



Awel y Môr Offshore Wind Farm

Category 6: Environmental Statement

Volume 1, Chapter 2: Policy and Legislation

Date: April 2022

Revision: B

Application Reference: 6.1.2

Pursuant to: APFP Regulation 5(2)(a)



REVISION	DATE	STATUS/ REASON FOR ISSUE	AUTHOR:	CHECKED BY:	APPROVED BY:
A	August 2021	PEIR	GoBe Consultants	RWE	RWE
B	April 2022	ES	GoBe Consultants	RWE	RWE

www.awelymor.cymru

RWE Renewables UK Swindon Limited

Windmill Hill Business Park
Whitehill Way
Swindon
Wiltshire SN5 6PB
T +44 (0)8456 720 090
www.rwe.com

Registered office:
RWE Renewables UK Swindon Limited
Windmill Hill Business Park
Whitehill Way
Swindon

Contents

2	Policy and legislation	10
2.1	Introduction	10
2.2	Planning and EIA legislation.....	10
2.2.1	The Development Consent Order and the Planning Act 2008	10
	The DCO application process.....	12
2.2.2	Marine Licensing and The Marine and Coastal Access Act 2009	13
2.2.3	The EIA Regulations	14
2.2.4	The Habitats Regulations	16
	European Protected Species licences.....	18
2.2.5	The Environment (Wales) Act 2016	18
2.2.6	The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017	19
2.2.7	The Planning (Wales) Act 2015.....	20
2.2.8	The Well-being of Future Generations (Wales) Act 2015.....	20
2.2.9	Environmental Permitting (England and Wales) Regulations 2016	21
2.2.10	The UK's exit from the European Union and future legislation	21
2.2.11	International conventions.....	22
	The Ramsar Convention	22
	The OSPAR Convention	22
	The Convention on Biological Diversity	22
	The Espoo Convention.....	23
2.3	Climate change and renewable energy	23
2.3.1	United Nations Framework Convention on Climate Change	23
2.3.2	The Climate Change Act 2008	25
2.3.3	The Energy Act 2013.....	26
2.3.4	The climate emergency	27
2.4	Relevant policy	28
2.4.1	National Policy Statements	28

2.4.2	Planning Policy Wales and Future Wales	29
2.4.3	UK Marine Policy Statement and marine plans.....	30
	Welsh National Marine Plan	31
2.4.4	Local policy.....	31
2.5	Major Disasters.....	32

Figures

Figure 1: The DCO consenting process.....	12
---	----

Glossary of terms

TERM	DEFINITION
The Applicant	Awel y Môr Offshore Wind Farm Limited.
Development Consent Order (DCO)	An order made under the Planning Act 2008 granting development consent for a Nationally Significant Infrastructure Project (NSIP) from the Secretary of State (SoS) for Business, Energy and Industrial Strategy (BEIS).
Export Cable Corridor (ECC)	The area(s) where the export cables will be located.
Environmental Statement (ES)	A document reporting the findings of the Environmental Impact Assessment (EIA) in accordance with the EIA Regulations.
Marine Licence	A licence required under the Marine and Coastal Access Act 2009 for marine works which is administered by Natural Resources Wales (NRW) Marine Licensing Team (MLT) on behalf of the Welsh Ministers.
Maximum Design Scenario (MDS)	The maximum design parameters of the combined project assets that result in the greatest potential for change in relation to each impact assessed.

TERM	DEFINITION
Mitigation	Mitigation measures are commitments made by the project to reduce and/ or eliminate the potential for significant effects to arise as a result of the project. Mitigation measures can be embedded (part of the project design) or secondarily added to reduce impacts in the case of potentially significant effects.
Order Limits	The extent of development including all offshore and onshore works areas.
Preliminary Environmental Information Report (PEIR)	The PEIR was written in the style of a draft Environmental ES and formed the basis of statutory consultation. Following that consultation, the PEIR documentation was updated into the final ES that accompanies the applications for the DCO and Marine Licence.
Report to Inform Appropriate Assessment (RIAA)	The RIAA supports the HRA of AyM in the consideration of the implications for designated sites (traditionally referred to as European sites) if AyM is consented.
River basin management plans (RBMPs)	Plans that set out the design and duties for organisations, stakeholders and communities to improve the water environment of water bodies including river, lake, groundwater, estuarine and coastal water bodies.
Zone of Influence (Zoi)	A defined area based on the project specific hydrodynamic modelling undertaken in Volume 4, Annex 2.3: Physical Processes Modelling Results Report (application ref 6.4.2.3), which identifies the predicted maximum extent of suspended sediments disturbance by the MDS from construction activities.
Water Framework Directive (WFD) Assessment	An assessment required by the Water Framework Directive 2000/60/EC that evaluates the impact of an activity on the water body and decides whether or not

TERM	DEFINITION
	the activity supports the objectives outlined in the local River Basin Management Plan.

Abbreviations and acronyms

TERM	DEFINITION
AA	Appropriate Assessment
AyM	Awel y Môr Offshore Wind Farm
BAP	Biodiversity Action Plan
BEIS	Department for Business, Energy and Industrial Strategy
BNG	Biodiversity Net Gain
CBD	Convention on Biological Diversity
CfD	Contract for Difference
DCC	Denbighshire County Council
DCO	Development Consent Order
DECC	Department for Energy and Climate Change (now BEIS)
ECC	Export Cable Corridor
EIA	Environmental Impact Assessment
EPS	European Protected Species
EU	European Union
ExA	Examining Authority
FCS	Favorable Conservation Status
HRA	Habitats Regulations Assessment

TERM	DEFINITION
INNS	Invasive and Non-Native Species
IPC	Infrastructure Planning Commission
IPCC	International Panel on Climate Change
LDP	Local Development Plan
LPA	Local Planning Authority
LSE	Likely Significant Effect
MCAA	Marine and Coastal Access Act 2009
MCZ	Marine Conservation Zone
MPA	Marine Protected Area
MPS	Marine Policy Statement
NPS	National Policy Statement
NRW	Natural Resources Wales
NSIP	Nationally Significant Infrastructure Project
PINS	The Planning Inspectorate
PPW	Planning Policy Wales
PRoW	Public Right of Way
REZ	Renewable Energy Zone
SAC	Special Area of Conservation
SCADA	Supervisory Control and Data Acquisition
SoS	Secretary of State
SPA	Special Protection Area
SPD	Supplementary Planning Document

TERM	DEFINITION
SSSI	Site of Special Scientific Interest
UK	United Kingdom
UN	United Nations
UNECE	United Nations Economic Commission for Europe
UNFCCC	United Nations Framework Convention on Climate Change
WNMP	Welsh National Marine Plan

Units

UNIT	DEFINITION
km	Kilometre
m	Metre
MW	Mega Watt
nm	Nautical Mile

2 Policy and legislation

2.1 Introduction

- 1 This chapter of the Environmental Statement (ES) outlines the consents framework, key legislation and policies that have been considered for the development of the Awel y Môr Offshore Wind Farm (AyM) throughout the Environmental Impact Assessment (EIA) process.
- 2 Key policies, legislation and guidance specifically applicable to each EIA topic are outlined in the technical chapters of Volume 2 and Volume 3 of the ES (application ref: 6.2 and 6.3 *et seq* respectively).
- 3 This chapter also contains a consideration of the risk of 'major accidents and/ or disasters' occurring associated with any aspect of the project, during its construction, operation and decommissioning phases.

2.2 Planning and EIA legislation

- 4 The following section considers the overarching policy for the ES; however, additional specific legislation is addressed throughout the ES in relevant topic chapters.

2.2.1 The Development Consent Order and the Planning Act 2008

- 5 The Planning Act 2008ⁱ is the primary legislation that established the legal framework for applying for, examining and determining applications for Nationally Significant Infrastructure Projects (NSIPs) in England and Wales. It sets out the consenting system for all NSIPs, taking account of the guidance in the National Policy Statements (NPSs).
- 6 The Planning Act 2008 (PA 2008) brought in three major changes to the planning procedure for large scale infrastructure projects:

ⁱ <https://www.legislation.gov.uk/ukpga/2008/29/contents>

- The establishment of the Infrastructure Planning Commission (IPC) to streamline the planning system for applications for developments consent (note that the IPC has since been abolished and applications are now determined by the relevant Secretary of State (SoS) and the application process administered by the Planning Inspectorate (PINS));
 - Applications made are for a Development Consent Order (DCO), which consolidates a range of previously separate consents; and
 - Applications made are in accordance with the policy framework provided in the NPSs, taking account of representations made during the examination phase.
- 7 The PA 2008 sets out thresholds above which certain types of development are classified as NSIPs and therefore require a DCO in England and Wales. For offshore energy developments in Welsh waters (including offshore wind), projects are classed as NSIPs if they have a generating capacity of over 350 megawatts (MW) under section 15(3B) of the PA 2008. AyM will exceed this generating capacity and therefore is classed as an NSIP.
- 8 NSIPs consented with a DCO are not required to seek separately:
- Planning permission under the Town and Country Planning Act 1990;
 - Consent under Sections 36 or 37 of the Electricity Act 1989;
 - Listed building and conservation area consent under the Planning (Listed Buildings and Conservation Areas) Act 1990; or
 - Scheduled monuments consent under the Ancient Monuments and Archaeological Areas Act 1979.
- 9 A full list of documents submitted in support of the DCO is provided in Volume 1, Chapter 1: Introduction (application ref: 6.1.1). The documents submitted include a draft DCO, and documentation identifying the outline conditions that may be applied to the project Marine Licences (Outline approach to Marine Licencing, Annex 1 to Consents and Licences Required Under Other Legislation; application ref: 5.4.1).

- 10 PINS has published a series of adviceⁱⁱ notes that are intended to support developers, consultees, the public and others about a range of matters relating to the PA 2008 process.

The DCO application process

- 11 The key stages in the DCO application process, from pre-application through to post-consent, along with the timescales associated with each stage, are illustrated in Figure 1.



Figure 1: The DCO consenting process.

ⁱⁱ <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/>

2.2.2 Marine Licensing and The Marine and Coastal Access Act 2009

- 12 The Marine and Coastal Access Act 2009ⁱⁱⁱ (MCAA) introduced planning and management systems for overseeing activities in the marine environment, most notably through the requirement to obtain marine licences for certain activities at sea. It created a strategic marine planning system that seeks to promote the efficient, sustainable use and protection of the marine environment through Marine Policy Statements and a series of Marine Plans (Section 2.4.2).
- 13 The MCAA provides the framework for a marine licensing system which, for inshore waters in Wales, is administered by Natural Resources Wales (NRW) on behalf of the Welsh Government, who are also a statutory consultee in the DCO application process.
- 14 For the purposes of AyM, a marine licence application will be made separately to the Welsh Government, in parallel with the DCO application process. The responsibility for marine licensing in Wales lies with the Welsh Government, but the day-to-day management is delegated to NRW. For the purposes of the AyM application, NRW has indicated that it intends to defer its EIA responsibilities to the SoS, whilst retaining its Habitats Regulations Assessment (HRA) responsibilities.
- 15 Licensable marine activities of relevance to AyM include construction works in the sea or on the seabed, and the deposition of any substance or object on or under the seabed, for example, the placement of rock protection and the disposal of drilled or dredged seabed sediments.

ⁱⁱⁱ <https://www.legislation.gov.uk/ukpga/2009/23/contents>

- 16 The MCAA enables the designation of Marine Conservation Zones (MCZs), a type of Marine Protected Area (MPA) which protect a range of nationally important marine wildlife, habitats, geology and geomorphological features. AyM is considered to be sufficiently distant from MCZs, such that an MCZ assessment against their conservation objectives is not required for the marine licence application. The closest MCZ to the Order Limits is the Fylde MCZ, designated for subtidal sand and mud, which is approximately 26.5 km away. This falls well outside the benthic ecology Zone of Influence (Zol) (as described in Volume 2, Chapter 5: Benthic Ecology (application ref:6.2.5)), which is limited to a maximum of 18 km around the AyM array area and 8.5 km around the Offshore Export Cable Corridor.

2.2.3 The EIA Regulations

- 17 EIA is a tool for systematically examining and assessing the impacts of a development on the physical, biological and human environments. The process allows potentially significant effects to be identified, and management and mitigation measures to be suggested to ensure the development is undertaken in a way that minimises the likely significant effects on the environment.
- 18 The legislative framework for EIA was provided by European Council Directive 2014/52/EU^{iv} (the 'EIA Directive') which amends the earlier Directives 85/337/EEC, 97/11/EC and 2009/31/EC. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (hereafter referred to as 'the EIA Regulations') set out the statutory process and requirements for EIA in accordance with the EIA Directive. It should be noted that the Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018^v made under the European Union Withdrawal Act 2018, made the necessary changes to domestic legislation which governs EIA as a result of the UK leaving the EU, and ensures that the EIA Regulations continue to apply in substantially the same way as they did before the UK's departure from the EU.
- 19 According to Article 2 of the EIA Directive:

^{iv} <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0052>

^v <https://www.legislation.gov.uk/uksi/2018/1232/contents/made>

‘[European Union (EU)] Member States shall adopt all measures necessary to ensure that, before consent is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location are made subject to a requirement for development consent and an assessment with regard to their effects.’

20 Article 8 of the EIA Directive also states that:

‘The results of consultations and information gathered pursuant to [the EIA procedure] must be taken into consideration in the development consent procedure.’

21 The purpose of the EIA Directive is to ensure that when an authority giving consent for a particular development makes its decision, it does so in the knowledge of any likely significant effects on the environment. The EIA Directive sets out a procedure that must be followed for certain types of development before they can be granted consent. An EIA provides for the systematic assessment of a project’s likely significant environmental effects for consideration by both the public and the relevant determining body before a consent decision is made.

22 The requirements of the EIA Directive as relevant to AyM have been transposed into English and Welsh legislation by:

- ▲ The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017^{vi} (for projects requiring development consent under the Planning Act 2008); and
- ▲ The Marine Works (Environmental Impact Assessment) Regulations 2007^{vii} (for projects requiring marine licence under the MCAA). Note that these were amended by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017^{viii}.

^{vi} <https://www.legislation.gov.uk/uksi/2017/572/contents/made>

^{vii} <https://www.legislation.gov.uk/uksi/2007/1518/contents/made>

^{viii} <https://www.legislation.gov.uk/uksi/2017/588/contents/made>

- 23 The ES for AyM has been prepared in accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 as relevant to NSIPs, and the Marine Works (Environmental Impact Assessment) Regulations 2007 as relevant to marine licensing in Welsh waters. These regulations are collectively referred to throughout the AyM ES as 'the EIA Regulations'.
- 24 Volume 1, Chapter 3: EIA Methodology (application ref: 6.1.3) describes how the EIA Regulations have been applied in order to identify and evaluate the potential impacts associated with the AyM development.

2.2.4 The Habitats Regulations

- 25 European Council Directive 92/43/EEC^{ix} on the conservation of natural habitats and of wild fauna and flora (known as 'the Habitats Directive') was intended to protect biodiversity by requiring EU member states to take measures to maintain and restore natural habitats and wild species listed at a Favourable Conservation Status (FCS). The Habitats Directive requires an Appropriate Assessment (AA) to be prepared where a plan or project is likely to have a significant effect upon the network of sites (known as the Natura 2000 network in Europe and the 'National Site Network' in the UK) through a HRA. These include Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Ramsar sites and priority natural habitats.
- 26 European Council Directive 2009/147/EC^x on the conservation of wild birds (known as 'the Birds Directive') provides a framework for the conservation and management of wild birds in Europe, setting broad objectives for a wide range of activities.

^{ix} <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31992L0043>

^x <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009L0147>

- 27 In English and Welsh law, the Habitats Directive was implemented by the Conservation of Habitats and Species Regulations 2017^{xi} for designated sites onshore and those offshore within 12 nautical miles (nm) from the coast, and by the Conservation of Offshore Marine Habitats and Species Regulations 2017^{xii} for offshore sites beyond the 12 nm limit. Collectively, these are known as 'the Habitats Regulations'. The provisions of the Birds Directive are also implemented through the Habitats Regulations, as well as The Wildlife and Countryside Act 1981 and other legislation related to the uses of land and sea.
- 28 Regarding the UK's departure from the EU, the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019^{xiii} mean that the HRA process under the Habitats Regulations continues to apply in substantially the same way as it did before the UK's departure from the EU.
- 29 The HRA is not formally a part of the EIA process. However, the two are intrinsically linked and much of the baseline characterisation information, as well as the impact assessment itself, are common to both processes. During the scoping stage, the Applicant submitted HRA Screening in March 2020 for consultation. On the basis of the information available when undertaking HRA screening, it was determined that AyM had the potential to (either alone or in-combination with other plans, projects and activities) have a likely significant effect (LSE) on a number of sites that form part of the UK National Site Network designated under the Habitats Regulations.
- 30 An AA of the implications of AyM will therefore need to be undertaken by the SoS in respect of the conservation objectives applicable to the relevant sites. Subsequently, these findings have been consulted upon through the Evidence Plan process (a series of regular consultation meetings with key stakeholders on technical matters), as well as with the public through virtual public engagement days.

^{xi} <https://www.legislation.gov.uk/uksi/2017/1012/contents/made>

^{xii} <https://www.legislation.gov.uk/uksi/2017/1013/contents/made>

^{xiii} <https://www.legislation.gov.uk/ukdsi/2019/9780111176573>

- 31 Additionally, the Applicant published a draft Report to Inform Appropriate Assessment (RIAA) which accompanied the Preliminary Environmental Information Report (PEIR). Further consideration of responses received during the statutory consultation, as well as consultation since that period, has taken place and a final RIAA has been submitted as part of the DCO application (application ref: 5.2).

European Protected Species licences

- 32 The Habitats Regulations also provide protection for certain species of plants and animals, referred to as European Protected Species (EPS), and their breeding sites or resting places. The Habitats Regulations set out the activities that are prohibited, such as deliberate disturbance or creating damage to a breeding site. The Habitats Regulations also provide for licences to be granted for certain operations, such as proposed developments that may affect EPS, subject to:

- ▲ There being no satisfactory alternative; and
- ▲ The action authorised not being detrimental to the maintenance of the population of the range of species concerned at FCS in their natural range.

- 33 If disturbance cannot be avoided, then an application for an EPS licence is required to be made to the relevant authority (NRW), in a separate process to the DCO and marine licensing regimes.

2.2.5 The Environment (Wales) Act 2016

- 34 The Environment (Wales) Act 2016^{xiv} provides for the planning and management of Welsh natural resources. It is intended to position Wales as a low-carbon, green economy, ready to adapt to the impacts of climate change.
- 35 Section 6 of the Environment (Wales) Act 2016 imposes a duty on public authorities to maintain and enhance biodiversity in exercising their functions, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions. The resilience of ecosystems is accounted by the following aspects:

^{xiv} <https://www.legislation.gov.uk/anaw/2016/3/contents/enacted>

- ▲ Diversity between and within ecosystems; the connections between and within ecosystems;
 - ▲ The scale of ecosystems;
 - ▲ The condition of ecosystems (including their structure and functioning); and
 - ▲ The adaptability of ecosystems.
- 36 Section 7 of the Environment (Wales) Act 2016 requires the Welsh Ministers to publish a list of habitats and species that are of principal importance for the conservation and enhancement of biodiversity in Wales. The list (including 55 habitats and 560 species) has been drawn up in consultation with NRW and draws upon the UK Biodiversity Action Plan (BAP) List of Priority Species and Habitats. The section 7 list is used to guide decision-makers such as public bodies, including local and regional authorities, in implementing their duty under Section 6 of the Environment (Wales) Act 2016.

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

- 37 The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017^{xv} transposes the requirements of the Water Framework Directive 2000/60/EC^{xvi} into English and Welsh law, setting out a series of objectives for waterbodies and groundwaters. The Flood and Water (Amendments) (England and Wales) (EU Exit) Regulations 2019^{xvii} and the Environment (Amendment etc.) (EU Exit) Regulations 2019^{xviii} ensures that the water regime continues to operate effectively as it did before the UK's departure from the EU. Thus, the Water Environment (Water Framework Directive) Regulations 2017 include improving the water environment to achieve good or high status, maintaining existing good or high status, and implementing mitigation to support the water environment at a catchment and waterbody scale. New modifications have to be assessed in line with the legislation and the waterbody objectives. Therefore, under these regulations, a WFD assessment has been included as part of the AyM ES in Volume 4, Annex 3.1 (application ref: 6.4.3.1).

^{xv} <https://www.legislation.gov.uk/ukxi/2017/407/contents/made>

^{xvi} <https://www.legislation.gov.uk/eudr/2000/60/contents>

^{xvii} <https://www.legislation.gov.uk/wsi/2019/460/contents>

^{xviii} <https://www.legislation.gov.uk/ukdsi/2019/9780111176276/contents>

2.2.7 The Planning (Wales) Act 2015

- 38 The Planning (Wales) Act 2015^{xix} contains provisions relating to the consideration of the Welsh language in the appraisal of development plans and in dealing with applications for planning permission.
- 39 Although a Welsh language impact assessment is not a requirement for NSIP applications and has not been requested by local planning authorities during consultation, the Applicant recognises the importance of protecting and enhancing Welsh language and culture and has incorporated consideration of the Welsh language within the body of the ES.

2.2.8 The Well-being of Future Generations (Wales) Act 2015

- 40 The Well-being of Future Generations (Wales) Act 2015^{xx} seeks to improve the economic, social and cultural well-being of Wales. Under this Act, public bodies have a duty to carry out sustainable development, including the identification of well-being objectives and taking reasonable steps to meet them. Public bodies must work towards achieving the seven well-being goals identified under the Act and demonstrate progress towards them. The goals must include a shared culture with a thriving Welsh language. Public bodies must take the provisions of the Well-being of Future Generations (Wales) Act 2015 into account when making decisions.
- 41 A baseline description of the current population and employment is provided in Section 3.7 in Volume 3, Chapter 3: Socioeconomics (application ref: 6.3.3). The potential employment that will be generated by AyM's development and construction phase is estimated in Section 3.10 of Volume 3, Chapter 3: Socio-economics and shows that additional employment would be very small in comparison to the baseline situation.

^{xix} <https://www.legislation.gov.uk/anaw/2015/4/section/36>

^{xx} <https://www.legislation.gov.uk/anaw/2015/2/contents/enacted>

2.2.9 Environmental Permitting (England and Wales) Regulations 2016

- 42 These regulations seek to ensure that authorised activities and their discharges do not endanger the environment or human health. In Wales, Environmental Permits are granted by NRW and combine the requirements for an integrated waste management approach and hazardous waste management. Environmental permits cover activities relevant to AyM such as water discharges during onshore construction and associated dewatering, and each permit issued by NRW would typically contain a series of conditions to be complied with.

2.2.10 The UK's exit from the European Union and future legislation

- 43 As noted in Sections 2.2.3 and 2.2.4, the UK ceased to be a member of the EU on 31st January 2020, and as such is no longer bound by European Directives. However, as noted above, such Directives have been transposed to UK domestic legislation. The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (made under the European Union (Withdrawal) Act 2018) made the necessary changes to domestic legislation which governs EIA as a result of the UK leaving the EU and ensures that the EIA Regulations continue to apply in substantially the same way. The same applies to the Habitats Regulations through the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.
- 44 The Environment Act 2021 received Royal Assent on 9 November 2021 which sets out a new environmental governance framework following the UK's departure from the EU. The Act sets out the measures needed to ensure that there is no environmental governance gap now that the UK has left the EU. The Act makes provisions about targets, plans and policies for environmental protection, and the recovery of the natural world in four priority areas: air quality, biodiversity, water and waste. The Act establishes the independent Office for Environmental Protection and creates a new statutory cycle of monitoring, planning, and reporting to ensure continuous improvement to the environment.

2.2.11 International conventions

The Ramsar Convention

- 45 Ramsar Sites are designated under the Convention on Wetlands of International Importance (the 'Ramsar Convention'), agreed in Ramsar, Iran in 1971 and ratified by the UK in 1976. The criteria for assessing a site for designation as a Ramsar site include whether or not 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. UK Government policy affords the same protection to Ramsar sites as sites designated under the National Site Network of SPAs and SACs. The UK has generally chosen to underpin the designation of its Ramsar sites through prior notification of these areas as Sites of Special Scientific Interest (SSSI).

The OSPAR Convention

- 46 The Convention for the Protection of the Marine Environment of the North-East Atlantic was signed at the ministerial meeting of the Oslo and Paris commissions in 1992 (hence the name 'OSPAR'). The OSPAR Convention is an international co-operation to protect the marine environment of the north-east Atlantic. A key part of the convention's biodiversity strategy is to establish a network of MPAs. The UK currently has a number of MPA designations, including SACs, SPAs and MCZs, many of which also meet the OSPAR selection criteria.

The Convention on Biological Diversity

- 47 The Convention on Biological Diversity (CBD) is a legally binding treaty, which came into force on December 1993 with 168 signatories (including the UK), and has three main objectives:
- ▲ The conservation of biological diversity;
 - ▲ The sustainable use of the components of biological diversity; and
 - ▲ The fair and equitable sharing of the benefits arising out of the utilisation of genetic resources.
- 48 The CBD recognised for the first time in international law that the conservation of biological diversity is 'a common concern of humankind' and is an integral part of the development process. The CBD covers all ecosystems, species and genetic resources.

- 49 A number of major United Nation (UN) and EU initiatives are aimed at making a contribution towards meeting the objectives of the CBD, including the Bern and Bonn Conventions and the establishment of the Natura 2000 site network across Europe.

The Espoo Convention

- 50 The UN Economic Commission for Europe (UNECE) convention held in 1991 in the Finnish city of Espoo (the 'Espoo Convention') sets out the obligations of states to notify and consult each other on all major projects under consideration that have the potential to have significant adverse effects across international boundaries (transboundary effects).
- 51 The Espoo Convention has been transposed into UK legislation by the EIA Regulations (Section 2.2.3). In addition, PINS Advice Note 12: Transboundary Impacts and Processes (see also paragraph 9) sets out the procedures for consultation in association with a DCO application where such a development may have significant transboundary effects.
- 52 The Applicant has prepared a Transboundary Screening Report (application ref: 6.1.3.2) that has been agreed with PINS to determine the scope of the transboundary assessment for AyM. It should be noted that no significant transboundary effects are predicted.

2.3 Climate change and renewable energy

2.3.1 United Nations Framework Convention on Climate Change

- 53 UK legislation relating to climate change and renewable energy policy is underpinned by a number of international agreements. The United Nations Framework Convention on Climate Change (UNFCCC) commits its parties to setting binding targets for greenhouse gas emission reductions, as well as monitoring and reporting requirements. The UK is a signatory to the Kyoto Protocol, which is an international agreement linked to the development and implementation of the UNFCCC. The protocol came into effect in 2005 and its commitments were transposed into UK law by the Climate Change Act 2008 (Section 2.3.2).

- 54 A series of regular international meetings of the UNFCCC have taken place since 1997 resulting in several important and binding agreements, including:
- The Copenhagen Accord (2009);
 - The Doha Amendment (2012); and
 - The Paris Agreement (2015).
- 55 The Doha Amendment (2012) included a commitment by parties to reduce greenhouse gas emissions by at least 18% compared to 1990 levels in the period from 2013 to 2020. Under this second commitment period of the Kyoto Protocol, the EU committed to reduce emissions by 20% compared to 1990 levels by 2020, with the option to increase this to 30%.
- 56 During the UN Climate Change Conference in Paris in 2015 at the 21st session of the UNFCCC Conference of the Parties (COP21), the following key areas were agreed:
- Limit global temperature increase to below 2°C, whilst pursuing efforts to limit the increase to 1.5°C above the pre-industrial average temperature;
 - Parties aim to reach the global peaking of greenhouse gas emissions as soon as possible in order to achieve the temperature goal;
 - Commitments by all parties to prepare, communicate and maintain a nationally determined contribution; and
 - In 2023, and every 5 years thereafter, a global stocktake will assess collective progress towards meeting the purpose of the Paris Agreement (2015).
- 57 The UK ratified the Paris Agreement (2015) during COP22 in November 2016. During COP23 in Bonn, Germany in 2017, finer details were discussed on how the Paris Agreement would work from 2020 onwards. Key agreements included:
- Overseeing and accelerating the completion of the work programme under the Paris Agreement by its 24th session (COP24) (December 2018); and
 - To convene a facilitative dialogue among Parties in 2018 to take stock of the collective efforts of the Parties (known as the Talanoa dialogue).

58 COP24 was held in Katowice, Poland, and had the following key outcomes:

- ▲ Before the conference, the Paris rulebook was agreed, which is the operating manual needed for the Paris Agreement to enter force in 2020; and
- ▲ Intergovernmental Panel on Climate Change (IPCC) published its Special Report on the Impacts of 1.5°C Global Warming.

59 The latest COP26 was held in Glasgow in November 2021 to accelerate climate action for this decade, finalise the Paris rulebook, and strengthen efforts to keep temperature warming under 1.5°C. The key achievements included:

- ▲ Securing net zero commitments with new 2030 emission targets and strengthened climate commitments.
- ▲ Increased adaptation plans to drive adaptation action to climate change.
- ▲ Delivering the climate finance goal and agreeing the way forward for the new post-2025 climate finance goal.
- ▲ Finalisation of the Paris Rulebook agreeing the 'enhanced transparency framework' (common reporting of emissions and support), a new mechanism and standards for international carbon markets, and common timeframes for emissions reductions targets.

2.3.2 The Climate Change Act 2008

60 The Climate Change Act 2008^{xxi} places a duty on the UK Government to ensure its net carbon account and greenhouse gas emissions are reduced by 80% relative to 1990 levels by 2050 as underpinned by international agreements and commitments. To achieve this ambitious goal, the UK Government is committed to implementing carbon budgets every five years until 2032 to restrict emissions to a legal limit within each five-year period. In 2019, the UK Government increased its target reduction to 100% (known as 'net zero') in The Climate Change Act 2008 (2050 Target Amendment) Order 2019^{xxii}.

^{xxi} <https://www.legislation.gov.uk/ukpga/2008/27/contents>

^{xxii} <https://www.legislation.gov.uk/ukdsi/2019/9780111187654>

- 61 The Climate Change Act 2008 established the Committee on Climate Change, which advises the UK Government and its devolved administrations on setting and meeting the carbon budgets, and on preparing for climate change. In May 2011, the Committee published the Renewable Energy Review, which sets out a detailed vision of the role of renewable energy in meeting longer term emissions targets. The Renewable Energy Review concludes that the development of renewable energy is a potentially significant contributor to delivering decarbonisation of the power sector by 2030 at reasonable cost. It also underlined that firm commitments of support should be made for offshore wind and marine generation through to the 2020s. The Committee on Climate Change have since presented the Sixth Carbon Budget Electricity Generation 2020 Report and the UK's Net Zero Strategy 2021 Report which set key messages for the increase of offshore wind and marine generation to align with and deliver the 2035 and 2050 emissions targets.

2.3.3 The Energy Act 2013

- 62 The Energy Act 2013^{xxiii} makes provisions to incentivise investment in low carbon electricity generation, ensure the security of supply, and help the UK meet its emissions reductions and renewable energy generation targets. In particular, the Energy Act 2013 contained provisions for the Department of Energy and Climate Change (DECC) (now BEIS) for electricity market reform.
- 63 This reform set out the framework for replacing Renewables Obligation Certificates with Contracts for Difference (CfDs) to provide stable financial incentives to encourage investment in low carbon electricity generation. CfDs are private contracts between low carbon electricity generators and the UK Government-owned Low Carbon Contracts Company. Under a CfD, the electricity generating party is paid the difference between the agreed strike price, and the reference price (a measure of the electricity price in the UK market) in £/MWh.

^{xxiii} <https://www.legislation.gov.uk/ukpga/2013/32/contents/enacted>

- 64 The aim of CfDs is to give greater certainty and stability of revenues to electricity generators by reducing exposure to volatile wholesale market prices, whilst protecting the consumer from paying higher support costs when electricity prices are high. CfDs are important for offshore wind farm projects as they guarantee that all electricity generated (up to the agreed capacity) will be bought by the UK electricity market regardless of demand, protecting them against variable patterns in wind resource.

2.3.4 The climate emergency

- 65 In 2019, the Welsh Government declared a climate emergency^{xxiv}, with the hope of triggering a wave of action to tackle climate change both in Wales and internationally. The Welsh Government has already committed to achieving a carbon neutral public sector by 2030, as well as coordinating action to help other areas of the Welsh economy shift away from the use of fossil fuels, involving academia, industry and the third sector.
- 66 Several local authorities in North Wales in the vicinity of AyM have also made climate emergency declarations, including:
- ▲ Isle of Anglesey (2020);
 - ▲ Conwy (2019);
 - ▲ Denbighshire (2019); and
 - ▲ Gwynedd (2019).
- 67 Denbighshire County Council's (DCC) declaration of a climate and ecological emergency included a commitment to 'work with partners across the public, private and third sectors to help solve this climate and ecological emergency'.

^{xxiv} <https://gov.wales/welsh-government-makes-climate-emergency-declaration>

2.4 Relevant policy

2.4.1 National Policy Statements

68 The NPSs set out national (UK) policy relating to NSIPs. Under Section 102 of the Planning Act 2008, NPSs are the policy documents to which the relevant SoS must have regard when deciding a DCO application, stating in Section 104(2):

69 'In deciding the application, the [SoS] must have regard to:

(a) Any National Policy Statement which has effect in relation to development of the description to which the application relates (a "relevant national policy statement").'

70 In line with the Energy White Paper^{xxv}, the NPSs are currently undergoing revision following consultation in late 2021. This document and the ES refer primarily to the extant NPSs, as these remain the primary policy tests of relevance. The draft NPSs are however referred to when relevant throughout the application, thereby future-proofing the ES as far as is practicable.

71 The NPSs of relevance to the proposed development, all designated in July 2011, comprise:

- ▲ **EN-1 Overarching NPS for Energy^{xxvi}** – Provides the primary basis for decisions on applications for nationally significant energy infrastructure. EN-1 sets out national policy for energy infrastructure and has the effect, in combination with the relevant technology-specific NPSs, of providing the primary basis for decision making under the Planning Act 2008;

^{xxv}

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945899/201216_BEIS_EWP_Command_Paper_Accessible.pdf

^{xxvi}

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/47854/1938-overarching-nps-for-energy-en1.pdf

- ▲ **EN-3 Renewable Energy^{xxvii}** – Provides the primary basis for decisions on applications for renewable energy infrastructure, defined as energy from biomass and/ or waste (>50 MW), offshore wind (>100 MW) or onshore wind (>50 MW); and
- ▲ **EN-5 Electricity Networks Infrastructure^{xxviii}** – Provides the primary basis for decisions on applications for electricity networks infrastructure defined as above-ground electricity lines of 132 kV and above, or other infrastructure for electricity networks that is associated with an NSIP.

72 NPSs have been designed to guide the decision-making process for DCOs and are the primary policy documents for the purposes of decision-making. The NPSs define the national need for certain types of infrastructure and issues to be considered by the Examining Authority (ExA) when assessing whether a location is acceptable for the type and scale of development, the approach to the mitigation of impacts, and the establishment of design criteria. Further information on the relationship between AyM and the topic-specific planning policies outlined in the NPSs is provided in the Planning Statement (application ref: 8.1).

73 As part of the EIA process, the scope of the assessment work has been considered in the context of the NPSs to ensure overall compliance with these documents. Relevant issues in EN-1, EN-3 and EN-5 have been identified and are assessed in detail in the relevant technical chapters.

2.4.2 Planning Policy Wales and Future Wales

74 Future Wales – the National Plan 2040^{xxix} is a 20-year national development plan covering the whole of Wales. The plan covers a number of issues and outlines where nationally significant developments such as energy projects should take place, as well as how Wales plans to address climate change. The plan is in line with the Well-being of Future Generations (Wales) Act 2015 outlined in Section 2.2.8.

xxvii

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/37048/1940-nps-renewable-energy-en3.pdf

xxviii

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/37050/1942-national-policy-statement-electricity-networks.pdf

xxix <https://gov.wales/future-wales-national-plan-2040-0>

- 75 Planning Policy Wales^{xxx} (PPW) sets out the land use planning policies of the Welsh Government, forming a strategic framework to guide development. PPW provides specific guidance on topics such as the natural, built and historic environment, including economic development, transport, housing, tourism, recreation, and managing environmental risks. Key policy expectations, where relevant, are drawn out in the topic-specific chapters of the ES, and further detail is provided in the Planning Statement.
- 76 PPW is supplemented by topic-based Technical Advice Notes, which are identified as relevant in the topic-specific ES chapters. These advice notes provide detailed planning advice to Local Planning Authorities (LPAs) to be considered in the drafting of Local Development Plans (LDPs).

2.4.3 UK Marine Policy Statement and marine plans

- 77 The UK Marine Policy Statement^{xxxi} (MPS) was adopted in 2011 pursuant to the MCAA. The MPS is the framework for preparing marine plans and taking decisions affecting the marine environment. It aims to facilitate and support the formulation of marine plans, ensuring that marine resources are used in a sustainable way in line with a number of high-level marine objectives:

- Promote sustainable economic development;
- Enable the UK's move towards a low-carbon economy, in order to mitigate the causes of climate change and ocean acidification and adapt to their effects;
- Ensure a sustainable marine environment that promotes healthy, functioning marine ecosystems and protects marine habitats, species and heritage assets; and
- Contribute to the societal benefits of the marine area, including the sustainable use of marine resources to address local social and economic issues.

^{xxx} https://gov.wales/sites/default/files/publications/2021-02/planning-policy-wales-edition-11_0.pdf

^{xxxi}

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69322/pb3654-marine-policy-statement-110316.pdf

- 78 Marine plans translate the MPS into detailed policy and guidance for particular areas, intended to inform and guide decisions on marine and coastal development by conserving and enhancing the environment, reducing costs and increasing certainty for developers, and boosting economic and employment benefits.

Welsh National Marine Plan

- 79 The Welsh National Marine Plan^{xxxii} (WNMP) was published in 2019 and contains policy across a range of considerations, including nature conservation, sustainable use of natural resources, seascape, coastal communities and economic growth. The WNMP includes sector objectives for renewable energy to support the decarbonisation of the Welsh economy and the use of marine renewable energy generation, including offshore wind. Key policies, where relevant, are drawn out in the topic-specific chapters of the ES.

2.4.4 Local policy

- 80 Where it is relevant, existing and emerging local-level planning policy and guidance, such as Supplementary Planning Documents (SPDs), may carry some weight in the consideration of an application for development consent, depending on the degree of consistency between the local and national policies as relevant to the DCO and marine licence decisions.
- 81 The key LDP to be considered in the ES is the DCC LDP, since all onshore AyM infrastructure will be located within Denbighshire. The DCC LDP guides planning decisions within the county and has five key themes in its objectives:
- Respecting distinctiveness;
 - Building sustainable communities;
 - Promoting a sustainable economy;
 - Valuing our environment; and
 - Achieving sustainable accessibility.

^{xxxii} https://gov.wales/sites/default/files/publications/2019-11/welsh-national-marine-plan-document_0.pdf

- 82 DCC is preparing a new LDP to replace the adopted plan, which expired in December 2021. At the time of writing (April 2022), the LDP remains under preparation.

2.5 Major Disasters

- 83 The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations 2017) require significant risks to the receiving communities and environment, for example through major accidents or disasters, to be considered. Similarly, significant effects arising from the vulnerability of the proposed development to major accidents or disasters should be considered. Relevant risks will be covered in the topic chapters within this ES.
- 84 A major accident, as defined in the Control of Major Accident Hazards Regulations 2015, means “an occurrence (including in particular, a major emission, fire or explosion) resulting from uncontrolled developments in the course of the operation of any establishment and leading to serious danger to human health or the environment, immediate or delayed, inside or outside the establishment and involving one or more dangerous substances”.
- 85 Offshore wind developments have an intrinsically low risk of causing major accidents. The turbines, blades towers and foundation bases of offshore wind farms have an excellent safety record with a very low failure rate and are positioned many kilometres offshore away from populated areas and the public (in the case of AyM the nearest offshore wind turbine is over 10 km from the North Wales coastline). On the rare occasion that offshore turbine blades have been lost into the sea or damage has been caused to a turbine by a fire within the nacelle, this has not resulted in injury. The performance of each turbine is constantly monitored through the Supervisory Control and Data Acquisition (SCADA) system sending performance data through to a central, partly-automated monitoring and control centre. As a result, a problem can be quickly detected and pre-prepared safety management action plans rapidly enacted.

- 86 Whilst exposed power cables on the seabed can pose a snagging risk to shipping, and fishing vessels, in particular, the project's export and array cables will be buried where possible and protected through secondary means where burial is not possible, to protect the cables and remove the snagging risk. This is discussed in detail in Volume 2, Chapter 9: Shipping and Navigation (application ref: 6.2.9), and Volume 2 Chapter 8: Commercial and Recreational Fisheries (application ref: 6.2.8) which also discusses the risk that the increased vessel movement to and from the site may pose to navigational safety during construction and operational phases.
- 87 The buried cables onshore and offshore pose very little risk to the public as they are designed to 'trip out' automatically should any failure in insulation along the cable be detected.
- 88 The onshore project substation has been located away from populated areas and is anticipated to be over 350 m from the nearest residential receptor. The risk of substation fires is historically low; however, substation fires can impact the supply of electricity and create a localised fire hazard. The highest appropriate levels of fire protection and resilience will be specified for the onshore project substation to minimise fire risks.
- 89 The small quantities of lubricants, fuel and cleaning equipment required within the project will be stored in suitable facilities designed to the relevant regulations and policy design guidance.
- 90 The offshore wind industry strives for the highest possible health and safety standards across the supply chain. Risks to the public onshore and sea users offshore during construction have been minimised through the use of controlled construction sites onshore and vessel safety zones offshore.
- 91 Safety zones are temporary exclusion zones enacted during construction, allowing the Applicant and its contractors to control vessel movement to enable safe construction works to proceed.
- 92 Onshore, controlled or closed construction sites will be operated where construction works are undertaken in sections where access is strictly controlled during the period when the works are ongoing.

- 93 The Applicant recognises the importance of the highest performance levels of health and safety to be incorporated into the project. There is a commitment to adhere to a high level of process safety, from design to operation and for all staff, contractors and suppliers to have a high level of safety awareness and knowledge of safety and safe behaviour. The Applicant will enact a Code of Conduct for suppliers, contractors and subcontractors. They must all comply with the Code as well as health and safety legislation. The Applicant will ensure that employees have undergone necessary health and safety training.
- 94 With a commitment to the highest health and safety standards in design and working practises enacted, none of the anticipated construction works or operational procedures are expected to pose an appreciable risk of major accidents or disasters.
- 95 In conclusion, the risk of 'major accidents and/or disasters' occurring associated with any aspect of the project, during the construction, operation and decommissioning phases is anticipated to be negligible and further consideration of the impacts of Major Disasters is scoped out of further assessment.



RWE Renewables UK Swindon Limited

Windmill Hill Business Park

Whitehill Way

Swindon

Wiltshire SN5 6PB

T +44 (0)8456 720 090

www.rwe.com

Registered office:

RWE Renewables UK Swindon Limited

Windmill Hill Business Park

Whitehill Way

Swindon