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Morlais Project

Proof of Evidence David Bell – Planning and Policy

Applicant: Menter Môn Morlais Limited

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The Morlais Demonstration Zone

Inspectorate Reference: 3234121

Proof of Evidence

relating to an Application for an Order pursuant to the Transport and Works Act 1992 for the Morlais Demonstration Zone

Planning & Energy Policy

October 2020

David C Bell BSc(Hons) DipUD MCIHT MRTPI

on behalf of

Menter Môn Morlais Ltd

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1. Introduction & Background

1.1 Qualifications and Experience

- 1.1.1 My name is David Campbell Bell. I hold a First-Class Bachelor of Science (Honours) degree in Town and Country Planning from Heriot-Watt University and a Diploma in Urban Design from the University of Strathclyde. I am a corporate member of the Royal Town Planning Institute and the Chartered Institute of Highways and Transportation.
- 1.1.2 I have over 30 years of experience in planning and development. I established David Bell Planning Ltd as a specialist energy planning consultancy in 2019 having previously been a Director and Head of Planning with Jones Lang LaSalle for almost 20 years. Before that, I held positions with Halcrow Fox, Gillespies and Shankland Cox.
- 1.1.3 My experience has involved a wide range of planning and development consultancy for industrial, mixed use and infrastructure developments and I have given advice to public and private sector clients throughout the UK and on various commissions overseas. My involvement in the energy sector has ranged from providing planning advice to British Nuclear Fuels Limited on the change of the Magnox to Pressurised Water Reactor at Chapelcross Nuclear Power Station, to advising on development aspects of gas and clean coal and carbon capture and storage power station developments. I advised on the MeyGen tidal stream energy grid connection project (the largest planned tidal stream project in the world and now operational (as part of Phase 1 'deploy and monitor) and being progressed by Simec Atlantis Energy), covering the overall planning and energy policy case for the 398 MW project in the Pentland Firth, between Scotland's northernmost coast and the island of Stroma. I currently advise Simec on their large-scale renewable energy projects in Scotland.
- 1.1.4 I have considerable experience of managing Environmental Impact Assessments (EIAs) for various types of developments, such as roads, railways, major urban and rural developments, including overhead transmission lines and on and offshore wind farms. I advised Scottish Hydro Electric Transmission Limited on planning matters in relation to the Beaully Denny overhead transmission line section 37 applications (220km long route) and presented planning evidence at the Beaully Denny Inquiry. I have advised both SP Manweb and SSE on transmission and grid connection projects in Wales and South West England and am currently advising SSE on their transmission reinforcement programme.
- 1.1.5 I have acted as a witness on planning issues in over 85 Public Inquiries for various land use types, including Inquiries in relation to wind farms and transmission infrastructure under sections 36 and 37 of the Electricity Act 1989 and in court planning litigation cases acting for insurance companies. I have also acted as a planning witness in a number of planning Appeals and section 36 cases which have been heard by way of Hearing procedure.

- 1.1.6 I have also advised the Government's Energy Systems Catapult, acting as the lead advisor on the preparation of local energy planning advice for England and Wales, published in 2019.

1.2 Background to Involvement

- 1.2.1 I was instructed in August 2020 by Menter Môn Morlais Ltd ("The applicant") to provide planning advice with regard to the organisation's application to the Welsh Ministers under section 6 of the Transport and Works Act 1992 ("the 1992 Act") for an Order under sections 3 and 5 of that Act relating to the proposed Morlais Demonstration Zone ("the proposed development" or "project").
- 1.2.2 I understand that the project planner that had been advising on policy and planning aspects of the project left post in late summer 2020 to take up an alternative employment opportunity. Therefore, there was a need for a chartered town planner to address planning and energy policy matters as the project progressed towards Public Inquiry.
- 1.2.3 Following a review of the project documentation made available to me, I decided to accept the instruction to act as an expert planning witness to the Inquiry. In undertaking this instruction, I have visited the application site and familiarised myself with the surrounding area.

1.3 Scope & Structure of Evidence

- 1.3.1 The scope of my evidence covers the planning and energy policy context associated with the proposed development as described within the Order application. It considers the accordance of the proposed development with the relevant planning and energy policies at the national and local levels, both adopted and emerging, in so far as they relate to the Order. I address in my evidence the key matters that objectors raise in so far as they relate to planning and energy policy, mainly in response to the main issues set out in the Procedural Note (dated 6th July 2020). Those main issues are:
- Biodiversity, including birds, fish and marine mammals;
 - The character and/or appearance of the locality;
 - Socio-economic matters, including tourism and the local economy; and
 - Marine matters, including navigation.
- 1.3.2 The structure of my Proof is as follows:
- Section 3 – Factual background;
 - Section 4 – The legislative framework;
 - Section 5 – The renewable energy policy framework;
 - Section 6 – Relevant planning policy and guidance;

- Section 6 – Presents a policy appraisal with a focus on how the proposed development relates to relevant policy provisions relative to the ‘main issues’ identified by the Inspectors and as set out in the Planning Inspectorate (PINs) Procedural Note¹, namely covering:
 - The policy considerations in relation to the case for the project and the extent to which the objectives of the Order are consistent with national and local planning policies;
 - Policy matters that pertain to biodiversity, including birds, fish and marine mammals;
 - Policy considerations in relation to the impacts on landscape character and the appearance of the proposed development;
 - Policy considerations in relation to socio economic matters including tourism and the local economy; and
 - Policy matters in relation to marine matters, including navigation.
- Section 7 – Sets out a summary of the benefits of the proposed development;
- Section 8 – Presents a summary with a focus on my overall conclusions including my opinion on the overall planning balance;

1.3.3 The application for the proposed development was the subject of an EIA. Throughout my Proof I cross reference to the Environmental Statement (ES) [MDZ/A25.1 – MDZ/A25.27] and the Further Environmental Information (FEI) [MDZ/A28.1 – MDZ/A31.17] where necessary and also make cross references to the evidence of other expert witnesses acting for the applicant.

1.4 Essential Reading List

1.4.1 The essential reading list for further information regarding this Proof of Evidence is as set down in Table 1.1 below.

Table 1.1: Key Documents

Core Doc Reference	Document Title	Date
MDZ/D2	National Policy Statement EN-1 Overarching Energy	July 2011
MDZ/D3	National Policy Statement EN-3 Renewable Energy	June 2011
MDZ/D1	Planning Policy Wales 10th Edition	Dec 2018
MDZ/D6	Draft National Development Framework	Sept 2020
MDZ/D41	Schedule of Changes to draft National Development Framework	(Laid to Senedd on 21 Sept 2020)
MDZ/D4	UK Marine Policy Statement	Sept 2011

¹ PINs Procedural Note dated 28 November 2019.

Core Doc Reference	Document Title	Date
MDZ/D5	Welsh National Marine Plan	Nov 2019
MDZ/A20	Morlais Planning Statement (August 2019)	August 2019
MDZ/D7	The Isle of Anglesey Area of Outstanding Natural Beauty Management Plan Review 2015-2020	2015
MDZ/D52	Anglesey and Gwynedd Joint Local Development Plan	July 2017
MDZ/D8	Committee on Climate Change, 'Reducing UK Emissions' Progress Report to Parliament	June 2020
MDZ/D9	PINS, Inspectors Report, Developments of National Significance (Wales) Regulations 2016, Gwent Farmers Community Solar Scheme Ltd	11 October 2018
MDZ/D10	Welsh Government Decision Letter, Developments of National Significance (Wales) Regulations 2016, Gwent Farmers Community Solar Scheme Ltd	8 November 2018
MDZ/D42	Llyn Bran – Inspectors Report	27 July 2017
MDZ/D43	Welsh Government decision letter, Llyn Bran	11 Jan 2018
MDZ/D44	Welsh Government decision letter regarding a Wind Farm proposed in near Llandrindod Wells Powys	25 October 2018
MDZ/D11	Welsh Government Press Release Climate Emergency Declaration	29 April 2019
MDZ/D12	Welsh Government Cabinet Statement on Net Zero	11 June 2019

1.4.2 In addition, key Chapters of the ES comprise the following (all dated October 2019) as set out in Table 1.2:

Table 1.2: Key ES Chapters

Chapter Title	Chapter No.	Core Document Reference
Policy and Legislation	2	MDZ/A25.2
Offshore Ornithology	11	MDZ/A25.11
Shipping and Navigation	15	MDZ/A25.15
Seascape, Landscape and Visual Assessment	24	MDZ/A25.24
Socio-Economics, Tourism and Recreation	25	MDZ/A25.25

2. Factual Background

2.1 Evolution of the Proposed Development

- 2.1.1 A site selection process for suitable locations for wave and tidal energy demonstration zones was undertaken by the Crown Estate. The exercise began in 2013 with the identification of 11 wave and tidal energy demonstration zones. Following a process of Strategic Environmental Assessment, the Morlais Demonstration Zone (MDZ) was identified as being a suitable location for the installation of tidal devices in the short to medium term, having a good tidal current resource (a current speed of greater than 1.5 m/s), over a relatively uniform water depth to seabed (with a water depth of over 5m) and a relatively low wave regime. The zones were also incorporated into a plan level Habitats Regulations Assessment (HRA) before the leasing process was finalised. Further detail on the site selection approach is contained in the evidence of Dr Orme **[MDZ/P10]**.
- 2.1.2 The Crown Estate undertook consultation with marine user groups during the process of identifying the demonstration zone and a competitive leasing process was then undertaken to identify suitable locally based organisations to manage and sub-let the sea bed within each of the zones. In July 2014 the Crown Estate announced that Menter Môn Cyf had been awarded the right to manage the demonstration zone, and to sub-let use of the seabed to other bodies who could take forward the development of tidal technology in the UK.
- 2.1.3 After an assessment of the distribution of tidal stream resource within the MDZ, in 2015, Menter Môn Morlais Limited applied to the Crown Estate for the movement of the MDZ further to the north, to better capture the main areas of significant tidal stream flow to the west of Anglesey. The applicant consulted stakeholders on the proposed move and the Crown Estate approved the change in 2016.
- 2.1.4 In addition to the leasehold interest in the area where the technologies will be deployed offshore, the applicant has associated rights to lay cables from this area to landfall. It is proposed to grant leases of parts of the offshore area to operators of marine energy technology to enable them to install and demonstrate tidal devices and associated ‘collector-hubs’ and associated cabling on a commercial basis offshore.
- 2.1.5 The arrangements for the deployment of different technologies within the offshore area need to be sufficiently flexible to change over time depending on the needs of the various potential operators, in respect of the area in which they are to operate (and in respect of which they will be granted leasehold interests), and the time during which the technologies operate. The Order seeks authorisation for the overall parameters of the proposed development and gives the defined undertaker the necessary powers to construct, operate, maintain and ultimately decommission it.
- 2.1.6 As explained more fully in Chapter 2 of the ES **[MDZ/A25.2]**, by its very nature, the project requires flexibility to accommodate the deployment of different tidal technology types in different locations within the offshore Order limits. As such, the EIA for the project has been undertaken by reference to the “Project Design Envelope”, pursuant to which a series of maximum extents and magnitudes of

impacts have been identified in respect of a range of parameters and specific receptors, in order to identify and assess a realistic 'worst case' scenario for the project. Therefore, the project description and methods upon which the 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. In planning practice this is termed the 'Rochdale Envelope' approach. This approach is referenced in Overarching National Policy Statement (NPS) for Energy (EN-1) [MDZ/D2] (paragraph 4.2.8).

- 2.1.7 The project will involve the installation of arrays of tidal devices up to a potential maximum installed capacity of 240 Mega Watts (MW) in an offshore array comprising 35km² off Holy Island, Anglesey. The purpose of the project is to allow commercial operators to install and demonstrate their technologies on a commercial scale. A detailed description of the proposed development is contained within Chapter 4 of the ES.
- 2.1.8 The project will not require the demolition of any existing buildings but will require the construction of a number of new buildings associated with the connection of the offshore generating station to the grid. It will also require the construction of joint bays along the route, the majority of which will be located in the adopted highway.
- 2.1.9 The lifetime of the project has been assessed as 37 years to include time required for construction, commissioning, repowering and decommissioning.
- 2.1.10 Build out to the project's maximum installed capacity will be through a series of phases, with the number and scale of each phase of deployment linked to the outcomes of and Environmental Mitigation and Monitoring Plan (EMMP), which has been prepared to support the application for the Order. Mr Fortune addresses the detail of the proposed EMMP and the proposed adaptive management approach in his evidence.
- 2.1.11 The implementation of mitigation, monitoring and management measures will be agreed with regulators and overseen by an independent advisory group. The scale of deployment will also be determined by the outcome of modelling of potential collision and encounter risk for marine mammals and diving birds, which is dependent upon the type of tidal devices to be installed in the array and the physical characteristics of the location of the array. If the results of monitoring of the first phase of deployment do not indicate a significant adverse effect on marine mammals (with a focus on bottle-nose dolphin and harbour porpoise), and then the next phase of deployment would begin. During the life of the project, several repowering events are predicted, during which up to half of the installed capacity may be replaced due to developments in tidal technology.

3. The Legislative Framework

3.1 Introduction

3.1.1 The legal framework for determining the project as a whole is:

- The Transport and Works Act 1992 (as amended) [MDZ/B1];
- Town and Country Planning Act 1990 (as amended) [MDZ/B2];
- The Transport and Works (Description of Works Interfering with Navigation) Order 1992 (as amended);
- The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 [MDZ/B4];
- The Marine and Coastal Access Act 2009;
- The Conservation of Habitats and Species Regulations 2017 [MDZ/B6] & the Conservation of Offshore Marine Habitats and Species Regulations 2017 (collectively referred to as ‘the Habitats Regulations 2017’) [MDZ/B7].

3.1.2 It should be noted that the Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and Species Regulations 2017 are “*EU derived domestic legislation*” for the purposes of the European Union (Withdrawal) Act 2018 (as amended) (“the EUWA 2018”) and continue to have effect during the implementation period that runs until 31 December 2020 (see s.1B of the EUWA 2018) and afterwards by virtue of s. 2 of the EUWA 2018 until otherwise amended.

3.1.3 Amendments to the Habitats Regulations are on the statute book and will come into force on at the end of the implementation period (“IP completion day”): 31st December 2020.

3.1.4 For England and Wales this is the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 [MDZ/B10]. Regulation 1 provides that they will come into force “*on exit day*”, but this must be read with Schedule 5, paragraph 1 of the European Union (Withdrawal Agreement) Act 2020 (“the EUWA 2020”) which provides that references to exit day in subordinate legislation are to be read as references to IP completion day.

3.1.5 This makes a number of changes including for example replacing references to Natura 2000 sites to “*the UK site network*”

3.2 Summary of the Legislative Framework and Approach

3.2.1 As set out in the applicant’s Statement of Case (paragraph 3.2.1) [MDZ/N1], the project cannot be consented as a Nationally Significant Infrastructure Project pursuant to the Planning Act 2008 as, from 1 April 2019, the power to consent electricity generating stations both onshore and offshore in

Wales under 350MW was removed from the Planning Act 2008 and devolved to the Welsh Ministers. As set out in the Explanatory Memorandum submitted with the application [MDZ/A3], at present the Welsh regime for consenting Developments of National Significance does not apply offshore.

- 3.2.2 The application for the Order has been made on the basis that section 3(1)(b) of the 1992 Act empowers the Secretary of State to make an Order relating to, or to matters ancillary to, the carrying out of works which interfere with rights of navigation in waters within or adjacent to England and Wales up to the seaward limits of the territorial sea and are of a description prescribed by the Transport and Works (Description of Works Interfering with Navigation) Order 1992.
- 3.2.3 An application for Order under the 1992 Act must be made to the Secretary of State; pursuant to the National Assembly for Wales (Transfer of Functions) Order 1999, for Wales this is the Welsh Ministers.
- 3.2.4 The Order, if made, would enable construction, operation, maintenance, repowering and decommissioning of the proposed development. The authorised works are as set out at paragraph 3.2.4 *et seq* of the applicant's Statement of Case. The Order would also confer powers on the applicant to acquire land and rights over land compulsorily, to extinguish private rights, use land temporarily and carry out other works as may be necessary or expedient in order to deliver the project.
- 3.2.5 Deemed Planning Permission is sought from the Welsh Ministers, through a direction under section 90(2A) of the Town and Country Planning Act 1990 for the onshore development authorised by the Order.
- 3.2.6 The application for deemed planning permission seeks consent for the development of the landfall substation at Abraham's Bosom, switchgear building at Parc Cybi and grid connection substation at Orthios.
- 3.2.7 Controls over the way in which the proposed development would be constructed, operated maintained and decommissioned onshore are dealt with via conditions attached to the deemed planning permission as set out in the Statement of Draft Conditions submitted with the application.
- 3.2.8 An application for a Marine Licence was made in parallel to the application for the Order and deemed planning permission, under Part 4 of the Marine and Coastal Access Act 2009, in respect of licensable marine activities associated with the proposed development. Those activities will include:
- The construction of the proposed development comprising the installation of the offshore cables;
 - Works to install the cable arrays;
 - The Installation of individual devices for energy generation and their operation; and
 - Any future works of maintenance to the extent that this may amount to the alteration, improvement or replacement of the installed works, whether they are in or over the sea, or on or

under the seabed, thus encompassing works to offshore infrastructure as well as the individual devices.

- 3.2.9 Controls over the way in which the proposed development is constructed, operated maintained and decommissioned offshore will be dealt with through the provisions of the draft Order and via conditions attached to the Marine Licence permission to be drafted by Natural Resources Wales (NRW). In this regard it is important to note that conditions to be attached to the development should not duplicate the effect of other legislative controls, where such controls are available, in particular where other bodies have the relevant expertise and the statutory responsibility for that control². The Project will require a Marine Licence before it can be delivered. NRW is the decision-maker on that Licence. It has control over the conditions to be imposed.
- 3.2.10 In determining the Order, Welsh Ministers will also need to consider the legislative context of the Well-Being of Future Generations (Wales) Act 2015 (WBFGA) **[MDZ/B15]** which promotes the improvement of the social, economic, environmental and cultural well-being of Wales. The WBFGA places a statutory duty on public bodies to act on sustainable development and well-being goals. Climate change is integral to the well-being goals, which recognise that the case for action on climate change is clear and fundamental to the future prosperity and the future resilience of communities. This is further addressed in the following Section of my Proof.

² As set out in Welsh Government Circular 'The Use of Planning Conditions for Development Management' (October, 2014), paragraph 3.12 *et seq* and as set out in Planning Policy Wales (paragraph 5.13.3).

4. Net Zero & the Renewable Energy Policy Framework

4.1 Introduction

- 4.1.1 Before addressing specific national and local planning policies, it is important to reference the renewable energy policy framework with regard to relevant international, European, UK and Welsh energy policy provisions. The framework of international agreements, binding targets and climate change global advisory reports is the foundation upon which national energy policy is based. The international and national policy referred to demonstrates the need case for renewable energy from which the proposed development can draw a high level of support.
- 4.1.2 It is evident that there is unequivocal, clear and consistent policy support at all levels, from international to local, for the deployment of renewable energy generally to combat global heating, diversify the mix of energy sources, achieve greater security of supply, and to attain legally binding renewable energy and emission reduction targets. The proposed development would make a valuable contribution in a Wales and wider UK context regarding renewable energy and electricity production targets, while supporting greenhouse gas reduction to combat global heating.
- 4.1.3 Government renewable energy policy and associated renewable energy and electricity targets are an important material consideration and it is important to be clear on the current position as it is a fast-moving topic of public policy. More fundamentally, there are relatively new legally binding targets at the UK level and a declared Climate Emergency in Wales.
- 4.1.4 Chapter 2 of the ES [MDZ/A25.2] addressed both energy and planning policy and these topics are also referenced in the supporting Planning Statement. These documents should be referred to for their detail. Therefore, this section summarises relevant policy provisions and also highlights the importance of the net zero and related emissions reduction target now set for the UK and Wales and references more recent policy provisions such as the declared Climate Emergency in Wales.

4.2 International & European Policy Considerations

International Agreements and Obligations – The Paris Agreement

- 4.2.1 The Paris Agreement (12 December 2015) sets out (page 2) that it “*emphasises with serious concern*” the need to hold the increase in global average temperature to “*well below 2°C*” above pre-industrial levels and to pursue “*efforts to limit the temperature increase to 1.5°C*”. In order to achieve this long-term temperature target, the text states “*parties aim to reach global peaking of greenhouse gas emissions as soon as possible*”.
- 4.2.2 It is clear that moving to a low carbon economy is now a globally shared goal and will require absolute emission reduction targets.

- 4.2.3 The UK Government's commitment under the Paris Agreement links through to the Committee on Climate Changes' (CCC) advice to both the UK and Welsh Governments on 'net zero' targets which have now, at the UK level been translated into new legislative provisions and targets for 2050. Furthermore, by aiming to reach net-zero, the Welsh Government will be the only Government going beyond the CCC's recommendations. This is referred to below.

The IPPC SR1.5 Report (2018)

- 4.2.4 The Intergovernmental Panel on Climate Change (IPPC) published a 'Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways' in response to an invitation contained in the Decision of the Conference of Parties of the United Nations Framework Convention on Climate Change to adopt the Paris Agreement. The IPCC accepted the invitation in April 2016 and the Special Report known as 'SR1.5' was published in October 2018.
- 4.2.5 The report concludes that human-induced warming reached approximately 1°C above pre-industrial levels in 2017 and at the present rate, global temperatures would reach 1.5°C around 2040. The report makes it clear that delayed action, limited international cooperation, and weak or fragmented policies that lead to stagnating or increasing greenhouse gas emissions would put the possibility of limiting global temperature rise to 1.5°C above pre-industrial levels out of reach.
- 4.2.6 In response to the IPPC report, the Welsh Government stated it would seek updated advice from the CCC on meeting the 1.5°C target. The Government has received and acted on that advice (this is referred to below).

The United Nations 'Gap Report' (2019)

- 4.2.7 The United Nations Environment Programme 'Gap Report 2019'³ published in November 2019 [MMC279] provides an assessment of scientific studies on current and estimated future greenhouse gas (GHG) emissions and compares these with the emission levels permissible for the world to progress on a least-cost pathway to achieve the goals of the Paris Agreement. This difference between "where we are likely to be and where we need to be" has become known as the 'emissions gap'.
- 4.2.8 The Executive Summary (page 4) states that the "*summary findings are bleak. Countries collectively failed to stop the growth in global GHG emissions, meaning that deeper and faster cuts are now required.*" Key points in the report include *inter alia*:
- GHG emissions continue to rise despite scientific warnings and political commitments. There is no sign of emissions peaking in the next few years; every year of postponed peaking means that deeper and faster cuts will be required;

³ United Nations Gap Report, published November 2019.

- A continuation of current policies would lead to a global mean temperature rise of between 3.4°C and 3.7°C by 2100 relative to pre-industrial levels, and continuing thereafter.
- The emissions gap is large – larger than ever;
- Dramatic strengthening of ‘national contributions’ is needed – countries must increase ambitions fivefold to achieve the 1.5°C goal;
- Given the time lag between policy decisions and associated emissions reductions – waiting until 2025 to strengthen contributions will be too late to close the 2030 emissions ‘gap’;
- Renewables in combination with electrification is key to the energy transition and to drive down GHG emissions;
- Unprecedented and immediate action is required; and
- Postponing ambition and action is no longer an option.

European Policy & Targets

- 4.2.9 The Renewable Energy Directive 2009/28/EC **[MDZ/B11]** established an overall policy for the production and promotion of energy from renewable sources in the EU. It requires the EU to fulfil at least 20% of its total energy needs with renewables by 2020 – to be achieved through the attainment of individual national targets. All EU countries must also ensure that at least 10% of their transport fuels come from renewable sources by 2020.
- 4.2.10 In December 2018, the new revised Renewables Energy Directive on the promotion of the use of energy from renewable sources (2018/2001) entered into force – establishing a new binding renewable energy target for the EU for 2030 of at least 32%, with a clause for a possible upwards revision by 2023.
- 4.2.11 On 29 March 2017, the UK formally notified of its intention to leave the EU under Article 50 of the Treaty of the EU. The European Union (Withdrawal) Act 2020 converts all EU laws, rules and targets into domestic UK governance. It is considered that the existing EU renewable energy targets for the UK, such as the requirements of the Renewable Energy Directive, will remain applicable. During the Transition Period existing rules and targets apply and there is currently no suggestion that those targets will not continue to apply beyond the end of the transition period.
- 4.2.12 For the UK, the EC’s obligations include for 15% of all energy consumed in the UK to come from renewable sources by 2020. The position as of the end of 2019 (the last full year for which figures are available) was that renewable energy only accounted for approximately 12.3% of energy consumption in the UK, well short of the 15% target⁴. The national targets set for 2020 (under the

⁴ BEIS, Digest of UK Energy Statistics (July 2020), Chapter 6 **[MMC298]**.

previous 2009 Directive) are set out in the 2018 Directive as constituting the Members States' minimum contribution to the new '2030 Framework'.

4.3 United Kingdom Energy Policy

- 4.3.1 The Planning Statement addressed UK energy policy however a brief summary is provided below together with reference to more recent relevant documents which have been published in 2020.

The UK Clean Growth Strategy (2017)

- 4.3.2 The UK Government published the Clean Growth Strategy 'Leading the Way to a Low Carbon Future' in October 2017 [MMC277]. The Clean Growth Strategy (CGS) defines 'clean growth' as *"growing our national income while cutting greenhouse gas emissions. Achieving clean growth, while ensuring an affordable energy supply for businesses and consumers, is at the heart of the UK's Industrial Strategy"*.
- 4.3.3 The introduction refers to the 2015 Paris Agreement and states that the actions and investments that will be needed to meet the Paris commitments will ensure the shift to clean growth will be at the forefront of policy decisions made by Government in coming decades.
- 4.3.4 Background reference is made to the 2008 Climate Change Act which committed the UK to reducing greenhouse gas emissions by at least 80% by 2050 when compared to 1990 levels and the associated carbon budgets. The Government states that in order to meet the 4th and 5th carbon budgets (covering the periods 2023 – 2027 and 2028-2032) *"we will need to drive a significant acceleration in the pace of decarbonisation and in this strategy we have set out stretching domestic policies that keep us on track to meet our carbon budgets"*.
- 4.3.5 The Strategy states that *"more nascent technologies, such as wave, tidal stream and tidal range, also have a role in the long-term decarbonisation of the UK"* (page 99)
- 4.3.6 The CGS sets out a comprehensive set of policies and proposals that aim to accelerate the pace of clean growth i.e. to deliver increased economic growth and decreased emissions. It adds *"in order to meet these objectives the UK will need to nurture low carbon technologies, processes and systems that are as cheap as possible"*.

Committee on Climate Change Report (May 2019)

- 4.3.7 The CCC⁵ published its landmark report entitled 'Net Zero – UK's Contribution to Stopping Global Warming' in May 2019 [MMC278]. The report responds to requests from the Governments of the UK, Wales and Scotland, asking the CCC to reassess the UK's long-term carbon emissions targets.
- 4.3.8 The Foreword (page 8) sets out that the CCC has *"reviewed the latest scientific evidence on climate change, including last year's IPCC special report on global warming of 1.5°C and considered the*

⁵ The CCC is an independent, statutory body established under the Climate Change Act 2008. Its purpose is to advise the UK Government and Devolved Administrations on emissions targets and report to Parliament on progress made in reducing greenhouse gas emissions and preparing for climate change.

appropriate role of the UK in the global challenge to limit future temperature increases". It adds, "*Net Zero is a more fundamental aim than previous targets. By reducing emissions produced in the UK to zero, we also end our contribution to rising global temperatures*".

4.3.9 The Foreword also sets out that "*we must now increase our ambition to tackle climate change. The science demands it; the evidence is before you; we must start at once; there is no time to lose*".

4.3.10 The report makes recommendations for the UK economy including:

- UK overall: a new tougher emissions target of net zero⁶ greenhouse gases (GHG) by 2050, ending the UK's contribution to global warming within 30 years. This would replace the previous target of an 80% reduction by 2050 from a 1990 baseline;
- Wales: a target of a 95% reduction in GHGs by 2050 (relative to 1990)⁷;
- A net zero GHG target for 2050 would deliver on the commitment that the UK made by signing the Paris Agreement.

4.3.11 In terms of the UK target, the report makes it clear that, "*this is only possible if clear, stable and well designed policies to reduce emissions further are introduced across the economy without delay. Current policy is insufficient for even the existing targets*". (underlining added)

4.3.12 The CCC report sets out various scenarios for UK net zero GHGs in 2050. These include one of extensive electrification, particularly of transport and heating. Page 23 of the Executive Summary states that this would need to be "*supported by major expansion of renewable and other low carbon power generation. The scenarios involve around a doubling of electricity demand, with all power produced from low carbon sources (compared to 50% today)*". (underlining added)

The UK Net Zero Target

4.3.13 On 11 June 2019, the then Prime Minister Theresa May announced that the UK Government would bring forward legislation to set a Net Zero target into law. On 27 June 2019 the UK Government became the first major economy in the world (the first G7 country) to pass legislation to end its contribution to global warming by 2050 – by way of 100% reduction of greenhouse gas emissions. The target is now legally binding by way of an amendment to the Climate Change Act 2008.

CCC Annual Report to UK Parliament (June 2020)

4.3.14 The CCC published its Annual Report⁸ to the UK Parliament (required under the Climate Change Act 2008) on 25 June 2020 [MDZ/D8].

⁶ A net zero target would require 100% reduction in greenhouse gas emissions. It is referred to as 'net' as the expectation is that it would be met with some remaining sources of emissions which would need to be offset by removals of CO₂ from the atmosphere.

⁷ The Welsh target reflects the relatively high agricultural emissions (methane) that are hard to reduce. The CCC state that the Welsh target "*would still cut net emissions of long-lived greenhouse gases to below zero and therefore end Wales's contribution to rising global temperatures*" (page 17).

⁸ CCC 'Reducing UK emissions: 2020 Progress Report to Parliament' 25 June 2020.

4.3.15 The report includes new advice to the UK Government on securing a green and resilient recovery following the COVID-19 pandemic. It recommends that Ministers “*seize the opportunity to turn the COVID-19 crisis into a defining moment in the fight against climate change*”. The CCC states that *although a limited number of steps have been taken over the past year to support the transition to a net-zero economy and improve the UK’s resilience to the impacts of climate change “much remains to be done”*.

4.3.16 With reference to COVID-19, the CCC sets out that recovery from it will reshape how the climate crisis is tackled. It states in the Executive Summary:

“Choices in the coming months must steer a recovery that drives vital new economic activity, accelerates our transition to Net Zero and strengthens our resilience to the impacts of climate change. UK domestic climate ambition can be the basis for UK international leadership in 2021, in the Presidency of the delayed UN climate summit in Glasgow (COP26) and in the G7 Presidency. It is 12 months since Net Zero became law, requiring the UK to reduce net emissions of greenhouse gases to zero by 2050. Initial steps towards a net-zero policy package have been taken, but this was not the year of policy progress that the Committee called for in 2019.

Net Zero has been adopted as a key goal of the Governmentbut we are not making adequate progress in preparing for climate change. The delay of COP26 to November 2021 provides a window to address this policy deficit and establish a credible internationally-leading position”.

4.3.17 In terms of building a resilient recovery from the COVID-19 crisis the CCC state:

- Success requires that net-zero emissions and improved climate resilience are integral to the COVID-19 recovery;
- The extraordinary steps taken to slow infections in recent months have created new economic and social pressures;
- Climate investments will help create jobs and stimulate economic recovery, while changing the course of UK emissions and improving our resilience to climate change for the coming decade and beyond; and
- The fundamental requirements to achieve Net Zero are largely unchanged by COVID-19.

4.3.18 The report adds that the steps that the UK takes to rebuild from the COVID-19 pandemic and its economic damage can also accelerate the transition to low-carbon activities and improve climate resilience.

4.3.19 At page 16 of the report, the CCC state that in April 2020, the CCC wrote to the Prime Minister and the First Ministers of Scotland, Wales and Northern Ireland setting out six principles for a resilient recovery from COVID-19 as follows, *inter alia*:

- Use climate investments to support the economic recovery and jobs;

- Tackle the wider 'resilience deficit' on climate change.
- Ensure the recovery does not 'lock-in' greenhouse gas emissions or increased climate risk.

4.3.20 The report adds that the CCC 'Costs and Benefits Advisory Group on Net Zero', reconvened for the report endorsed these principles and concluded that *"the economic recovery from [COVID-19] gives the UK a chance to grow back in a way that is fit for the low-carbon future to which it aspires, and that can benefit from the industrial and economic developments that this future offers."*

4.3.21 A fundamental part of the report is (Chapter 5 'Planning a resilient recovery'). The CCC state that:

"the economic impact of the pandemic is being felt worldwide, with the IMF predicting the worst global recession since the 1930s. The UK is heading for a recession. UK Gross Domestic Product (GDP) fell by 2% for the first quarter of 2020, covering only the very start of the crisis, and by over 20% in the month of April. The latest independent forecasts have, on average, predicted a fall of 8.6% in UK GDP for 2020."

4.3.22 Overall, the Committee recommends that investments in low-carbon and climate adaptation infrastructure must be at the heart of measures to restore economic growth following COVID-19. This is an important material consideration in the context of the socio-economic benefits of the proposed development, which I reference in Section 7 below.

UK Government Response to CCC Progress Report (October 2020)

4.3.23 The Government published its response to the CCC Progress Report to Parliament in October 2020 [MDZ/D50]. The Executive Summary (page 7) sets out that attaining net zero will involve fundamental changes across the UK economy and: *"under any feasible scenario, meeting net zero will require reductions in emissions across the economy on a scale not previously seen; ambitious and early deployment of existing technologies and approaches; and innovation in new technologies... will enable us to offset emissions from sectors which cannot fully decarbonise".*

4.3.24 In addition, the report sets out that the Government's position is that in delivering net zero *"we want to ensure that we deliver emissions reductions at a rate which maximises the economic opportunities for the UK, both from domestic deployment of clean technologies as well as through realising export opportunities in what promises to be large and growing international markets in low carbon technologies and services such as renewables..."*

4.3.25 The report sets out that in recovering from Covid-19 *"we must build back better and greener and do that at the pace that this moment requires by investing in and accelerating infrastructure across the UK to promote a clean, green recovery"* (page 10).

4.3.26 In this regard it is recognised that green investments such as renewables is an effective means of delivering jobs and the Government clearly sets out that it is *"determined to seize the once in a generation economic opportunities of the net zero transition – creating new business opportunities and up to two million green jobs by 2030 across all regions of the UK"* (page 13).

- 4.3.27 The report adds *“the year ahead is critical for global progress on climate change and a major test of global cooperation after Covid-19. We agree that it will be crucial for the UK to demonstrate strong climate leadership”*.
- 4.3.28 The report addresses sector specific action and power is addressed from page 15. A key objective is the delivery of more renewables. In this regard there is recognition of growing electricity demand and it is stated that *“by 2050, electricity demand could double as it is used to decarbonise heat and transport. We will need a substantial increase in low carbon generation and a mix of technologies to deliver a low carbon, low cost and reliable electricity system that can adapt to our needs”* (page 17).
- 4.3.29 The report refers to the progress by and future approach of the devolved administrations. It is set out that the Welsh Government remains committed to limiting global temperature rises and *“intends to go further and faster in pursuit of a zero carbon Wales’ and will do this in part “by enabling an economic transformation that will displace reliance on fossil fuels, creating the industries and jobs of the future”* (page 49).
- 4.3.30 Next steps for Wales include the Welsh Government’s intention to work with the CCC to identify how Wales might go beyond its 95% target for net zero in 2050.
- 4.3.31 In terms of the international leadership position, the Governments set out that *“the science is clear. To limit global warming to 1.5° Celsius, we need to halve global emissions over the next decade. However current commitments made under the Paris Agreement fall far short of what is required. We must scale up action to respond to the climate emergency, and the world must act together to achieve this”*.
- 4.3.32 In terms of future policy, the Ministerial Foreword sets out that the Government intends to produce an energy White Paper and a comprehensive Net Zero Strategy in 2021: and that the strategy *“will set out the Government’s vision for transitioning to a net zero economy, making the most of new growth and employment opportunities across the UK. These will raise ambition as we outline our path to hit our 2050 target”*.

4.4 Welsh Government Energy Policy

- 4.4.1 As noted, the Planning Statement and Chapter 2 of the ES provides detailed description of energy and climate change policy. A summary is provided below of key provisions together with reference to more recent policy including the declared Climate Emergency and the new net zero target.
- 4.4.2 The Welsh Government does not have devolved powers on energy policy and is therefore unable wholly to take an independent approach to supporting a local carbon economy. However various legislative provisions deal with Climate Change as does planning policy (I deal with planning policy in section 5 below). Relevant energy policy provisions include the following:

A Low Carbon Transition

4.4.3 The policy document, A Low Carbon Transition, issued in March 2012 [MDZ/D47], set out the Welsh Government's vision for a sustainable low-carbon economy. Principally the policy statement makes policy commitments in several areas, including:

- Putting in place an improved energy infrastructure and an energy programme to deliver on the Welsh Government's energy agenda.
- Ensuring that Wales benefits economically from energy developments through intervention in supply-chain development, business support, skills and training, procurement, innovation, research and development.
- Ensuring that the communities of Wales benefit from energy developments.
- Focusing on energy projects of greatest potential benefit: examples cited include the Anglesey Energy Island.
- Developing the Welsh workforce to meet the industry's needs and placing Wales at the forefront of innovation, research and development.

The Wellbeing of Future Generations (Wales) Act 2015

4.4.4 In April 2015 the Welsh Assembly passed into law The Wellbeing of Future Generations (Wales) Act [MDZ/B15], which is primary legislation requiring all Wales' based public bodies - such as local authorities, health boards etc - to put long-term sustainability at the forefront of their thinking, and to work with other organisations and the public to prevent and tackle ongoing social, environmental and economic problems. The Act was decided upon following an extensive consultation period known as the National Conversation.

4.4.5 In order to create a more sustainable Wales, public bodies must work towards seven Well-being Goals and enact the five Ways of Working. One fundamental challenge in Wales which is a focus of the Act is dealing with climate change and the potential impact upon the prosperity and quality and life in Wales.

The Environment (Wales) Act 2016

4.4.6 The Environment (Wales) Act 2016 [MDZ/B9] set in place an obligation on the Welsh Government to reduce greenhouse gas emissions by 80% against 1990 levels by 2050.

Prosperity for All: A Low Carbon Wales (2019)

4.4.7 The Welsh Government published the document Prosperity for All: A Low Carbon Wales in (March 2019 ('the Plan') [MDZ/J3]. The Plan outlines the Welsh Government's proposed approach to emissions reductions and transitioning to a low carbon economy in accordance with the required carbon cuts enshrined in the Environment Act 2016.

- 4.4.8 The Plan gives detail to the efforts to be made in meeting its first carbon budget (2016-2020), as well as setting the country on course for the later targets that will lead up the 80% reduction target by 2050.

2045 Target and Net Zero

- 4.4.9 With respect to carbon reduction targets, the Minister for Environment, Energy and Rural Affairs confirmed in June 2019 that Welsh Government accepted the CCC recommendation to achieve a 95% reduction in greenhouse gas emission by 2050 and will eventually go further towards a net-zero emissions target. The regulations to amend the existing 2050 target and amend Wales' interim targets and carbon budgets have yet to be finalised.

- 4.4.10 On 29 April 2019 the Welsh Government made a Climate Emergency declaration. The Environment Minister declared the emergency and in the press release [MDZ/D11] stated:

"I believe we have the determination and ingenuity in Wales to deliver a low carbon economy.....we hope that the Declaration by Welsh Government today can help to trigger a wave of action at home and internationally. Tackling climate change is not an issue which can be left to individuals or to the free market. Our sustainable development and environmental legislations is already recognised as world leading and now we must use that legislation to set a new pace of change."

- 4.4.11 This was followed on 11 June 2019 with the release of a Welsh Government Cabinet Statement – a written statement entitled 'Response to Committee on Climate Changes Net Zero Report' [MDZ/D12]. This referenced the CCC advice that the Welsh Government adopt a target to reduce emissions by 95% by 2050 against the 1990 baseline. The statement sets out that this target will require a substantial change and a serious shift in policy response to match it.

- 4.4.12 The Minister for Environment, Energy and Rural Affairs set out in the Statement:

"I recently declared a climate emergency on behalf of the Welsh Government. Today I am formally accepting the recommendation of the CCC to indicate the Welsh Government is committed to delivering the reduction in greenhouse gas emissions required to make our contribution to a net zero target for the UK. In line with the CCC advice, I intend to bring regulations to the Assembly next year to amend the existing 2050 target."

In March we published Prosperity for All: A Low Carbon Wales, containing detailed sector by sector emissions profiles and 100 policies and proposals to achieve a low carbon Wales. The plan makes our position clear – we believe we must continually raise our ambition in order to meet the challenge of climate change and to secure maximum benefits for the wellbeing of Wales through the transition to a low carbon economy."

Critically the costs of inaction are incalculably high. Even if the commitments made in the Paris Agreement are all met, there is still a significant risk global warming will reach levels in this century which will cause catastrophic and irreparable damage to earth's eco-systems, at immense cost to

human society. The Welsh Governments takes Wales's global responsibility seriously and therefore we must do absolutely everything we can."

4.5 Conclusions on Energy Policy

- 4.5.1 It is clear that there is an urgent need for more renewable energy capacity: an increase of the renewable energy technology proposed is supported through a number of policy documents and by Welsh and UK Government commitments. The need case was already viewed and described as "urgent"⁹ to the attainment of targets in 2011 with the publication of the Overarching National Policy Statement for Energy (EN-1). This imperative has only increased since a 'climate emergency' was declared in Wales in April 2019 and, in line with the recommendations made by the CCC (2019) 'net zero' publication.
- 4.5.2 It should also be noted that the UK Government has indicated that it is minded to review the suite of energy NPS documents including EN-1 but has specifically stated that the documents would not be suspended during such a review [MDZ/D48]. This is as a result of the Judicial Review action by the Good Law Project [MDZ/D49] and other claimants against the Government's earlier stance not to review the energy NPS documents as a result of what were claimed to be obviously material and fundamental changes of circumstances since 2011 and which could substantially affect the content of energy policy. These changes referred to include the UK's carbon reduction targets and the unanimous Parliamentary declaration of a climate emergency on 1st May 2019. In short, the case advanced by the claimants was that the Government energy policy documents were not sufficiently strongly addressing the matter of climate change and the need for further renewable energy capacity given recent developments. For these purposes the energy NPS documents are not to be suspended and nor should they only be afforded limited weight until that review is complete and potentially new policy is in place. The support for renewable energy in these policies remains and is only likely to be strengthened in any future review.
- 4.5.3 Furthermore, the drive to attain net zero emissions is now legally binding at the UK Government level by way of recent amendments to the Climate Change Act 2008 and in Wales the Government has committed to reach net zero and is progressing the preparation of regulations to put this commitment into legal effect. These factors must in my opinion, go to the matter of weight to be attributed to the benefits of the proposed development and the need case.
- 4.5.4 From my review of the Statements of Cases' of other parties to the Inquiry, there are no substantive challenges to the need case for the proposed development. However, the points raised by the North Wales Wildlife Trust (NWWT) question the need and viability of the proposed development. As I have explained, planning and energy policy sets out the clear need for more renewable energy development. Encouragement of renewable energy development is regarded as an important component of national renewables policy; and the issue of whether there are other more effective

⁹ EN-1 paragraph 3.4.5.

ways of tackling climate change is a matter for such policy, and thus for Parliament and the Welsh Government: not for consideration in the context of the determination of this application¹⁰.

4.5.5 Furthermore, funding is available to deliver the project – however the question of financial return and viability is in any case a matter for the applicant. No weight in my view, should be placed on challenges to the need case or the viability of the proposed development.

4.5.6 It is helpful to examine Welsh Government decisions with regard to the weight to be attributed to renewable energy benefits and associated policy.

4.5.7 With regard to the Development of National Significance (DNS) application for a solar farm on the edge of Newport, by Llanwern Steelworks, with an installed capacity of 49.9MW, the Inspector's Report (IR) is dated October 2018¹¹ [MDZ/D9]. The Inspector sets out in 'conclusions' that:

"as set out in PPW, WG is committed to using the planning system to optimise renewable energy generation as part of its approach to tackling climate change. Development management decisions should be consistent with national and international climate change obligations including contributions to renewable energy targets and aspirations" (paragraph 342).

4.5.8 The Inspector went on in the following paragraph to state that the proposed development would provide renewable energy, which in terms of the installed capacity and related benefits *"would be a considerable contribution and benefit of the scheme"*. The recommendation was that planning permission be granted.

4.5.9 Consent was in turn given by the Welsh Government by letter dated 08 November 2018 [MDZ/D10]. The Welsh Government set out in their overall conclusions in the Decision Letter that in accordance with the Well-being of Future Generations (Wales) Act 2015 *"and the well-being objectives of the Welsh Ministers, the decision will help drive sustainable growth and combat climate change"*.

4.5.10 Two further decisions help illustrate the strength of the Welsh Government commitment to driving forward greater deployment of renewable energy development.

4.5.11 In this regard I firstly refer to the Llyn Bran decision involving a wind farm development in Denbighshire. The IR is dated 27 July 2017 and addressed the appeal against the refusal of planning permission¹² [MDZ/D42]. The Inspector considered that the positive benefits of renewable energy would not be sufficient to outweigh harm to landscape and visual amenity, residential amenity and

¹⁰ In Drax [2020] EWHC 1303 (Admin), paragraph 126 *et seq*, it was established that NPS EN-1 needs to be read as a whole and the NPS does not require "need" to be assessed in quantitative terms for any individual application. Acknowledging the reference at paragraph 130 is to Development Consent Orders (DCOs) – it is set out in the Judgment that *"the NPS does not set out a requirement for a quantitative assessment of need in the determination of individual applications..."* [MDZ/D53].

¹¹ Application by Gwent Farmers Community Solar Scheme Ltd – Reference: APP/G6935/A/16/3150137.

¹² Appeal by Pant y Maen Wind Ltd – Reference: APP/R6830/A/17/3171058.

also harm to the historic environment and he recommended that the appeal should be dismissed (paragraph 199 of the IR).

- 4.5.12 However, the Welsh Ministers in their Decision Letter dated 11 January 2018 [MDZ/D43] set out that they had given full consideration to the Inspector's Report, and set out that they did not agree with the weight given by the Inspector to the benefits of increasing the supply of renewable energy by way of the proposal (paragraph 53).
- 4.5.13 The Ministers set out at paragraph 54 that "*PPW confirms the Welsh Government is committed to using the planning system to optimise renewable energy generation and recognises the benefits of renewable energy as part of the overall commitment to tackle climate change*". The Ministers considered that the benefits of the proposal in delivering renewable energy (17.5 MW) was a material consideration sufficient to outweigh the identified impact of the scheme and the balance therefore weighed in favour of upholding the appeal.
- 4.5.14 Secondly, the Welsh Ministers in their Decision Letter dated 25 October 2018 [MDZ/D44] with regard to a planning appeal for a wind farm¹³ proposed in near Llandrindod Wells Powys, disagreed with the Inspector's recommendation to refuse the appeal, notwithstanding that there would be harm to the setting of scheduled monuments and that there would be, in terms of landscape and visual amenity, a position from the Inspector that a substantially detrimental effect would occur.
- 4.5.15 The Welsh Ministers considered that the renewable energy benefits of the 17.5MW capacity development was such that the need for the development and its contribution to renewable energy targets outweighed the harm that would result. Again, the overall conclusion was expressed in the context of the Well-being of Future Generations (Wales) Act 2015 and the well-being objectives of the Welsh Ministers – that the decision would "*drive sustainable growth and combat climate change*" by increasing the amount of renewable wind energy generated in Wales.
- 4.5.16 Clearly each decision for a development needs to be considered on its respective merits, however the decisions referred to assist with the matter of the consideration of the weight to be afforded to renewable energy benefits. The Welsh Government is clear by way of statute and policy and in the examples I have referred to where Inspector recommendations have been overturned at Ministerial level – the there is a climate change policy imperative. As I set out in my conclusions the situation was serious and urgent in 2018 when the decisions I refer to were made – and the situation is more grave today.
- 4.5.17 The need case in my opinion is a very important consideration: not an over-riding matter, but one which should be afforded significant weight in this case.

¹³ Appeal by Hendy Wind Farm Ltd – Reference: A1320857.

5. Planning Policy

5.1 Introduction

- 5.1.1 In determining an application for an Order under the 1992 Act to authorise works, and any related application for deemed planning permission, the Welsh Ministers will need to have regard to, amongst other things, relevant national, regional and local planning policies in accordance with 1992 Act Procedures.
- 5.1.2 I consider that the policies set out in detail in both Chapter 2 of the ES and in the supporting Planning Statement are relevant and material in determining the application.
- 5.1.3 An important document referred to in these application documents was the draft National Development Framework (NDF) [MDZ/D6]. The final draft version of the NDF with proposed changes has, as of September 2020, been laid before the Senedd. The latest NDF provisions [MDZ/D41] are therefore important to take into account and are addressed in this Section.
- 5.1.4 Therefore, in this section key planning policy is summarised and cross references are made to the detailed policy provisions which are already set out in the application supporting documents. A focus is placed on the latest version of the NDF which has only recently been made available.
- 5.1.5 In addition, I reference the final Welsh National Marine Plan in some detail in this Section as it was only available in draft form at the time the application was lodged. It should also be noted that the applicant undertook a comparison¹⁴ [MDZ/A28.57] of the Draft and Final WNMP documents, concluding that there were no material changes to the policies between the versions, and all had been appropriately addressed in the relevant ES Chapters.

5.2 National Planning Policy

- 5.2.1 I consider the main, national planning policies relevant to the request for deemed planning permission, are contained in:
- Planning Policy Wales (10th Edition) (2018) [MDZ/D1];
 - Draft National Development Framework (2020) [MDZ/D6];
 - UK Marine Policy Statement (2011) [MDZ/D4];
 - Welsh National Marine Plan (2019) [MDZ/D5];
 - National Policy Statement EN-1 (Overarching Energy) (2011) [MDZ/D2]; and
 - National Policy Statement for Renewable Energy Infrastructure EN-3 (2011) [MDZ/D3].

¹⁴ Morlais Project – Welsh National Marine Plan Comparison Note.

5.2.2 The relevant policies from each of the above policy documents are set out in full in the Planning Statement (Core Document MDZ/A20) and I consider below in Section 6 whether the Order accords with these policies only in relation to the main issues to be considered by this Inquiry.

5.2.3 I summarise the key aspects of UK and Welsh national planning policy below.

5.3 UK Planning Policy

National Policy Statements

5.3.1 As a direction from is sought under section 90(2A) of the Town and Country Planning Act 1990 for deemed planning permission, National Policy Statements (NPSs) are likely to be a material consideration in decision making (in accordance with policy set out in para. 1.2.1 of the Overarching NPS for Energy – EN-1) [MDZ/D2]. Whether, and to what extent, NPS is a material consideration should be judged on a case by case basis. The policies in the NPS documents are devised specifically for generating stations and energy infrastructure of this scale. Such policy (although dating from 2011) within the NPS documents is considered to be important and relevant, can be usefully employed as a framework for assessment, and as such should be considered to be material to the determination of the Order.

5.3.2 As set out in the Planning Statement, EN-1 is the overarching NPS in relation to energy projects. Whilst there is no technology specific NPS for tidal stream projects, EN-3: ‘Renewable Energy’ [MDZ/D3] is also considered to be important and relevant to this application, particularly as the technology associated with tidal stream technology has progressed since the NPS was written in 2011 to an extent where it is technically viable.

5.3.3 EN-3 provides specific policies relating to renewable energy infrastructure. Section 2.6 of EN-3 contains policy in relation to offshore wind farms. As the generating station element of the project is offshore, with a significant amount of the development located in the offshore environment, it is considered that this assessment framework is of most relevance to the consideration of the project.

5.3.4 Section 2.2 of EN-3 notes that policy set out in existing planning guidance in Wales relevant to renewables will provide important information to applicants who should explain in their applications how their proposals fit with the guidance and support its targets.

5.3.5 Paragraph 2.6.42 recognises the complex nature of offshore wind farm development, complexities which are shared with tidal stream projects, and that many of the details of a proposed scheme may be unknown to the applicant at the time of the application for consent, including precise location of turbines, foundation type, and cable routing. In accordance with section 4.2 of EN-1, decision makers should accept that some flexibility may be required in the consent and that based on an assessment of the maximum adverse case scenario, the decision maker should allow for uncertainty in the consideration of an application.

5.3.6 Section 2.4 of the NPS sets out criteria for ‘good design’ for energy infrastructure, noting that *“proposals for renewable energy infrastructure should demonstrate good design in respect of*

landscape and visual amenity, and in the design of the project to mitigate impacts such as noise and effects on ecology”.

Marine Policy Statement (2011)

- 5.3.7 The Marine Policy Statement (MPS) [MDZ/D4] adopted by the 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 to enable sustainable development. The MPS sets out a vision of having “*clean, healthy, safe, productive and biologically diverse oceans and sea*” by supporting the development of Marine Plans.
- 5.3.8 The MPS states that “*Marine based activities can provide opportunities for employment in long established industries such as ... new and developing industries such as the renewable energy sector and associated offshore electricity transmission.*”
- 5.3.9 The MPS estimates that up to 20% of the UK’s current energy demand could be supplied by wave and tidal energy. Furthermore, it is expected that “wave and tidal stream technologies also have significant potential in the medium to long-term”.
- 5.3.10 All public bodies are required to consider the MPS and relevant Marine Plans when making decisions regarding the marine area. This requirement ensures that marine resources are used in a sustainable way in line with high-level marine objectives.

5.4 Welsh National Planning Policy

Planning Policy Wales

- 5.4.1 Planning Policy Wales (PPW) (2018) [MDZ/D1] 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.
- 5.4.2 PPW recognises that the planning system plays a key role in delivering clean growth and the decarbonisation of energy, as well as being crucial in building resilience to the impacts of climate change. It notes that the transition to a low carbon economy not only brings opportunities for clean growth and quality jobs, but also has wider benefits of enhanced places to live and work, with clean air and improved health outcomes. Furthermore, it advises that the planning system should support new development that has very high energy performance, supports decarbonisation, tackles the causes of climate change, and adapts to the current and future effects of climate change through the incorporation of effective mitigation and adaptation measures.
- 5.4.3 It calls on planning authorities to facilitate renewable and low carbon energy development and seek to ensure their area’s full potential for renewable and low carbon energy generation is maximised and renewable energy targets are achieved.

The Welsh National Marine Plan

- 5.4.4 The first Welsh National Marine Plan (WNMP) [MDZ/D5] was published on 12 November 2019, after the submission of the Planning Statement for the project. The Planning Statement (page 30) referenced the draft WNMP.
- 5.4.5 The WNMP is intended to guide the sustainable development of the Welsh Marine area by setting out how proposals are to be considered by decision makers. The plan covers both the Welsh inshore region (from mean high water spring tides out to 12 nautical miles) and offshore region (beyond 12 nautical miles). The vision for the Welsh inshore and offshore regions is set out as follows (page 4):
- Welsh seas are clean, healthy, safe, productive and biologically diverse;
 - Through an eco-system approach natural resources are sustainably managed and our seas are healthy and resilient, supporting a sustainable and thriving economy;
 - Through access to, understanding of and enjoyment of the marine environment and maritime cultural heritage, health and wellbeing are improving;
 - Through Blue Growth more jobs and wealth are being created and helping coastal communities become more resilient, prosperous and equitable with a vibrant culture; and
 - 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.
- 5.4.6 The plan states that the vision will be achieved through an integrated evidenced plan led approach that respects established uses and interests whilst securing benefit from new opportunities, and there is emphasis on the imperative to tackle climate change.
- 5.4.7 The plan provides policy direction and support for decisions with the potential to affect the plan area and is intended to be used by both applicants and relevant public authorities (who have a decision making role) in development of proposals and consideration for authorisation.
- 5.4.8 Paragraph 20 sets out that any decision with the potential to affect the plan area, including those relating to terrestrial activities, should be taken in accordance with the plan and less relevant consideration indicate otherwise or with regard to the plan.
- 5.4.9 The plan contains general cross cutting and sector specific policies.
- 5.4.10 The plan identifies a number of 'resource areas' – namely the spatial distribution of natural resources that could support future 'sector' activity. These are broad areas that describe the distribution of a particular resource. Figure 2 on page 16 of the Plan illustrates an overview of resource areas and this includes tidal stream energy to the west and north of Anglesey.
- 5.4.11 General 'cross cutting' policies are fully listed in the – Comparison Note [MDZ/A28.57] and the principal policies of relevance relate to:

- Planning policy (GEN 01 and 02);
- Sustainable economic growth (ECON 01);
- Co-existence of sectors (ECON 02);
- Access to the Marine Environment (SOC 01);
- Wellbeing of Coastal Communities (SOC 02);
- Designated Landscapes (SOC 06);
- Seascapes (SOC 07);
- Minimising Climate Change (SOC 10).

5.4.12 The plan also contains a range of general environmental policies related to the objective of living within environmental limits. In summary, these relate to potential impacts from marine impact systems and marine protected areas and matters such as underwater noise and air and water quality. The policies also relate to fish species and habitats.

5.4.13 Further general policy relates to decision making including Policy SC 101 – Risk Based Decision Making which states that relevant public authorities should make decisions using sound evidence and a risk based, proportionate approach. Where appropriate they should apply the precautionary principle and consider opportunities to apply adaptive management.

5.4.14 Sector policies include safeguarding existing activity and strategic resources.

5.4.15 The plan identifies strategic resource areas (SRAs). At the time of plan adoption, the sector priorities for establishing SRAs are set out (page 20) as aggregates, tidal stream energy and wave energy.

5.4.16 The key sector policy in the plan is ‘energy – low carbon’ (page 94). It sets out that the sector objective is:

“To contribute significantly to the de-carbonisation of our economy and to our prosperity by increasing the amount of marine renewable energy generated through:-

- *Supporting the development and demonstration of wave energy and tidal stream technologies in the short to medium term;*
- *Increasing (where appropriate) the number of wave energy and tidal stream energy generation devices deployed in commercial scale developments over the medium term.”*

5.4.17 Sector objective 2 is set out as “to develop Wales as an exemplar of marine renewable energy technology by developing the essential skill base, infrastructure and technical knowledge to support the development of the industry over the next 20 years”.

5.4.18 The plan sets out context and rationale for these objectives and key points include the following:-

- The plan recognises that marine energy resources around Wales offer a good opportunity to deliver significant renewable energy generation and thereby can make a strong contribution to securing an appropriate mix of sustainable energy provision delivering social and economic benefit whilst respecting the environment and the needs of local communities;
- The Welsh Government's ambition is for marine renewable energy to make an increasingly significant contribution to the overall energy mix over the lifetime of the plan, contributing to achieving the outcome set out in the Energy Policy Statement, Energy Wales: A Low Carbon Transition (2012).
- The Welsh Government's approach to decarbonisation includes reducing the amount of energy used and reducing reliance on energy generated from fossil fuels, with the ambition being that the transition to a low carbon economy contributes meaningfully to a wealthier, more resilient and sustainable future.

5.4.19 The rationale and supporting context text also makes reference to Planning Policy Wales and the provisions of the Environment (Wales) Act 2016 and related emissions reduction targets which have been referenced above. The supporting context also sets out that it is important that relevant public authorities support the Government in moving to a secure, diverse and affordable renewable electricity supply, including ensuring an appropriate contribution from marine energy.

5.4.20 It adds that the marine renewable energy sector is a strategic priority for marine planning and is identified by the WNMP as having significant potential for sustainable development over the plan's lifetime. Reference is made in this regard to the UK MPS which it states, recognises that marine renewal energy generation will make an increasing contribution to the UK's energy supply.

5.4.21 The supporting text also adds that increasing the amount of energy generated from renewable technologies will contribute to a secure energy supply, reduce greenhouse gas emissions, support eco-system resilience and stimulate investment in jobs and business (ranging from research and development to device manufacturing and device deployment and maintenance). Specific reference is made to the potential employment generation that can result from 'scaling up' commercial arrays in the order of 300MW. Overall, it is estimated that by 2040, tidal stream could support almost 14,500 jobs.

5.4.22 Paragraph 336 adds that the Welsh Government is strongly committed to unlocking the energy potential from Welsh waters and that the Government supports the sustainable deployment of marine renewable devices that can advance understanding and promote the sustainable development of the sector. Moreover, it adds that the Government is also committed to the development of Wales as an exemplar of renewable energy technology, skills and knowledge in the marine renewable energy sector.

5.4.23 The key sector policy is **ELC 03 'Low Carbon Energy (Supporting) Tidal Stream'**. The policy is set out as follows:

- ELC03a – “*Proposals for tidal stream energy generation will be supported where they contribute to the objectives of this plan. Proposals should comply with the relevant general policies and sector safeguarding policies of this plan and any other relevant considerations*”;
- ELC 03b – “*In order to understand future opportunities for tidal stream energy development, relevant public authorities in the sector are encouraged, in liaison with other interested parties, to collaborate and understand opportunities for the sustainable use of tidal stream energy resources including identification of..... natural resources that provide the potential opportunity for use*”;

5.4.24 The policy adds that relevant public authorities should make appropriate evidence available to support planning and decision making in order to support the sustainable development of the sector through marine planning, where it is appropriate to do so.

The draft National Development Framework

5.4.25 The consultation draft NDF, known as ‘Future Wales – the National Plan 2040’ [MDZ/D6] is referenced in the Planning Statement [MDZ/A20] (paragraph 110 *et seq*).

5.4.26 The NDF is a spatial planning policy document required under The Planning (Wales) Act 2015 (The Planning Act). The NDF will set out 20-year land use framework and is intended to inform the Welsh Government's decision making on major planning applications. Following the consultation on the document undertaken in 2019 and in line with the requirements of The Planning Act, the draft NDF must be laid before the Senedd for consideration for a 60-day period before it is finalised. The Welsh Government laid the post consultation amended draft NDF [MDZ/D41] before the Senedd on 21 September 2020 along with various other supporting documents. I have reviewed this draft NDF that has recently been made available which incorporates the proposed changes following its consultation exercise.

5.4.27 An important change is that Chapter 1 now contains specific reference to the declared Climate Emergency in Wales. The new wording states:

“we face a climate emergency which is actively changing our environment and directly affecting humans; we have an ecological emergency, where the behaviours and decisions of the human race are causing harm to the resilience of ecosystems and species; we have suffered the effects of a global health pandemic and must re-energise our economy in a sustainable way, demonstrating that we have learnt from previous excesses that have resulted in inequitable wealth and access to services. The Welsh Government will face these challenges and find the opportunities for a better Wales with every mechanism at our disposal. Our National Development Framework in this context is an important lever to deliver the change we need.”

5.4.28 Chapter 1 also continues reference to the Welsh National Marine Plan, setting out that it will guide the sustainable development of the marine area by setting out how proposals will be considered by decision makers.

- 5.4.29 In Chapter 2 significant additional text has been added to the section entitled 'Climate Change' - the supporting text on this topic now states that *"it is vital that we reduce our emissions to protect our own wellbeing and to demonstrate our global responsibility."*
- 5.4.30 In terms of renewable energy, whilst Policy 18 provides a decision making framework for renewable and low carbon energy technologies, the NDF makes it clear that offshore proposals do not fall within the remit of 'Future Wales' but it states that the Welsh Government is supportive of offshore proposals and it adds that *"the onshore development aspect of offshore schemes are supported"*. Cross reference is made to the Marine Plan which the NDF states, recognises that there are a number of opportunities to generate renewable energy across a variety of technologies both onshore and offshore *"which should be maximised to help meet the targets"*. This reference to maximising opportunities to help meet targets is new text which did not feature in the draft NDF that was subject to consultation.
- 5.4.31 New text has also been added as follows:
- "the planning system plays a significant role in the provision of new renewable and low carbon energy. It gives effect to our national targets and sets the overall strategic framework and direction within its developers can propose new energy infrastructure projects"*.
- 5.4.32 Chapter 5 references the regions of Wales. Policy 24 references 'North West Wales and Energy'. New text has been added which specifically references the 'Isle of Anglesey Energy Island Programme'. The new text now reads as follows:
- "the Welsh Government supports North West Wales as a location for a new energy development and investment. Proposed developments associated with Isle of Anglesey Energy Island Programme...will be supported in principle as a means to create significant economic benefits for the area as well as generating renewable or low carbon energy"*.
- 5.4.33 Overall therefore, the latest version of the NDF has placed additional emphasis and importance on the matter of climate change and maintains specific references to the offshore opportunities presented in the context of the Isle of Anglesey. Emphasis has been placed on the role of renewable energy and electricity targets and the need to address harmful emissions to combat the global heating crisis. Whilst the document has yet to be finalised, it is at its last stage and the direction of travel and added emphasis on these topics reflects the overall policy imperative which I have outlined in Chapter 4 above. As a result, in my opinion it is appropriate to afford the NDF policy significant weight. Insofar as the draft NDF contains relevant policy provisions, I consider that the proposed development is consistent with the document when read as a whole.

5.5 Local Planning Policy

- 5.5.1 Local planning policies relevant to the request for deemed planning permission are contained in the Anglesey and Gwynedd Joint Local Development Plan (JLDP) 2011-2026 (2017) [MDZ/D52]. The relevant policies in the Development Plan are set out in full in the Planning Statement. I consider those most relevant to the main issues raised in the Procedural Note to be those set down in Table 5.1:

Table 5.1: Key LDP Policies

Main Issue for Inquiry	Relevant Planning Policies in the Anglesey and Gwynedd JLDP
Case for the project	PS5: Sustainable Development PS6: Alleviating and Adapting to the Effects of Climate Change PS13: Providing opportunity for a flourishing economy PS7: Renewable energy technology ADN3: Other Renewable Energy and Low Carbon Technologies
Biodiversity	PS19: Conserving and Where Appropriate Enhancing the Natural Environment PCYFF2: Development Criteria AMG6: Protecting Sites of Regional or Local Significance.
Landscape Character and Appearance	PS19: Conserving and Where Appropriate Enhancing the Natural Environment PCYFF3: Design and Place Shaping PCYFF4: Design and Landscaping AMG1: Area of Outstanding Natural Beauty Management Plans AMG4: Coastal Protection AMG5: Local Biodiversity Conservation
Socio Economic	PS 14: The Visitor Economy
Marine Matters	n/a

- 5.5.2 As with national level planning policy, I consider below in Section 6 whether the Order accords with these policies only in relation to the main issues to be considered by this Inquiry.

6. Matters for the Inquiry

6.1 Introduction

6.1.1 With reference to the Procedural Note and objections lodged to the Order, I have identified the following matters that I believe to be of relevance to the scope of my evidence:

- The policy considerations in relation to the case for the project and the extent to which the objectives of the Order are consistent with national and local planning policies;
- Policy matters that pertain to biodiversity matters and the case as a whole;
- Policy considerations in relation to the impacts on landscape character and proposed conditions on the appearance of the proposed development;
- Policy considerations in relation to socio economic matters including tourism and the local economy; and
- Policy matters in relation to marine matters, including navigation.

6.1.2 For each matter, I will consider representations made to the application that are relevant to the matter, noting the extent to which the representations are consistent with the legal and policy context, how the project has responded and the planning conditions and other commitments proposed to ensure that the development is acceptable in planning terms.

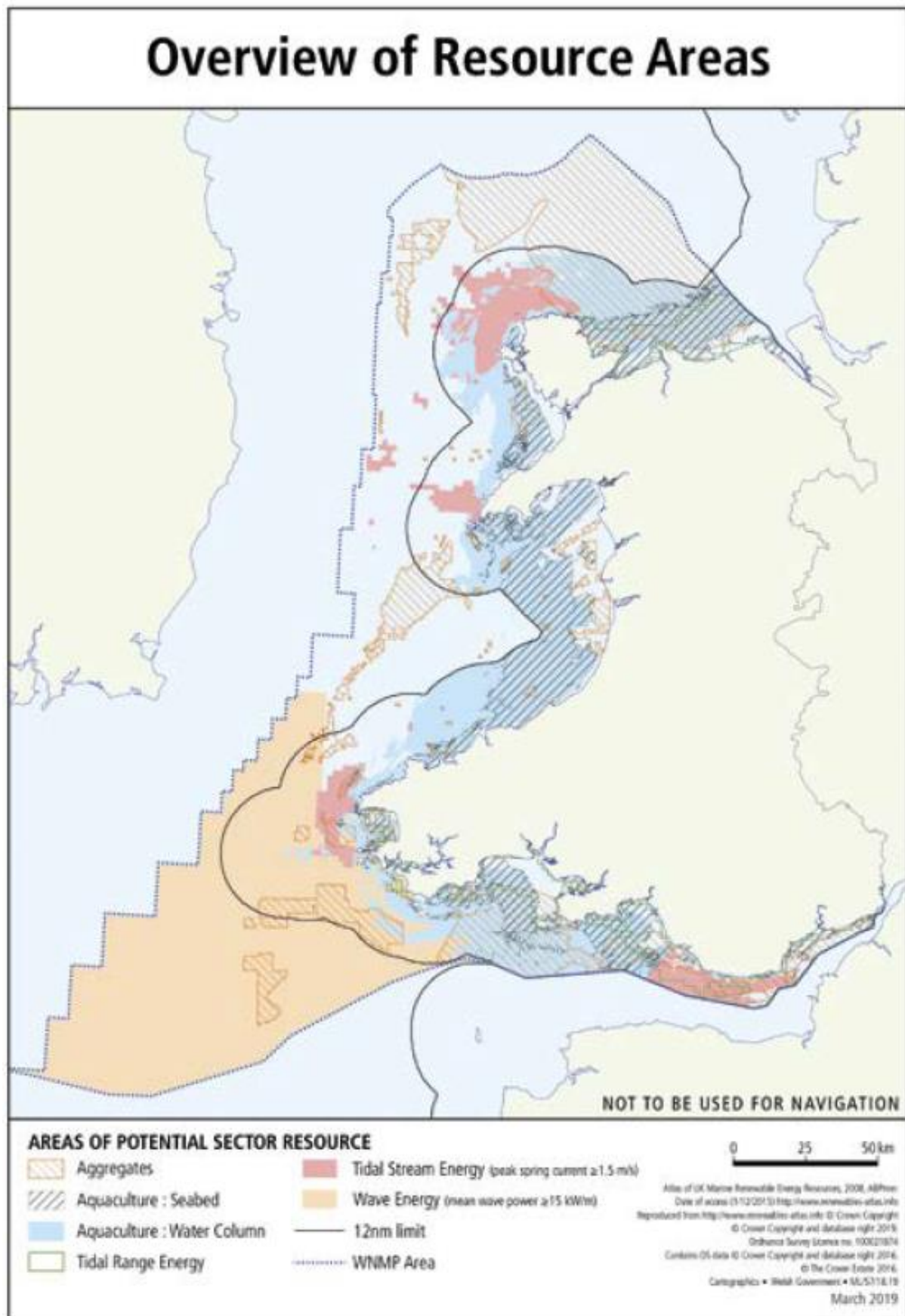
6.2 Policy Support for the Morlais Project

6.2.1 The principle of the proposed development accords with national and local policies to tackle climate change through the transition to low carbon electricity generation. The UK Government has made clear the urgent need for new energy generating capacity in the Overarching NPS for Energy (EN-1) [MDZ/D2] and the accompanying NPS for Renewable Energy (EN-3) [MDZ/D3]. Whilst these NPS documents were specifically prepared to be applied to relate to decisions by the former Infrastructure Planning Commission, I consider their policy content is consistent with that of the Welsh Government and that they are important material considerations.

6.2.2 The significant weight attached to considerations of need for energy generating capacity, including the identification of tidal energy as a likely source of electrical power, in line with these statements, and the potential of the project to contribute to meeting that need (paragraph 3.2.3 of NPS EN-1) are material considerations in my view to the determination of the Order.

6.2.3 The Environment (Wales) Act 2016 [MDZ/B6] requires Welsh Government to reduce emissions of greenhouse gases (GHGs) in Wales by at least 80% for the year 2050 through interim emissions targets and carbon budgets. In September 2017, the Welsh Ministers set targets for Wales to generate electricity equal to 70% of its consumption from renewable sources by 2030.

- 6.2.4 In 'Prosperity for All: A Low Carbon Wales', 2019 [MDZ/J3] the Welsh Government specifically highlights the support need for investment in wave and tidal stream technologies and demonstration zones, in order to help reduce costs and support of the sector's path towards a cost competitive commercial market. The proposed development will generate up to 240MW of renewable electricity and has potential to make a significant contribution to meeting the renewable energy target and, through demonstrating the commercial feasibility at this scale, the potential for further tidal stream development in Wales and elsewhere in the UK.
- 6.2.5 To assist in the achievement of these targets, Planning Policy for Wales, 2018 [MDZ/D1], requires local planning authorities to take an active, leadership approach at the local or regional level, by identifying challenging, but achievable targets for renewable energy in development plans.
- 6.2.6 This has been embraced in the Anglesey and Gwynedd Joint Local Development Plan Policy PS7 which supports, wherever feasible and viable, renewable energy generation, including from marine sources, and recognises the potential for Anglesey and Gwynedd to become a leading area for initiatives based on renewable or low carbon energy technologies.
- 6.2.7 This support is also echoed in the draft National Development Framework Policy 22 (North West Wales and Energy) [MDZ/D6] which identifies North West Wales as a location for new energy development and investment, recognising the co-ordinated actions of the Anglesey 'Energy Island' to maximise the benefits arising from new energy developments for the area. Policy 22 states that:
- "The Welsh Government supports North West Wales as a location for new energy development and investment. New energy-related development should support local and regional communities; provide jobs and investment in training and skills; and work with universities and businesses across the region and North West England to co-ordinate and maximise new investment to support the wider region..."*
- 6.2.8 The principle of renewable energy development in the marine environment is also supported in the national Marine Plan Policy Statement [MDZ/D4] and the WNMP [MDZ/D5]. The Marine Policy Statement recognises that properly planned development within the marine environment, particularly new and developing industries such as renewable energy sector, present significant opportunities for employment which can provide wide, long term benefits for economies at both the local and national scale, and provide a secure, sustainable and affordable supply of energy (paragraph 2.5.3).
- 6.2.9 As explained in detail above, the WNMP contains objectives to increase the amount of marine renewable energy generated, including through supporting the development and demonstration of tidal stream technologies in the short to medium term; and to develop the essential skill base, infrastructure and technical knowledge required to support the development of the industry over the next 20 years. The potential for tidal stream energy, including the MDZ area, is show on Figure 2: "Overview of Resource Areas" of the WNMP (extract provided below).



- 6.2.10 Expressions of support for the project in principle are set out in the following representations: REP005 – Natural Resources Wales, REP007 – Isle of Anglesey Council, and SUP004 – Williams G.
- 6.2.11 The testing and deployment of the technology at the scale proposed will facilitate the deployment and development of tidal stream, not only in this location, but through the demonstration that the technology is feasible and viable at scale, has the potential to unlock tidal stream developments in other locations around the UK. This is further addressed in the evidence of Dr Orme [MDZ/P10] and in Section 7 below.
- 6.2.12 From my review of the various planning policy documents relevant to the proposed development, while there are some adverse effects arising (as further explained below), I consider that overall, the project is consistent with the provisions of national planning policy and the WNMP. Furthermore, I consider the project would be in accordance with the JLDP when it is read as a whole. As explained in Section 4, renewable energy policy is an important material consideration which further supports the proposed development.

6.3 Biodiversity – including Marine Mammals & Marine Ornithology

Marine Mammals

- 6.3.1 The assessments of impacts on marine mammals set out in the EIA and HRA have concluded that throughout the construction, operation and maintenance, repowering, and decommissioning phases, taking into account the proposed mitigation, the impact is likely to be of negligible or minor adverse significance. The only exception is the potential collision risk of bottlenose dolphin with operational turbines, which has been precautionarily assessed as potentially minor to moderate adverse.
- 6.3.2 Chapter 12 of the ES [MDZ/A25.12 / MDZ/A31.14] address marine mammals. Information to Support the HRA [MDZ/A27.11 / MDZ/A31.16] to meet the requirements of the Habitats Directive has concluded that, taking into account the proposed mitigation, the predicted impacts on marine mammals would not adversely affect the integrity of designated Special Areas of Conservation (including the North Anglesey Marine SAC within which the MDZ is wholly located, and a number of other SACs featuring marine mammals located off the coasts of Wales and Ireland).
- 6.3.3 Overarching Energy NPS EN-1 [MDZ/D2] requires that development should avoid significant harm to biodiversity and that appropriate weight in determining applications is attached to designated sites of international, national and local importance, and protected species. Para. 5.3.6 also requires that:
- “In having regard to the aim of the Government’s biodiversity strategy the [decision maker] should take account of the context of the challenge of climate change: failure to address this challenge will result in significant adverse impacts to biodiversity. The policy set out in the following sections recognises the need to protect the most important biodiversity and geological conservation interests. The benefits of nationally significant low carbon energy infrastructure development may include benefits for biodiversity and geological conservation interests and these benefits may outweigh harm*

to these interests. The [decision maker] may take account of any such net benefit in cases where it can be demonstrated”.

6.3.4 PPW **[MDZ/D1]** sets out objectives for conserving and improving the natural environment including the conservation of native wildlife and habitats. Furthermore, Technical Advice Note (TAN) 5 requires local authorities to seek to avoid irreversible harmful effects on the natural environment when deciding planning applications.

6.3.5 The MPS **[MDZ/D4]** states that the marine planning process will need to be flexible in responding to emerging evidence about the impacts of new technologies; and that the monitoring and review arrangements for plans will be important in this. At paragraph 3.3.21, the MPS states:

“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.”

6.3.6 The WNMP **[MDZ/D5]** contains an objective (Objective 10) to “*Protect, conserve, restore and enhance marine biodiversity to halt and reverse its decline including supporting the development and functioning of a well-managed and ecologically coherent network of Marine Protected Areas (MPAs) and resilient populations of representative, rare and vulnerable species.*”

6.3.7 This objective is supported by WNMP policies ENV 01 to ENV 07. The most relevant of these policies are ENV 01, ENV 02, and ENV 05. WNMP policy ENV 01 (Resilient Marine Ecosystems) requires proposals to avoid adverse impacts, minimise impacts where they cannot be avoided, and mitigate impacts where they cannot be minimised. If significant adverse impacts cannot be avoided, minimised or mitigated, proposals must present a “*clear and convincing case*”.

6.3.8 WNMP policy ENV 02 (Marine Protected Areas) requires avoidance of adverse impacts on individual Marine Protected Areas (MPAs). Those MPAs include the North Anglesey Marine SAC (qualifying feature being the population of Harbour Porpoise) within which the MDZ is wholly located, and the Anglesey Terns Special Protection Area (SPA) (qualifying feature being the population of Terns, migratory species and assemblages of seabirds) in which part of the MDZ is located.

6.3.9 I consider that policies contained in the JLDP **[MDZ/D52]**, whilst relevant, broadly reflect national policies reviewed above. These policies are considered in the Planning Statement **[MDZ/A20]** and not repeated in this Proof.

6.3.10 In assessing whether the proposal accords with policies to protect biodiversity, I conclude that whilst the project has sought to manage and minimise the impacts, it is simply not possible to avoid potential impacts on marine ecology given both the nature and location of the proposed development. As required under both EIA and HRA Regulations, the ES has set out the ‘worst case’ scenario of

impacts which would likely result in some significant impacts. However, I consider that the provisions of the Order, coupled with controls under the Marine Licence should it be granted, will ensure that the deployment of devices will be managed with mitigation and management measures in place that would avoid significant adverse impacts on marine mammals and ornithology.

- 6.3.11 Mitigation for the potential impacts on marine mammals and ornithology is set out in the Outline EMMP [MDZ/A10] which sets out the proposed adaptive management approach to reducing the collision risk and disturbance of marine mammals and ornithology. This is further addressed in the evidence of Dr Learmonth.
- 6.3.12 The measures set out in the EMMP include regular reviews of the installation and deployment informed by collision risk to marine mammals and ornithology, to ensure that there would be no significant adverse effect on marine mammal populations (measured in accordance with NRW current guidance in relation to Potential Biological Removal (PBR) for bottlenose dolphin) and no significant adverse effect on diving bird populations¹⁵. The EMMP outlines potential mitigation measures that will be agreed pre deployment through an Advisory Group (with representation from NRW, Welsh Government, marine mammal advisors including academic expertise, ornithology advisors including academic expertise; and the Royal Society for the Protection of Birds (RSPB)).
- 6.3.13 A hierarchy of mitigation to prevent significant impacts is proposed as follows:
- Tier 1 – Deployment of tidal devices at magnitude (MW) below levels of predicted effect (using best available data);
 - Tier 2 – Active deterrence - deployment of mitigation measures (such as acoustic deterrents for mammals or visual deterrents for seabirds) around operating tidal devices, and monitoring of their efficacy;
 - Tier 3 – The slowing or other modification of the operation of installed tidal devices to reduce predicted risk identified by the Advisory Group; and
 - Tier 4 – The stopping or removal of tidal devices previously deployed by the project.
- 6.3.14 All mitigation measures proposed for deployment will be reviewed in light of current technical and scientific understanding prior to agreement by the Advisory Group, with final approval by Regulators / Competent Authorities, prior to deployment.
- 6.3.15 A Marine Mammal Mitigation Protocol (MMMP) will also be prepared to reduce the risk of any permanent auditory injury to marine mammals as a result of underwater noise during construction. The MMMP will be developed in the pre-construction period and based upon best available

¹⁵ During work undertaken in preparation for the Inquiry an error was found in some of the calculations for the collision risk estimates for marine mammals. The error only affected the CRM outputs for some of the devices. As such the CRM results have been updated in the Marine Mammal Additional Collision Risk Modelling (MDZ/A31.13), relevant sections of ES Chapter 12: Marine Mammals (MDZ/A31.14), ES Appendix 12.2: Additional Collision Risk Assessments (MDZ/A31.15) and relevant section in Information to Support HRA (MDZ/A31.16), Dr Learmonth explains this matter in her evidence and states that this makes no change to her conclusions [MDZ/P2].

information, methodologies, industry best practice, latest scientific understanding, current guidance and detailed project design.

- 6.3.16 Dr Learmonth sets out in her evidence **[MDZ/P2]** that a very precautionary approach has been undertaken, using the worst-case parameters for marine mammal species and the tidal devices and precautionary assumptions at each stage.
- 6.3.17 Dr Learmonth explains that the size and scale of Phase 1 will be determined by the PBR for bottlenose dolphin, to ensure no significant adverse effect on the population, for Phase 1, including any in-combination effects. The process to determine and deploy Phase 1 will be undertaken in consultation with NRW and agreed by the Advisory Group, with final approval by Regulators / Competent Authorities, prior to deployment.
- 6.3.18 The next phase of deployment and subsequent phases to maximum deployment of up to 240MW can only proceed if there is no increased risk of an adverse effects on the integrity of European protected sites and that the mitigation and monitoring is proven to be robust and effective. This will be based on the information and data collected during the deployment of the Phase 1 project. The approach to the EMMP and related adaptive management is explained in detail in the evidence of Mr Fortune.
- 6.3.19 Dr Learmonth adds that the applicant has worked and will continue to work with NRW to ensure there is no significant risk to marine mammals and no potential for an adverse effect on the integrity of designated sites where marine mammals are a qualifying feature.

Ornithology

- 6.3.20 The full assessment for marine ornithology is included in ES Chapter 11 **[MDZ/A25.11 / MDZ/A31.11]** and Section 8.2 of the Information to Support HRA report **[MDZ/A27.11 / MDZ/A31.16]** and is further addressed in the evidence of Dr Grant **[MDZ/P1]**. It is noted that the NRW Statement of Case **[MDZ/N9]** makes no reference to ornithology, therefore the assumption is made that they are content with the proposed development on that topic.
- 6.3.21 During the operational phase, the ES assessed the potential for significant impacts on the South Stack Penlas Seabird Monitoring Programme (SMP) sub colonies, guillemot and razorbill. However, as explained by Dr Grant in his evidence, with a mitigation and monitoring plan that phases deployment based on evidence of avoidance rates, the impact is reduced to minor adverse.
- 6.3.22 Dr Grant explains that since the publication of the ES, additional assessment has been undertaken to determine an appropriate scale for the first phase of deployment. The potential impact significance of this level of deployment on guillemot, Manx shearwater and razorbill has been investigated, and for all three species, the predicted impact magnitude is considered to be minor adverse.
- 6.3.23 Dr Grant adds that for subsequent phases to be deployed, it will have to be demonstrated as part of the EMMP that the level of risk to marine birds is acceptable. Details of the mechanisms by which a decision to deploy further phases of tidal energy converters are presented in the outline EMMP. The

EMMP will be developed post consent, in consultation with NRW and RSPB as the final design of the project develops. To assist with decision making, part of a suite of information that will be available to stakeholders will be a range of ornithology data collected prior to and during the deployment of the first phase of the project. This data will be used to refine impact predictions to assess to what extent further deployment will be possible without significant (i.e. moderate or major adverse impacts) occurring on marine birds.

- 6.3.24 In accordance with 3 (4) of the draft Order a final EMMP, MMMP and Construction Environmental Management Plan (CEMP) must be submitted to and approved in writing by Welsh Ministers prior to the commencement of any tidal works or the repowering of any tidal works. The content of these documents must accord with conditions imposed on the Marine Licence.

Onshore Ecology

- 6.3.25 In terms of onshore ecology, this is addressed in Chapter 19 the ES [MDZ/A25.19] and in the updated onshore ecology assessment, updated most recently in September 2020 ('EcIA Update') [MDZ/F9] as referred to by Mr Campbell in his evidence.
- 6.3.26 Mr Campbell's evidence specifically addresses potential impacts on the Glannau Ynys Gybi / Holy Island Coast SSSI / SAC from cable landfall works, an issue raised by NRW in consultation post-submission. In short, Mr Campbell's position is that following project refinements and mitigation proposed, the proposed cable landfall works are not predicted to give rise to significant impacts in EIA terms nor to give rise to an adverse effect on integrity of a European site
- 6.3.27 Mitigation, both embedded and additional mitigation employed during construction, has been proposed within the ES and EcIA Update to reduce the potential impacts on onshore ecological receptors. Embedded mitigation includes changes to the project's design made during the EIA process, including measures with respect to the trenching option through the Glannau Ynys Gybi / Holy Island Coast SSSI/SPA/SAC, should this method be required if the preferred option of Horizontal Directional Drilling (HDD) is not possible. Additional mitigation measures include the provision of a series of post-consent surveys and management plans.
- 6.3.28 Mr Campbell concludes overall in his evidence that the ES, as updated by the EcIA Update in 2020, concluded that, following the implementation of mitigation, no significant impacts (in EIA terms) and no adverse effect on the integrity of the Glannau Ynys Gybi / Holy Island Coast SAC were predicted to arise from the construction, operation and decommissioning of the project, either alone or in combination with other projects.
- 6.3.29 Given all of the above and with reference to the evidence of Dr Jennifer Learmonth (marine mammals) and Dr Murray Grant (ornithology) and Mr Campbell (onshore ecology) I consider that the proposed development in terms of planning policy is acceptable in terms of marine mammal and ornithological matters and in relation to onshore ecology.

6.4 Character and Appearance

- 6.4.1 Chapter 24 of the ES [MDZ/A25.24] contains the Seascape Landscape and Visual Impact Assessment (SLVIA) and this is supplemented by the evidence of Mr Myers [MDZ/P5] on this topic. The SLVIA sets out that there would be significant adverse effects on the Isle of Anglesey AONB. Mr Myers addresses the distances of the offshore components of the project, with the MDZ located approximately 500m and 1.5km from the closest part of the AONB, west of Holy Island, with the closest section of the coast being between South Stack and Penrhyn Mawr. The onshore components of the project are all located within the AONB with the exception of the grid connection substation.
- 6.4.2 Mr Myers sets out that the onshore components of the project are likely to result in relatively limited effects on the AONB. This is due to a combination of the relative scale, location and measures that can be implemented to mitigate the associated potential seascape, landscape and visual effects. However, there is potential for a significant impact in the bay at Abraham's Bosom which is within the defined Heritage Coast, in the event that it proves unfeasible to construct the cable route using HDD techniques, as explained above. The alternative would be open trenching and cable tying over exposed rock required as part of the cable landfall works.
- 6.4.3 As noted, the offshore components of the project are predicted to have significant adverse effects on the AONB. The key special qualities that would be affected are expansive views/seascapes, and peace and tranquillity closest to the proposed development from the seascape character areas (SCA 13 Holyhead Mountain and SCA 14 Rhoscolyn) and viewpoints within the AONB (from the summit of Holyhead Mountain, South Stack Light House, South Stack, and Cytiau'r Gwyddelod Scheduled Monument) - landmarks that draw a considerable number of visitors to the area. The impact results from the visibility of devices (up to 6.5m in height above water - albeit most devices are likely to be lower), the extent of the project, and the associated navigation lights.
- 6.4.4 Planning authorities have a statutory duty to have regard to the purpose of AONB designations. This duty applies in relation to all activities affecting AONBs, whether those activities lie within, or in the setting of, the designated areas. This duty is reflected in overarching Energy NPS EN-1 [MDZ/D2] at para 5.9.12 which states that:
- "The duty to have regard to the purposes of nationally designated areas also applies when considering applications for projects outside the boundaries of these areas which may have impacts within them."*
- 6.4.5 EN-1 differentiates between the policy tests to be applied for development within AONBs (para. 5.9.9 to 5.9.11) and development outside nationally designated areas which might affect them (5.9.12 and 5.9.13). Para. 5.9.12 states that:
- "The aim should be to avoid compromising the purposes of designation and such projects should be designed sensitively given the various siting, operational, and other relevant constraints."*

6.4.6 Para. 5.9.13 states that:

“The fact that a proposed project will be visible from within a designated area should not in itself be a reason for refusing consent.”

6.4.7 The policy contained in PPW [MDZ/D1] states at 6.3.7 that:

“In AONBs, planning authorities should give great weight to conserving and enhancing the natural beauty of AONBs, and should have regard to the wildlife, cultural heritage and social and economic well-being of the areas.” and at 6.3.8 that AONBs *“must both be afforded the highest status of protection from inappropriate developments.”*

6.4.8 Planning Policy Wales (PPW) (paragraph 6.5.12) requires that *“Development proposals should aim to protect or enhance the natural or historic character and landscape of undeveloped coastlines.”* PPW notes, in the same paragraph, that features which contribute to the defined Heritage Coast are important considerations in making development management decisions.

6.4.9 The JLDP Strategic Policy 19 (Conserving and Where Appropriate Enhancing the Natural Environment) [MDZ/D52] states:

“The Councils will manage development so as to conserve and where appropriate enhance the Plan area’s distinctive natural environment, countryside and coastline, and proposals that have a significant adverse effect on them will be refused unless the need for and benefits of the development in that location clearly outweighs the value of the site or area and national policy protection for that site and area in question.”

6.4.10 Other key relevant policies contained in the JLDP are policies AMG1 (Area of Outstanding Natural Beauty Management Plans) and AMG4 (Coastal Protection). Whilst policies AMG2 (Special Landscape Areas) and AMG3 (Local Landscape Character) are also relevant, I do not consider that these are key policies to be examined during the Inquiry as there are no significant impacts on Special Landscape Areas or local landscape character.

6.4.11 AMG1 states that *“Proposals within or affecting the setting and/ or significant views into and out of the Areas of Outstanding Natural Beauty must, where appropriate, have regard to the relevant Area of Outstanding Natural Beauty Management Plan.”*

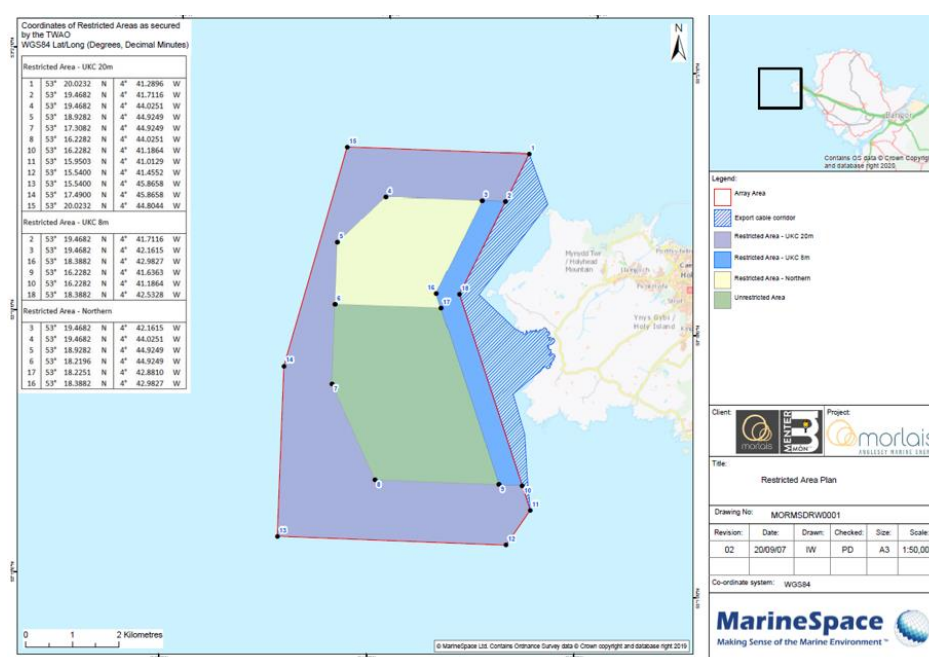
6.4.12 The Isle of Anglesey AONB Management Plan Review 2015 – 2020 [MDZ/D7] sets out the features of the AONB, which include, of relevance to the Inquiry, coastal landscape/seascape features, and the special qualities of expansive views/seascapes, ecologically important coastal habitats, and accessible water. The Management Plan includes a number of Management Objectives and associated policies. The key relevant objectives and policies are:

- Management Objective 3: Development to *“...ensure that all development within and adjacent to the boundary of the AONB is compatible with the aims and objectives of the designation and that new developments enhance local character”*.

- Policy CCC 3.1: “All development proposals within and up to 2 km adjacent to the AONB will be rigorously assessed to minimise inappropriate development which might damage the special qualities and features of the AONB or the integrity of European designated sites”.
- Policy CCC 3.2: “All new developments and re-developments within and up to 2 km adjacent to the AONB will be expected to adopt the highest standard of design, materials and landscaping in order to enhance the special qualities and features of the AONB. Proposals of an appropriate scale and nature, embodying the principles of sustainable development, will be supported.”
- Management Objective 4: Peace and Tranquillity “Unspoilt panoramic views and tranquil atmosphere are safeguarded from improvement that would degrade the special quality of the AONB”.
- Policy CCC 4.1 “Work to maintain the solitude and natural beauty of the AONB.”
- Policy CCC 4.2 “Work towards securing Dark Skies status for Anglesey.”

6.4.13 In my opinion, the project has taken appropriate steps to avoid compromising the purposes of the AONB designation, managing the deployment of emergent devices in locations that reduce the impact on the AONB (shown shaded gold on the MDZ Plan – illustrated below for convenience), and balancing the use of more recessive grey colour with the operational needs to identify devices for navigation and safety purpose. The final colour selection for devices, once technologies to be deployed have been selected, will be agreed as part of the Device Deployment Protocols (DPPs), to be submitted for the approval of the Welsh Minsters prior to the deployment of any tidal device.

MDZ Plan



6.4.14 In accordance with 3 (5) of the draft Order, the IoACC will be consulted on the DPPs. It is not possible to reduce the scale or extent of the MDZ without compromising the demonstration of devices at scale. Dr Orme addresses the requirement for the project to be at the scale proposed, both in the first phase and the ultimate extent of full deployment. Given these operational constraints, it is not possible to avoid or further reduce the visibility of the project from within the designated area.

6.4.15 Mr Myers explains how the applicant has also been proactive in incorporating mitigation measures in relation to the offshore elements of the project and they include in summary:

- There are limitations on the number of surface emergent tidal energy devices and where these can be deployed;
- A minimum separation distance of 1km would be applied from the coastline for visually prominent devices;
- Floating elements would be minimised elsewhere within sub-zones to help ensure the composition of offshore elements is as simple as possible;
- Navigation markings would comprise 5m yellow band at the ends of each of the devices, or a band 5m high on hubs or similar vertically shaped infrastructure; and
- Navigation lighting can be reduced compared with the assumptions made in the SLVIA.

6.4.16 Furthermore, the DDP to be secured through conditions in the Order and Marine Licence is applicable to the arrays of devices and operational hubs throughout the MDZ. It requires:

- All surface emergent deployments to be approved by Welsh Ministers in advance;
- The nature of the devices will need to be described and dimensions provided;
- An updated seascape, landscape and visual assessment need to be prepared for each surface emergent deployment; and
- Consultation with the IoACC.

6.4.17 In relation to the onshore components of the project, Mr Myers explains that:

- Structures have been positioned to reduce potential seascape, landscape and visual effects e.g. by considering the ground level of any buildings and locating them in the context of existing structures where possible;
- Specific mitigation is proposed in relation to the landfall Substation, with this comprising the design and layout of the structures, the proposed materials, boundary treatments and reducing security fencing and lighting;
- The use of underground cables and routing this within the local road corridors where possible.

- 6.4.18 Whilst it is accepted that there would be an adverse impact on views from the AONB of the seascape, I do not consider that the MDZ distracts in any other way from the enjoyment of visitors to the AONB, as the ability to appreciate the tranquillity and wild qualities of the AONB itself is not affected. The applicant has had regard to the second purpose of the AONB, that is to increase the understanding and enjoyment by the public of the special qualities of the AONB, through the commitments made to the provision of interpretation boards and information events across Anglesey, to ensure the general public and visitors are aware of the project, its purpose, benefits, and contribution in tackling climate change. In addition, compensation measures, including enhancement of features, are proposed to be secured by way of a s.106 Agreement.
- 6.4.19 As evidenced in the Supplementary Tourism and Recreation Assessment [MDZ/H1], the project as a demonstration zone could, if successfully promoted, attract additional and new types of visitors to Anglesey and interpretation could further compensate for seascape and visual effects.
- 6.4.20 Furthermore, as the devices will be moved, re-deployed, and ultimately decommissioned, the impact on the long-term purpose to conserve the natural beauty of the AONB would be unaffected. I consider that need for and benefits of the development in this location clearly outweigh the adverse impact on parts of the AONB predicted in the ES, and should not be a reason for refusing consent.
- 6.4.21 I also consider that the requirements of JLDP policy AMG4 to protect the defined Heritage Coast have been fully considered. Mitigation for the potential localised impact of the landfall cable works at Abraham's Bosom has been agreed with IoAC and NRW as set out in MOR-SLR-DOC-0001_SLVIA Post Application Consultation Responses [MDZ/A28.19] at paras 25 and 26 and shown in the indicative drawing titled 'Landfall Trench Cable Option Cliff Face' which is included in Appendix 1 of the same document. This mitigation is reflected in the Outline Landscape Management Plan [MDZ/A12], secured by draft Planning Condition 6.
- 6.4.22 Given the above and with reference to the evidence of Dr Orme [MDZ/P10] and Mr Simon Myers [MDZ/P5] on the topic of seascape and landscape, I consider that the proposed development in terms of planning policy is acceptable in terms of seascape and landscape matters.

6.5 Socio-Economic Matters

Tourism

- 6.5.1 Overarching Energy NPS EN-1 [MDZ/D2] at para 5.12.6 states that "[the decision maker] should have regard to the potential socio-economic impacts of new energy infrastructure identified by the applicant and from any other sources that the [decision maker] considers to be both relevant and important to its decision" and at para. 5.12.7 that [the decision maker] "may conclude that limited weight is to be given to assertions of socio-economic impacts that are not supported by evidence (particularly in view of the need for energy infrastructure as set out in this NPS)".
- 6.5.2 The importance of tourism to the Welsh economy is emphasised in PPW [MDZ/D1] (para 5.5.1), Chapter 2 (page 14) of the draft NDF [MDZ/D6], and the importance of the tourism sector to the

economy across North Wales specifically highlighted in Chapter 5 of the draft NDF (page 52), and the JLDP (para. 6.3.54-58).

- 6.5.3 JLDP policy PS14 [**MDZ/D52**] seeks to prevent “*development that would have an unacceptable adverse impact on tourist facilities, including accommodation and areas of visitor interest or their setting, and maximise opportunities to restore previous landscape damage.*”
- 6.5.4 The JLDP also requires that development proposals align with and be informed by the Destination Anglesey Management Plan 2016 - 2020 which sets out the aim, objectives and a delivery plan for tourism, drawing on the existing regional tourism strategy. The plan contains a strategic objective for energy and strategic infrastructure to ensure that proposed large-scale investment can go ahead with minimal disruption to local communities and the tourism economy, mitigating the risks, and fully capitalising on the potential inward investment and making a positive contribution to the economic prosperity of Anglesey.
- 6.5.5 Negligible to minor adverse impacts on tourism are predicted in the ES (Chapter 25 [**MDZ/A25.25**]). Minor impacts are predicted given the temporary disruption to the north-west of Holy Island tourism accommodation during construction of onshore infrastructure, including road closures, diversions and highways works, particularly along the South Stack access road, and potential for temporary closures to the Public Rights of Way (PRoW), including the Wales Coast Path, during the construction phase of the project. The effects on tourism of the cable landfall at the beach at Abrahams Bosom, are likely to be negligible given the use of the beach and the visual impact of the development with mitigation measures as set out in the evidence of Mr Myers.
- 6.5.6 In response to concerns raised by IoACC regarding potential impacts to the overall impact on tourism, further assessment was undertaken, including interviews with local businesses that could be impacted by the development, and is set out in the Supplementary Tourism and Recreation Assessment. This assessment concludes that there is potential for adverse impacts on the offering of the area to tourists, for example, impacts on kayaker through restrictions on kayaking routes and eddy currents, visual impacts and impacts during construction resulting from traffic and temporary diversions on the coastal path. In addition to the potential for negative impacts, the assessment also identifies the potential for the following positive impacts on tourism:
- The demonstration of tidal power could significantly contribute to the place branding of the area in renewable and clean energy and present opportunities for niche energy tourism sector.
 - Potential for the Morlais demonstration zone to become an anchor institution given its size and level of investment, which could support to the formation of a marine clean energy cluster in the area.
- 6.5.7 Whilst the IoACC remains concerned about the impacts on tourism, this relates in large part to a disagreement on whether the impacts on overall tourism have been fully assessed for that sector. However, the Council has not submitted any counter evidence to the Inquiry which suggests that the impact on tourism would be any greater. In the opinion of Dr Jones from Bangor University, it is not

possible at this stage to predict with any greater accuracy the likely impacts on tourism but there is nothing, in his opinion that would lead him to advise the Inquiry that impacts would be greater than minor impacts. Indeed this has been the experience of a number of examples of offshore wind and sited by Dr Jones (Orkney, Pembrokeshire and Gwynt y Mor in North Wales).

- 6.5.8 In my opinion, the assessment of minor impacts on tourism combined with commitments to provide a Tourism and Recreation monitoring strategy to be delivered 6 months prior to the start of construction in accordance with mitigation measures set out in the Supplementary Tourism and Recreation Assessment [MDZ/H1], along with a compensation payment for landscape enhancement linked to device deployment to be secured through by way of a s.106 Agreement, are sufficient to conclude that the development is acceptable and accords with EN-1, PPW and JLDP policy PS14 that seeks to prevent development that would have an unacceptable adverse impact on tourist facilities. In my opinion limited weight should be attached to outstanding assertions that tourism impacts have not been fully considered as they are not supported by evidence.

Local Economy

- 6.5.9 The following economic benefits to Anglesey are predicted in Chapter 25 of the ES (Socio Economic Assessment) [MDZ/A25.25]:
- £3.6m and £41.4m per annum local expenditure is anticipated during the construction (peak) and operation phases.
 - Up to 467 jobs per year during initial construction with perhaps 50% of this (approx. 230 depending on individual project timescales) associated with any repowering activities.
 - The construction and repowering stages could add between 960 – 1,320 FTE yrs within Anglesey, 1,560 – 2,280 FTE yrs in North Wales and 2640 – 4,200 FTE yrs across the whole of Wales.
 - A further total of up to 456 jobs per year could arise from O&M activity. Of these it is estimated that approximately 137 – 228 could be in Anglesey, 91 in North Wales and 46 across the rest of Wales
- 6.5.10 Overarching Energy NPS EN-1 [MDZ/D2] requires the decision maker to take into account the potential benefits of energy infrastructure, including job creation and any long-term or wider benefits at national, regional and local levels.
- 6.5.11 PPW [MDZ/D1] supports renewable and low carbon energy projects which are developed by communities, or benefit the host community or Wales as a whole. Para 5.9.20 states that *“the social, environmental and economic (including job creation) benefits associated with any development should be fully factored into, and given weight in the decision making process.”* Para, 5.9.22 also supports commercial developers working together with community-based organisations, such as Menter Môn, to take forward projects on a shared ownership basis.

- 6.5.12 The WNMP [MDZ/D5] recognises that development and use of the marine environment has the potential to affect the socio-economic future of coastal communities and requires *“decision makers should ensure that opportunities to contribute positively to the future well-being of coastal communities are taken.”* Policy SOC 02 of the WNMP supports proposals that contribute to the well-being of coastal communities.
- 6.5.13 The Vision set out in the JLDP [MDZ/D52] (paragraph 4.7) is one that sees the Isle of Anglesey adapting to and responding positively to the challenges of climate change. A fundamental part of that Vision is to see the Isle of Anglesey *“recognized as a leading location for a variety of renewable and low carbon energy sectors and knowledge based industries, which will have contributed to transforming the local economy,, generating low carbon energy and catalysing regeneration in the Plan area.”*
- 6.5.14 Under this Vision a key strategic objective (Theme 3) is to *“Support growth and regeneration that will transform the local economy under the umbrella of Anglesey Energy Island Programme.”* PS5 Sustainable Development seeks to *“Promote a varied and responsive local economy that encourages investment and that will support Centres, Villages and rural areas”*
- 6.5.15 The JLDP defers to the Anglesey Energy Island Programme to set the framework for planned investment and growth potential of the low carbon energy sector, which the JLDP states *“is envisaged that it will become a major economic driver for Anglesey, North Wales and Wales.”* The Energy Island Programme was first conceived in 2008 at a time of announcements on the closure of the Anglesey Aluminium works in Holyhead and the forthcoming cessation of generation at the existing Magnox nuclear power station at Wylfa in north Anglesey. These closures resulted in a considerable loss of jobs in the area, which already had one of the lowest levels of Gross Domestic Product in the UK as a result of an ageing population and the outmigration of young economically active people. The Programme responds to these challenges by supporting opportunities presented by proposed low-carbon energy generation projects. As part of the Programme, the Council published a legacy framework setting out the Council's expectations from major developments, including the MDZ. These expectations include *“Creating a Thriving and Prosperous Economy”* and creating *“a hub for sustainable businesses that support a prosperous, low carbon society and encourage innovation and entrepreneurship”*.
- 6.5.16 In light of the above policies, the potential for significant benefits arising from the MDZ for the local and Welsh economy are important and relevant considerations in determining the Order application. The scale of the potential socio-economic benefits reported in the ES has not been questioned by objectors: only the means of securing these benefits.
- 6.5.17 The applicant has produced an Outline Skills and Training Action Plan [MDZ/A28.16] committing the project (secured under Planning Condition 17) to:
- Establish and administer a Training Task Group which will analyse, anticipate, identify funding and implement training plans;

- Establish a Local Skills Database and Employment Hub which will build on Menter Môn's NVQ levels 4 and 5 database;
- Establish a Supply Chain portal which will communicate with known engineering, fabrication, technology, marine services and environmental companies on the island; and
- A programme of actions which would ensure that opportunities to maximise the local socio-economic benefits can be realised.

6.5.18 In his evidence for the applicant, Dr Jones [MDZ/P6] considers that the commitments made in the Outline Skills and Training Action Plan and the commitment to prepare a detailed Skills and Training Action Plan, would enable Menter Môn to achieve a target of approximately 50% of employment being secured locally.

6.5.19 As Dr Jones sets out, the project provides a unique opportunity for the locality through the creation of employment opportunities, upskilling of the workforce, new and diversified opportunities for businesses through participation in the supply chain. The Morlais project is committed to maximising socio-economic benefits through actions to reducing the skills gap, ensuring businesses have the necessary accreditations to participate in the supply chain, and by providing mitigation actions if the MDZ is found to have an adverse impact on the tourism and recreation sector.

6.5.20 The various mitigation actions proposed with regard to socio-economics are set out in Table 1 in the evidence of Dr Jones. With these commitments in place which can be secured by way of conditions and in light of the wider evidential position set out by Dr Jones, I consider that the proposed development accords with planning policies to support local economies.

6.6 **Marine Matters including Navigation**

6.6.1 Neither overarching Energy NPS EN-1 nor PPW contain policy relevant to the considering the shipping and navigation impacts of the proposed development.

6.6.2 The WNMP aims to support the sustainable development of the Welsh marine area, taking account of the cumulative effects of all uses on the marine environment, promoting the co-existence of compatible activities and supporting the avoidance or mitigation of conflicts between users wherever possible (policies ECON 02, SOC 01, policy SAF 01).

6.6.3 Following best practice and requirements for offshore wind farms established in NPS EN-3, the site selection for the MDZ has sought to minimise disruption or economic loss to the shipping and navigation industries. On less strategically important shipping routes, the project has sought to reduce negative impacts to As Low as Reasonably Practicable (ALARP).

6.6.4 Commander Brown sets out in his evidence the relevant navigation related statute, regulations and guidance.

6.6.5 In so far as the Island's tourism sector benefits from the use of the local seas by a marine craft, the JLDP's policies for tourism outlined above are also relevant to the consideration of navigation

impacts. Holyhead Port is recognised as playing an important role in sustaining the Island's economy. Otherwise, the JLDP does not contain specific policies for shipping and navigation.

6.6.6 Chapter 15: Shipping and Navigation of the ES [**MDZ/A25.15 / MDZ/A28.59**] and the Navigation Risk Assessment (NRA) [**MDZ/A28.15**] conclude that the proposed development would result in impacts on shipping and navigation and that the following mitigation measures will be required to reduce the potential impacts and risk during the construction, operations and maintenance (including repowering) and decommissioning phases:

- Phase 1: During the construction, maintenance, repowering and decommissioning phases navigation and fishing activity within the MDZ and the export cable corridor will be restricted within Safety Zones of up to 500m around all offshore works during construction;
- Phase 2: During the operational phase navigation, anchoring and fishing activity within the MDZ and the export cable corridors will be restricted within an "operational safety zone" of up to 50m of any offshore works or such other areas as may be determined following risk assessment and consultation with the Maritime Coastguard Agency (MCA) and Royal Yachting Association (RYA);
- Phase 3: All trawling/anchoring will be excluded within 200m any cables once laid.

6.6.7 The draft Order contains provisions at 43 (8) that capture mitigation (i) and (ii) above and provisions at 43 (1)(c) capture mitigation (iii) above.

6.6.8 In accordance with 3 (4) of the draft Order, an updated NRA must be submitted to and approved in writing by Welsh Ministers prior to the commencement of construction, maintenance repowering or decommissioning of any tidal works. The content of these documents must accord with conditions imposed on the Marine Licence.

6.6.9 Otherwise the navigation of commercial and passenger vessels within the MDZ will be safeguarded under the approval of DDPs for subsurface tidal devices with the following Under Keel Clearance (UKC) in these array areas:

- A <20m Under Keel Clearance (UKC) zone in the north, west and south of the site to address concerns about the routing for ferries in poor weather; and
- A <8m UKC zone along the eastern boundary to allow recreational users at least 1km of sea room between any surface emergent devices or shallower deployed devices and the coast.

6.6.10 This commitment is secured under 3(4) of the draft Order which requires a DDP to be submitted to and approved in writing by the Welsh Ministers prior to the deployment of any tidal device or operational hub, following consultation with the IoACC.

6.6.11 Commander Brown [**MDZ/P7**] considers that the NRA undertaken has been thorough and comprehensive. He explains that the NRA adopted the 'Rochdale Envelope' approach to assume a worst-case scenario for the deployment of devices at any point in the entire project area. I have

addressed the Rochdale approach in my evidence above (see section 2.1) and have explained why that approach is appropriate for the project – contrary to the position advanced by the RYA.

- 6.6.12 Commander Brown sets out that the phased nature of the deployment of generating devices over a period of 15 years with a very modest first two phases in the first 5 years allows considerable opportunity to measure actual impact against prediction. Moreover, he explains in his evidence that reassurance should be gained from knowing that each new phase and array of generating device will require its own updated NRA with associated stakeholder consultation, review of incident analysis and risk assessment.
- 6.6.13 Commander Brown concludes that it is his opinion that while the addition of the MDZ may slightly alter the routing of leisure vessels that transit this area, the risk profile associated with their movement is not significantly changed. Similarly, for kayakers, who remain very close inshore, his view is that the navigation risk profile for the MDZ remains largely unchanged. Commander Brown addresses in his evidence, the specific navigation and shipping objections raised against the project.
- 6.6.14 In conclusion Commander Brown's view is that, by committing to the stipulations of the NRA Addendum, the project is navigationally safe and he can see no reason from a marine and navigation perspective, why the project should not be given approval. He references the NRA Addendum which states that *"the project is therefore assessed to be acceptable in terms of navigational risk assuming compliance with embedded, and implementation of, suggested additional mitigation measures, where appropriate, for hazards scoring as ALARP¹⁶."*
- 6.6.15 Commander Brown adds that this level of commitment compares well with other offshore infrastructure projects. With these commitments in place, and in light of the overall evidence presented by Commander Brown, I consider that only limited weight should be given to the marine navigation objections. Furthermore, in my view, the development accords with planning policies to protect shipping and navigation and recreational users insofar as they are relevant.

¹⁶ NRA Addendum, Executive Summary, page VI.

7. The Benefits of the Proposed Development

7.1 The Benefits: Summary

7.1.1 PPW states that *“in determining applications for the range of renewable and low carbon energy technologies, planning authorities should take into account: the contribution a proposal will make to meeting Welsh, UK and European targets; the contribution to cutting greenhouse gas emissions; and the wider environmental, social and economic benefits and opportunities from renewable and low carbon energy development”* (Paragraph 5.9.16, PPW). Furthermore, paragraph 5.9.17 states that *“planning authorities should give significant weight to the Welsh Government’s targets to increase renewable and low carbon energy generation, as part of our overall approach to tackling climate change and increasing energy security”*.

7.1.2 The proposed development would result in a wide range of environmental, social and economic benefits and opportunities, summarised as follows:

Combatting Climate Change

- With an indicative installed capacity of up to 240 MW, the proposed development would make a valuable contribution to the attainment of the UK and Welsh Government policies of encouraging renewable energy developments; and in turn contribute to the achievement of UK and Welsh Government currently unmet targets for renewable energy and electricity generation. Both Governments have confirmed their long-term commitment to the decarbonisation of electricity generation and the proposal would help advance this policy objective.
- The UK legally binding target of net zero GHG emissions by 2050 and the Welsh Government target of a 95% reduction of such emissions by 2050 and net zero to follow that, are major challenges. The Welsh Government has made it clear offshore renewables will play a valuable role in the attainment of future targets in relation to helping to combat the crisis of global heating. Energy policy is an important material consideration in the determination of the application and should be afforded significant weight in favour of the proposed development.
- The installed capacity of the proposed development of up to 240 MW – would be enough to provide electricity to the equivalent of over 188,000 homes. To put the scale of this benefit in context, there are around 30,600 households on the Isle of Anglesey; 52,500 in Gwynedd and 51,200 in Conwy.
- The Proposed Development will support those objectives within the JLDP, aimed at promoting the development of renewable or low carbon energy technologies. Menter Môn is committed to delivering the Morlais project in a way that supports the local supply chain and provides employment opportunities for those living in Anglesey, North Wales and Wales, as set out in Chapter 25 of the ES.

- As noted on page 28 of the Prosperity for All: A Low Carbon Wales under the sub-heading of 'Innovation', *"it is understood that the development and introduction of new technologies and solutions can take time to commercialise so multiple interventions may be required to meet targets. We need to encourage technology to be deployed in Wales and ensure that Wales benefits from progress made elsewhere"*. In line with this statement, the proposed development comprises a demonstration area for the commercialisation of new renewable energy technology in Wales.
- Providing a demonstration project at scale – which can accelerate innovation and deployment not just in the UK, but worldwide (see below).

Tidal Stream Sector Advancement

7.1.3 It is also clear that there is demonstrable developer support for the project illustrated by way of the various letters from marine renewable developers submitted with the applicant's Statement of Case [MDZ/M1 – MDZ/M6]. The various parties set out the importance of the availability of berths within the MDZ which would result in the following advantages and benefits:

- The ability to bring the technology to a market ready position as soon as possible;
- The potential to further develop a local industrial and supply chain strategy and to service the UK and European markets and further early stage projects in Ireland;
- The importance of having visibility of deploying marine devices at scale and that the MDZ provides this opportunity;
- That early consent of site deployment will help prove both the technical performance and the environmental acceptance of technology and there is a unique opportunity to test operation of arrays and devices in multiple rows and columns;
- The benefits of deployment at scale which can lead to accelerated learning in relation to the fields of power off-take, materials/structures, optimised operations and maintenance: all with a view to reducing costs to a competitive level. By deploying sufficient capacity, it can help achieve cost reductions necessary so that tidal energy can compete with more established forms of renewable energy generation.
- Without the scale of deployment of Morlais it will be challenging to model whole array interactions and progress with plans for larger deployment - which may mean that the economic and clean energy opportunities that the UK is uniquely positioned to secure will be missed. This includes opportunities to service the global tidal energy market.
- That all of the above can lead to the unlocking of further investment.

7.1.4 The consistent message comes through that these benefits can only be realised through a large enough project such as Morlais 240 MW capacity ambition. This is why the project is such a vital development for the sector - not only because the scale and ambition from the project alone can

achieve the step change cost reductions necessary for the technology to become cost competitive, but it provides opportunities to investigate important aspects from sizeable arrays of turbines - this is seen as crucial in realising the pipeline of projects needed to underpin long term investment in the industry. This is one of the key objectives in the Government's Clean Growth Strategy that I have referenced above – namely it recognises the role of tidal stream technology in the decarbonisation of the UK – but highlights the need for cost reduction pathways to deliver low cost scalable solutions.

Driving Economic Growth & Local Community Benefits

7.1.5 A key aim of Menter Môn Morlais Limited, as a not for profit social enterprise, is to provide solutions to the varied challenges facing rural Wales and a key part of this is to enable and maximise benefits to local communities, the economy and environment through renewable local carbon electricity generation. Further detail on the applicant and its *modus operandi* is contained in the evidence of evidence of Mr Billcliff [MDZ/P8].

7.1.6 My reference to the evidence of Dr Jones [MDZ/P6] in the previous section has demonstrated how the Morlais project aims to maximise the socio-economic benefits to the locality.

- As tidal energy generation is an emerging industry, the technologies deployed as part of the proposed development are expected to have been thoroughly tested elsewhere but primarily as single devices. The proposed development will provide an opportunity for the technologies to be demonstrated in arrays for potential future use on a large-scale commercial basis, as explained above.
- As noted in Chapter 25 of the ES [MDZ/A25.25], it is anticipated that Anglesey could expect to benefit directly from local spend as a consequence of the project to the value of between £3.2m and £41.4m annually for the life of the project. The benefits to the North Wales region are expected to be between £2m and £25m annually for the life of the project, with the rest of Wales seeing potential benefits of £14.5m to £33m annually for the life of the project.
- The applicant will endeavour to encourage all contractors to utilise the local workforce and supply chain and develop a supply chain portal that will advertise opportunities for local contractors. It is estimated that the local spend of the proposed development may add somewhere between 0.4 % and 4 % to the annual economic activity of the Island.
- It is estimated that the proposed development would generate up to 467 jobs per year during initial construction. A further total of up to 456 jobs per year could arise from operations and maintenance activity. Of these it is estimated that approximately 137 – 228 could be in Anglesey, 91 in North Wales and 46 across the rest of Wales.

- 7.1.7 The importance of the economic benefits arising from the proposed development cannot be underestimated in today's circumstances. The Office of Budget Responsibility (OBR) has set out clear warnings in July 2020 that unemployment in the UK is likely to rise beyond levels seen in the 1980s as the nation struggles to regain its pre-COVID-19 virus footing. The OBR's position is that 2020 has seen the biggest collapse in economic activity since records began and there is now a significant likelihood of lasting economic 'scarring'.
- 7.1.8 Reference has been made in to the recent advice to the UK Government from the CCC – the consistent strong recommendation is that there is an economic and environmental imperative to seek to deliver projects that can contribute to the economic recovery and indeed which can make a positive response to the Climate Emergency. The proposed development can make such a valuable contribution.

8. Summary, Conclusions & the Planning Balance

8.1.1 I have set out the legislative and policy framework for the project in my evidence. In summary, my evidence supports the following conclusions, including by cross-reference to the evidence of other witnesses acting for the applicant:

- The Welsh Government supports North West Wales as a location for new energy development and investment as set out in the latest version of the NDF which has been placed before the Senedd at its final stage. The language in the NDF on the need to combat the global climate heating crisis is demonstrably stronger than that in the current PPW. Even if a view is taken that the language is no different, the context within which the NDF and the WNMP policy statements were given is demonstrably different by way of more stretching emission reduction targets and the declared Climate Emergency.
- My evidence has confirmed the more urgent need for more renewable energy capacity: an increase of this renewable energy technology is supported through a number of policy documents and by Welsh and UK Government commitments. The need was already viewed and described as “urgent¹⁷” to the attainment of targets in 2011 with the publication of the Overarching NPS for Energy (EN-1). This imperative has only increased since a ‘climate emergency’ was declared in Wales in April 2019 and, in line with the recommendations made by the CCC (2019) ‘net zero’ publication. Furthermore, the drive to attain net zero emissions is now legally binding at the UK levels by way of recent amendments to the Climate Change Act 2008.
- There is compelling support for the Morlais Demonstration Zone in national and local plan policies in so far as the project will make a significant contribution to the transition to low carbon electricity generation and investment in the local economy of North Wales and Anglesey.
- The proposed development has been designed to avoid where possible significant adverse impacts and with the proposed mitigation measures secured through the Order provisions and deemed planning conditions, there will be no residual significant residual impacts on marine ecology and ornithology, tourism and the local economy, and navigation.
- The proposed development has been designed to avoid harm to the integrity of protected sites, with regard to the Habitats Regulations. The EIA undertaken demonstrates that the potential impacts of the proposed development have been carefully considered and the proposed mitigation measures will reduce and manage impacts.

8.1.2 It is acknowledged that some significant impacts are predicted on views from some locations within the AONB of the seascape. In my opinion, and taking into account the view of the landscape and visual impact assessment expert witness Mr Simon Myers: these impacts cannot be avoided and have been mitigated as far reasonably practicable through siting and design, and compensation for

¹⁷ EN-1 paragraph 3.4.5.

landscape enhancement is to be secured by way of a s.106 Agreement. Furthermore, as the devices will be moved, re-deployed, and ultimately decommissioned, the impact on the long-term purpose to conserve the natural beauty of the AONB would be unaffected.

- 8.1.3 The various national and local energy and planning policy documents that I have examined set out a strong position of support in relation to renewable energy and renewable energy targets and recognise the significant energy resource that can be provided by offshore resources. This is clearly not at any cost and environmental effects need to be judged to be acceptable.
- 8.1.4 The proposed development seeks to provide a significant quantum of low carbon, renewable energy via a sustainable energy supply, the tidal stream. The site's location is driven by the need to be in proximity to this energy supply. By understanding the constraints and opportunities of the location, the scheme has sought to mitigate any adverse impacts and enhance any positive effects.
- 8.1.5 In my opinion, the residual adverse impacts are outweighed in the planning balance by: the overall accordance with planning and energy policy; delivering significant benefits from renewable energy generation of up to 240 MW, including the ability for new operators to trial their products before wider deployment; the significant economic benefits to Anglesey during construction and in the operation and maintenance phase, and to the wider Welsh economy.
- 8.1.6 It has therefore not only been demonstrated that the proposed development accords with local and national planning policy, but that there is additionally a substantial need for this type of development in order that pressing future targets in relation to the global heating crisis and renewable energy generation and greenhouse gas emission reductions can be met in time.
- 8.1.7 Furthermore, from my review of the overall project documentation including the ES and the more recent evidence prepared by the various technical witnesses on behalf of the applicant, it is clear to me that Menter Môn has a demonstrable track record of paying full attention to the various concerns and issues raised by parties and stakeholders and that various amendments have been incorporated into the project including various aspects of mitigation to arrive at a satisfactory project. Moreover, Having been involved in the design and siting of major development and infrastructure projects in the landscape throughout my career, in my view I consider the approach to the routeing, siting and design of the onshore infrastructure elements of the project has been exemplary.
- 8.1.8 The benefits of the proposed development have been set out in the context of the current Climate Emergency and economic crisis – they would help address the issue of global heating and challenging 'net zero' targets and moreover, would deliver economic benefits at a time of severe economic recession.
- 8.1.9 The overall conclusion I reach is that the proposed development is acceptable in terms of planning policy, taking into account other policy considerations including the relevant Development Plan policies. On this basis, it is respectfully recommended that the Order and deemed planning permission should be granted, for the proposed development.

The evidence which I have prepared and provide for this Public Inquiry reference 3234121 (in this Proof of Evidence) is true and has been prepared and is given in accordance with the guidance of my professional institutions and I confirm that the opinions expressed are my true and professional opinions.

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