

A photograph of an offshore wind farm at sunset. The sky is a warm, golden-orange color with soft clouds. Several wind turbines are visible, their silhouettes against the bright sky. The foreground shows dark, choppy waves with white foam, suggesting a strong wind. The overall mood is serene yet powerful.

Salamander Offshore Wind Farm

Onshore EIA Report

**Volume ER.B.2, Chapter 2: Legislative Context and
Regulatory Requirements**



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Simply Blue Group

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Glossary

Term	Definition
Applicant	Salamander Wind Project Company Limited (formerly called Simply Blue Energy (Scotland) Limited), a joint venture between Ørsted, Simply Blue Group and Subsea7.
Contracts for Difference (CfD)	The Contracts for Difference (CfD) scheme is the UK Government's main mechanism for supporting low-carbon electricity generation. CfDs incentivise investment in renewable energy by providing developers of projects with high upfront costs and long lifetimes with direct protection from volatile wholesale prices.
Effect	Term used to express the consequence of an impact. The significance of an effect is determined by correlating the magnitude of the impact with the importance, or sensitivity, of the receptor or resource in accordance with defined significance criteria.
Energy Balancing Infrastructure (EBI)	Energy Balancing Infrastructure which will provide services to the electrical grid, such as storing energy to meet periods of peak demand and improving overall reliability, as well as additional services such as system monitoring and computing. EBI will be housed within buildings and / or containers which will be co-located with the Onshore Substation.
Environmental Impact Assessment (EIA)	A statutory process by which the likely significant effects of certain projects must be assessed before a formal decision to proceed can be made. It involves the collection and consideration of environmental information, which fulfils the assessment requirements of the EIA Regulations, including the publication of an Environmental Impact Assessment Report (EIAR).
EIA Directive	The EIA Directive (85/337/EEC as amended by 97/11/EC, 2003/35/EC and 2009/31/EC, codified by 2011/92/EU as amended by 2014/52/EU) sets out a requirement for an EIA to be conducted in support of an application for consent for certain types and sizes of project.
EIA Regulations	The regulations that apply to the Onshore Development are the Electricity Works (EIA) (Scotland) Regulations 2017 and the Town and Country Planning (EIA) (Scotland) Regulations 2017.
Environmental Impact Assessment Report (EIAR)	A document reporting the findings of the EIA and produced in accordance with the EIA Regulations.
Habitats Regulations Appraisal	A process which helps determine likely significant effects and (where appropriate) assesses adverse impacts on the integrity of European conservation sites and Ramsar sites (when these are also an SPA or SAC). The process consists of a multi

Term	Definition
	stage assessment which incorporates screening, appropriate assessment, assessment of alternative solutions and assessment of imperative reasons of overriding public interest (IROPI) and compensatory measures.
Impact	An impact is considered to be the change to the baseline as a result of an activity or event related to the Salamander Project. Impacts can be both adverse or beneficial impacts on the environment and be either temporary or permanent.
INTOG Leasing Round	The Innovation and Targeted Oil and Gas (INTOG) leasing round where developers apply for the rights to build offshore wind farms specifically for the purpose of innovation or providing low carbon electricity to power oil and gas installations and help to decarbonise the sector.
Kyoto Protocol	The Kyoto Protocol is an international agreement linked to the United Nations Framework Convention on Climate Change, which commits its parties to reducing greenhouse gas emissions by setting internationally binding emission reduction targets, implemented primarily through national measures but also via wider market-based mechanisms.
Landfall	The generic term applied to the entire landfall corridor between Mean Low Water Spring (MLWS) tide and the Transition Joint Bay (TJB) inclusive of all construction works, including the offshore ECC, and landfall compound, where the offshore cables come ashore north of Peterhead.
Offshore Development	The entire Offshore Development, including all offshore components of the Project (WTGs, Inter-array and Offshore Export Cable(s), floating substructures, mooring lines and anchors, and all other associated offshore infrastructure) required across all Project phases from development to decommissioning, for which the Applicant is seeking consent.
Offshore Development Area	The total area comprising the Offshore Array Area and the Offshore Export Cable Corridor.
Onshore Development	The entire Onshore Development, including compounds at the Landfall, temporary working areas, Onshore Export Cables, Transition Joint Bay, Joint Bays, Onshore Substation and Energy Balancing Infrastructure, Construction Compounds, any associated landscaping (if required) and access (and all other associated infrastructure) across all Project phases of the Onshore Development from development to decommissioning, for which the Applicant is seeking consent.
Onshore Development Area	The total area comprising the Landfall, Onshore Export Cable Corridor, and Onshore Substation, EBI and associated infrastructure.

Term	Definition
Onshore Substation	The electrical components for transforming the power supplied from the Salamander Project to 132 kilovolt (kV) and to adjust the power quality and power factor, as required to meet the UK Grid Code for supply to the National Grid.
Receptor (Onshore)	Any physical, biological or anthropogenic element of the environment that may be affected or impacted by the Salamander Project. Receptors can include natural features such as rivers, forests and wildlife habitats as well as man-made features like residential areas, schools and cultural heritage sites.
Salamander Project	The proposed Salamander Offshore Wind Farm. The term covers all elements of both the offshore and onshore aspects of the project.
Scoping	An early part of the EIA process by which the key potential significant impacts of the Salamander Project are identified, and methodologies identified for how these should be assessed. This process gives the relevant authorities and key consultees opportunity to comment and define the scope and level of detail to be provided as part of the EIAR – which can also then be tailored through the consultation process.

Acronyms

Term	Definition
AA	Appropriate Assessment
CBD	Convention of Biological Diversity
CfD	Contracts for Difference
COP	Conference of Parties
EBI	Energy Balancing Infrastructure
ECU	Energy Consents Unit
EGPS	Electricity Generation Policy Statement
EIA	Environmental Impact Assessment
EIAR	Environmental Impact Assessment Report
EMR	Electricity Market Reform
EU	European Union
GES	Good Environmental Status
GW	Gigawatts
ha	Hectares
HRA	Habitats Regulations Appraisal
INTOG	Innovation and Targeted Oil and Gas
IROPI	Imperative Reasons of Overriding Public Interest
JNCC	Joint Nature Conservation Committee
JV	Joint Venture
ISE	Likely Significant Effects
MHWS	Mean High Water Springs

Term	Definition
MLWS	Mean Low Water Springs
MPA	Marine Protected Area
MW	Megawatts
nm	nautical miles
NPF4	National Planning Framework 4
PAC	Pre-application Consultation
PPP	Planning Permission in Principle
RED	Renewable Energy Directive
REZ	Renewable Energy Zone
SAC	Special Area of Conservation
SPA	Special Protected Area
SWPC	Salamander Wind Project Company Limited (formerly called SBES)
UK	United Kingdom
UN	United Nations

2 Legislative Context and Regulatory Requirements

2.1 Introduction

- 2.1.1.1 The Applicant, Salamander Wind Project Company Limited (SWPC), a joint venture (JV) partnership between Ørsted, Simply Blue Group and Subsea7, is proposing the development of the Salamander Offshore Wind Farm (hereafter 'Salamander Project'). The Salamander Project will consist of the installation of a floating offshore wind farm (up to 100 megawatts (MW) capacity) approximately 35 kilometres (km) east of Peterhead. It will consist of both offshore and onshore infrastructure, including an offshore generating station (wind farm), export cables to landfall, energy balancing infrastructure (EBI) and connection to the electricity transmission network (please see **Volume ER.B.2, Chapter 4: Project Description** for details on the Project Design).
- 2.1.1.2 This chapter explains the relevant policies, legislation, and material considerations for the Onshore Development of the Salamander Project. A similar chapter has been produced for the legislation, policies and material considerations for the Offshore Development of the Salamander Project and is included in the Offshore Environmental Impact Assessment Report (EIAR).
- 2.1.1.3 This chapter considers the relevant legislative requirements for an Environmental Impact Assessment (EIA) and sets out the wider policy and legislative context, including:
- A description of the consenting approach for the Onshore Development of the Salamander Project;
 - The relevant United Kingdom (UK) and Scottish climate change legislation and policy which provides context for the overall need for the Salamander Project;
 - A summary of the various consenting requirements for the construction, operation and decommissioning phases of the onshore infrastructure; and
 - Other legislation, policies, and material considerations relevant to the Salamander Project.
- 2.1.1.4 Further policies and legislation which relate to specific EIA topics are outlined within the relevant chapters of the EIAR.

2.2 Consenting Overview

- 2.2.1.1 For the overall consenting purposes, the Salamander Project will consist of three distinct project elements:
- The Offshore Development– comprising all offshore works and infrastructure seaward of Mean High Water Springs (MHWS);
 - The Onshore Development– comprising onshore works and infrastructure to Mean Low Water Springs (MLWS) excluding the energy balancing infrastructure (EBI); and
 - The EBI including battery storage.
- 2.2.1.2 However, this document will focus on the legislative context for the Onshore Development of the Salamander Project, which includes the onshore infrastructure to MLWS and the EBI including the battery storage.
- 2.2.1.3 The Onshore Development will be assessed in this EIA, with these elements of the wider Salamander Project requiring planning permission from Aberdeenshire Council for the Onshore Development to MLWS and Section 36 Consent from the Energy Consents Unit (ECU) of the Scottish Government for the EBI including battery storage.

2.3 Requirement for an Environmental Impact Assessment

- 2.3.1.1 EIA is a process which provides the decision maker with the information necessary to allow them to have a understanding of the likely significant effects of a project or proposal before making any decision. Mitigation and management strategies for these significant impacts are identified through the EIA process to reduce negative impacts, promote sustainability, and enhance the environment. The EIA procedure also ensures that thorough stakeholder consultation is carried out and so enables stakeholders to engage in the decision-making process.
- 2.3.1.2 The EIA Directive requires that EIA is carried out for projects over certain thresholds or which are otherwise liable to have a potentially significant environmental impact.
- 2.3.1.3 The EIA Directive was implemented into Scottish Law under (inter alia) the following legislation:
- The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 applies to applications under Section 36 of the Electricity Act 1989 for consent to construct, extend or operate a generating station; and
 - The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 applying to applications for planning permission under the Town and Country Planning (Scotland) Act 1997.
- 2.3.1.4 The requirements of the EIA Directive are enacted through UK legislation that is relevant to projects which generate electricity that require consent under Section 36 of the Electricity Act 1989 by the Electricity Works (EIA) (Scotland) Regulations 2017. All Section 36 consent applications that are likely to result in significant environmental effects will require an EIA to be produced. Developments requiring planning permission under the Town and Country Planning (Scotland) Act 1997 may require an EIA under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 where they exceed certain thresholds or which are otherwise liable to have a potentially significant environmental impact. This outlines the minimum requirements and statutory process for an EIA.
- 2.3.1.5 The Onshore Development of the Salamander Project will require an EIA, as it falls under the relevant criteria set out within Schedule 2 'Industrial installations for the production of electricity, steam and hot water' of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. The criteria are as follows:
- The area of the development would exceed 0.5 hectares (ha); and
 - The development would likely result in significant environmental effects.
- 2.3.1.6 The Onshore Development of the Salamander Project by virtue of its nature, size and location is likely to result in significant environmental effects. Therefore an EIA has been produced for the Onshore Development to be submitted alongside the planning application under the Town and Country Planning (Scotland) Act 1997 and alongside the Section 36 consent application under the Electricity Act 1989.
- 2.3.1.7 The EIA Regulations require that any potential environmental impacts of a project are assessed and consulted upon before development consent is given. The decision-maker (Aberdeenshire Council and the ECU for the Onshore Development) must take into account the EIAR before they reach a decision.
- 2.3.1.8 Additionally, Schedule 3, part 3 of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 sets out the following requirement:

'The likely significant effects of the development on the environment must be considered in relation to criteria set out in paragraphs 1 and 2 above, with regard to the impact of the development on the factors specified in regulation 4(3), taking into account—

(a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);

(b) the nature of the impact;

(c) the transboundary nature of the impact;

(d) the intensity and complexity of the impact;

(e) the probability of the impact;

(f) the expected onset, duration, frequency and reversibility of the impact;

(g) the cumulation of the impact with the impact of other existing and/or approved development;

(h) the possibility of effectively reducing the impact.'

2.3.1.9 To comply with this requirement, a description of potentially significant effects is provided within each technical chapter of this EIAR (where applicable) and summarised in **Volume ER.B.3, Chapter 19: Summary of Impacts and Mitigations.**

2.3.1.10 The stages carried out to prepare the EIAR are as follows:

- Scoping to establish the EIAR content and the issues to be addressed by the EIAR.
- Reviewing the available data and / or performing baseline surveys in order to obtain data for the Onshore Development.
- Assessment and design iteration which involves the assessment of any significant impacts from the construction, operation, maintenance, and decommissioning phases. The feedback from this is forwarded to the relevant teams and any modifications to avoid, prevent, reduce, and offset any impacts are made.
- Identification of any additional mitigation required and assessment of residual effects.
- Presentation in the EIAR.

2.4 Climate Change and Energy Legislation and Policy

2.4.1 International

2.4.1.1 As a result of the increasing urgency to combat climate change, the UK Government has signed a range of international protocols and agreements to commit towards reducing carbon emissions.

2.4.1.2 The UK is a signatory to the Kyoto Protocol which came into effect in 2005 (United Nations, 1998). This protocol is a legal agreement that binds Governments across the globe to emission reduction targets. The commitments outlined in the Kyoto Protocol were integrated into UK law via the Climate Change Act 2008 and into Scottish law via the Climate Change (Scotland) Act 2009. Initially, this required greenhouse gas emissions to be reduced to a position at least 80% lower than the baseline level of emissions in 1990 by 2050. However, in 2019, the UK's Climate Change Act 2008 was adjusted by the Climate Change Act 2008 (2050 Target Amendment) Order 2019 to increase the emission reduction target to 100% below the levels recorded in 1990 by 2050, thereby achieving a net-zero society. The Climate Change (Scotland) Act 2009 was amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 to require a 100% reduction by 2045, as well as interim targets in the years leading up to this.

2.4.1.3 The 'Paris Agreement' came into effect in 2016 after the United Nations Conference of Parties 21 (COP21). 196 countries, including the UK, agreed to adopt the global climate deal and contribute towards limiting an increase in global temperature to less than 2°C. The countries also had to make efforts to limit the temperature increase to 1.5°C above the pre-industrial average temperature. At COP26 in 2021, it was detailed that global targets were being missed. At COP28 in 2023, the Global Renewables and Energy Efficiency Pledge was launched, with signatories committing to work collaboratively to triple the global renewable energy generation capacity by 2030 - this has been signed by the UK. At COP28, the UK also signed the Joint Statement on Climate, Nature and People, which commits to aligning countries' climate and biodiversity agendas, recognising the interconnectedness of climate change biodiversity loss and ecosystem degradation.

2.4.2 European

2.4.2.1 Despite the UK leaving the European Union (EU) in January 2020, the UK Government is still committed to upholding international environmental obligations in accordance with the EU (Withdrawal) Act 2018. This includes the Renewable Energy Directive (2009/28/EC) (RED I) (European Union, 2009). RED I came into effect in 2009 and it established the extent of the use of renewable energy in EU countries between 2009 and 2021. However, RED I was subsequently altered in 2018 via the creation of the Renewable Energy Directive (2018/2001/EU) (RED II) (European Union, 2018), meaning the EU, and the UK, were cumulatively bound to meet 32% of their energy requirements using renewable energy by 2030.

2.4.3 United Kingdom

2.4.3.1 Both the UK and Scottish Governments have made legally binding emission reduction commitments, via the Climate Change Act 2008 and the Climate Change (Scotland) Act 2009. The Electricity Market Reform (EMR) Policy and Energy Act 2013 were introduced by the UK Government. The Energy Act 2013 sets out the UK's commitment to enhancing and investing in the low carbon energy industries, to make low-carbon energy sources secure and affordable. The Energy Act 2013 enabled the implementation of an EMR. This reform contained measures in the form of the Contracts for Difference (CfD) allocation framework, created to attract £110 billion investment necessary for the transition to a low-carbon society.

2.4.3.2 The Environment Act 2021 was passed into law in November 2021 and provides a framework for environmental governance after Brexit. The Environment Act 2021 makes provisions for a series of issues including environmental targets, plans and policies for enhancing the natural environment as well as a series of measures related to nature and biodiversity, water and air quality. Despite most of the Act applying to England only, there are significant provisions which apply to Scotland, Northern Ireland and Wales. Many of the UK-wide provisions create powers where areas of devolved environmental policy must be regulated at a UK-wide level with Scottish Minister's consent.

2.4.3.3 Due to the current success of the offshore wind industry and future potential, The Offshore Wind Sector Deal (2019) was introduced. This included sector wide targets such as generating 30 gigawatts (GW) by 2030 which was subsequently increased to 50 GW by 2030 by the Spring 2022 UK Government Energy Security Strategy (HM Government, 2022). The Energy Security Strategy also includes a target of 5 GW of floating offshore wind by 2030. The UK Government's 'Powering up Britain' plans set out how the UK will provide energy security, seize the economic opportunities of the transition to net zero, and deliver on net zero commitments.

2.4.4 Scotland

2.4.4.1 The Planning (Scotland) Act 2019 was passed by Scottish Parliament in June 2019 and amends part of the Town and Country Planning (Scotland) Act 1997. The Town and Country Planning (Scotland) Act 1997 is the

primary piece of onshore legislation in Scotland. The legislation aims to strengthen the contribution planning can make to inclusive growth to deliver infrastructure and other development. The Planning (Scotland) Act 2019 contains a broad range of changes to the overall planning system, and most notably the inclusion of National Planning Framework 4 (NPF4) which combines the previous NPF3 and the Scottish Planning Policy (SPP) documents to a singular condensed version, and forms a new policy document which is part of the statutory development plan. The Act also contains a strong emphasis on meeting targets in relation to the reduction of emissions of greenhouse gases in association with the Climate Change (Scotland) Act 2009.

- 2.4.4.2 The Electricity Generation Policy Statement (EGPS) 2013 analyses how Scotland generates electricity as well as the changes required to meet Scottish Government targets (Scottish Government, 2013). The Scottish Government aims to deliver a secure electricity supply that is affordable to its users, decarbonised by 2030 and provides a large economic benefit and serves as a competitive advantage for Scotland.
- 2.4.4.3 Scotland's Offshore Wind Policy Statement outlines the goals to use offshore wind as a means of working towards achieving net-zero by 2045. This policy expands upon the Scottish Energy Strategy 2017 and discusses the huge economic opportunities associated with floating offshore wind developments (Scottish Government, 2020).
- 2.4.4.4 The Offshore Wind Policy Statement by Marine Scotland (now Marine Directorate) confirmed the intention of the Scottish Government to make sure offshore wind has an important role in decarbonisation and achieving net-zero. This suggested up to 11 GW could be achieved in Scottish waters alone by 2030 (Scottish Government, 2020).
- 2.4.4.5 The Scottish Government Draft Energy Strategy and Just Transition Plan presents a vision where Scotland's future energy system '*will deliver maximum benefits for Scotland, enabling us to... deliver a just transition for our workers, businesses, communities and regions.*' The Draft Just Transition Plan has a clear objective of '*boosting jobs, our domestic supply chain and manufacturing capabilities.*' The draft strategy specifically mentions the Innovation and Targeted Oil and Gas Decarbonisation (INTOG) leasing round as key to supporting the scale up of offshore renewable energy in Scotland. The Scottish Government's National Strategy for Economic Transformation also includes supporting Scotland's net zero supply chains as a priority.
- 2.4.4.6 One of the INTOG leasing round's central objectives for its innovation stream was '*to further develop Scotland as a destination for innovation and technical development which will lead to risk reductions and supply chain opportunity.*' The need for small scale floating innovation projects to support the scaling up of floating offshore wind has also been recognised in the recent Investor Panel Recommendations to the Scottish Government which recommended; '*A plan needs to be developed for the scaling up of a floating offshore wind pilot scheme to assist in developing other sites at scale. This can leverage learning from the innovation projects emerging from the existing INTOG leasing round to start a practical conversation on the floating offshore wind supply chain opportunity for Scotland.*' The Scottish Government's response included a commitment to working through the Scottish Wind Energy Council to '*leverage innovation opportunity from the INTOG leasing round to ensure maximum benefit to the Scottish supply chain and the pipeline of projects which will rely on it.*'
- 2.4.4.7 Through its Draft Energy Strategy and Just Transition Plan, Scottish Government is consulting on increasing this target to reflect the scale of ambition of the ScotWind leasing round and potentially including a floating specific target. The consultation closed in May 2023 and we await the Scottish Government's response.

2.4.5 National Planning Framework 4

- 2.4.5.1 NPF4 was adopted by Scottish Ministers on 13 February 2023, following approval by the Scottish Parliament in January 2023. This document replaces both NPF3 and the Scottish Planning Policy documents. NPF4 incorporates updated Scottish Planning Policy, containing detailed national policy on a varied scale of planning topics. NPF4 sets out six overarching spatial principles with “Just Transition” relating to the construction of renewable energy and their contribution to achieving net zero. The NPF4 Sustainable Places section places emphasis on the link to Scotland’s Climate Change Plan and sets the approach to achieving net zero emissions by 2045 and making significant progress by 2030. NPF4 also links to Scotland’s Energy Strategy and highlights the importance of land and sea to be critical in delivering offshore renewable energy resources.
- 2.4.5.2 NPF4 provides detailed policy on Climate Change and Energy and sets out developer expectations to how proposed schemes will accord with the policies set out in the document. The overarching policy intent of the Policy 11 (Energy) is to encourage, promote and facilitate all forms of renewable energy development onshore and offshore. In addition, the overarching policy intent of, Policy 1 (Tackling the Climate and Nature Crises) is to encourage, promote and facilitate development that addresses the global climate emergency and nature crisis.
- 2.4.5.3 The Infrastructure Investment Plan (IIP) that forms part of NPF4 highlights that national planning policies will include an infrastructure first approach. NPF4 strategy, policies and national developments are aligned to the strategic themes of the IIP, which aim to enable the transition to net zero emissions and environmental sustainability; driving inclusive economic growth; and building resilient and sustainable places.
- 2.4.5.4 NPF4 has a ‘plan-led approach’ which is central to supporting the delivery of Scotland’s national outcomes and broader sustainable development goals. It is a legislative requirement that planning decisions must be made in accordance with the development plan, unless material considerations indicate otherwise.

2.4.6 Local

- 2.4.5.5 The Aberdeenshire Local Development Plan (May 2023) is the statutory development plan document that sets out the vision for development in Aberdeenshire. The Plan sets out the policies used for the determination of planning applications and sets out where development is expected to take place up to 2031.
- 2.4.5.6 The vision of the Aberdeenshire Local Development Plan is built upon the strategic aims of NPF3 (now replaced by NPF4) and seeks to: *‘balance economic growth with the urgent challenges of sustainable development and climate change’*.
- 2.4.5.7 Section 4 sets out the purpose and outcome of the Plan, with paragraph 4.3 highlighting the Development Plan’s aim: *‘to take on challenges of sustainable development and climate change’*. Paragraph 4.3 continues and states: *“We have introduced policies and proposals to both tackle and cope with climate change”*.
- 2.4.5.8 Section 13 of the Development Plan sets out Aberdeenshire Council’s commitment to *‘tackling climate change’...and...‘promoting energy generation by renewable sources’*.

2.5 Environmental Policy and Legislation

2.5.1 The Convention on Biological Diversity

2.5.1.1 The UK signed the Convention of Biological Diversity (CBD) along with 168 other signatories which came into force in 1993. The CBD has three main objectives.

- Biological diversity conservation.
- The use of biological diversity in a sustainable way.
- Sharing the benefits from the utilisation of genetic resources in a fair and equitable manner.

2.5.1.2 The CBD recognised that biological diversity conservation is “a common concern for humankind” and it is a key consideration during the development process. Additionally, the CBD includes every type of ecosystem, species and genetic resource. There are also several important United Nations (UN) and EU initiatives with the purpose of contributing towards achieving the objectives of the CBD. This includes the Bern and Bonn conventions as well as the Natura 2000 network.

2.5.2 Scottish Biodiversity Strategy to 2045

2.5.2.1 On 7 September 2023, and following consultation on a draft strategy in 2022, the Scottish Government published its updated version of the Scottish Biodiversity Strategy to 2045. This updated strategy paper sets an ambition for Scotland to be Nature Positive by 2030, and to have restored and regenerated biodiversity across the country by 2045. The Biodiversity Strategy sets objectives and actions to deliver these goals. The Biodiversity Strategy confirms that the Scottish Government will deliver the strategy’s vision by putting in place a Strategic Delivery Framework “to provide the enabling conditions for success”.

2.5.2.2 The Scottish Government’s consultation “Tackling the Nature Emergency: Consultation on Scotland’s Strategic Framework for Biodiversity” has now been launched and is divided into two parts:

- Part A is consulting on the final draft of the Scottish Biodiversity Strategy, the first five-year Delivery Plan, and policy frameworks for Nature Networks and protecting at least 30% of lands and seas by 2030.
- Part B seeks views on proposals related to tackling the nature emergency that will require legislation, specifically statutory targets for nature restoration and changes to National Parks legislation.

2.5.2.3 The consultation closed on 14 December 2023; the Government’s response to the consultation responses has not been issued yet.

2.5.3 Biodiversity Enhancement

2.5.3.1 Biodiversity enhancement is an approach to development which makes sure that habitats for wildlife are left in a measurably better state than they were before the development. Following the adoption of NPF4, the Scottish Government included an adapted version of Natural England’s Biodiversity Metric which will be used to demonstrate a gain as part of all significant development proposals in Scotland. This is supported under Policy 3a of NPF4 that requires planning authorities across Scotland to seek to ensure that all proposals (other than those involving individual household development): “*contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them*”.

2.5.4 Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention)

2.5.4.1 The Ramsar Convention is a treaty which provides the framework for conserving and using wetlands and their resources appropriately. This Treaty was signed by the UK in 1976. There is a range of criteria used to assess a site for designation as a Ramsar Site including if a wetland supports 20,000 water birds and/or supports at least 1% of the individuals in a population of one species or subspecies of waterbird.

2.5.5 Habitats Directive

2.5.5.1 The aim of The Habitats Directive 92/43/EEC is the conservation of natural habitats, flora and fauna as well as the protection of biodiversity within the EU. Member states¹ are required to commit to the maintenance or restoration of natural habitats and wild species, including those specific habitats listed in Annex I and species listed in Annex II of the Directive. The Habitats Directive allows for the designation of Special Area of Conservation (SAC) under Article 4, which are intended to protect important habitats and species (though not birds).

2.5.5.2 Article 6(3) of the Habitats Regulations requires that any plan or project likely to have a significant effect on a designated site is subject to an Appropriate Assessment (AA) to review the implications for the site concerned. This sets out the need to screen each proposed plan or project for likely significant effects (LSE) (unless the proposed plan or project is directly connected with or necessary to the management of the site). LSE on designated sites must be considered for both the individual proposed project and any other plan or project capable of affecting the site concerned in-combination.

2.5.5.3 Habitats Regulations Appraisal (HRA) Screening is undertaken using a Source-Pathway-Receptor risk assessment model and does not consider potential mitigation measures. Should LSE be deemed to be possible to occur on a designated site(s), an AA is then required to consider the potential for effects on the integrity of designated sites and can take account of any mitigation or impact reduction measures.

2.5.5.4 Site integrity is linked to the ecological requirements of the habitat or species protected under the designated sites, for which the overarching objective of the Habitats Directive details that they should be maintained or restored to favourable conservation status.

2.5.5.5 Where effects on the integrity of the site(s) concerned cannot be ruled out, Article 6(4) of the Habitats Directive provides an ability for a limited derogation from the requirements of Article 6(3) for plans or projects to be granted subject to the relevant tests being met. Provided no alternative solutions are identified, projects that result in an effect on site integrity may be able to proceed for imperative reasons of overriding public interest (IROPI). Compensatory measures will be required in these cases to ensure the overall coherence of the network of designated sites.

2.5.5.6 The requirements of Article 6(3) and 6(4) of the Habitats Directive are typically set out by developers in a HRA submitted within a consent application for the Salamander Project, and not within the EIAR. The requirements of Article 6(3) and Article 6(4) of the Habitats Directive differ significantly to those of the EIA Directive. However, the AA conclusions should be taken account within the EIA procedure, according to Article 5(2) of the EIA Directive.

¹ Note this obligation is preserved post Brexit and UK domestic legislation still applies need for HRA.

2.5.6 Birds Directive

2.5.6.1 The Birds Directive 2009/147/EC seeks to achieve the protection of wild birds throughout the EU and allows for the designation of a Special Protection Area (SPA) under Article 4, which are selected under a targeted protection regime for the most rare and vulnerable bird species listed in Annex I. These SPAs are subject to the same protection requirements as detailed in the Habitats Directive under Article 6(3) and explained above.

2.5.6.2 Under Article 5 of the Birds Directive, Member States must ensure that all species of wild birds are protected and are not harmed as a result of activities detailed in that Article. There is a conditional and exceptional derogation procedure under Article 9. There is a requirement within the EIA procedure that any implications of a proposed project on wild and migratory bird species, and any potential derogation from the strict requirements of the Directive, are required to be assessed.

2.5.7 Habitats and Species Regulations

2.5.7.1 The Habitats and Birds Directives are transposed into Scottish law under the following with these regulations applied in context of Section 36 applications:

- The Conservation of Habitats and Species Regulations 2017;
- The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended); and
- The Conservation of Offshore Marine Habitats and Species Regulations 2017 (applies to Marine Licence and Section 36 consent applications within Scottish waters beyond 12 nm).

2.5.7.2 The European Sites, or Natura 2000, are known as National Site Network sites within the UK, reflecting the intention of the UK Government that all designated sites across the UK form part of a coherent network.

2.5.7.3 Ramsar sites, designated under international obligations (and detailed in Section 2.5.4), often have significant overlap with SPAs, and it is UK policy that any impacts to Ramsar sites are assessed under the same requirements as SPAs and SACs. They are therefore assessed within the same HRA.

2.5.8 Marine (Scotland) Act 2010

2.5.8.1 Scotland designates Nature Conservation Marine Protected Areas (MPA) within 12 nm under the Marine (Scotland) Act 2010. These protect biodiversity and heritage, with an emphasis on protected features such as species, habitats and geomorphological features. If a project could potentially have an effect on an MPA's conservation objectives, the EIAR must have the required information to support an MPA assessment. The MPA assessment is conducted by the Marine Directorate on behalf of the Scottish Ministers for Marine Licences and Section 36 consents in consultation with NatureScot / Joint Nature Conservation Committee (JNCC).

2.6 Consenting Regime

2.6.1 Overview

2.6.1.1 The overall Salamander Project is intended to deliver a combined generating and battery storage capacity of greater than 50 MW and the generating wind turbine array is located in Scottish offshore waters (12 nm to 200 nm) within the Scottish Renewable Energy Zone (REZ).

2.6.1.2 This Legislative Context and Regulatory Requirements chapter relates to the Onshore Development of the Salamander Project and therefore concerns the development of the onshore works and infrastructure and the EBI with battery storage. Therefore, the following consents are required:

- Planning permission under the Town and Country Planning (Scotland) Act 1997 for the development of the onshore works and infrastructure to MLWS; and
- Section 36 Consent under the Electricity Act 1989 for the 50 MW EBI with battery storage.

2.6.1.3 The consent and licensing requirements are described below. If further pre-construction licences are needed these will be sought from and agreed with the relevant licensing authority during the pre-construction phase.

2.6.2 Section 36 of the Electricity Act 1989

2.6.2.1 In order to construct and operate an electricity generating station with a capacity greater than 50 MW, a Section 36 Consent of the Electricity Act 1989 is required. An application for a Section 36 Consent is made to the ECU for the EBI (with battery storage) as this is proposed to be above 50 MW.

2.6.3 Planning Permission

2.6.3.1 The planning application for the Onshore Development has been submitted to Aberdeenshire Council for determination. The planning application is for Planning Permission in Principle (PPP) in accordance with the Town and Country Planning (Scotland) Act 1997. This application has been submitted at the same time as the Section 36 Consent application to the ECU for the EBI.

2.6.3.2 As there is an overlap between MHWS and MLWS in the offshore and onshore planning regimes, all the Salamander Project's works within this intertidal zone will seek consent under both the:

- Town and Country Planning (Scotland) Act 1997; and
- The Marine (Scotland) Act 2010.

2.6.4 Pre-Application Consultation

2.6.4.1 Pre-Application Consultation (PAC) is required for all major projects and projects of national significance as detailed in the Town and the Country Planning (Scotland) Act 1997. Pre-application discussions with Scottish Ministers, Aberdeenshire Council and other relevant stakeholders have been undertaken throughout the development of the applications under Section 36 of the Electricity Act 1989. The process of the PAC provides opportunities to receive feedback from the public and third sector organisations which have been taken into account in finalising the applications and this EIAR. A PAC Report is required to be submitted alongside the planning application submitted to Aberdeenshire Council and also to the ECU. The stakeholder engagement and public consultation carried out in relation to the Onshore Development is set out in **Volume ER.B.2, Chapter 5: Stakeholder Consultation** and **Volume RP.B.3, Report 1: Pre-Application Consultation (PAC) Report**.

2.6.5 Additional Permits and Licence Requirements

2.6.5.1 For the Onshore Development, further permits and licences may be required. These fall under and include:

- European Protected Species Licences under the Conservation (Natural Habitats, &c.) Regulations 1994; and
- Decommissioning Plan.

2.6.5.2 All relevant permits and licence requirements will be complied with. Additionally, continued engagement will ensure that all requirements are identified and addressed.

2.7 References

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