



Law Society  
of Scotland

# Consultation response

## Draft Offshore Wind Policy Statement

March 2020



## Introduction

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The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Marine Law Sub-committee welcomes the opportunity to respond to Scottish Government's Consultation on the Draft Offshore Wind Policy Statement<sup>1</sup>. We have the following comments to put forward for consideration.

## Consultation questions

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### **1. Does the current pipeline and level of activity in the offshore wind sector in Scotland provide a sufficient platform upon which to build the greater contribution required to achieve our climate change goals?**

Yes. However, we consider it is unclear why the existing consented schemes have not been implemented, with appropriate adaptations in terms of the licenses and conditions relating to changes in technology.

We consider that the grid capacity requires to be augmented to allow the full potential of offshore wind to be effectively utilised. Improvements to the transportation of electricity around Scotland and the rest of the UK and Ireland are also essential. There is a need to develop and increase electricity storage for Scotland.

We also consider that exporting to other UK jurisdictions and Europe should be developed.

### **2. Do you believe that the 2030 visions and aspirations described above are sufficiently ambitious?**

We consider the visions and aspirations are ambitious but they will require implementation. We note that this offshore wind policy and associated plan process are being created separately to the statutory marine planning process for Scotland and the UK. Marine planning was designed to effectively manage all aspects of

<sup>1</sup> <https://consult.gov.scot/energy-and-climate-change-directorate/draft-offshore-wind-policy-statement/>

the seas and coasts. The Marine Plan for Scotland (Scotland's National Marine Plan, 2015) is a policy statement for the marine environment, which is required to be taken into account by all public authorities in making decisions. (Marine and Coastal Access Act 2009, section 58(1)). Incorporating this Draft Offshore Wind Policy statement with the Marine Plan would align with the existing planning regime and would be effective and appropriate planning. This would facilitate the implementation of the vision and the aspiration for offshore wind, as well as allowing all other factors to be taken into account.

By not doing so, we consider that this area is returning to a silo process of different sectors having different policies and processes. The marine planning process was designed to address such issues. Marine planning should enable development to take place and balance the cumulative uses of the ocean and protection of the marine environment.

### **3. What actions do you believe should be taken by the Scottish Government, UK Government and agencies in order to realise the full potential of Scotland's offshore wind sector?**

We consider that Scottish Government, UK Government and agencies should fully support and implement marine planning at national and regional level. This could be utilised as the main vehicle to deliver offshore wind development.

We also suggest that the marine planning process should be much more aligned and integrated with the terrestrial planning process. This is not taking place in practice at present.

Links across bodies of water like the Pentland Firth and small high utilised seas, including the Irish and North Seas should be more apparent. Existing marine plans stop at their own jurisdictional boundaries, however, we consider that larger marine ecosystem or marine zones should be considered. This will enhance cooperation and sharing of resources, as well as addressing common issues such as habitat protection and grid connections.

### **4. What are the key regulatory and cost challenges facing the offshore wind sector?**

We consider that ensuring that regulation encourages and does not discourage the strengthening of the grid and the transport of electricity to where it is required from offshore wind supplies are key challenges. Making appropriate, effective and perhaps even creative use of the existing complex and detailed regulatory regime for development and protection of the marine environment via the marine planning regime are key.

### **5. What more can the sector and other key stakeholders do to tackle these?**

We consider that existing sites with consent can be developed.

### **6. What should the key Scottish priorities be in relation to Air Defence Radar, and towards radar mitigation more generally?**

We have no comments.

## **7. What more can the Scottish Government do, working with industry and other stakeholders, to address ‘knowledge gaps’ in environmental assessments for potential offshore wind developments?**

We consider that data depositories could be developed which are shared between regulators users and stakeholders.

## **8. What steps can be taken to improve interactions between offshore wind and other marine sectors?**

The statutory marine planning process is designed to take a holistic approach and ensure that all users, stakeholders and developers’ positions can be balanced and assessed in line with sustainable development. Notwithstanding the passing of the Marine (Scotland) Act in 2010, marine planning in Scotland has had a slow start and is not yet having a tangible impact on decisions in the marine environment and therefore the implementation of marine plans.

This draft offshore wind policy statement is of great importance to the industry and will be utilised to guide development proposals and licensing applications for future offshore wind developments. Fully aligning this policy (and the associated plan) with the marine plan process will enhance the marine planning process by ensuring that interactions between offshore wind and other marine sectors are taken into account as part of a planning process.

## **9. How could a competitive market framework that promotes the development of floating wind be developed whilst still retaining value for money for the consumer?**

We have no comments.

## **10. Considering the currently available literature and analysis, what do you consider a successful offshore wind industry in Scotland in the future would look like?**

We have no comments.

## **11. What scale of deployment would you estimate or believe to represent a successful outcome, and why?**

We have no comments.

## **12. What actions should industry and government take to address the issues described in this section and ensure the most positive future position for offshore wind in Scotland?**

We have no comments.

**13. What areas of the Scottish supply chain do we excel at, and what could we do better?**

We have no comments.

**14. Where are the new areas that Scotland can develop and exploit a competitive supply chain advantage?**

We have no comments.

**15. What are the main challenges a company faces when tendering for a contract?**

We have no comments.

**16. Subject to procurement law, what more should government and its agencies do to assist the supply chain secure contracts?**

We note that the position here is uncertain given that it is not known if, when and how the rules on procurement are going to change in the light of the UK's exit from the EU and subsequent agreements with the EU and other trade partners.

**17. What are the key skills issues and gaps facing the sector over the coming years, in the short and medium term?**

We have no comments.

**18. What more should government and the sector do to build on the progress made in recent years?**

We have no comments.

**19. What can Scotland learn from the approach taken in other countries around the world in this area? Are there examples of best practice you can share?**

We have no comments.

**20. What can the Scottish Government most usefully and feasibly do to build on the innovation support previously and currently available?**

We have no comments.

**21. How can we support technologies and developments which reach a viable stage between leasing rounds and CfD auctions?**

We have no comments.

**22. Where respondents believe that scope remains for innovation in fixed offshore wind, what areas should be prioritised?**

We have no comments.

**23. What actions should be taken to address the key challenges facing the uptake of commercial scale floating in Scotland?**

We have no comments.

**24. What can be done, on the part of government and / or others, to strengthen and benefit from the synergies with a) hydrogen and b) the oil and gas sector?**

We have no comments.

**For further information, please contact:**

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