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Wales

Scoping an Environmental Impact Assessment for Marine Developments

Guidance for developers and NRW staff

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What is this document about?

This document sets out Natural Resources Wales's (NRW) guidance on how to identify the key impacts of marine development projects in Wales that require assessment under the Environmental Impact Assessment (EIA) Directive¹. It describes matters that we consider will need to be scoped in when undertaking an EIA.

This guidance note does not comprise legal advice and should not be interpreted as such. Project proposers should seek their own independent legal advice on any matters arising in connection with this note in respect of a specific activity or development project.

This document provides guidance on good practice relating to the EIA scoping process. It does not comprise a formal Scoping Opinion and does not prejudice any advice that NRW might provide as part of a Scoping Opinion or during EIA for a specific activity or development project.

Who is this document for?

This document is for those seeking to undertake an Environmental Impact Assessment of a proposed marine development or activity in or near Welsh waters, and NRW staff.

Contact for queries and feedback:

Marine Strategic Planning Energy & Advice Team

MSPEAT@cyfoethnaturiolcymru.gov.uk

Guidance Development Team guidance.development@cyfoethnaturiolcymru.gov.uk

Review

This document will be reviewed at regular intervals following publication. Subsequent reviews will take account of any changes to the scoping requirements that become apparent from the amendments to the EIA Regulation in Wales introduced on the 16th May 2017. The review will also take account of any changes that arise as a consequence of the implementation of the Wales Act 2017.

¹ Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment

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1. Introduction

1.1. Background

Environmental Impact Assessment (EIA) is a process for identifying the positive and negative environmental effects of proposed developments. It applies to projects which are likely to have significant effects on the environment because of their nature, size or location. The developer submits the EIA findings and their proposal to the decision makers (e.g. the relevant planning authority), and decision makers consider both when deciding whether to grant consent.

EIA allows the developer to consider and develop means to avoid, reduce or remedy any adverse environmental effects. It also makes the decision makers more aware of the predicted effects of the proposed project before granting consent for development.

An EIA is a significant undertaking and so it is important to define if one is required for a project. A 'Screening Opinion' can be requested from the appropriate authority to determine if the project requires an EIA.

If the project does require EIA, it is important to identify its scope at an early stage to determine the information that needs to be provided by the EIA. 'Scoping' is therefore identified as a formal part of EIA whereby developers can request a 'Scoping Opinion' from the appropriate authority before going further with the EIA. Obtaining a Scoping Opinion is not mandatory but it is strongly encouraged to so that the key issues in need of assessment are identified and agreed between regulators, consultees and potentially other stakeholders.

The scoping process does not usually conclude once the Scoping Opinion has been issued. In many cases, further discussions between the developer, decision makers and consultees are often needed to agree and further refine the scope of assessments to be included in the EIA.

Scoping provides an opportunity for the identification and discussion of:

- key environmental impacts and issues of concern
- relevant sources of existing information relating to the environment and data collection
- development and agreement of survey and assessment methodology
- elements of project design that could be changed to avoid or reduce negative environmental impacts (mitigation)
- potential environmental enhancements

In Wales, many EIA Regulations can apply to marine developments depending on their type, location and the consenting route chosen by the applicant (see Section 2). The Regulations set out, in broad terms, the information which should be considered by the EIA. Some, but not all, EIA Regulations may identify the statutory consultees whose views should be sought to inform the identification of key issues during the scoping process.

Early consultation with all interested parties, including NRW, is a critical part of scoping. This document aims to promote good practice in EIA scoping, outline key natural environment matters that NRW (Advisory) will expect to be taken into consideration as part of an EIA for a marine development application, and provide a reference for further sources of relevant information. There are other potential matters for consideration at the

scoping stage that are outside the remit of NRW (Advisory) expertise, such as cultural heritage and navigation, and the appropriate consultees should be consulted.

Each project must be considered on a case-by-case basis, as the detailed characteristics of the proposal and the site will determine the potential impacts. However, provided the necessary information is available, the scoping stage is also an important opportunity to eliminate or retire potential effects at an early stage.

More information about [Marine Licensing](#) and the requirements of related EIA regulations can be found on the Marine Licensing pages of the NRW website.

1.2. NRW Discretionary Planning Advice Service

We recognise the benefits of effective pre-application consultation between ourselves and applicants. In addition to our statutory advice in relation to formal Scoping Opinion requests, we can offer applicants a preliminary advice and access to our charged discretionary planning advice service (DPA Service). More information on what this service covers and how to access it can be found on our website at the "[Our service to developers](#)".

The following development areas are currently provided under the DPA Service and may be chargeable:

- Groundwater protection
- Land contamination
- Flood Consequence Assessments
- Developments of National Significance
- Nationally Significant Infrastructure Projects

This may have implications for the way in which aspects of our marine industries advice can be accessed although there is no obligation to use the DPA Service. Developers are encouraged to discuss their advice needs with NRW case managers at as early a stage as possible.

Please also be aware that fees and charges may also be applicable for NRW pre-application permitting and licensing services. Further information can be found on the NRW [Permits and permissions](#) webpages.

2. Policy, Planning and Assessments for Marine Developments

2.1. Regulatory and Policy framework for marine development in the UK and Wales

Marine developments can range from construction projects such as offshore wind farms, ports or coastal defences, to activities relating to the removal of natural resources such as aggregates or oil and gas. The regulatory and planning framework that applies to marine development projects in Wales depends on several factors including their type, scale, location and the consenting route chosen by the applicant. Applicants should include reference to the policies that are relevant to the consideration of their proposal. Some forthcoming changes to planning policy that may affect marine projects are described below. **If the proposed development is likely to deviate from national and/or local policy, full justification should be provided for this deviation in the Environmental Statement.**

[The Marine and Coastal Access Act \(2009\)](#) gives Ministers powers to plan for UK waters, for the purpose of contributing to the sustainable development of the marine area.

The [UK Marine Policy Statement](#) has been in place since 2011 and sets out the policies which should be followed when making planning decisions in the marine environment, specifying that marine plans must be based on an Ecosystem Approach. Public Authorities are required to take authorisation and enforcement decisions in accordance with any relevant marine plans.

Welsh Government is expected to consult on a draft of the first [Welsh National Marine Plan \(WNMP\)](#) in 2017. The WNMP will provide an integrated framework for decision-making about the future use of Welsh seas. It will influence the approach to the management of all activities that take place in the marine environment and will form the basis for all decisions on licensable marine activities that are made by Public Authorities, including NRW.

[The Environment \(Wales\) Act 2016](#) provides for measures to ensure the sustainable management of Wales' natural resources, including the production of Area Statements by NRW. Together, the WNMP and The Environment Act (including Area Statements) will put in place measures to plan and manage Wales's natural resources in a proactive, sustainable and joined-up way which is good for the people and environment of Wales and contributes to the achievement of the Well-being Goals set out in the [Well-being of Future Generations Act](#).

At the time of writing the Wales Act 2017, which has amended the devolution of certain powers relating to policy, planning and regulation, has yet to be fully implemented. This note will be amended to reflect the implementation of the Act as they occur.

Figure 1. sets out our current understanding of the relationship between the Natural Resources Policy and Marine and Terrestrial Planning policy.

Developments listed under the Planning Act 2008 are classified as Nationally Significant Infrastructure Projects (NSIP), and require a Development Consent Order (DCO) issued by the relevant Secretary of State following a recommendation from the Planning Inspectorate (the examining authority). A series of National Policy Statements (NPSs) have been developed to guide the decision-making process for NSIPs. The most relevant to marine developments relate to energy and ports.

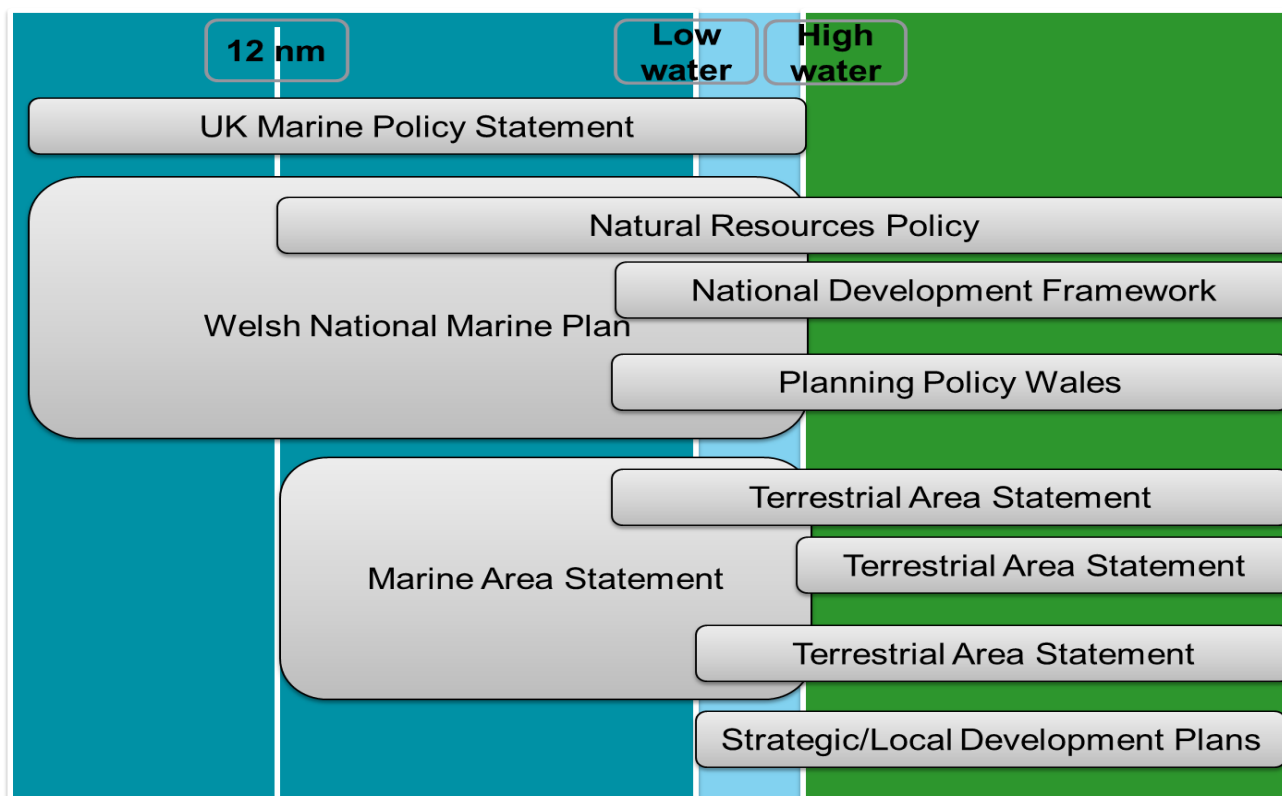
2.2. Strategic planning and assessment for marine development

A marine development that requires EIA is typically promoted in the context of strategic sectorial development plans which aim to maximise the sustainable use of the available resource, whilst minimising adverse socio-economic and environmental impacts.

Formal development plans and programmes will typically be subject to Strategic Environmental Assessments (SEA) and plan-level Habitats Regulations Assessments (HRA). Where relevant, the findings of these assessments should be considered when assessing individual projects.

Several strategic planning initiatives have been developed to plan for, and support, the sustainable development in the marine environment in Wales and the UK.

Figure 1: Spatial coverage of marine and terrestrial planning and policy in Wales



Strategic programmes typically draw together a wide range of useful information on policy, planning, environmental baselines, key constraints, sensitive receptors, potential impacts, and mitigation approaches, and we recommend that applicants understand their findings as appropriate.

2.3. Environmental Impact Assessment of marine development projects

On 16th May 2017, new EIA Regulations in the UK came into force. The new Regulations transpose the 2014 amendments of the [EU Directive 2014/52/EU](#) into UK law. The key amendments include front-loading the EIA process at the screening and scoping stages. This should ensure that the EIA process retires any potential effects which are not significant at as early a stage as possible. This will allow the subsequent assessments to be proportionate and focused on the most important issues.

More information on the changes to the EIA Regulations can be obtained from NRW's Marine Licensing Team.

Marine developments may require multiple consents involving a range of environmental regulations, depending on their type, scale and location. The EIA regulations listed below require developers to assess the positive and negative environmental impacts of any marine projects that are likely to have a significant effect on the environment, from the construction stage through to completion or, if relevant, decommissioning.

This assessment is documented in an Environmental Statement (ES), which is submitted with the various licence / consent applications. Licensing authorities and consultees typically ask to be provided with a single ES containing the assessment requirements of each of the relevant consents. The ES should therefore include all relevant information

which will enable the licensing authority(ies) to determine the extent of any likely significant effects, and should cover direct and indirect, secondary, cumulative, short-, medium- and long-term, permanent and temporary effects.

EIA regulations that may be relevant to a marine development project include:

- The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended)
- The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended)
- The Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000 (as amended)
- The Harbour Works (Environmental Impact Assessment) Regulations 1999 (as amended)
- The Water Resources (Environmental Impact Assessment) (England and Wales) Regulations 2003 (as amended)
- The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended)

Information to support other environmental assessments may also be required, depending on the nature and location of the project, including for example:

- Habitats Regulations Assessment
- Water Framework Directive Compliance Assessment
- Flood Consequence Assessment
- Coastal Impact Study

The above assessments are required under legislation separate from the EIA Regulations. The ES should include all the necessary information from the assessments, to avoid duplication of effort and coordination of assessments. NRW recommends that applicants should consider these requirements at the scoping stage.

Information necessary to inform decisions on other relevant permissions; for example, assent / consent for works within a Site of Special Scientific Interest (SSSI), or a licence for activities likely to disturb or injure European Protected Species (EPS), should also be included within the ES.

3. The scope of the Assessment of Environmental Impacts

Given the diverse range of predicted impacts and the potentially complex regulatory / environmental assessment framework for projects that require an EIA, **early and fit-for-purpose scoping is the key to an efficient assessment process and so reduce consenting timescales and risk.**

Scoping provides an opportunity for developers and their consultants to identify the potential environmental impacts and issues of concern, facilitated by consultation with consultees and stakeholders, including NRW. Scoping should be carried out at a stage when alternatives are still being considered and measures to avoid, cancel or minimise impacts (mitigation) can be incorporated into a project design. Scoping also provides an opportunity to highlight the benefits of projects, and opportunities for environmental enhancement measures may also be identified.

Under EIA legislation in England and Wales, developers can formally request a **Scoping Opinion** from the licensing authority(ies). The recommended way to do this is by preparing a **Scoping Report**. The Report should contain all the information, including explanations of likely significant effects, that will be needed in discussions between the licensing authority(ies) and statutory consultees during the initial information-gathering stage of the EIA. The Scoping Opinion should identify the data to be included within the ES and the key concerns to be addressed.

We recognise that it is not always possible or necessary to fully address issues at the scoping stage. However, providing as much detailed information as possible on the topics outlined below will enable us to give robust and comprehensive advice on the issues related to our duties and remit. This will help applicants to make best use of the remaining pre-application phase of the project. With this in mind, and for ease of cross referencing / production of future EIA reports, we recommend that the Scoping Report should follow the outline of the final EIA / ES as closely as possible.

3.1. Project description

The entire project should be described in as much detail as possible to allow the licensing authority(ies), consultees and other stakeholders to understand the proposal. This description should cover construction, operation and, if relevant, the decommissioning phases, and include detailed, scaled maps and drawings as appropriate.

If possible, we recommend providing spatial information, such as the location and proposed footprint of the development, as GIS files, in addition to publicly accessible maps, diagrams and drawings. This can allow consultees to for example, cross reference spatial information about potentially sensitive receptors.

We would expect the description to include all currently available information on the following:

- the purpose and physical characteristics of the proposal
- the location, development size and configuration of the development including flexibility of the site layout and details of any ancillary or associated activities or structures
- details of demolition work associated with the project
- details of support structures, foundations to be used and installation methods, the location and size of offshore platforms, the number, location and route of subsea cables, depth of cable burial, and details of scour protection and/or cable armouring to be used
- the spatial 'footprint' and other physical features of the project
- procedures for good working practices
- resource use and emissions, including waste, minerals and energy
- identification of appropriate pollution contingency and emergency measures
- timing of all works and contingency plans should slippage in the programme occur
- details of noise levels from all relevant activities involved in the construction, maintenance and, if relevant, decommissioning of the project
- details of construction works, operation and maintenance including methodology, location and extent, access/working corridors and materials used
- the quantity and content of any discharges from the development site
- details of the disposal of any surplus dredged material e.g. material displaced from laying foundations or cable trenching and burial
- management of any habitats within the development site

- details of any activities related to the decommissioning phase of the project that will differ from those of the construction phase i.e.: removal and disposal / recycling of infrastructure and materials
- proposed mitigation measures.

Information on any **ancillary development** associated with the project, which may be controlled by another developer, should also be obtained at the scoping stage wherever possible. This information will enable potential indirect and cumulative impacts and impact interactions arising from other developments to be considered as early as possible in the EIA.

3.2. Characterisation of receptors and preliminary assessment of potential impacts

The scoping process provides an opportunity for stakeholders and applicants to reach agreement on the impacts and receptors to be assessed in the EIA. The scoping phase also allows for discussion about information requirements (including the way in which baseline information will be gathered), impact assessment methodologies, the timing and coverage of surveys and the criteria for predicting and evaluating the significance of the effects.

3.2.1. Potential sources of natural environmental effects

The key pressures and impacts associated with marine development activities can be summarised as follows:

- *noise*: from seismic survey and piling during installation and decommissioning (impulsive); or from turbines, drilling rigs, production facilities or vessels (semi-continuous or continuous)
- *physical damage or loss*: to seabed features, biota and features of archaeological interest from dredging, anchoring, pipeline construction and cable laying (acute); or from particulate smothering (non-acute)
- *physical presence of structures*: colonisation of structures by organisms; avoidance of areas where developments are present, for example by birds or mammals; animal collisions with structures and barriers to movement of birds, fish and marine mammals; interference with other users of the sea; visual intrusion; seascape effects; change to character; impact on setting of coastal historical sites; impacts on water, land and air quality; impacts on navigation
- *change to sedimentation and hydrography regime, including increase in suspended sediments in the water column*
- *energy removal*: for example, downstream of wet renewable devices
- *introduction of other energy*: for example, temperature changes and artificial light
- *chemical contamination*: from drilling and other discharges, antifouling coatings etc. (routine), release of contaminants from seabed sediments or from spills (accidental)
- *nutrient and organic enrichment*
- *changes to salinity*
- *introduction and increased spread of species /pathogens; removal of non-target species*
- *litter and waste products*
- *atmospheric emissions from fuel combustion, venting*
- *climate change mitigation / adaptation*
- coastal change and flooding

From NRW's Advisory perspective, assessments of marine development projects should consider, but not be limited to, impacts upon the following receptor categories:

- biodiversity and nature conservation
- landscapes and seascapes
- physical processes
- flooding and coastal erosion
- water, land and air quality
- relevant fisheries
- the Dee Conservancy.

These are described in more detail in [section 3.3](#).

3.2.2. Existing information and data sources

NRW holds a range of datasets that can aid baseline characterisation of natural resource receptors to inform an assessment of likely impacts. Further information is available via the [Accessing our data](#) page of the NRW website. We can also usually advise on information from other relevant sources.

It may also be useful to consult Welsh Government's [Marine Planning Portal](#) for information about the distribution of human activities and natural resources.

3.2.3. Additional information requirements

Developers may wish to gather and collate additional data and information on key receptors to enable an evaluation of potential effects on these receptors. Scoping can help to identify which receptors might require additional data or information, as well as determine approaches and methods to gather and collate any data.

Advice from the licensing authority(ies) and their consultees about any additional data required will be based on an initial assessment of the following important factors;

- the level of current knowledge/data
- the sensitivity of receptors to impacts,
- suitability of proposed survey and assessment methodologies
- the scale and design of the proposed development (temporal and spatial)

We **strongly recommend** that the principles and standards set out by the Marine Environmental Data Information Network (MEDIN) are applied to any new data collection programme, and that new data is made available to the MEDIN Data Archiving Centres following collection.

3.2.4. Cumulative and in-combination effects

In assessing the potential impacts of the proposed development on ecological and landscape interests, the EIA must consider the potential cumulative effects (EIA) and in-combination impacts (HRA: see section 4) of the development with other developments and activities that already exist, or have planning permission, or are otherwise reasonably foreseeable.

It should be noted that it is not necessarily only 'major' projects that have significant impacts on the environment, and interaction between two or more activities or developments can have a multiplicative effect. It is also important to note that given the

highly mobile, wide-ranging nature of many marine mammal and seabird species, and the wide geographical area over which certain ecological and physical processes operate, activities and developments located some distance away may have the potential to interact with the proposed development.

Scoping is an opportunity for developers to reach agreement with stakeholders and statutory bodies on the projects which need to be considered within the cumulative impact assessment.

3.3. Information about key receptors

This section contains additional information about assessing groups of receptors that are of particular relevance to our consultee role and responsibilities. The information is necessarily generic and we recognise that more detailed advice will be needed to define assessment procedures for individual technologies and projects, depending on the receptors likely to be affected.

3.3.1. Biodiversity and nature conservation

The Welsh Government's policy on nature conservation and planning, as outlined in [Planning Policy Wales \(PPW\)](#) and [TAN 5](#) is that planning and development control "should contribute to protecting and enhancing biodiversity and geological conservation". PPW states that: "with careful planning and design, not only can the potential for conflict be minimised, but new opportunities for sustainable development can also be created". To achieve this "it is essential that all potentially important nature conservation issues...are identified and fully addressed at the earliest stages of preparing a planning application" (TAN 5).

The scope of the baseline characterisation and risk assessment for biodiversity and nature conservation should include:

- identification of any rare, declining, protected or otherwise important flora, fauna or habitats within the site
- the importance of the above features at a local, regional and national level
- assessment of the impacts of the scheme on those features.

The main biodiversity considerations are described in this section.

3.3.2. Statutory Protected Nature Conservation Sites

The EIA should consider the likely impacts on European, national and local statutory protected sites if the features for which they are designated are likely to be affected by the proposed development. This includes protected sites in the immediate vicinity of the development, and those further afield, if they are likely to be affected by changing environmental conditions. Protected sites which may need to be considered in Wales include:

- Sites of Special Scientific Interest (SSSI): notified under the Wildlife and Countryside Act (1981), as amended by the Countryside and Rights of Way Act (2000)
- Special Protection Areas (SPA): designated under the Birds Directive (1989)
- Special Areas of Conservation (SAC): designated under the Habitats Directive (1992)
- Ramsar sites: Designated under the Ramsar Convention (1971)
- National Nature Reserves (NNR): designated under the under the Wildlife and Countryside Act (1981), as amended by the Countryside and Rights of Way Act (2000)
- Marine Conservation Zones: designated under the under the Marine and Coastal Access Act (2009)

NRW is the statutory nature conservation body in Wales and as such is the principal advisor on designated and protected sites. Further information on [designated and protected sites in Wales](#) and a [designated sites search](#) facility is available through the NRW website.

3.3.3. European sites (SAC and SPA and Ramsar sites)

Specific information about these [internationally protected sites](#), including maps, citations explaining the reasons for their designation (features), and their conservation objectives, is available from our website. More information on European marine sites and features can be found on the [JNCC website](#).

This information will need to be reviewed to assess the impacts of the development, and provide the licensing authority(ies) with the relevant information so that they may **assess the proposals in accordance with the requirements of Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended)** (see [section 4.1](#)). Applicants should be aware that it is Welsh Government policy that the additional sites and features identified in the [2001 UK SPA Review](#) are to receive the same level of protection as fully designated sites. These must therefore also be considered in any Habitats Regulations Assessment. It is also Government policy that any candidate SAC / SPA is treated as designated once the minister has signed off the public consultation on the candidate site and pending a decision on whether to designate or not.

3.3.4. Sites of Special Scientific Interest (SSSI)

SSSIs are nationally important sites, notified under the Wildlife and Countryside Act (1981), as amended by the Countryside and Rights of Way Act (2000). SSSIs can have either biological or geological features, or both. Information about each SSSI is available via the [designated sites search](#) facility on our website and includes:

- the citation – which details the reasons why the site has been notified
- a list of potential damaging operations – listing the operations that could potentially damage the site and **will therefore require assent or consent from NRW**
- a map – showing the extent of the notified site
- a site management statement – setting out the management required to maintain the notified features of the site
- favourable condition status information about the site

Developers should provide full details in the ES of the likely impacts of the proposals on the notified features of these sites and their significance, along with comprehensive information about the measures that will be put in place to, in priority order:

- avoid damage to SSSIs
- mitigate for any unavoidable damage to SSSIs
- compensate for any unavoidable SSSI damage that cannot be mitigated for.

3.3.5. European Protected Species

Certain species, listed in Annex IV(a) of the Habitats Directive and whose natural range includes any area in Great Britain, are legally protected under the Conservation of Habitats and Species Regulations 2010 (as amended) (the 'Habitats Regulations') and Offshore Marine Conservation (Natural Habitats &c) Regulations 2010 (Offshore Marine Regulations). The Regulations prohibit the deliberate capture, injury, killing or disturbance of any wild animal of a European Protected Species (EPS), which in UK waters consists of

several species of cetaceans (whales, dolphins and porpoises), turtles, and Atlantic sturgeon.

It is an **offence to disturb, injure or kill** these species and activities will require an EPS licence from the NRW Species Licensing Team to do so lawfully, subject to complying with certain criteria.

Further details about the legislation concerning EPS and the relevant licensing provisions can be found on the [species licensing](#) pages of our website. If EPS are likely to be disturbed, injured or killed by the proposed development, the ES will need to include comprehensive details of all the mitigation that will be put in place to remove or reduce these impacts in order to ensure that the Favourable Conservation Status (FCS) of the population(s) is maintained.

3.3.6. Nationally Protected Species

Certain species listed under Schedule 5 of the Wildlife and Countryside Act (1981), as amended by the Countryside and Rights of Way Act (2000), are legally protected under Section 9 of the Wildlife and Countryside Act 1981 (as amended), from “reckless or intentional disturbance”. All cetacean species and various turtle species are listed under schedule 5.

3.3.7. Section 7 of the Environment Act (Wales) 2016 (formerly Section 42 of the NERC Act 2006 / UK BAP Habitats & Species)

These are habitats and species identified by the National Assembly for Wales under Section 42 of the Natural Environment and Rural Communities Act (2006) as being of “principal importance for conserving biodiversity” in Wales. This list has now been transposed to form the Section 7 list for the Environment (Wales) Act. Section 6 of the Act places a duty on public authorities to ‘seek to maintain and enhance biodiversity’ so far as it is consistent with the proper exercise of those functions. In so doing, public authorities must also seek to ‘promote the resilience of ecosystems’. The duty replaces the section 40 duty in the Natural Environment and Rural Communities Act 2006 (NERC Act 2006), in relation to Wales, and applies to those authorities that fell within the previous duty².

3.3.8. Landscape and seascape

The importance of landscape as part of the natural heritage of Wales is recognised by the Welsh Government in PPW (see chapter 5). The Welsh Archaeological Trusts, Cadw and the Royal Commission on the Ancient and Historical Monuments of Wales provide specific advice on historic landscape and seascape. When deciding whether this receptor should be scoped into the EIA, the assessment will need to consider all the existing landscape and seascape interests within the vicinity of the proposed development. These should include protected landscapes, historic landscapes, and assessments of the seascape character potentially impacted by the development.

The need for detailed visual assessment depends on the scale and visual prominence of the development, which in turn depends on the size, design, colour, scale and layout of the development, along with distance and visibility from land and any associated lighting. A wholly underwater development, with very few visual impacts unlikely to change the character of the seascape, may not require a seascape assessment, though onshore

² See <https://www.biodiversitywales.org.uk/Environment-Wales-Bill>

elements may still require a landscape assessment. For a highly visible development, the zone of visual influence would have to be defined and a **visual impact study** would be needed.

In conducting any required Seascape and Landscape Visual Impact Assessment (SLVIA), we would recommend the developer refer to: Briggs, J. and White, S. (2009), Welsh seascapes and their sensitivity to offshore developments: CCW Policy Research Report No. 08/5, which is available upon request from NRW. In addition, in 2011 the Countryside Council for Wales built on this work and assessed, on a more local scale, the sensitivity of Wales's coastal landscapes and seascapes to surface-piercing tidal stream devices. For further details see [Smith et al \(2011\)](#).

LANDMAP is the formally adopted approach for landscape assessments in Wales and is advocated by the Welsh Government. [LANDMAP](#) can be accessed on the NRW website and gives information on the LANDMAP methodology and access to all quality assured LANDMAP information, either through the interactive online GIS or as a download of GIS maps and surveys.

There are a variety of landscape and seascape character assessments that should be consulted as part of establishing the baseline for assessment. Terrestrial landscape character assessments in coastal areas may be relevant, as well as NRW's National Marine Character Areas assessment. Various Local Seascape Character Assessments provide more spatially detailed and local scale information. These have included public consultation stages as part of their adoption by local planning authorities as Supplementary Planning Guidance or as other material for planning evidence documentation.

The Landscape Institute's [Technical Information Note on Landscape Character](#) is accompanied by a reading list which provides links to the various assessments to date (2015). (See section 2.5 Wales).

As studies are published, links are placed on the [landscape pages](#) of NRW's website.

3.3.9. Physical processes

Depending on the scale and nature of a marine development project, there is potential for direct impacts on the physical environment to result in alterations to the physical processes baseline. Changes to processes such as waves, tidal currents, sediment transport and suspended sediment concentrations can, in turn, result in indirect impacts on other receptors which should be assessed for each application.

The UK Marine Policy Statement (UK MPS) highlights some of the potential impacts of indirect changes to the coastline and seabed from a whole range of activities and developments, such as: localised or more widespread coastal erosion or accretion; changes to offshore features such as submerged banks and ridges; and alteration of physical habitats along the coast or in estuaries.

The UK MPS also identifies the implications of climate change for activities and developments on the coast and states that: "authorities must therefore ensure that activities and developments will themselves be resilient to risks of coastal change and flooding and will not have an unacceptable impact on coastal change and should seek to

minimise and mitigate any geomorphological changes that an activity or development will have on coastal processes, including sediment movement”.

NRW recommends that developers refer to the relevant shoreline management plan (SMP) for information on:

- the current baseline understanding of the coastal environment,
- the potential future evolution of the coastal environment
- the proposed policy options for the policy units located within the zone of influence of the proposed development

Developers are also advised to refer to the [PPW Technical Advice Note 14: Coastal Planning](#).

In 2010 the Wales Coastal Monitoring Centre (WCMC) was formed and funded through the Welsh Government. The WCMC has a coordinating role of the monitoring activities of public bodies in Wales to identify where improvements can be made with regards to coastal data collection, storage and analysis. The guiding principle for the WCMC should be that any data collected is made widely available for multiple users in accordance with the **collect once, use many times** principle. We recommend that the WCMC is utilised through project data acquisition. The centre is still in its inception phase but is hoping to grow, with more varied marine and coastal data sources becoming available in the future.

3.3.10. Flood and coastal erosion risk

NRW has a duty to advise planning authorities and other regulatory bodies on flood and coastal erosion risk. The most important part of our role is to evaluate **Flood Consequence Assessments (FCA)** and advise local planning authorities and developers / applicants on the assessment of flooding consequences, based on Welsh Government advice, as defined in Section 7 and Appendix 1 of [TAN15](#).

Depending on the nature and location of a marine development project, an FCA may be needed (see section 4.3). This is most likely to apply to developments that are attached to shore but may also be relevant to any marine development. We recommend that developers consider flood and coastal erosion risk during scoping and ensure sufficient information is provided at this stage to allow us to advise on the requirement for an FCA and if necessary to provide further advice on preparing the assessment.

3.3.11. Water, land and air quality

Depending on the type and location of a project there may be a requirement for the EIA to include sections on water, land and / or air quality. Section 13.1.2 of PPW states that the Welsh Government’s key objectives in relation to minimising and managing environmental risks and pollution are to:

- maximise environmental protection for people, natural and cultural resources, property and infrastructure
- prevent or manage pollution and promote good environmental practice

NRW has many roles and responsibilities in this area. These range from advising applicants and the relevant planning authorities to regulating relevant activities e.g. through the Environment Act 1995, Environmental Protection Act 1990, the Water Resources Act 1991 and the regulatory regimes introduced by the Pollution Prevention and Control Act 1999.

Land quality: The breadth of preliminary information required to scope the assessment of impacts on land quality can be found within the [Guiding Principles on Land Contamination](#). On submission of this preliminary information, depending on site sensitivity and previous uses, it is possible that site investigations, risk assessments and remediation may be required. Some remediation technologies may take time to design, implement and have their success verified within the planning regime. The timescales for these should be factored into the construction time line for the project. **Please note that our comments on land contamination are restricted to controlled waters only and the Local Authority(ies) should be consulted for any associated human health impacts.**

Air quality: Authorities must consider any relevant [air quality objectives](#) set out under Part IV of the Environment Act 1995 and any local authority action plans for [Air Quality Management Areas \(AQMAs\)](#) where applicable. The scoping report should identify whether the proposed development has the potential to affect air quality, for instance due to increased traffic during the construction phase of the project and, if so, outline how this issue will be addressed within the EIA.

Water quality: Authorities must consider the relevant environmental objectives developed as part of the implementation of the [Water Framework Directive \(WFD\)](#).

Any new development, scheme or activity needs to be assessed to determine if it will cause deterioration or lead to a change in ecological or quality element status under the WFD (see section 4.2), and mitigation provided where necessary.

3.4. Maintaining an Audit Trail

We recommend retiring any potential effects which are not significant at as early a stage in the EIA as possible. This allows the subsequent assessment to be proportionate and focused on a narrower range of effects. This also improves the efficiency of the EIA process.

EIA discussions, particularly at pre-application, are likely to occur over a long period as the project and assessment evolves. It is therefore important to maintain an accurate audit trail and record. We recommend that developers prepare a separate audit of the effects considered by the assessment, the evidence needs, evidence provided to evaluate them and any conclusions on their significance. This allows all parties to be aware of the status of the EIA issues, avoiding repetition of discussions and ensuring that issues are not retired inappropriately.

It is good practice for all parties to agree minutes of meetings where discussions are recorded and decisions identified.

The audit trail can be initiated at the scoping stage, engaging all appropriate parties (developer, contractors and consultees) at key points so that it represents a verifiable record of the issues that have or have not been retired. If concerns are reintroduced, the audit can act as a reference to demonstrate why and how the issues have been addressed.

4. Other assessments

4.1. Habitats Regulations Assessment

Proposed developments that are likely to significantly affect European sites (SAC, SPA), either alone or in combination with other plans or projects, require consideration by the Competent Authority (typically the licensing authority) under Regulation 61 of the [Habitats Regulations](#). As a matter of Government policy, the same applies to Ramsar sites. Competent Authorities may only permit proposals that will adversely affect the integrity of European sites or Ramsar sites if all the following criteria are met:

- there are no alternative solutions
- there are Imperative Reasons of Overriding Public Interest (IROPI) for the development
- compensatory measures have been secured.

The process of the consideration of development proposals likely to affect European sites (and Ramsar sites) is known as Habitats Regulations Assessment (HRA) and it considers the conservation objectives of the site(s) concerned. It is undertaken by the Competent Authority and is an **additional requirement** to Environmental Impact Assessment. However, the information to be used in the HRA should be contained within the Environmental Statement. There are two stages to the HRA process. The first is to subject the proposals to a 'Test of Likely Significant Effect'. If this establishes that significant effects on European sites or Ramsar sites are likely, or there is uncertainty whether significant effects are likely to result, then an appropriate assessment of the effects of the activity in view of the conservation objectives of the site(s) is required.

For further information, applicants can request a copy of our internal guidance on HRA via the access to information team (accesstoinformationteam@naturalresourceswales.gov.uk). The [Habitats Regulations Assessment Handbook and Journal](#) is an electronic journal providing expert technical guidance on all aspects of HRA, subscribed to by most regulatory and planning authorities, and consultants working in this field.

For NSIPs, the Planning Inspectorate has also published guidance as: [Advice Note 10: Habitat Regulations Assessment](#), which explains the obligations placed on both the decision maker and developer under the Habitats Directive and the 2010 Habitats Regulations. It clarifies the information to be provided with an application for a development consent order, and highlights the relevant bodies that should be consulted throughout the Development Consent Order application process.

4.2. Water Framework Directive Compliance Assessment

The EU Water Framework Directive (WFD) required Member States to aim to achieve good ecological and chemical status (or potential) in surface water bodies by 2015. A water body is a discrete unit of water of similar characteristics. NRW is the competent authority for implementation of the WFD in Wales in transitional (i.e. estuarine) and coastal waters to 1 nautical mile including bay enclosing lines. Determining if a water body has reached good ecological status requires the consideration of biological, hydromorphological and physico-chemical quality elements.

New activities and schemes in transitional and coastal waters may impact on these quality elements, and could lead to a non-temporary deterioration of the water body. The WFD, however, has a strict requirement to prevent deterioration in status of the water body from one status class to a lower one, and to prevent the deterioration in status of any one quality element in that water body. As a result, a new development, scheme or activity

needs to be assessed to determine if it will cause deterioration or lead to a change in ecological or quality element status under the WFD. If an activity is likely to lead to deterioration or prevent the achievement of ecological objectives, it may still go ahead if sufficient justification (an Article 4.7 defence) can be proven and all practicable mitigation put in place. Article 4.8 should also be considered if the development may cause deterioration in status of any water body other than the one where the development or activity will be located.

Published guidance on the process of assessing whether or not an activity is compliant with the WFD objectives for a water body is available from the [Clearing the Waters](#) website. It should be noted that this guidance currently only refers to marine dredging and dredge spoil disposal activities. However, it still provides a useful guide to the assessment process for coastal and transitional waters. More recent guidance on the determination of deterioration of status and the application of WFD articles 4.7 and 4.8 is available from NRW on request.

Information on water body boundaries, current status, class and objectives can be found via the [Water Watch Wales webpages](#).

[River Basin Management Plans](#) and links to details of the standards which should be applied in any assessment of potential impact of a project or activity can be found on our website.

4.3. Flood Consequence Assessment

In Wales the requirements for a Flood Consequence Assessment (FCA) are set out in PPW Technical Advice Note 15 (TAN 15). [Development Advice Maps](#) have also been produced by the Welsh Government to direct new development in respect to flood risk.

An FCA report is required for developments in flood zones C1 and C2. For flood zone B, site levels need to be checked against extreme flood outline levels, which we can provide. Where there is reason to believe that proposed developments in zones A or B would be prone to flooding, or that such developments could impact on other people or their property, we may also require an FCA.

The criteria for the FCA, which should normally be undertaken by a suitably qualified person carrying an appropriate professional indemnity, are given under Section 7 and Appendix 1 of TAN 15. We would advise developers to contact us before undertaking a FCA so that a Flood Risk Analysis Engineer can provide additional advice and information on its preparation which is appropriate to the scale and nature of the development. Please be aware that as this is a non-statutory service, it is now provided under the [Discretionary Advice Scheme](#) and may be chargeable, see section 1.2.

Where an FCA is necessary, the developer or applicant must demonstrate that the consequences of flooding can be managed to an acceptable level. We will, without prejudice to our subsequent advice to determining authorities, work with the developer to establish the consequences of a flood event and offer advice on the mitigation measures proposed by the developers.

Developers must also demonstrate that the development, including any proposed flood mitigation / alleviation measures, will not have significant flood risk implications on or off site.

5. Monitoring Impacts

An important consideration for developers at the scoping stage is to decide whether and how to monitor impacts associated with the development, in order to validate predictions made in the EIA. This type of monitoring can help to address gaps in the evidence base and inform applications for development proposals in other locations or future expansions of interests at the same development site. Such monitoring will be particularly valuable in filling in gaps in the evidence base on the impacts of developments. Without undertaking such monitoring, consenting risks will remain for those projects where there are uncertainties about possible impacts.

Monitoring may also be required to inform any adaptive management plan that is required to mitigate effects that are uncertain at the time of issuing a licence or consent.

The design of surveys to characterise the environment and the types of surveys needed to establish a baseline against which to monitor impacts may be very different. It is therefore crucially important to consider the possible dual role of any pre-installation surveys as early as possible to ensure that they are fit for purpose, to avoid difficulties at later stages.

6. Mitigation Measures

At the scoping stage of an EIA it is likely that only a general consideration of measures to reduce or remove likely impacts (mitigation measures) will be possible. However, where appropriate, developers should consider at this early stage whether any mitigation measures can be incorporated into the project design. Doing so can help to remove or reduce uncertainty about potential impacts and therefore reduce consenting risk. We welcome the opportunity to discuss mitigation measures in greater detail as the project proposal progresses and when there is greater certainty about the size, nature and location of the development, the activities involved in construction/operation, and the timing of construction and operation phases.

7. Hyperlinks

If you find any broken links please report them to MSPEAT@cyfoethnaturiolcymru.gov.uk

- 2001 UK SPA Review: <http://jncc.defra.gov.uk/page-1412>
- Accessing our data: <https://naturalresources.wales/our-evidence-and-reports/our-data/accessing-our-data/?lang=en>
- Advice Note 10: Habitat Regulations Assessment: <http://infrastructure.planningportal.gov.uk/wp-content/uploads/2013/09/Advice-note-10-HRA.pdf>
- Air Quality Management Areas (AQMA): <http://uk-air.defra.gov.uk/aqma/maps>
- Air quality objectives: <http://uk-air.defra.gov.uk/air-pollution/uk-eu-limits>
- Clearing the Waters: <https://www.gov.uk/government/publications/complying-with-the-water-framework-directive-marine-dredging>
- Designated and protected sites in Wales: <https://naturalresources.wales/conservation-biodiversity-and-wildlife/find-protected-areas-of-land-and-seas/?lang=en>
- Designated sites search: <https://naturalresources.wales/conservation-biodiversity-and-wildlife/find-protected-areas-of-land-and-seas/designated-sites-search/?lang=en>
- Development Advice Maps: <http://data.wales.gov.uk/apps/floodmapping/>
- Energy: <https://www.gov.uk/government/publications/national-policy-statements-for-energy-infrastructure>
- EU Directive 2014/52/EU: <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32014L0052>
- Guiding Principles on Land Contamination: <http://www.claire.co.uk/useful-government-legislation-and-guidance-by-country/76-key-documents/192-guiding-principles-for-land-contamination-gplc>
- Habitats Regulations Assessment Handbook and Journal: <https://www.dtapublications.co.uk/login?GUID=578e184f-c742-4d43-9b2c-c61f43b4bad0>
- Habitats Regulations: <http://www.legislation.gov.uk/ukxi/2010/490/contents/made>
- <https://www.gov.uk/government/publications/uk-marine-policy-statement>
- Internationally protected sites: <https://naturalresources.wales/conservation-biodiversity-and-wildlife/find-protected-areas-of-land-and-seas/advice-for-developers-and-marine-planners/?lang=en>
- JNCC website: <http://jncc.defra.gov.uk/page-1445>
- LANDMAP: <https://naturalresources.wales/planning-and-development/landmap/?lang=en>
- Landscape pages: <http://www.naturalresources.wales/landscape>
- Marine Licensing NRW: <https://naturalresources.wales/permits-and-permissions/marine-licensing/?lang=en>
- Marine Planning Portal: <http://lle.gov.wales/apps/marineportal>
- Our service to developers NRW: <https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/advice-for-developers/our-service-to-developers/?lang=en>
- Planning Act 2008: <http://www.legislation.gov.uk/ukpga/2008/29/contents>
- Planning Policy Wales (PPW): <http://gov.wales/topics/planning/policy/ppw/?lang=en>
- Ports: <https://www.gov.uk/government/publications/national-policy-statement-for-ports>
- PPW Technical Advice Note 14: Coastal Planning: <http://wales.gov.uk/topics/planning/policy/tans/tan14/?lang=en>
- Permits and permissions: <https://naturalresources.wales/permits-and-permissions/?lang=en>
- River Basin Management Plans: <https://naturalresources.wales/water/quality/river-basin-management-plans-published/?lang=en>
- Smith et al (2011): <http://www.marineenergypembrokeshire.co.uk/wp-content/uploads/2011/08/Natural-heritage-evidence-to-support-strategic-planning-for-marine-renewable-energy-CCW-Policy-Research.pdf>

- Species licensing: <https://naturalresources.wales/permits-and-permissions/protected-species-licensing/european-protected-species-licensing/marine-european-protected-species-licensing/?lang=en>
- TAN 5: <http://wales.gov.uk/topics/planning/policy/tans/tan5/?lang=en>
- TAN15: <http://wales.gov.uk/topics/planning/policy/tans/tan15/?lang=en>
- Technical Information Note on Landscaping Character: <https://www.landscapeinstitute.org/wp-content/uploads/2016/01/TIN5-15LandscapeCharacterReadingList30-10-2015.pdf>
- The Environment (Wales) Act: <http://gov.wales/topics/environmentcountryside/consmanagement/natural-resources-management/environment-act/?lang=en>
- The Marine and Coastal Access Act (2009): <http://www.legislation.gov.uk/ukpga/2009/23/contents>
- UK Marine Policy Statement: <https://www.gov.uk/government/publications/uk-marine-policy-statement>
- Water Framework Directive (WFD): <https://naturalresources.wales/apply-for-a-permit/marine-licensing/water-framework-directive/?lang=en>
- Water Watch Wales: <http://waterwatchwales.naturalresourceswales.gov.uk/en/>
- Well-being of Future Generations Act: <http://gov.wales/topics/people-and-communities/people/future-generations-act/?lang=en>
- Welsh National Marine Plan (WNMP): <http://gov.wales/topics/environmentcountryside/marineandfisheries/marine-planning/?lang=en>