.org.uk\)](https://nic.org.uk/net-zero-6-march-2020.pdf). Accessed June 2022.

National Infrastructure Commission (2021) The Second National Infrastructure Assessment: Baseline Report, November 2021. Available: [Revised-Second-National-Infrastructure-Assessment-Baseline-Report.pdf \(nic.org.uk\)](https://nic.org.uk/revised-second-national-infrastructure-assessment-baseline-report.pdf). Accessed June 2022.

United Nations (1992) United Nations Framework Convention on Climate Change. Available: [Convention text with Annexes - English \(unfccc.int\)](https://unfccc.int/convention-text-with-annexes-english). Accessed June 2022.

United Nations (1995) Paris Agreement. Available: https://unfccc.int/sites/default/files/english_paris_agreement.pdf. Accessed June 2022.

United Nations Framework Convention on Climate Change (2021) Glasgow Climate Pact. Available: https://unfccc.int/sites/default/files/resource/cop26_aup_2f_cover_decision.pdf. Accessed June 2022.

United Nations Framework Convention on Climate Change (2022) Report of the Conference of the Parties on its Twenty-Sixth Session, held in Glasgow from 31 October to 14 November 2021. Available: https://unfccc.int/sites/default/files/resource/cop2021_12_add1E.pdf. Accessed June 2022.