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# Morlais Project Environmental Statement

## Chapter 2: Policy and Legislation

### Volume I

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## GLOSSARY OF ABBREVIATIONS

AONB	Area of Outstanding Natural Beauty
BEIS	Business, Energy and Industrial Strategy
CBD	Convention on Biological Diversity
CfD	Contract for Difference
CRoW	Countryside and Rights of Way Act
EIA	Environmental Impact Assessment
EPS	European Protected Species
ES	Environmental Statement
EU	European Union
HRA	Habitats Regulations Assessment
JLDP	Joint Local Development Plan
MCAA	Marine and Coastal Access Act
MCZ	Marine Conservation Zone
MPS	Marine Policy Statement
MSFD	Marine Strategy Framework Directive
MSPD	Maritime Spatial Planning Directive
NERC	Natural Environment and Rural Communities
NNRP	National Natural Resource Policy
NPS	National Policy Statement for
NTS	Non-Technical Summary
O&M	Operation and Maintenance
PDE	Project Design Envelope
PDZ	Policy Development Zone
RA	Resources Area
RBMP	River Basin Management Plan
RES	Renewable Energy Strategy
RLB	Red Line Boundary
SAC	Special Areas of Conservation
SMP	Shoreline Management Plan
SPA	Special Protection Area
SRA	Strategic Resource Area
SSSI	Site of Special Scientific Interest
TAN	Technical Advice Note
UK BAP	UK Biodiversity Action Plan
WFD	Water Framework Directive
WNMP	Welsh National Marine Plan

## 2. POLICY AND LEGISLATION

### 2.1. INTRODUCTION

1. This chapter of the Environmental Statement (ES) identifies the key National and European legislative and policy drivers and commitments in areas of climate change and renewable energy, which are relevant to the Morlais Project (the Project). It also outlines the key consenting legislation and planning policy (both national and local) under which consent for the Project would be delivered. The technical chapters (**Chapters 7 to 26**) outline any legislation which is specific to the relevant receptors.
2. The Project aims to:
  - Generate long-term financial income / resources for reinvestment in socio-economic and environmental projects to support the wider community;
  - Develop locally based skills;
  - Attract investment to the area;
  - Become a centre of excellence for tidal stream technologies;
  - Provide a world class facility for tidal technology development;
  - Preserve the environment; and
  - Secure sustainable energy supply for the area.

### 2.2. POLICY BACKGROUND

#### 2.2.1. Climate Change and Renewable Energy

3. Climate change is one of the greatest environmental challenges facing the world today, with increasing pressure to reduce carbon emissions as a way of mitigating predicted increases in average global temperatures. As a result, climate change and reducing the rate of global warming is a key driver behind the continued development of the renewable energy industry. A summary of relevant climate change policies is provided in **Table 2-1**.
4. The UK is currently a member of the G7 (formerly the G8) and plays a leading role in tackling climate change at an international level. Whilst the UK remains within the European Union (EU), the UK is obliged to continue to meet its commitments to reducing climate change. Through the Kyoto Protocol (1997) and the Paris Climate Agreement (2015), the UK has a legally binding target to reduce emissions of greenhouse gases. The Environment (Wales) Act 2016 sets target to reduce emissions by at least 80 % by 2050 and provides the legislative framework for establishing a carbon budgeting approach in Wales. Since the passing of the Environment (Wales) Act, guided by the Well-Being of Future Generations Act 2015, the Welsh Government has set targets and provided additional support for renewable energy.
5. In March 2019, the Welsh Government published a new Low Carbon Plan, which aims to reach targets to deliver clean growth, protect the environment and ensure a healthier society for future generations (Welsh Government, 2019). The Environment (Wales) Act 2016 requires Welsh Ministers to set five yearly carbon budgets and the Low Carbon Plan details how Wales aims to

meet the first carbon budget (2016 to 2020), with the second carbon budget to be published in 2021. Achieving a low carbon pathway for Wales ensures maximisation of the seven national well-being goals and the Welsh Government’s well-being objectives.

6. The Climate Change Act 2008 also formally commits the UK to reduce its carbon emissions by at least 80 % by 2050, in line with commitments under the Kyoto Protocol. In order to achieve this, the UK Government sets carbon budgets to benchmark the reductions. Currently targets are to reduce carbon emissions by 37 % below 1990 levels in the period 2018-2022. The forward planning targets are for a 51 % reduction (below 1990 levels) in greenhouse gases by 2025 and a 57 % reduction by 2030 (Committee on Climate Change, 2018).
7. Renewable energy is seen as a primary method of reducing emissions of greenhouse gases, in particular CO<sub>2</sub>. The UK has implemented the EU Renewable Energy Directive (Directive 2009/28/EC) into UK law, primarily through the Promotion of the Use of Energy from Renewable Sources Regulations 2011, to deliver national targets and priorities in greenhouse gas reductions as well as our domestic targets of reducing greenhouse gas emissions by 80 % by 2050 (HM Government, 2011).
8. In addition to the reduction in greenhouse emissions, renewable energy is an important element in working towards a more varied energy mix and increased energy security to insulate the UK against global fluctuations in energy prices. Currently, renewable energy generation has been able to provide up to 24 % of the UK’s energy requirements during periods of optimum conditions. The renewable energy industry has also been an important economic driver helping to create direct and indirect jobs and benefit the wider economy.
9. Specific measures for renewable energy were set out in the UK Renewable Energy Strategy (RES) which was published in parallel with the UK Low Carbon Transition Plan in July 2009 (HM Government, 2009a; HM Government, 2009b).
10. The RES sets out the path by which the UK can meet the legally-binding target of 15 % energy consumption from renewable sources by 2020. The UK interim target was for 5.4 % of energy consumption to be provided by renewable energy by 2013. Preliminary calculations indicate that this target was met.
11. The Renewable Energy Roadmap (DECC, 2011a; DECC, 2012; DECC, 2013) updated some of the aims within the RES and identifies eight types of technology capable of providing 90 % of the renewable energy required to meet the UK’s 2020 target of 15 % of energy consumption derived from renewable sources. It reports that energy from tidal stream devices could make a significant contribution to meeting the UK future energy needs.

**Table 2-1 Summary of Relevant Climate Change Legislation**

Policy	Summary
United Nations Framework Convention on Climate Change (Paris Climate Agreement)	<ul style="list-style-type: none"> <li>▪ Limit global temperature increase to below 2 °C, while pursuing efforts to limit the increase to 1.5 °C;</li> <li>▪ Commitments by all parties to prepare, communicate and maintain a Nationally Determined Contribution; and</li> </ul>

Policy	Summary
	<ul style="list-style-type: none"> <li>▪ In 2023, and every five years thereafter, a global stocktake will assess the collective progress towards meeting the purpose of the Agreement.</li> </ul>
European Union Renewable Energy Directive	<ul style="list-style-type: none"> <li>▪ A reduction of 20 % in greenhouse gases by 2020 (below 1990 levels); and</li> <li>▪ 20 % of the total EU energy (electricity, heat and fuel) consumption to come from renewable sources by 2020.</li> </ul>
The Environment (Wales) Act 2016	<ul style="list-style-type: none"> <li>▪ A reduction of 80 % in greenhouse gases by 2050; and</li> <li>▪ Welsh Ministers must set interim emissions targets for 2020, 2030 and 2040, together with 5-year carbon budgets for the periods 2021-2025 and 2026-2030.</li> </ul>
The UK Climate Change Act 2008	<ul style="list-style-type: none"> <li>▪ A reduction of 34 % in greenhouse gases by 2020 (below 1990 levels); and</li> <li>▪ A reduction of 80 % in greenhouse gases by 2050 (below 1990 levels).</li> </ul>
The UK Energy Act 2013	<ul style="list-style-type: none"> <li>▪ Introduction of provisions to enable a statutory 2030 decarbonisation target range for the GB electricity sector; and</li> <li>▪ Electricity Market Reform including introduction of the Contracts for Difference (CfDs) support mechanism.</li> </ul>

### 2.2.2. Renewable Energy Policy Wales

12. Welsh renewable policy focuses on the transition to a low carbon energy system and maximising the benefits for both Wales and Welsh communities. The 2012 Welsh Government policy document, Energy Wales: A Low Carbon Transition, updated in 2016, outlines the Welsh Government's approach to utilising the marine environment for renewable energy deployment (Welsh Government, 2012b). Marine renewable energy has been identified as a key way of meeting renewable energy objectives, with an aim to capture 10 % of the potential tidal stream and wave energy off the Welsh Coastline by 2025.
13. The Welsh Government policy document sets out the Welsh goals for providing and encouraging growth of renewable energy generation within the energy mix whilst ensuring development is pursued in a socially, environmentally and economically responsible manner that is compliant with the policies outlined in the Welsh Government resource management paper; Sustaining a Living Wales (Welsh Government, 2012a).
14. The Welsh Government has outlined the Anglesey Energy Island Programme which sets out to promote Anglesey as a hub for energy developments such as the Minesto Holyhead Deep project, Wylfa B Nuclear Power Station and Holyhead Biomass Energy Centre (IoACC, 2010). Through this, the Welsh Government is aiming to maximise socio-economic benefits to Anglesey and the wider area. The Project, whilst not identified in the Programme, will help achieve this objective and is being developed to maximise local socio-economic benefits where possible.
15. The Welsh First Minister has also set up the Energy Wales Unit, who's remit is to build on the policies set out in the 2012 Policy document and focus on progressing marine energy.

### **2.3. CONSENTING REGIME**

16. The Project will be authorised via the following principal consents:
  - A Transport and Works Act Order under the Transport and Works Act 1992; and
  - A Marine Licence under the Marine and Coastal Access Act 2009 (MCAA).
17. The following is proposed to be authorised through the Transport and Works Act Order:
  - The establishment of Marine Safety Zones;
  - Public Rights of Way temporary closures; and
  - The carrying out of street works.
18. Deemed planning permission will be granted with the Transport and Works Act Order.
19. The following is proposed to be addressed via the Marine Licence:
  - Marine Disposal Sites.
20. Applications for consent to perform specific activities will also be made. These are likely to include, but not limited to:
  - European Protected Species Licence (if required).
21. This ES presents the results of the EIA which will be submitted with the applications for consent.

#### **2.3.1. Transport and Works Act 1992**

22. The Transport and Works Act 1992 empowers orders to be made authorising the construction and operation of linear and other guided transport schemes and other types of infrastructure in England and Wales, including works that interfere with rights of navigation in waters up to the limits of the territorial sea provided that they will fall within a prescribed category of works; these include both offshore installations and utilities structures. The Department for Business, Energy and Industrial Strategy (BEIS) administers applications made under the Transport and Works Act 1992 in respect of energy-related projects in those UK territorial waters adjoining England; however, for developments adjacent to Wales, the National Assembly for Wales is the determining body.

#### **2.3.2. Marine and Coastal Access Act 2009**

23. The MCAA introduced a new system for marine planning in the marine and coastal environment in England and Wales. Under the MCAA, a Marine Licence is required for carrying out a 'licensable marine activity' in Welsh waters, including construction works on the seabed, depositing of any subject, dredging and aggregate extraction. The Welsh Government is the licensing authority for the Welsh inshore and offshore region; however, the Marine Licensing Team in NRW administers marine licenses on behalf of the Welsh Government.
24. The MCAA also provides the Welsh Government with the powers to introduce Marine Conservation Zones (MCZs) in the Welsh inshore area. The primary aim of MCZs is to deliver the Government's vision for an 'ecologically coherent network of MPAs across the UK and to

ensure the health of the wider UK marine environment'. In 2014, the first MCZ in Welsh waters was established, Skomer MCZ. These sites are intended to protect habitats and species not necessarily covered by existing mechanisms and complement the existing MPA network designated under the Habitats and Birds Directives (see **Section 2.4.3**).

### **2.3.3. Planning (Wales) Act 2015**

25. The application for the Transport and Works Act Order will be accompanied by an application for deemed planning permission. The decision in respect of the application will have due regard to the requirements of the Planning (Wales) Act 2015.
26. The Planning (Wales) Act 2015 sets out the legislative changes to deliver reform of the planning system in Wales. The main objectives of the Planning (Wales) Act 2015 are to improve the existing planning process by producing a modernised framework for the delivery of planning services, strengthening the plan led approach, improving resilience, improving the development management system and enabling effective enforcement. The Planning (Wales) Act 2015 introduced a statutory framework for the planning system in Wales, and any statutory body carrying out a planning function must exercise those functions in accordance with the principles of sustainable development as set out in the Well Being of Future Generations (Wales) Act 2015 (see **Section 2.3.5**).

### **2.3.4. Wales Act 2017**

27. The Wales Act 2017 introduces a new reserved powers model of devolution for Wales. The Wales Act 2017 makes the National Assembly a permanent part of the UK's political framework. As a result, the National Assembly will be able to legislate on anything not reserved to the UK Parliament. The Wales Act 2017 therefore devolves powers to the National Assembly and Welsh Government in areas including consenting for new energy projects. The Wales Act 2017 provides significant powers and responsibility to the Welsh Government over energy and environmental matters, including authorising planning permission for energy generating schemes up to 350 MW. Although the Wales Act 2017 came into force in 2017, whilst the powers rest with the Welsh Government, the framework for the majority of changes, including the exercise of the reserved powers model, is not yet in place.

### **2.3.5. The Well Being of Future Generations (Wales) Act 2015**

28. The Wellbeing of Future Generations (Wales) Act 2015 promotes improvement of the social, economic, environmental and cultural well-being of Wales. The Wellbeing of Future Generations (Wales) Act 2015 places a statutory duty on public bodies in relation to sustainable development, based on seven well-being goals, outlined in **Table 2-2**.
29. Climate change is integral to the wellbeing goals, which recognise that the case for action on climate change is clear and fundamental to future prosperity and the future resilience of communities. The Wellbeing of Future Generations (Wales) Act 2015 provides a mechanism for public bodies to set targets and report progress against indicators. Through its well-being objectives, the Wellbeing of Future Generations (Wales) Act 2015 sets a clear agenda for sustainable development.

**Table 2-2 Well-Being Goals and Adherence by the Project**

Well-being Goal	Description	How is this addressed by the Project
A prosperous Wales	An innovative, productive and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change); and which develops a skilled and well-educated population in an economy which generates wealth and provides employment opportunities, allowing people to take advantage of the wealth generated through securing decent work.	<p>If built, the Project would have a design life of approximately 37 years, after which it may be either decommissioned or repowered (subject to separate consenting). During its operation the project would contribute to reaching global, European and national targets on CO<sub>2</sub> reduction and renewable energy production.</p> <p>It is estimated that the Project could produce enough electricity each year to power the equivalent of over 188,000 houses.</p> <p>Further information on tidal energy is provided in <b>Chapter 1, Introduction</b>.</p>
A resilient Wales	A nation which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change (for example climate change).	<p>The ES details the considerations of the Project on the baseline environment for a number of key receptors. A habitats regulations assessment (HRA) report has been compiled to inform the assessment as to whether the Project has the potential to have an adverse effect on the integrity and features of a Natura 2000 site. Where appropriate, mitigation measures are provided to ensure that no residual significant impacts are caused by the Project.</p> <p>The technical chapters (<b>Chapters 7 to 26</b>) outline any legislation which is specific to the relevant receptors.</p> <p>Information to support the HRA is provided in <b>Document MOR/RHDHV/DOC/0067, Information to Support HRA</b>.</p>
A healthier Wales	A society in which people's physical and mental well-being is maximised and in which choices and behaviours that benefit future health are understood.	<p>An assessment of the impacts of the project on Health and Socio-economics is provided in <b>Chapter 25, Socioeconomics, Tourism and Recreation</b>.</p> <p>The Project will have no significant negative impact on health and wellbeing, and is expected to have a minor beneficial impact to a number of receptors.</p>
A more equal Wales	A society that enables people to fulfil their potential no matter what their background or circumstances (including their socio-economic background and circumstances).	<p>An assessment of the impacts of the project on Socio-economics is provided in <b>Chapter 25, Socioeconomics, Tourism and Recreation</b>.</p> <p>The Project is being developed by Menter Môn Morlais Limited (hereafter referred to as Menter Môn). Menter Môn is a not for profit, third sector social enterprise, delivering socioeconomic development projects across North Wales. Menter Môn's motivation for the Project is to position itself</p>

Well-being Goal	Description	How is this addressed by the Project
		as a community agency at the centre of renewable innovation, and to establish Anglesey as a marine energy hub, thereby securing maximum added value for the local economy and community.
A Wales of cohesive communities	Attractive, viable, safe and well-connected communities.	The developers of the Project have a strong local presence on Anglesey and are committed to developing renewable energy on the Island. The developers of the Project also have a desire to increase and diversify employment and economic development opportunities across the communities.
A Wales of vibrant culture and thriving Welsh language	A society that promotes and protects culture, heritage and the Welsh language, and which encourages people to participate in the arts, and sports and recreation.	Menter Môn is a Welsh-speaking not for profit company providing solutions to the challenges facing rural Wales.  The developer works with businesses, communities and individuals, to deliver meaningful projects, that harness their strengths and contribute to a sustainable future. Menter Môn embrace and recognise the value of our resources and seek to add value for the benefit of the community. These include natural and built environment, cultural heritage, agricultural and food sectors and most importantly the Welsh people.  Copies of the Morlais Non-Technical Summary (NTS) and the Transport and Works Act Order are available in Welsh.
A globally responsible Wales.	A nation which, when doing anything to improve the economic, social, environmental and cultural well-being of Wales, takes account of whether doing such a thing may make a positive contribution to global well-being.	The Project seeks to provide a platform for commercial tidal energy device development, the first of this scale in the world. Evidencing the Projects importance, the development phase has been supported by the European Regional Development Fund.

### 2.3.6. Maritime Spatial Planning Directive

30. The Maritime Spatial Planning Directive (EU Directive 2014/89) (MSPD) has been in effect since September 2014. The Directive requires EU countries to draw up maritime spatial plans no later than 31st March 2021. These plans will enable public authorities to organise human activities in marine areas ensuring efficiency and sustainability of ecological, economic and social objectives.
31. Draft Resource Areas (RA) and Strategic Resource Areas (SRA) are identified within the draft Welsh National Marine Plan (WNMP) currently under preparation. RAs are broad areas that describe the distribution of a particular resource that has the potential to be used or is used by certain marine sectors, e.g. aggregates, aquaculture or marine energy. SRAs are used to further allocate space and focus future use of the Welsh inshore and offshore areas. These are areas of good opportunity for future use by a particular sector over the plan period and beyond. SRAs lie within the related RA. SRAs have been identified at a broad scale; local issues and

constraints that relate to the general policies that have a spatial dimension will be taken into account when considering individual proposals. As laid out in the WNMP, the Project is located within a SRA identified for Tidal Stream Energy.

### 2.3.7. National Policy Statements

#### 2.3.7.1. National Policy Statement

32. The Project is seeking consent for a Transport and Works Act Order from the Welsh Ministers and a Marine Licence from Natural Resources Wales (NRW). Although this Project is not seeking a Development Consent Order (DCO), its size (240 MW) means it is representative of a Nationally Significant Infrastructure Project (NSIP), therefore guidance relevant to NSIPs is considered appropriate to use for this Project. Guidance that is relevant to assessing impacts on marine water and sediment quality for NSIPs are set out within National Policy Statements (NPSs) which are the principal decision-making documents for NSIPs. Those relevant to marine water and sediment quality include:

- Overarching NPS for Energy (EN-1) (Department of Energy and Climate Change (DECC) 2011b); and
- NPS for Renewable Energy Infrastructure (EN-3), July 2011 (DECC, 2011c).

33. The NPS for renewable energy infrastructure (EN-3) does not cover other types of renewable energy generation that are not at present technically viable over 50MW onshore or over 100MW offshore such as schemes that generate electricity from tidal stream or wave power. It is expected that tidal range schemes may be the subject of applications to the IPC within the near future (DECC, 2011c).

#### 2.3.7.2. Marine Policy Statement

34. The Marine Policy Statement (MPS) adopted by all UK administrations in March 2011 provides the policy framework for the preparation of marine plans and establishes how decisions affecting the marine area should be made in order to enable sustainable development. The MPS sets out a vision of having 'clean, healthy, safe, productive and biologically diverse oceans and seas' by supporting the development of Marine Plans.

35. The MPS states that "*Marine based activities can provide opportunities for employment in long established industries such as...offshore electricity transmission. This employment provides wide and long-term benefits for both national and local economies.*"

36. Furthermore, it is expected that "*Wave and tidal stream technologies also have significant potential in the medium to long-term*". The MPS estimated that up to 20 % of the UK's current energy demand could be supplied by wave and tidal energy.

37. The MPS states that "*It is important for marine planning to take account of appropriate locations for such developments alongside more established uses of marine space and to recognise the timescales and stages against which the sector is likely to progress, including the lead time for grid and infrastructure development. For example, pre-commercial demonstration deployments will need to manage the potential environmental impacts in relation to the scale of risks and*

*legislative requirements while recognising that not all uncertainties can be addressed in the early life of this technology.”*

38. The document suggests to developers that adaptation and mitigation methods for these technologies may be supported by detailed monitoring programmes and co-ordinated research initiatives, including post deployment of devices. This approach is being followed by Menter Môn, with the intention to supply a detailed construction and operation monitoring and mitigation plan.
39. All public authorities are to take into account the MPS and relevant Marine Plans when making decisions in regard to the marine area. This ensures that marine resources are used in a sustainable way in line with the high-level marine objectives.

### **2.3.7.3. Welsh National Marine Plan**

40. By adopting the MPS, the Welsh Government committed to the requirement to introduce Marine Plans for Wales. The Project adheres directly to the vision for the Welsh inshore and offshore marine planning region, which states that during the 20-year plan period the Welsh Government will ensure that *“Through the responsible deployment of low carbon technologies, the Welsh marine area is making a strong contribution to energy security and climate change emissions targets”*.
41. The Welsh Government is currently developing the first marine plan for Welsh inshore and offshore waters, the WNMP. The WNMP is being developed in accordance with the MCAA, the MPS and the MSPD. A draft version has been issued for consultation with the aim of publishing the document in summer 2019.
42. Until the WNMP comes into effect, the MCAA, MPS and MSPD will be adhered to and the guidance within the draft WNMP has been referred to within this section.
43. The Project falls within the supporting sector policy ‘ELC\_01: Low carbon energy (supporting)’, as detailed within the draft WNMP. The draft WNMP states that *“Proposals for all types of marine renewable energy generation (wind, tidal and wave energy) and associated infrastructure are strongly encouraged, especially: a) in corresponding wave, tidal stream and any other defined renewable energy technology test and demonstration zones; and b) in corresponding wave, tidal stream and tidal lagoon Strategic Resource Areas. Relevant public authorities should, in liaison with the sector and other interested parties, collaborate to understand opportunities for the sustainable use of: a) renewable energy Strategic Resource Areas; and b) wider natural resources that provide renewable energy potential in order to support the sustainable growth of the renewable energy sector through marine planning”*.
44. The draft WNMP contains the policies in **Table 2-3** which are particularly relevant to the Project.

**Table 2-3 WNMP Policies Relevant to the Project**

Policy	Details	Where this is considered within the ES
ECON_01: Blue growth	Proposals for economically sustainable activities are encouraged, particularly where they contribute to: <ul style="list-style-type: none"> <li>▪ a more resilient economy;</li> <li>▪ employment opportunities particularly for coastal communities;</li> <li>▪ generating wealth;</li> <li>▪ allowing people to take advantage of the wealth;</li> <li>▪ protecting and creating employment at all skill levels;</li> <li>▪ maintaining communities with a high-density of Welsh speakers;</li> <li>▪ tackling poverty by supporting deprived coastal communities; and / or</li> <li>▪ the sustainable management of natural resources thereby supporting ecosystem resilience.</li> </ul>	Chapter 1, Introduction and Chapter 25, Socioeconomics, Tourism and Recreation
SOC_02: Well-being of coastal communities	Proposals that contribute to the well-being of coastal communities are encouraged.	Chapter 25 Socio-economics, Tourism and Recreation
SOC_05: Historic assets	Proposals should demonstrate how potential impacts on historic assets and their settings have been taken into consideration at an early stage and should, in order of preference: <ol style="list-style-type: none"> <li>a) avoid adverse impacts on historic assets and their settings; and/or</li> <li>b) minimise impacts where they cannot be avoided; and/or</li> <li>c) mitigate impacts where they cannot be minimised.</li> </ol> If significant adverse impacts cannot be adequately addressed, proposals should present a clear and convincing justification for proceeding. Opportunities to enhance historic assets are encouraged.	Chapter 13 Offshore Archaeology and Cultural Heritage Chapter 20 Onshore Archaeology and Cultural Heritage Chapter 24 Seascape, Landscape and Visual Impact Assessment
SOC_06: Designated landscapes	Proposals that demonstrate that they are compatible with the purposes and special qualities for which National Parks or Areas of Outstanding Natural Beauty have been designated are encouraged.	Chapter 24 Seascape, Landscape and Visual Impact Assessment
SOC_07: Seascapes	Proposals should demonstrate how potential impacts on seascapes have been taken into consideration at an early stage and should, in order of preference: <ol style="list-style-type: none"> <li>a) avoid adverse impacts on seascapes; and/or</li> <li>b) minimise impacts where they cannot be avoided; and/or</li> <li>c) mitigate impacts where they cannot be minimised.</li> </ol> If significant adverse impacts cannot be adequately addressed, proposals should present a clear and convincing justification for proceeding. Opportunities to enhance seascapes are encouraged.	Chapter 24 Seascape, Landscape and Visual Impact Assessment
SOC_12: Support for wider resilience to climate change	Relevant public authorities should support opportunities that contribute towards climate change adaptation and/or mitigation	Chapter 2 Policy and Legislation

<b>Policy</b>	<b>Details</b>	<b>Where this is considered within the ES</b>
ENV_05: Underwater Noise	<p>Proposals should demonstrate that they have considered man-made noise impacts on the marine environment and, in order of preference:</p> <ul style="list-style-type: none"> <li>a) avoid adverse impacts; and/or</li> <li>b) minimise impacts where they cannot be avoided; and/or</li> <li>c) mitigate impacts where they cannot be minimised.</li> </ul> <p>If significant adverse impacts cannot be adequately addressed, proposals should present a clear and convincing justification for proceeding</p>	<p>Chapter 9 Benthic and Intertidal Ecology,                      Chapter 10 Fish and Shellfish Ecology,                      Chapter 12 Marine Mammals,                      Chapter 14 Commercial Fisheries</p>
ENV_06: Air and Water Quality	<p>Proposals should demonstrate that they have considered their potential air and water quality impacts and should, in order of preference:</p> <ul style="list-style-type: none"> <li>a) avoid adverse impacts; and/or</li> <li>b) minimise adverse impacts where they cannot be avoided; and/or</li> <li>c) mitigate adverse impacts where they cannot be minimised.</li> </ul> <p>If significant adverse impacts cannot be adequately addressed, proposals should present a clear and convincing justification for proceeding.</p>	<p>Chapter 8 Marine Water and Sediment Quality,                      Chapter 22 Air Quality</p>
ELC_01: Low carbon energy (supporting)	<p>Proposals for all types of marine renewable energy generation (wind, tidal and wave energy) and associated infrastructure are strongly encouraged, especially:</p> <ul style="list-style-type: none"> <li>a) in corresponding wave, tidal stream and any other defined renewable energy technology test and demonstration zones; and</li> <li>b) in corresponding wave, tidal stream and tidal lagoon Strategic Resource Areas.</li> </ul> <p>Relevant public authorities should, in liaison with the sector and other interested parties, collaborate to understand opportunities for the sustainable use of:</p> <ul style="list-style-type: none"> <li>a) renewable energy Strategic Resource Areas; and</li> <li>b) wider natural resources that provide renewable energy potential in order to support the sustainable growth of the renewable energy sector through marine planning.</li> </ul>	<p>Chapter 1 Introduction,                      Chapter 3 Site Selection and Consideration of Alternatives and Chapter 4 Project Description</p>
GOV_01: Cumulative effects	<p>Proposals should demonstrate that they have assessed potential cumulative effects and, in order of preference:</p> <ul style="list-style-type: none"> <li>a) avoid adverse effects; and/or</li> <li>b) minimise effects where they cannot be avoided; and/or</li> <li>c) mitigate effects where they cannot be minimised.</li> </ul> <p>If significant adverse effects cannot be adequately addressed, proposals should present a clear and convincing justification for proceeding. Proposals that contribute to positive cumulative effects are encouraged.</p>	<p>Chapter 26, Cumulative Impact Assessment</p>

45. The WNMP outlines the following aspects that Menter Môn should be undertaking to ensure that the Project is in accordance with the plan:

- Engage early across and between relevant stakeholders;
- Apply the general cross-cutting and sector-specific policies set out in this plan to guide proposals;
- Consider the potential beneficial and adverse impacts of their proposed activity on the economy, society and the environment; minimise adverse effects and maximise opportunities for coexistence and securing multiple benefits;
- Supply the information required for the relevant public authorities to assess their proposal(s) including fit with relevant planning policy; and
- Ensure that evidence provided is sound and proportionate given the development in question and its associated risks.

46. Each of the above has been provided throughout the EIA process (**Chapter 5, EIA Methodology**).

#### **2.3.7.4. Planning Policy Wales**

47. Planning policy for Wales is set out in the document Planning Policy Wales (Welsh Government, 2018). The planning policy document outlines the Welsh Government's approach to ensuring that the planning system contributes to the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015 and the Well-Being of Future Generations (Wales) Act 2015.
48. The Planning Policy also takes into consideration meeting the aims of Sustaining a Living Wales document to ensure that development does not take precedence over and impact on other factors. The policy encourages a positive approach to the development of renewable and low carbon energy development and encourages collaboration where possible.
49. The Project falls within the following Planning Policy Wales key planning principles:
- Growing Our Economy in a Sustainable Manner;
  - Making Best Use of Resources;
  - Facilitating Accessible and Healthy Environments;
  - Creating and Sustaining Communities; and
  - Maximising Environmental Protection and Limiting Environmental Impact.
50. The following Planning Policy Technical Advice Notes (TAN) have been reviewed within the relevant chapters of the ES:
- TAN 5: Nature Conservation and Planning;
  - TAN 8: Renewable Energy;
  - TAN 11: Noise;
  - TAN 12: Design;
  - TAN 13: Tourism;
  - TAN 14: Coastal Planning;

- TAN 15: Development and Flood Risk;
- TAN 18: Transport;
- TAN 21: Waste;
- TAN 23: Economic Development; and
- TAN 24: The Historic Environment

### 2.3.8. Regional Plans

#### 2.3.8.1. Anglesey and Gwynedd Joint Local Development Plan (JLDP)

51. Development of the Project will support those objectives of the 2017 Anglesey and Gwynedd Joint Local Development Plan, aimed at promoting the development of renewable or low carbon energy technologies. The project will prioritise maximising opportunities for local communities directly via employment and indirectly via the establishment of a local supply chain.
52. Of the policies contained in the JLDP, those presented in **Table 2-4** are considered to be of particular relevance to the Project.

**Table 2-4 Relevant Policies of the Anglesey and Gwynedd JLDP**

Policy	Description	Where considered within the ES
Strategic Policy PS 1: Welsh Language and Culture	Promote and support the use of the Welsh language in the Plan area.	Menter Môn are a Welsh-speaking company. Copies of the NTS and the draft Transport and Works Act Order are available in Welsh.
Strategic Policy PS 2: Infrastructure and Developer Contributions	New development to ensure sufficient provision of essential infrastructure (either on-site or to service the site) is either already available or provided in a timely manner to make the proposal acceptable.	<b>Chapter 3, Site Selection and Consideration of Alternatives</b> <b>Chapter 4, Project Description</b>
Policy ISA 1: Infrastructure Provision	Proposals will only be granted where adequate infrastructure capacity exists or where it is delivered in a timely manner.	
Policy TRA 2: Parking Standards	Parking provision for all modes of transport should be in accordance with the Councils' Parking Standards.	Parking, traffic and transport impacts during construction and operation are outlined within <b>Chapter 23, Traffic and Transport.</b>
Policy TRA 4: Managing Transport Impacts	Where appropriate, proposals should be planned and designed in a manner that promotes the most sustainable modes of transport	
Strategic Policy PS 5: Sustainable Development	Development will be supported where it is demonstrated that they are consistent with the principles of sustainable development	The nature of the Project is to alleviate the causes of climate change and develop low carbon technologies.

<b>Policy</b>	<b>Description</b>	<b>Where considered within the ES</b>
Strategic Policy PS 6: Alleviating and Adapting to the Effects of Climate Change	Proposals will only be permitted where it is demonstrated that they have fully taken account of the energy hierarchy and reducing greenhouse gas emissions	<b>Chapter 4, Project Description</b>
Policy PCYFF 1: Development Boundaries	Proposals within Development Boundaries will be approved in accordance with the other policies and proposals of this Plan, national planning policies	The Project considers the relevant Development Boundaries within the JLDP. All relevant local and national plans and policies are considered within <b>Chapter 2, Policy and Legislation</b> .
Policy PCYFF 2: Development Criteria	A proposal should demonstrate its compliance with: 1. Relevant policies in the Plan; 2. National planning policy and guidance	
Policy PCYFF 3: Design and Place Shaping	All proposals will be expected to demonstrate high quality design	<b>Chapter 3, Site Selection and Consideration of Alternatives; Chapter 4, Project Description; Chapter 24, Seascape, Landscape and Visual Impact Assessment</b>
Policy PCYFF 4: Design and Landscaping	All proposals should integrate into their surroundings	
Strategic Policy PS 7: Renewable Energy Technology	the Plan area wherever feasible and viable realises its potential as a leading area for initiatives based on renewable or low carbon energy technologies	<b>Chapter 1, Introduction; Chapter 3, Site Selection and Consideration of Alternatives; Chapter 4, Project Description</b>
Policy ADN 3: Other Renewable Energy and Low Carbon Technologies	Proposals for renewable and low carbon energy technologies, other than wind or solar, which contribute a low carbon future will be permitted, provided that the proposal conforms to certain criteria	<b>Chapter 7 to 26</b> present the assessments of impacts from the Project on all receptors.
Policy ARNA 1: Coastal Change Management Area (CChMA)	Proposals for the following types of new non-residential development will be permitted on sites within the CChMA predicted as being at risk from coastal change during the second indicative policy epoch (2026 – 2055), subject to a compliant Flood Consequence Assessment or a Stability Assessment.	<b>Chapter 17, Water Resources and Flood Risk.</b> A Flood Risk Assessment has been prepared and is appended to <b>Chapter 17, Water Resources and Flood Risk</b> .
Strategic Policy PS 13: Providing Opportunity for a Flourishing Economy	Whilst seeking to protect and enhance the natural and built environment, the Councils will facilitate economic growth in accordance with the spatial strategy of the Plan	<b>Chapter 3, Site Selection and Consideration of Alternatives; Chapter 25, Socioeconomics, Tourism and Recreation.</b>
Strategic Policy PS 14: The Visitor Economy	Ensuring compatibility with the local economy and communities and ensuring the protection of the	Menter Môn will ensure design of the Project takes appropriate consideration of landscape and seascape sensitivities.

<b>Policy</b>	<b>Description</b>	<b>Where considered within the ES</b>
	natural, built and historic environment	<b>Chapter 24, Seascape, Landscape and Visual Impact Assessment</b>
Strategic Policy PS 19: Conserving and Where Appropriate Enhancing the Natural Environment	Manage development so as to conserve and where appropriate enhance the Plan area's distinctive natural environment, countryside and coastline	<b>Chapter 19, Onshore Ecology; Chapter 24, Seascape, Landscape and Visual Impact Assessment, Chapter 25, Socioeconomics, Tourism and Recreation</b>
Policy AMG1: Area of Outstanding Natural Beauty (AONB) Management Plans	Proposals within or affecting the setting and/ or significant views into and out of the AONB must, where appropriate, have regard to the relevant Area of Outstanding Natural Beauty Management Plan.	
Policy AMG 4: Coastal Protection	Developments in Heritage Coasts must have overriding economic and social benefit and not cause unacceptable harm	<b>Chapter 19, Onshore Ecology; Chapter 20 Onshore Archaeology and Cultural Heritage; Chapter 24, Seascape, Landscape and Visual Impact Assessment; Chapter 25, Socioeconomics, Tourism and Recreation</b>
Policy AMG 5: LOCAL Biodiversity Conservation	Proposals must protect and, where appropriate, enhance biodiversity that has been identified as being important	<b>Chapter 19, Onshore Ecology; Document MOR/RHDHV/DOC/0067, Information to Support HRA.</b>
Policy AMG 6: Protecting Sites of Regional or Local Significance	Proposals that are likely to cause direct or indirect significant harm to Local Nature Reserves (LNR), Wildlife Sites (WS) 1 or regionally important geological / geomorphologic sites (RIGS) must have overriding economic and social benefit and not cause unacceptable harm	<b>Chapter 7, Metocean Conditions and Coastal Processes; Chapter 19, Onshore Ecology</b>
Policy PS 20: Preserving and Where Appropriate Enhancing Heritage Assets	It is important that heritage assets - encompassing archaeology and ancient monuments, listed buildings, conservation areas and historic parks, gardens and landscapes are preserved	<b>Chapter 20, Onshore Archaeology and Cultural Heritage; Chapter 24, Seascape, Landscape and Visual Impact Assessment</b>

### **2.3.8.2. Shoreline Management Plan**

53. A Shoreline Management Plan (SMP) provides a large-scale assessment of the risks associated with coastal evolution and presents a policy framework to address these risks to people and the developed, historic and natural environment in a sustainable manner. In doing so, an SMP is a high-level document that forms an important part of the Department for Environment, Food and Rural Affairs (Defra) strategy for flood and coastal defence (Defra, 2001).
54. The SMP is a non-statutory policy document for coastal defence management planning. It takes account of other existing planning initiatives and legislative requirements and is intended to

inform wider strategic planning. The shoreline of Wales is divided into a number of Policy Development Zones (PDZ). The coastal area of the Project lies within PDZ17 – Holy Island and West Anglesey (Twyn y Parc to Twyn Cliperau). Further information on the baseline environment presented in the SMP is shown in **Chapter 7, Metocean and Coastal Processes**.

## **2.4. ENVIRONMENTAL LEGISLATION**

### **2.4.1. The EIA Directive**

55. Environmental Impact Assessment (EIA) was introduced under the EU EIA Directive 85/337/EEC in 1985 (as amended by Directives 97/11/EC, 2003/35/EC and 2009/31/EC). In 2011, the original EIA Directive and amendments were codified by EIA Directive 2011/92/EU (as amended by Directive 2014/52/EU) (the EIA Directive). The EIA Directive ensures that projects likely to have significant effects on the environment are subject to an EIA prior to their approval or authorisation. The requirement to comply with them is transposed into law by regulations and/or amendments legislation such as the Transport and Works Act 1992 and Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006.

56. Key changes which are of note relate to:

- A requirement to provide a description of the likely significant effects of the development on the environment resulting from impacts on climate change, risks to human health and use of natural resources;
- Ensuring EIA quality by requiring that those who undertake the work are competent experts;
- More detailed demonstration of the consideration of reasonable alternatives to the proposed Project; and
- Further consideration of how to avoid, prevent, reduce and / or off-set significant adverse effects where possible and develop monitoring strategies.

### **2.4.2. The Marine Works (Environmental Impact Assessment) Regulations 2010 (as amended)**

57. In respect of works in respect of which a marine licence is required, the EIA Directive has been implemented in to national legislation by The Marine Works (Environmental Impact Assessment) Regulations 2010 as amended by the Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017. These Regulations implement the EIA Directive, referring to Annex I projects that require mandatory EIA and Annex II projects which may be subject to an EIA, should certain thresholds be exceeded. The Project will require an EIA as an Annex II project that exceeds the relevant thresholds.

58. Schedule 3 of the Marine Works (EIA) Regulations 2010 (as amended) sets out information that must be included in the ES, including:

- A description of the Project;
- A description of the reasonable alternatives studied by the applicant;

- A description of the baseline environment and an outline of the likely evolution thereof without implementation of the Project;
- A description of the factors likely to be significantly affected by the Project;
- A description of the likely significant effects of the project on the environment, including direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects;
- A description of the forecasting methods or evidence used to identify and assess the significant effects on the environment including details of difficulties (for example, technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved;
- A description of the measures envisaged to avoid, prevent, reduce or if possible offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example, the preparation of a post-project analysis);
- A description of the expected significant adverse effects of the Project on the environment deriving from the vulnerability of the project and the regulated activity to risks of major accidents or disasters which are relevant to the Project and the regulated activity concerned;
- A non-technical summary of the information provided; and
- A reference list detailing the sources used for the descriptions and assessments included in the report.

#### **2.4.3. The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017**

59. Following the amendment to the EIA Directive, the Town and Country Planning (EIA) (Wales) Regulations 2017 came into force. The Town and Country Planning (EIA) (Wales) Regulations 2017 restate the EIA Regulations, with amendments to reflect the changes required by the 2014 Directive and some domestic policy.
60. The primary purpose of the Town and Country Planning (EIA) (Wales) Regulations 2017 is to transpose the changes made to the EIA Directive in respect of land use planning. The Town and Country Planning (EIA) (Wales) Regulations 2017 would therefore be engaged by the grant of deemed planning permission for the onshore works.

#### **2.4.4. Habitats and Birds Directive**

61. EC Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (known as the Habitats Directive) is intended to protect biodiversity by requiring Member States to take measures to maintain or restore natural habitats and wild species listed in the Annexes to the Directive at a favourable conservation status. It provides robust protection for those habitats and species of European importance.

62. EC Directive 2009/147/EC on the Conservation of Wild Birds (known as the Birds Directive) provides a framework for the conservation and management of, and human interactions with, wild birds in Europe. It sets broad objectives for a wide range of activities.
63. For territorial waters in England and Wales, where the Project is located, the Habitats Directive and the Birds Directive are implemented under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). The provisions of the Birds Directive are implemented through the Wildlife and Countryside Act 1981 (as amended) and the Habitats Regulations, as well as other legislation related to the uses of land and sea.
64. Under this legislative framework a network of protected areas (the Natura 2000 network) has been established. These protected areas include Special Areas of Conservation (SAC) for habitats and species, and Special Protection Areas (SPA) for wild birds.
65. Ramsar Sites are designated under the Convention on Wetlands of International Importance, ratified by the UK in 1976. Ramsar sites are afforded protection as if they were part of the Natura 2000 network (i.e. SPAs and SACs as set out in the Habitats Regulations). The majority are also classified as SPAs and all terrestrial Ramsar sites in Wales are also notified as Sites of Special Scientific Interest (SSSIs) (see **Chapter 19, Onshore Ecology**).
66. Under the Habitats Regulations the Secretary of State, before granting consent for a plan or project, must consider whether a plan or project has the potential to have a significant effect on a Natura 2000 site either alone or in combination with other plans or projects if it is not directly connected with or necessary to the management of that site. If there is potential for a plan or project to have a likely significant effect on a Natura 2000 site, there is a requirement for the competent authority (in this case NRW (Marine Licence) and Welsh Government (Transport and Works Act Order)) to carry out an Appropriate Assessment. This process is known as Habitats Regulations Assessment (HRA). However, it is the developer's responsibility to provide sufficient information to the competent authority to enable them to assess whether there are likely to be any significant effects and to enable them to carry out the Appropriate Assessment. A standalone Habitats Regulation Assessment (HRA) report is submitted alongside this ES as part of the application (**Document MOR/RHDHV/DOC/0067, Information to Support HRA**). This report will provide all the necessary information for the competent authority to carry out the Appropriate Assessment as required before determining applications for the Transport and Works Act Order and Marine Licence.
67. European Protected Species (EPS) are animals and plants listed in Annex IV of the Habitats Directive for whom Great Britain is their natural range. They are listed in Schedules 2 and 5 of the Habitats Regulations. The Habitats Regulations make it an offence to kill, injure, capture or disturb marine EPS and to pick, collect, cut, uproot or destroy a wild plant which is an EPS. In relation to the Project, **Chapter 12, Marine Mammals** will identify whether an EPS licence is expected to be required for disturbance of cetaceans in the study area and **Chapter 19, Onshore Ecology** will discuss the potential requirement of an EPS licence for terrestrial species. The need for an EPS licence will be determined in consultation with NRW.

#### 2.4.5. Water Framework Directive

68. The EU Water Framework Directive 2000/60/EC is transposed into law in England and Wales by the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017. The Regulations mean that the requirements of the Water Framework Directive (WFD) need to be considered at all stages of the planning and development process, which may impact on water bodies. The WFD requires that Environmental Objectives are set for all surface waters and ground waters in each EU Member State.
69. The WFD set a target of aiming to achieve at least 'good status' in all water bodies by 2015. However, provided that certain conditions are satisfied, in some cases the achievement of good status may be delayed until 2021 or 2027.
70. Specific mitigation measures are set for water bodies to achieve the Environmental Objectives of the WFD. These are listed within the Programme of Measures for each River Basin Management Plan (RBMP). RBMPs have been drawn up for each River Basin District across England and Wales and propose measures to protect and improve the water environment. These measures have been developed in consultation with organisations and individuals and are intended to mitigate impacts that have been or are being caused by human activity, such as flood and coastal defence works, with the aim of restoring and enhancing the quality of the existing environment. The Project is located within the Western Wales River Basin District. **Chapter 17, Water Resources and Flood Risk** provides further information on the WFD as well as providing an assessment of the project in relation to the WFD objectives.

#### 2.4.6. Marine Strategy Framework Directive

71. The Marine Strategy Framework Directive 2008/56/EC (MSFD) establishes a common approach and objectives for the prevention, protection and conservation of the marine environment. The MSFD outlines a transparent legislative framework for an ecosystem-based approach to the management of human activities, which supports the sustainable use of marine goods and services. It requires countries to develop strategies and set targets to achieve 'good environmental status' by 2020, which include measures that protect the marine ecosystem and ensure economic activities linked to the marine environment are sustainable.
72. The Convention for the Protection of the Marine Environment of the North-East Atlantic (the OSPAR Convention) plays a key role as one of the co-ordinating mechanisms to help Member States meet the obligations of the MSFD. The OSPAR Convention has been signed and ratified by sixteen Contracting Parties, including the United Kingdom, and contains a series of Annexes covering prevention and elimination of pollution, assessment of the quality of the marine environment and protection and conservation of the ecosystems and biological diversity of the maritime area. **Chapter 8, Marine Water and Sediment Quality** provides further information on the MSFD.

#### 2.4.7. Wildlife and Countryside Act 1981

73. The Wildlife and Countryside Act 1981 is the principal legislative mechanism for the protection of wildlife in Great Britain and is the means by which the Convention on the Conservation of European Wildlife and Natural Habitats (the 'Bern Convention') and the Habitats Directive are implemented. For territorial waters in England and Wales, where the Project is located, the Habitats Directive and the Birds Directive are implemented under the Conservation of Habitats

and Species Regulations 2017 (the Habitats Regulations). The provisions of the Birds Directive are implemented through the Wildlife and Countryside Act 1981 (as amended) and the Habitats Regulations, as well as other legislation related to the uses of land and sea.

74. The Wildlife and Countryside Act 1981 is divided into four parts. Those relevant to the Project are as follows:
- Part I: relates to the protection of wildlife; and
  - Part II: deals with the protection of Sites of Special Scientific Interest (SSSIs) and other designated sites.
75. The Wildlife and Countryside Act 1981 provides for the notification and confirmation of Sites of Special Scientific Interest (SSSIs) through the local planning authority. SSSIs are sites identified for their flora, fauna, geological or physiographical features by Natural England in England and NRW in Wales. The Act also contains measures for the protection and management of SSSIs.
76. Any potential impacts on terrestrial flora and fauna are discussed further in **Chapter 19, Onshore Ecology** and those on marine flora and fauna in **Chapter 9, Benthic and Intertidal Ecology, Chapter 12, Marine Mammals, and Chapter 10, Fish and Shellfish.**

#### **2.4.8. Countryside and Rights of Way Act 2000**

77. The Countryside and Rights of Way Act 2000 (CRoW) provides for public access on foot to certain types of land, increases measures for the management and protection of SSSIs, strengthens wildlife enforcement legislation and provides for better management of Areas of Outstanding Natural Beauty (AONB).
78. The CRoW requires local authorities to produce management plans for each AONB, and enables the creation of Conservation Boards in order to assume responsibility for AONBs, particularly where the land designated crosses several local authority jurisdictions. The CRoW also requires all relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of AONBs when performing their functions. Any potential impacts as a result of the Project on the natural beauty of AONBs are discussed further in **Chapter 24, Seascape, Landscape and Visual Impact Assessment.**

#### **2.4.9. Natural Environment and Rural Communities Act 2006**

79. The UK Biodiversity Action Plan (UK BAP), published in 1994, was the UK Government's response to signing the Convention on Biological Diversity (CBD) at the 1992 Rio Earth Summit. The new UK post-2010 Biodiversity Framework replaces the previous UK level Biodiversity Action Plan.
80. The Natural Environment and Rural Communities (NERC) Act came into force in 2006. Section 42 (s42) of the NERC Act 2006 requires the Secretary of State to publish a list of habitats and species which are of principal importance for the conservation of biodiversity in Wales. The NERC Act is repealed by the Environment (Wales) Act 2016 (**Section 2.4.10**).
81. Fifty-five habitats and 557 species of principal importance are included on the s42 lists. These are all the habitats or species in Wales that were identified as requiring action in the UK BAP

and continue to be regarded as conservation priorities in the subsequent UK Post-2010 Biodiversity Framework. They include terrestrial, freshwater and marine habitats and species.

82. Any potential impacts on habitats and species of principal importance as a consequence of the Project are discussed further in **Chapter 19, Onshore Ecology** and on marine flora and fauna in **Chapter 9, Benthic and Intertidal Ecology**, **Chapter 12, Marine Mammals** and **Chapter 10, Fish and Shellfish**.

#### **2.4.10. The Environment (Wales) Act 2016**

83. The Environment (Wales) Act 2016, which replaces the Section 40 and Section 42 duty in the NERC Act 2006, puts in place a modern statutory process to plan and manage natural resources in Wales. The Environment (Wales) Act 2016 enables Welsh resources to be managed in a more proactive, sustainable and joined up way and provides Welsh Ministers with powers to put in place statutory emission reduction targets. The Environment (Wales) Act 2016 also places a duty on Welsh Ministers to prepare and implement a statutory National Natural Resource Policy (NNRP) which should be used to set out priorities in relation the natural resource management.
84. Section 6 under Part 1 of the Environment (Wales) Act 2016 introduces a duty on local authorities in Wales to seek to enhance biodiversity and resilience of ecosystems when carrying out functions. Section 7 under the Environment (Wales) Act 2016 replaces the Section 42 duty in the NERC Act 2006. Welsh Ministers are required to publish and review lists of species and habitats in Wales, which are of key significance to sustain and improve biodiversity in relation to Wales. All public authorities, in complying with the Section 6 duty, must have regard to the Section 7 list of habitats and species. Currently, the interim list is exactly the same as the previous list under Section 42 of the NERC Act 2006; however, it is under review in consultation with NRW.

#### **2.5. PROJECT DESIGN ENVELOPE (ROCHDALE ENVELOPE)**

85. An essential element of any EIA is defining the project description against which impacts will be assessed. Due to the nature of the Project and the evolving nature of the tidal energy sector, full details of the offshore element of the proposed development cannot be fixed at the time of the application. For example, the tidal devices to be installed are dependent on an array selection process, and the detailed installation method is dependent on the tidal device type and the availability/procurement of vessels at the time of installation. Therefore, the project description and methods upon which this application for consent is based, fall within a range of defined criteria – an envelope of potential development, which describes the maximum potential extent and nature of the development. This approach allows a degree of flexibility in determining the final specific project details, while still meeting the requirements of the EIA process.
86. This approach is termed the 'Rochdale Envelope' approach in the context of applications for Development Consent Orders, with associated case law established in R.v Rochdale Metropolitan Borough Council ex p. Milne (2000). This approach is endorsed in the revised draft Overarching National Policy Statement (NPS) for Energy (EN-1), the revised draft NPS for Renewable Energy Infrastructure (EN-3), and guidance provided in the Infrastructure Planning Commission (IPC, now the Planning Inspectorate) Advice Note Nine.

87. The 'Rochdale Envelope' approach defines a series of realistic maximum extents and magnitudes for the description of a development (an envelope), of which the impacts are assessed. In this way a realistic 'worst case scenario' is assessed. Post consent, a detailed design of the scheme can vary within that envelope and the parameters assessed, without rendering the EIA inadequate. By adopting this approach, the ES can conclude that the environmental impact of the Project will be no greater than that set out in the ES and may be less.
88. **Chapter 4, Project Description** sets out the parameters of the Project. Where site specific details have not yet been finalised, then a minimum and maximum number have been presented. Where that specific parameter is relevant to the assessment, the worst case for that element has been identified by the relevant specialist and used as the basis for that assessment. Each technical chapter (**Chapters 7 to 27**) provides an outline of the relevant worst case for that receptor.
89. The design will be refined in response to technology availability, consultation, environmental sensitivities, choice of contractors and economic considerations. Best efforts have been made to incorporate all permutations of infrastructure that may be associated with the Project.
90. Prior to each array deployment, it is expected that there will be consent conditions requiring documentation to be submitted to the licensing authorities (Welsh Government and Natural Resources Wales, NRW) outlining the parameters of the tidal devices to be installed as well as providing details of the construction methodology, O&M strategy, and the array removal (decommissioning) methodology. This will allow review of each array's characteristics against the consented Project Design Envelope (PDE).
91. A statement confirming that each array deployment fits within the PDE will be submitted by Menter Môn to the Welsh Government and NRW for approval. If an array deployment is outwith the PDE, additional consenting or amendment to the Project consent will be required before deployment.
92. In addition to the development site flexibility, options are included within the onshore site to allow the consent to be future proofed in relation to land availability and to allow flexibility to avoid constraints if identified during pre-construction site investigations. In particular, the Onshore Development Area (ODA) encompasses sufficient area to allow the micro-siting and potential relocation of onshore infrastructure if required.

## 2.6. REFERENCES

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