



Law Society
of Scotland

Consultation response

Draft Sectoral Marine Plan for Offshore Wind Energy

March 2020



Introduction

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 Sectoral Marine Plan for Offshore Wind Energy¹. We have the following comments to put forward for consideration.

Consultation questions

1. Do you support the selection of the following draft Plan Options (DPO)?

We neither support nor oppose the draft Plan Options. We note that this detailed process appears to be out of sync with the marine planning process. Scotland's National Marine Plan was adopted in 2015 and reviewed in 2018. We consider that the DPOs should now form part of the statutory plan now that it is established, noting that it was not established when previous sectoral plans were being developed.

2. Do you agree with the definition of commercial scale offshore wind farm projects as being projects being capable of generating over 100 MW of electricity? Do you think this level should be: Lower (<100MW), as is (100MW) or higher (>100MW)?

No comment.

¹ <https://consult.gov.scot/marine-scotland/draft-sectoral-marine-plan-for-offshore-wind/>

3. Do you agree that the scientific evidence presented demonstrates that DPOs NE2-6 and E3 are subject to high levels ornithological constraint and, therefore, the mitigation measures outlined in the draft Plan should be applied to these DPOs?

We have no comment to make on the scientific evidence. We consider that these decisions should form part of the statutory marine planning process.

4. Do you agree that the scientific evidence presented demonstrates the requirements for further regional-level survey work within DPOs E1 and E2?

We have no comment to make on the scientific evidence. We consider that regional-level survey work could most usefully be combined with regional planning. The regional planning partnerships have not yet been established in the East. This could be a way of working with the Local Authority and existing ICZM groups to begin that process. We note that in the 10-year period since the Marine (Scotland) Act 2010, this process has not yet been implemented.

5. Do you have any comments regarding the proposed approach to iterative plan review?

We consider that this is a good idea in theory but should be part of the marine planning process in order to ensure a holistic approach.

6. Do you have any comments regarding the proposed formation and role of the Advisory Group?

In line with our comments above, we consider that this should be embedded with marine planning and existing groups and organisations be used.

7. If you have any further comments or points that you think should be taken into account in the plan, please provide those below.

We have no further comments.

8. Do you have any comments on the Strategic Environmental Assessment Environmental Report?

We note that the SEA reaches some fairly straight forward conclusions, but we recognise that this is a statutory requirement. The SEA contains useful information and data that should be repurposed for the next iteration or review of the marine plan.

We consider that there is an issue of only assessing Scottish waters. Data sharing is essential across the North and Irish Seas in order to plan strategically.

9. Do you have any comments on the Habitat Regulations Appraisal?

Please see our answer to questions 8 above.

10. Do you have any comments on the Social and Economic Impact Assessment?

We consider that much more apparent links with terrestrial planning are required as these statutory bodies can engage with social and economic impacts in local areas.

11. Do you have any comments on the draft Regional Locational Guidance?

We note that it is interesting to see this level of detail at regional level. This strengthens the need for the faster implementation of regional marine planning.

12. Do you have any comments on the Sustainability Appraisal report?

We have no comments.

13. Would you add or change anything in the partial Equality Impact Assessment?

We have no comments.

14. Would you add or change anything in the partial Islands Communities Impact Assessment?

We note that Shetland is well advanced in the development of its Marine Plan and implementing marine planning. Orkney is also very engaged but is at the start of statutory marine planning process. We consider that this could be means for other islands to develop the statutory process of marine planning at regional level.

For further information, please contact:

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