

Response to consultation on Marine Scotland's Draft Sectoral Marine Plan for Offshore Wind Energy

25 March 2020

About Energy UK

Energy UK is the trade association for the energy industry with over 100 members spanning every aspect of the energy sector – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

We represent the diverse nature of the UK's energy industry with our members delivering almost all (90%) of both the UK's power generation and energy supply for over 27 million UK homes as well as businesses.

The energy industry invests over £13.1bn annually, delivers around £85.6bn in economic activity through its supply chain and interaction with other sectors, and supports over 764,000 jobs in every corner of the country.

Executive Summary

- Along with the Offshore Wind Energy Policy Statement (OWPS), the Sectoral Marine Plan (SMP) should clearly set out the ambitions for the offshore wind sector in Scotland. This is particularly important given that the Scottish Parliament has declared a climate emergency and (based on the recommendations of the Committee on Climate Change (CCC)) has legislated for some of the most ambitious climate legislation in the world.
- We welcome recognition of new emission reduction targets set out in the recent Climate Change (Emissions Reduction Targets) Act 2019 (i.e. a 75% reduction by 2030, compared with 1990 levels and net zero date of 2045 within the draft SMP). Offshore wind will have a key role to play in achieving these ambitious, but necessary, targets.
- To meet the Scottish Government's commitment to 50% of energy demands to be met by renewables by 2030 and contribute a resource-appropriate share to the UK's need to achieve 75GW offshore by 2050 (as recommended by the CCC), there is a need to add significantly to the future pipeline through additional leasing.
- There is also a requirement to consider beyond 2030 to set offshore wind ambition to contribute to net zero in 2045 and recognise that any projects resulting from leasing rounds beyond 2020 are unlikely to contribute to the 2030 targets unless the typical timeline from project concept to operation is significantly shortened.
- We note the formation of the Scottish Offshore Wind Energy Council (SOWEC) and the subject-specific groups and workstreams. In our view, the SOWEC vision of 8GW is not ambitious enough. The remit and structure of SOWEC should be clarified and should build on, or align with, delivery of the Offshore Wind Sector Deal (rather than replicate it) and focus on identifying and tackling issues which are specific to Scotland.
- Given that there is currently 7.6GW offshore wind constructed/consented/in planning in Scotland, and ScotWind 2020 leasing could deliver an additional 10GW operational by 2030. We therefore consider it reasonable to double the 2030 ambition to around 16GW.

Please find our response to the relevant consultation questions below.

Response to consultation questions

Question 1. Do you support the selection of the following draft Plan Options?

Energy UK welcomes Marine Scotland's approach to this consultation and the stakeholder engagement that has characterised the Plan's development and drafting.

Section 2 helpfully set out the process undertaken to refine the initial area of search identify to the Draft Plan Options (DPOs). However, it is not clear on what basis the 22 Areas of Search were reduced to 17 Draft Plan Options. Given as this significantly reduces the likely available leasing area, it would be helpful to have transparency on the reasons behind the decision set out clearly within the final SMP.

In addition, it is our view that the SMP should seek to maximise the available areas identified as suitable for offshore wind development, in line with the net zero target and climate emergency declaration.

Whilst we understand the reasons behind restricting areas based on HRA conclusions around cumulative ornithology, we would suggest that it should be for the developer, rather than the regulator, to assess and manage the potential risk at the planning stage. By limiting other DPOs available based on potential impacts with other sea users, including commercial fisheries, this removes the opportunity for developers to assess and develop means to mitigate these potential impacts.

These should ideally be assessed at project-level by developers and the planning and consenting processes deal with these interactions, which can be mitigated. It appears that some Areas of Search were reduced/removed on the basis of impacts on fishing, but it is not clear how this is backed up by the data and we would welcome further information on the evidence base for the removal of these sites.

We also note that assessment has been undertaken to inform the 10GW target based on sea area. We would welcome sight of how this assessment has been undertaken, how the assumptions around the capacity of the individual DPOs have been derived and how this relates to the commercial viability of projects. We ask that where a developer has evidence to suggest that a larger percentage of the DPO can be developed than the proposed cap would allow, this should be permitted within the Scotwind leasing process.

The realistic maximum development scenarios for each DPO have been calculated on the density assumption of 5MW/km². Recent UK experience has suggested that this density may be too high, although more representative of existing Scottish windfarms. The result of calculating at too high a density is to impose a DPO cap that is unrealistically low in percentage terms. As such, we would recommend that these calculations are re-considered.

Furthermore, whilst we appreciate and welcome the efforts made by Marine Scotland to increase the number of sites suitable for fixed bottom technologies in the Draft Plan, we remain concerned that of the 17 DPOs there are still only a small number fixed sites available (those with water depths under 60m) and of these opportunities, most present their own development challenges, both in terms of consenting constraints and being competitively buildable.

DPOs that offer fixed foundation technology are critical for nearer term climate targets and market growth.

Question 3. Do you agree that the scientific evidence presented demonstrates that DPOs NE2-6 and E3 are subject to high levels ornithological constraint and, therefore, the mitigation measures outlined in the draft Plan should be applied to these DPOs?

The HRA concludes that Adverse Effects on Integrity of Site (AEOI) cannot be ruled out for DPOs NE2-6 and E3 and as a result these are identified as subject to high levels of ornithological constraint. The basis for concluding possible AEOI in DPOs NE2-6 in Moray, is the advice of SNH on previous windfarm applications in the area and 'general consensus' that the carrying capacity for Kittiwake interest features of East and North Caithness Cliffs SPAs is close to being reached, with the potential in-combination effects from development at these DPOs with the consented Moray East, Moray West and Beatrice offshore windfarms leading to a conclusion of likely AEOI.

However, the legal position for the baseline is that these three projects are now consented and have an Appropriate Assessment by the Competent Authority that concluded no AEOI alone and in-combination. We would therefore ask that HRA should be based on this legal baseline position that no AEOI has been concluded to date.

Furthermore, we consider the justification for the inclusion of NE6 within the DPOs which are subject to high levels of ornithological constraint, in particular, to be unclear. Of the six DPOs flagged as high ornithological constraint, NE6 alone is beyond the 60km foraging range for kittiwake from the East Caithness Cliffs and North Caithness Cliffs SPAs flagged as for concern in-combination, but rather is within range of the Lions Head, Troup Head and Pennan SPA, which is not flagged as being of current concern. More recently, Woodward et al (2019)¹ suggests that the mean maximum foraging range of kittiwake in the UK is 156km, however the paper also identifies that the only site-specific data for the Caithness Cliffs SPA recorded a maximum foraging range of 30km for the site (Mudge & Crooke, 1986)². It is therefore not clear, given an absence of understanding about the connectivity of Kittiwake between SPAs, how the conclusion to include NE6 along with NE2-5 has been reached.

The HRA also identifies that for a risk of AEOI to be present at NE6, development at an additional two DPOs (NE4 and NE5) which are under high ornithological constraint would be required. Consequently, we would suggest that further consideration is given to removing this DPO from the list of sites which are subject to high ornithological constraint.

Question 5. Do you have any comments regarding the proposed approach to iterative plan review?

We welcome the commitment within the Draft SMP for the final SMP to be subject to Iterative Plan Review (IPR) and management following adoption, supported by an Advisory Group, and support the intention to review the plan on a twice-yearly basis.

An important element of iterative plan review will be a process for identifying when the evidence base will become sufficient to allow HRA of future plans to conclude no likely AEOI from the DPOs currently subject to high ornithological constraint and enable developments within these DPOs to be consented.

A timetabled evidence-gathering exercise, including monitoring data from consented windfarms and additional research projects, should set out how and when this evidence will be available to a satisfactory level, identifying further research gaps and how these will be addressed.

We would welcome clarity regarding how developers will feed into this process and the intervening phases such as the annual review. At present, industry engagement with the SMP is conducted through Scottish Renewables' position on the project steering group however we would welcome further consideration of how industry can engage in this important process.

We note the strategic nature of the research and the bodies proposed to be engaged in the IPR process to understand current knowledge gaps and encourage the Scottish Government to look into opportunities to collaborate outside of Scotland that could prove to be useful to furthering wind development in Scotland.

Whilst we welcome the IPR process, we would also ask that confirmation is provided that the review process will not be used to retrospectively change the status of currently unconstrained DPOs, which may in future contain areas under Option Agreement for Crown Estate Scotland. This level of uncertainty would be unacceptable to developers and therefore we would welcome confirmation within the final draft that this will not be part of the scope of the IPR process.

Question 6. Do you have any comments regarding the proposed formation and role of the Advisory Group?

¹ Woodward, I., Thaxter, C., Owen, E. & Cook, A. (2019) Desk-based revision of seabird foraging ranges used for HRA screening. BTO Research Report No. 724

² Mudge, G.P., Crooke, C.H., (1986) Seasonal changes in the numbers and distribution of seabirds in the Moray Firth, northeast Scotland. Proceedings of the Royal Society of Edinburgh B 91, 81-104.

As stated in response to Question 5, we welcome the intention to establish an Advisory Group to identify gaps in scientific knowledge and to guide the IPR process. We would welcome clarity on the role of industry in this forum.

The in-combination ornithology issues resulting in likely AEOI of an unmitigated SMP will also be considered within current England/Wales leasing processes and projects consenting under the Planning Act in England/Wales. It is important that the Advisory Group is informed by these parallel discussions. Representation on the Advisory Group from those with a UK-wide remit including the JNCC would be helpful, as would other mechanisms to ensure the IPR process is connected to wider UK (and global as appropriate) considerations of the same issues.

We would therefore welcome clarity on the process for project-level consideration of IROPI, and the role of the Advisory Group. Given that section 5.2.1 states that 'developers may choose to pursue licence and consent applications for projects within these DPOs', we would suggest that the IPR and Advisory Group (without compromising the conclusions of no AEOI at plan level) should not prevent individual projects from pursuing the derogations if that is the only route open to that project. Clarity on how such a route would work, given the remit of the IPR and the ornithological constraints placed on some DPOs, is requested.

Question 8. Do you have any comments on the Strategic Environmental Assessment Report?

Energy UK welcomes the work of the Strategic Environmental Assessment (SEA) Report, however, there appears to be inadequate consideration (identification, recording, comparing and selection) of reasonable alternatives with regards to the plan, its strategic objectives and its individual policies (the DPOs). We suggest clear consideration of alternatives using the Sustainability Appraisal (SA)/SEA objectives in order to allow assessment of the advantages and disadvantages of different policy options (in this instance the DPOs). Energy UK recommends that a clear rationale for the chosen options should be detailed.

The iterative process undertaken to identify and refine Areas of Search and the DPOs themselves, represents consideration of reasonable alternatives but there appears to be an absence of them being considered in the context of the SEA/SA objectives, and provision of a clear rationale for choosing certain DPOs (and why certain DPOs, or previous areas of sea arch have been removed from the draft Plan).

To emphasise a previous comment, we would welcome greater transparency on the process to refine the 22 AoS to the 17 DPOs, and consider that if this further explanation of a detailed rationale and assessment undertaken to support the downward selection process, combined with consideration of different options for each DPO was included, it could also demonstrate the required consideration of alternatives.

Energy UK would also like to suggest that reasonable alternatives to the Plan, its vision and high-level objectives, should be considered as part of this process. This could include a "do nothing" option where the proposed Plan is compared against not having a Plan for offshore wind energy and the advantages and disadvantages are weighed up against SA/SEA objectives. Section 3.2.2 of the SA states that a "do nothing" option has been considered but it is not clear where the appraisal of this is provided within the suite of documents.

Question 10. Do you have any comments on the Social and Economic Impact Assessment?

The Social and Economic Impact Assessment (SEIA) calculates the negative impacts on commercial fishing from the Plan. These potential negative impacts are based on the worst-case scenario that all fishing activity ceases within arrays, and that it is not displaced elsewhere. This worst-case scenario is not realistic, as fisheries exclusions, where they exist, are likely to be temporal in nature and unlikely to persist in the operational phase of the windfarm project. Should exclusions apply, compensation schemes would be in place to offset any negative impacts. Displacement rather than cessation of fishing

activity is a more likely result of any exclusion. Therefore, the SEIA significantly overestimates the negative impact on commercial fisheries.

Question 12. Do you have any comments on the Sustainability Appraisal report?

We have the following comments on the plan level mitigation described in section 4.7 of the Sustainability Appraisal:

- *“Requiring appropriate temporal planning so that appropriate consideration is given to the desirability of developing sites within the same region at the same time in order to reduce the potential for cumulative effects associated with construction activities.”*

We suggest this should be determined either through a project level assessment in combination with HRA assessments, or if at Plan level, the requirement for restrictions should be considered, assessed and identified. This does not appear to have been included in the HRA, nor is there a justification for such a mitigation provided in the SEA.

- *“Consideration of environmental enhancement schemes at a plan level”.*

We consider that enhancements should either be considered on a project level, or if at plan level, much more detail on the location, scale and justification should be provided. As this does not appear to have been provided at this stage, we suggest reference to this mitigation should be removed until further definition is available.

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