

IEMA Impact Assessment Network: Marine development webinar

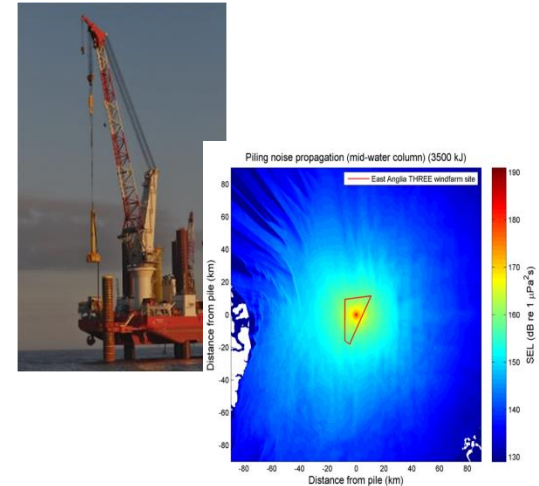
Marine EIA

Adam Pharaoh MIEMA, CEnv
20 January 2021

Requirement

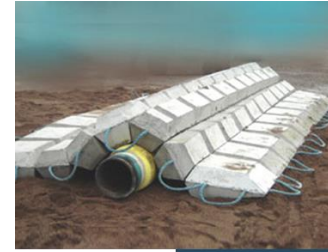
- EIA required for certain types of project with the potential to significantly affect the environment
- EIA process is fundamentally the same – screening, scoping, environmental statement
 - ❖ Some differences in the detail...

Key point is that differences in methodology and approach arise as a result of the unique characteristics of the marine environment...



Challenges – complex system

- Naturally variable
- Scale of impact vs ecological reality (e.g. MMO position on habitat loss...).
- Highly mobile species.
- Harder to access and survey and/or monitor.
- Wide design envelope.



Solutions

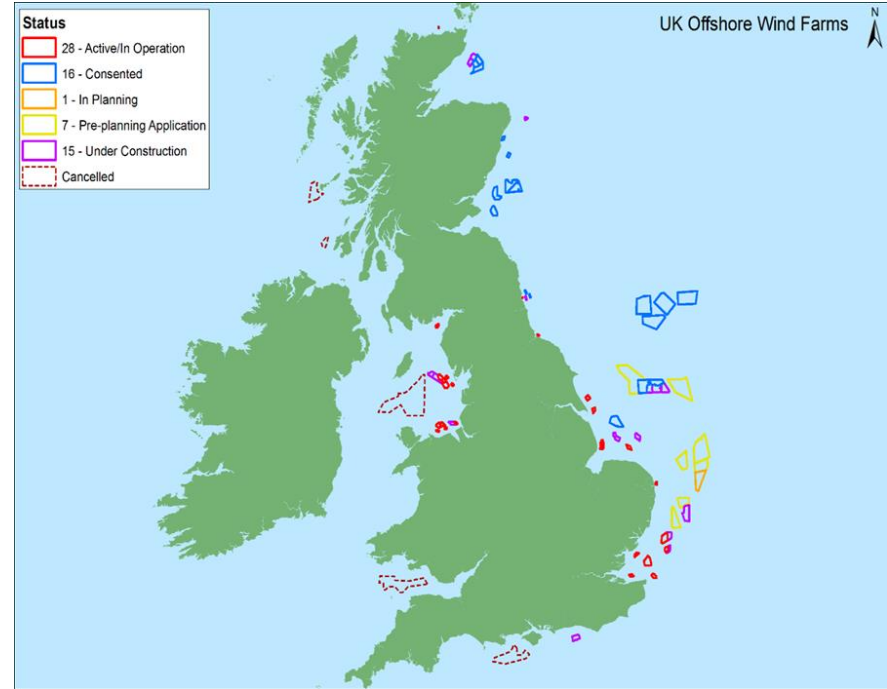
Dealing with uncertainty:

- Rochdale Envelope
- Well scoped, targeted, site specific survey work
- Process e.g. consultation and the evidence plan process
- Outline management plans
- Effective post-construction monitoring?
- Do strategic approaches offer a better solution?



Future trends

- Climate and ecological emergency!
- Marine planning
- Compensation
- Net gain



Summary

- EIA processes fundamentally similar on land or offshore.
- Differences in methodology and approach.
- A number of tools exist to help deal with these issues.
- Future trends will very likely add additional challenges to deal with.
 - ❖ Challenge for all practitioners is to ensure the marine EIA process remains proportionate and focussed on the key issues, while providing meaningful environmental protection.



Marine Licensing in the UK

Miriam Parish
Principal Consultant in Offshore Wind

January 2021





What is marine licensing?

- Many activities that take place in and around the sea require a marine licence.
- The current system of marine licensing in the UK was introduced by the Marine and Coastal Access Act 2009 (MCAA). MCAA states that a marine licence is required for certain activities carried out within the UK marine area.
- The Marine Management Organisation (MMO) is responsible for marine licensing in English waters and for Northern Ireland offshore waters.

Do I need a marine licence?

There are seven categories of activity that may need a marine licence:

- Construction (including laying of cables, maintenance, alteration or improvement of existing structures and assets);
- Dredging;
- Deposit of any substance or object;
- Removal of any substance or object;
- Incineration of any substance or object;
- Scuttling (sinking) of any vessel or floating container; and
- Use of explosives.

The screenshot displays the official UK legislation website, legislation.gov.uk. The page is for the Marine and Coastal Access Act 2009. The header includes the Royal Coat of Arms and the site name. Navigation tabs at the top include Home, Understanding Legislation, EU Legislation and UK Law, Browse Legislation, and Changes To Legislation. A search bar is present with fields for Title, Year, Number, and Type, and a Search button. Below the search bar, the title 'Marine and Coastal Access Act 2009' is shown, followed by a breadcrumb trail: UK Public General Acts > 2009 c. 23 > Table of contents. A horizontal menu offers links to Table of Contents, Content, Explanatory Notes, Impact Assessments, and More Resources. On the left, a 'What Version' section allows users to select the 'Latest available (Revised)' or 'Original (As enacted)' version. Below this, 'Opening Options' and 'More Resources' are listed. The main content area features a 'Changes to legislation' warning box, followed by an 'Introductory Text' and 'Part 1 The Marine Management Organisation'. Under Part 1, 'Chapter 1 Establishment' lists three items: '1. The Marine Management Organisation', '2. General objective', and '3. Performance'. 'Chapter 2 Transfer of functions to the MMO' is also listed, followed by the 'Sea Fish (Conservation) Act 1967' and a list of eight items: '4. Licensing of fishing boats', '5. Restrictions on time spent at sea: appeals', '6. Trans-shipment licences for vessels', '7. Regulations supplementary to sections 4 and 4A', and '8. Exemptions for operations for scientific and other purposes'.

When do I need a marine licence?

- From Mean High Water seawards, many activities that occur in the sea, over the sea, on or under the seabed in the UK will require a marine licence prior to the activity taking place.
- 3 options for marine licensing are as follows:
 - Option 1: Exemption
 - Option 2: Self-service licence
 - Option 3: Apply for a standard marine licence



Option 1: Marine licence exemptions

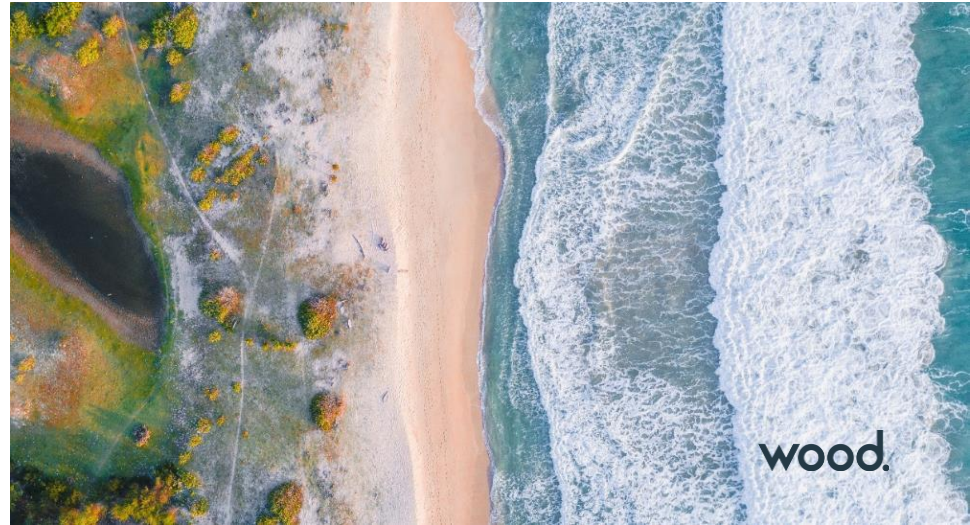
There are a number of activities that are exempt from requiring a marine licence in certain circumstances.

Exemptions provide proportionate regulation of the marine environment.

They remove the need for a marine licence for certain activities in certain circumstances, such as scientific research, fishing, moorings, pontoons, pollution response, emergency works, defence activities, maintenance of coastal protection and many more.

Some Marine licensing exemptions do not apply to:

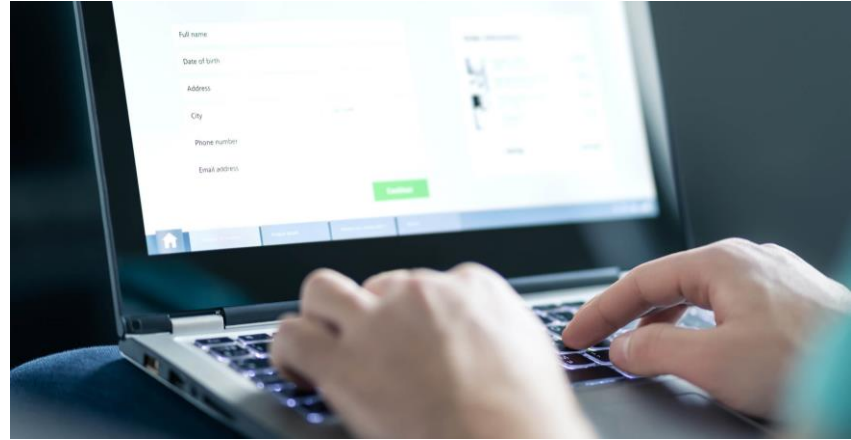
- an activity that will cause, or be likely to cause obstruction or danger to navigation;
- an activity that is likely to have a significant effect on a marine protected area; or
- an activity that is likely to cause damage to features of archaeological or historic interest.



How to apply for a Marine licence

- Once you have determined that you need a marine licence, check the MMO's Marine Licencing Guidance to see what type of licence is required.
- The MMO classes a number of activities as low risk because they are sufficiently consistent in nature and extent.

Self-service marine licensing provides a mechanism for those seeking to carry out these activities, to obtain a marine licence without being subject to the standard marine licensing process.



If a proposed activity requires a marine licence and the activity is not one that meets with self-service criteria, a standard marine licence will be required. You can apply for a standard marine licence

wood.

Option 2: Self-service marine licences

Firstly, you will need to know:

- What your activity is;
- Where your activity will take place; and
- What it will involve.

A self-service marine licence can be applied for online via the MMO's marine case management system (MCMS). Activities which meet the self-service criteria can obtain an instant consent – 'a self-service marine licence'.

Self-service criteria:

- Duration of works;
- Small scale projects;
- Activity location; and
- Public register.



Option 3: standard marine licence

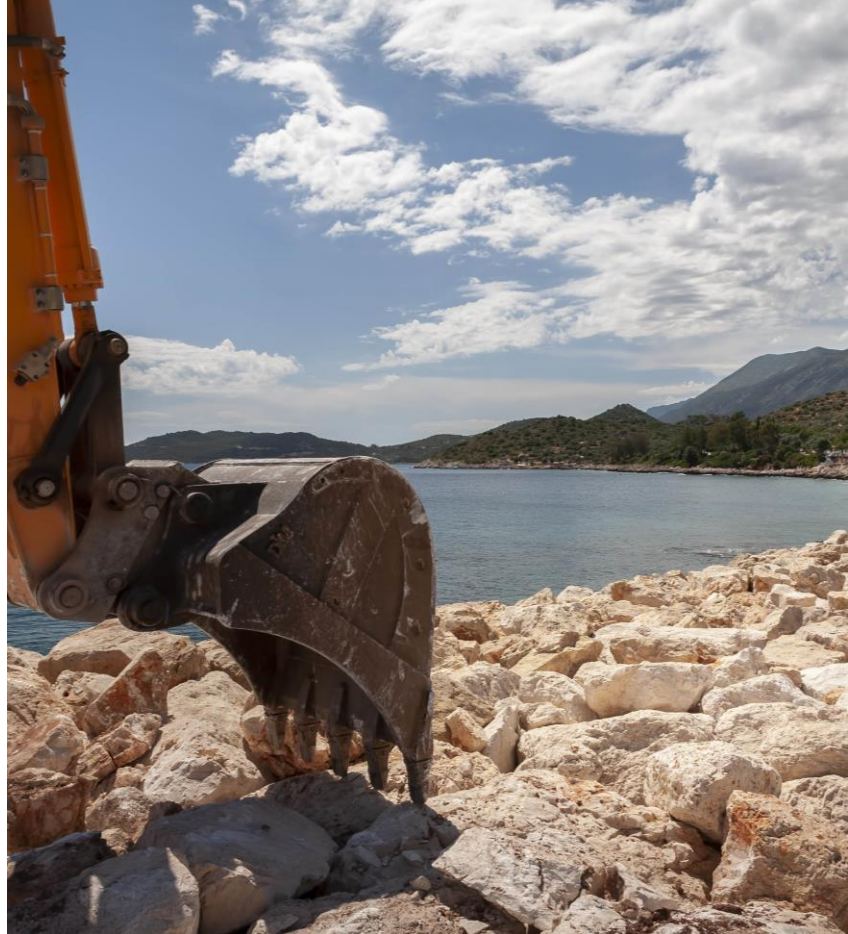
- Prior to applying for a marine licence, you must ensure you have carried out a full assessment of the activity you are applying to gain consent for.
- You will need to consider what assessments will be required to be submitted to the MMO to gain consent, such as:
 - Environmental Impact Assessment
 - Habitats Regulations Assessment
 - Water Framework Directive Assessment
 - Marine Plan Assessment
 - Waste Framework Directive Assessment
- MMO timelines
 - MMO's Key Performance Indicator Targets: 2week allocation period; 13-week marine licence determination period.

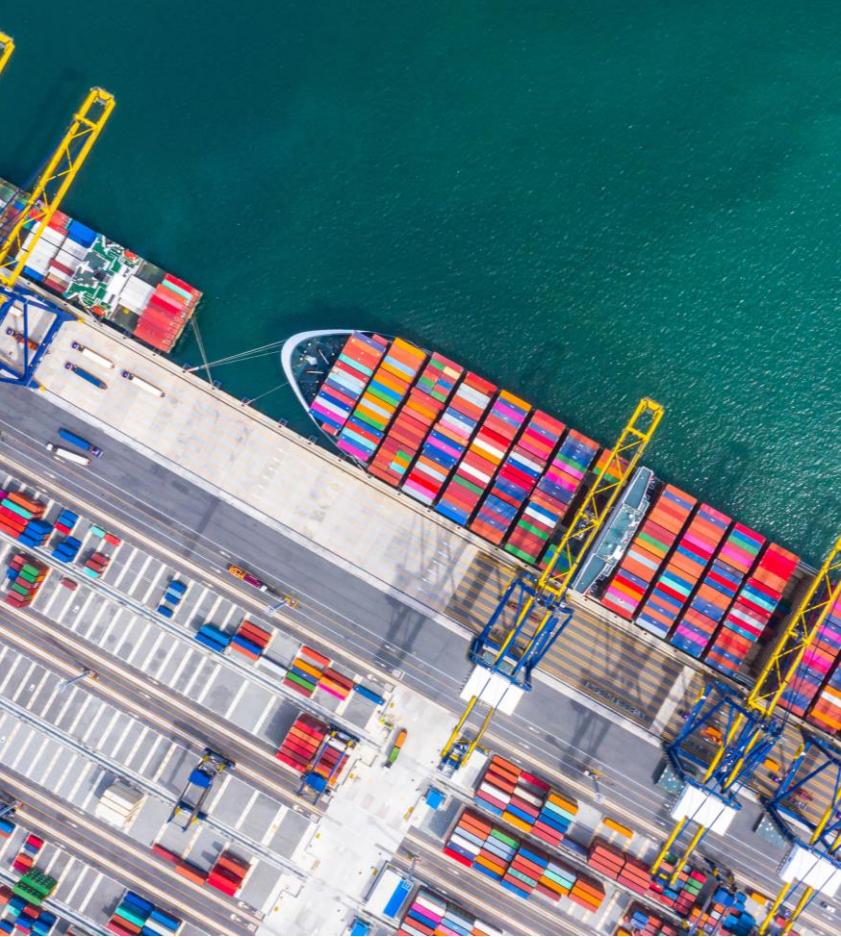
MMO: "We aim to determine 90% of all licence applications within 13 weeks of allocation.

Depending on the complexity of the case, some applications may take longer."

Other consents

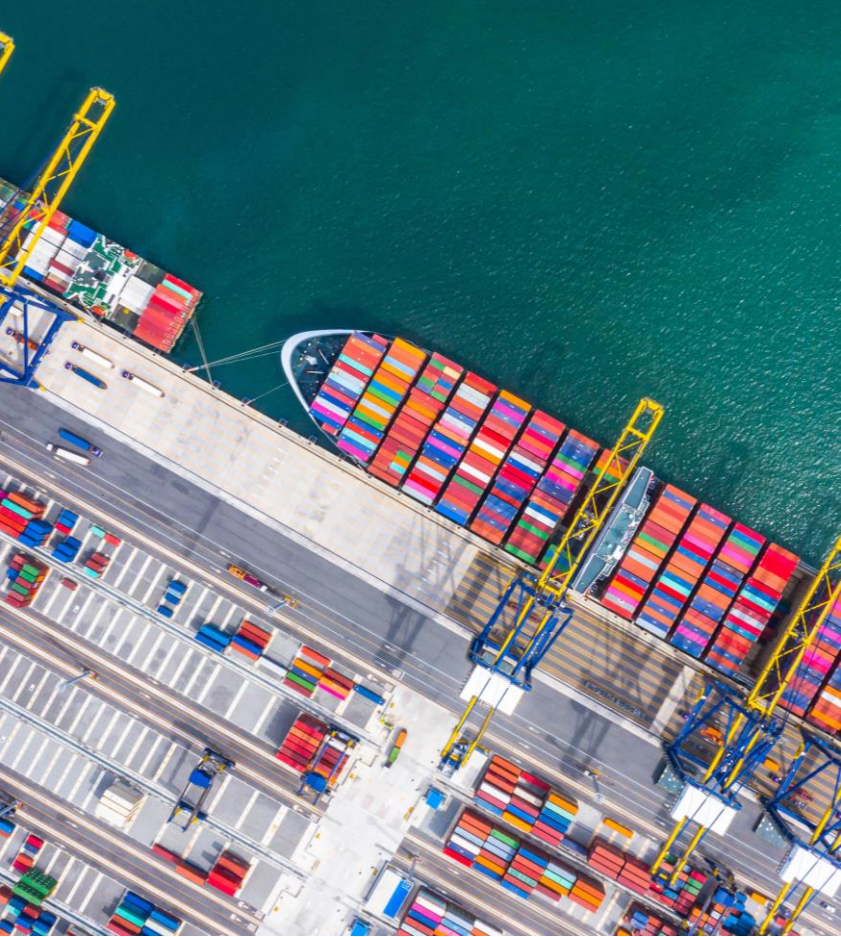
- You should note that activities in and around the marine environment may also require additional consents, irrespective of whether they need a marine licence or not, such as:
 - Wildlife licence
 - Seabed survey licence
 - Planning permission
 - Environmental permit or water abstraction licence
 - SSSI consent
 - Flood risk activity permit
 - River works licence
 - Harbour Orders





EIA Screening and Scoping

- If a project is likely to have a significant effect on the environment, an EIA must be carried out before a marine licence can be granted.
- When working with other authorities, MMO will follow the principles of the coastal concordat.
- EIA screening: 8 weeks turnaround from the MMO after application validation.
- EIA scoping: 13 weeks turnaround from the MMO after application validation.



EIA Screening and Scoping

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EIA Screening

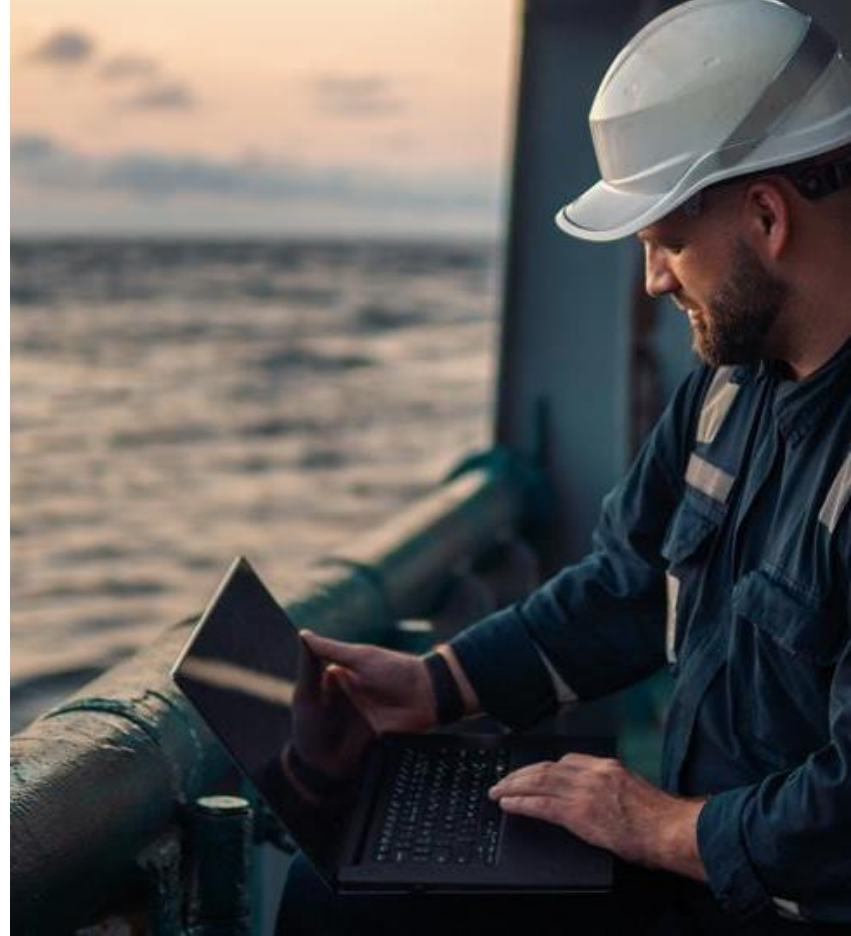
- There are 2 options for EIA Screening, a) Screening by Determination b) Screening by Agreement, either of which can be determined before submitting a marine licence application.
- Under MWR (Schedule 2) a request for a screening opinion must include the following information:
 - chart and/or map of location of the project and the regulated activity
 - description of the project, including:
 - description of physical characteristics of the whole project and, where relevant, demolition works
 - a description of location in relation to environmental sensitivity of areas likely to be affected
 - a description of aspects of the environment likely to be significantly affected
- a description of likely significant effects of the project on the environment from:
 - expected residues, emissions and waste *use of natural resources, in particular soil, land, water and biodiversity
 - any other information or representations the applicant wishes to provide/make, including description of any features of the project or measures envisaged to avoid/prevent what otherwise significant adverse effects on the environment.
- You can apply for a screening opinion through MMO's Marine Case Management System.

EIA Scoping (optional)

- If your project requires an EIA, you may wish to agree with MMO the extent and content (scope) of the assessment that will take place. This will help to front-load considerations and minimise likelihood of requests for information at a later stage.
- At this stage, MMO will undertake a 4-week consultation with technical advisors (such as statutory consultees for the MLA) to ensure that all aspects of EIA have been sufficiently covered.
- You can apply for a screening opinion through MMO's Marine Case Management System.
- If a scoping opinion has been issued following 16 May 2017 any advice **MUST** be incorporated into the Environmental Statement (ES).

Lessons Learnt from the marine licencing process

- Ask the question: early engagement with regulators and stakeholders is key.
- Expect delays! MMO turnaround times: timeline planning and programme.
- Be aware that a marine licence may be required for preliminary works such as surveys, prior to a full marine licence application for development.
- Marine EIA is complex with lots of legislation and regulators in the mix!



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Marine Licensing and EIA (Interfaces)

Dr Kathryn Collins
Senior Environmental Consultant

ITPenergised



Contents



1. What marine projects need an EIA?

2. Interfaces between Marine Licensing, EIA and multiple consenting bodies



Marine
Management
Organisation



Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales



Scottish Government
Riaghaidas na h-Alba
gov.scot
marinescotland



Department of
**Agriculture, Environment
and Rural Affairs**
Sustainability at the heart of a living, working,
active landscape valued by everyone



Planning
Inspectorate

Key Points:

The process of consenting a marine EIA project is complex... but systems are in place to simplify this.

Early engagement with regulators and stakeholders is key





1. Marine Development Requiring EIA

STATUTORY INSTRUMENTS

2017 No. 588

ENVIRONMENTAL PROTECTION

LICENSING (MARINE)

MARINE MANAGEMENT

The Marine Works (Environmental Impact Assessment)
(Amendment) Regulations 2017

SCOTTISH STATUTORY INSTRUMENTS

2017 No. 115

ENVIRONMENTAL PROTECTION

The Marine Works (Environmental Impact Assessment)
(Scotland) Regulations 2017

‘Annex I’ Activities (EIA always required):

Nuclear power stations

Trading ports

Piers that can take vessels over 1,350 tonnes

‘Annex II’ Activities (EIA required if activity is likely to have significant effects of the environment):

reclaiming land from the sea

extracting minerals by dredging

installations that produce electricity

wind farms






shipyards

port and harbour installations not listed in Annex I / Schedule A1

coastal work to combat erosion, for example, moles and jetties

Devolved Administrations



	Legislation (ML)	Legislation (EIA)	Regulatory Authority
England	Marine and Coastal Access Act 2009	The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017	 Marine Management Organisation
Wales	Marine and Coastal Access Act 2009	The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017	 Cyfoeth Naturiol Cymru Natural Resources Wales
Scotland	<12nm: Marine (Scotland) Act 2010 >12nm: Marine and Coastal Access Act 2009	The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017	Licensing Operations team  Scottish Government Riaghaltas na h-Alba gov.scot 
Northern Ireland	Marine and Coastal Access Act 2009 Marine Act (Northern Ireland) 2013	The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017	Marine Strategy & Licensing Branch  Department of Agriculture, Environment and Rural Affairs Sustainability at the heart of a living, working, active landscape valued by everyone

Coastal EIA projects



‘Mostly Offshore’:

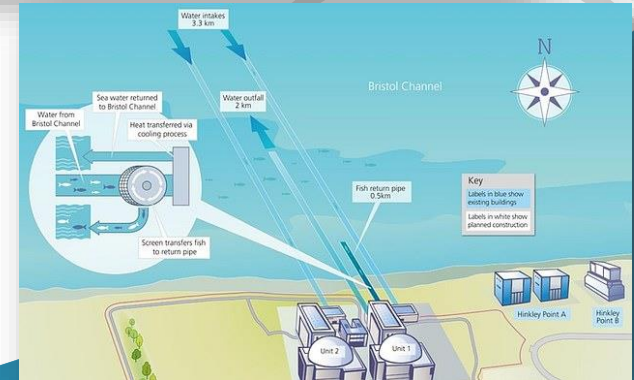
- Offshore Wind Farms (export cable landfall, onshore cables, substations)
- Construction of Large Piers (which include works above MLW)



‘Mostly Onshore’:

- Nuclear Power Plants
- Residential development with coastal (or tidal river) works element

Project may have an onshore and offshore element, but ‘the project’ red line boundary should be considered as a whole



Coastal EIA projects



General Approach

- Project may have an onshore and offshore element, but ‘the project’ red line boundary should be considered as a whole
- ‘Lead EIA authority’ – often obvious (whoever regulates the area where the majority of the development is located)
- One EIA is required
- Make use of scoping to focus only on significantly impacted receptors
- Note also HRA likely to be required for coastal projects



Coastal EIA projects



Example:

Residential development with minor coastal defence works below MHWS

- Scope out fishing, navigation etc etc
- Include EIA chapter on coastal processes
- Apply to relevant marine consenting authority for marine licence BUT
- EIA decision by Local Authority only (after consultation)



Nationally Significant Infrastructure Projects (England and Wales)



- Nationally Significant Infrastructure Projects (NSIPs) set out in Planning Act 2008 (and as amended by Wales Act 2017 in Welsh Waters)
- NSIPs with marine element include:
 - Offshore Wind Farms (over 100MW/350MW (England/Wales) generating Capacity)
 - Ports Construction
 - Nuclear Power Plants (ML needed for cooling water pipelines)

Marine Licence (and other consents) and EIA considered within Development Consent Order (DCO) (ML cannot be deemed in Wales but this may change)

Examining Authority = Planning Inspectorate

Consenting Authority = Secretary of State (UK or Welsh Government)

Post-Consent Discharging Authority = MMO/NRW



Planning
Inspectorate

Offshore Wind in Scotland



- MS-LOT as 'competent authority'
- Marine licence required from MS-LOT
- S36 consent required from Scottish Ministers
- EIA required under Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 as amended (the "Electricity Works EIA Regs")

"MS-LOT operates a one-stop-shop approach to consenting and licensing, meaning that applications for s.36 Consent and deemed planning permission, Marine Licences, EPS licences and basking shark licences are handled simultaneously where requested."

<https://www.gov.scot/binaries/content/documents/govscot/publications/consultation-paper/2018/10/marine-scotland-consenting-licensing-manual-offshore-wind-wave-tidal-energy-applications/documents/00542001-pdf/00542001-pdf/govscot%3Adocument/00542001.pdf>



Summary / Lessons Learnt

- Identify offshore elements of terrestrial EIA project early and vice versa
- Scope out receptors for which development is likely to not have a significant effect
- Early identification of marine receptors allows for more meaningful EIA and the identification of appropriate mitigate measures
- Check your legislation and Regulatory Authority (it may / is likely to be more than one for larger projects)
- Engage with regulators early to agree approach to EIA and consenting
- Not identifying offshore elements of an onshore EIA project early can lead to significant consenting delays!





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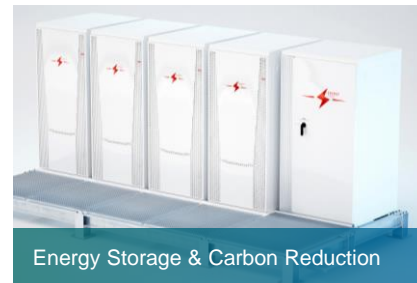
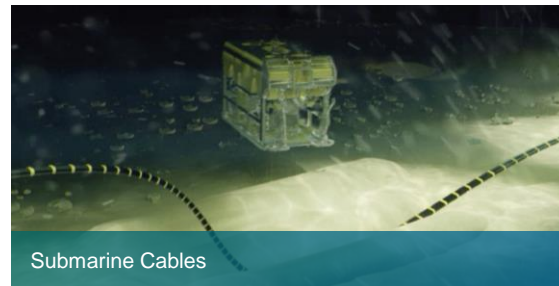
Marine Spatial Planning and Site Selection January 2021

Alex Hampson, Principal Environmental Consultant

www.xodusgroup.com



Our Sectors





Agenda

- **What is Marine Spatial Planning?**
 - Aims
 - UK Policy and implementation
- **Why is site selection for marine projects important?**
 - Policy
 - Practice
 - Pounds (£)
- **Approach to site selection**
 - Data and marine constraints





What is Marine Spatial Planning?

*“...the process of analyzing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic, and social objectives.”
(UNESCO)*

- **Balance the multiple, complex interactions of the marine environment**
 - Energy production
 - Transmission infrastructure (e.g. cables)
 - Shipping
 - Commercial Fishing
 - Military operations
 - Recreation and visual amenity
 - **Protecting the marine environment habitat and species diversity**
- **Why is it needed?**
 - Poor site selection
 - Competing interests
 - Environmental impacts
 - Not sustainable

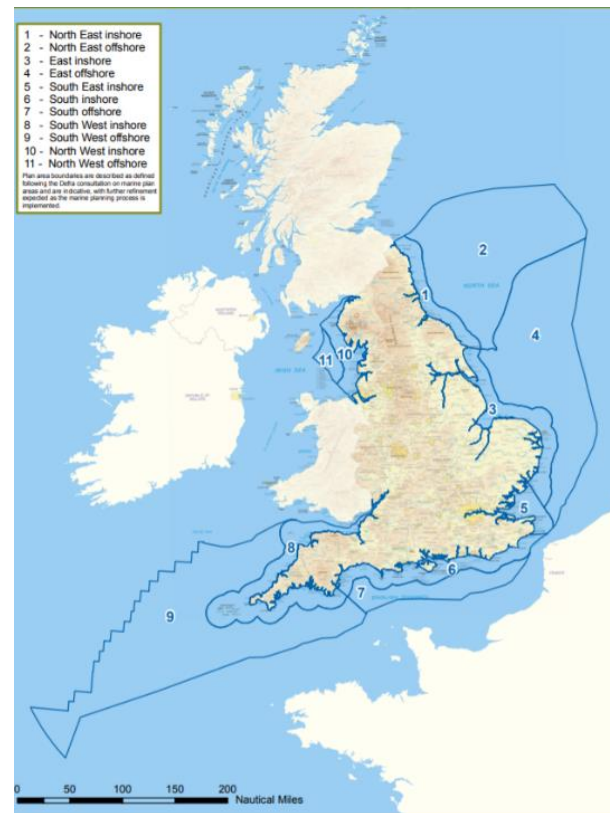


What is Marine Spatial Planning?

- **In the UK.....**

- **Marine and Coastal Access Act 2009** establishes the legal basis for marine planning
- The **UK Marine Policy Statement (MPS)** provides the policy framework for marine planning

HM Government
UK Marine Policy Statement
HM Government
Northern Ireland Executive
Scottish Government
Welsh Assembly Government
- England – 11 Marine Plan areas (in place by 2021)
- Scotland – National Marine Plan
- Wales – Welsh National Marine Plan
- Northern Ireland – Marine Plan for Northern Ireland
- **Establishes a framework for directing decisions** in marine areas e.g. granting of marine licences and consents
- **Decision makers and developers** must demonstrate understanding, consideration and compliance with MPS
- **MPS is not an end point but a starting point for balanced use of marine areas**
- **Project specific site selection**, under the framework of the MPS, is incredibly important





What is Marine Spatial Planning?

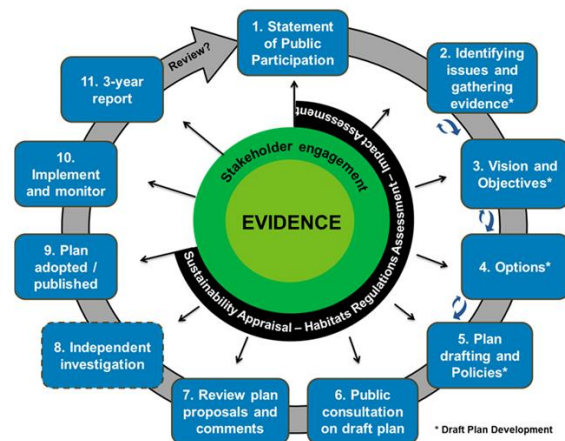
- **Regional Marine Planning**

- **England:**

- East – adopted 2015 (stage 11)
- South – adopted 2018
- North East/North West – in draft awaiting adoption
- South East/South West – in draft awaiting adoption

- **Scotland** – some good regional examples being implemented

- **Pentland Firth and Orkney Waters Marine Spatial Plan**
- “...aims to set out a coherent strategic vision, objectives and policies to further the achievement of sustainable development. This includes the protection and, where appropriate, enhancement of the marine environment...”
- *Awards for Quality in Planning 2016 and the Royal Town Planning Institute (RTPI) Awards for Planning Excellence 2017.*



<https://www.gov.uk/guidance/marine-plans-development>



What is Marine Spatial Planning?

- **Sectoral Marine Planning**

- Takes objectives and principles of UK MPS (and regional marine plans) and apply it to a specific development section
- e.g. Sectoral Marine Plan for Offshore Wind Energy (Scotland)

Sectoral Marine Plan for Offshore Wind Energy (2020)

2. Plan

2.1 Purpose and vision

The Plan aims to identify sustainable plan options for the future development of commercial-scale offshore wind energy in Scotland, including deep water wind technologies, and covers both Scottish inshore (Scottish territorial waters or within 12 NM from shore) and offshore waters (extending out to the Exclusive Economic Zone limit).

This Plan seeks to contribute to the achievement of Scottish and UK energy and climate change policy objectives and targets, through the provision of a spatial strategy to inform the seabed leasing process for commercial offshore wind energy in Scottish waters, which:

- Minimises the potential adverse effects on other marine users, economic sectors and the environment resulting from further commercial-scale offshore wind development; and
- Maximises opportunities for economic development, investment and employment in Scotland, by identifying new opportunities for commercial-scale offshore wind development, including deeper water wind technologies.

This Plan has been developed to ensure consistency with the objectives and principles set out within Scotland's National Marine Plan (2015) and the UK Marine Policy Statement (2011).

Figure 2 Plan Vision Statement

Scottish Government (October 2020) Sectoral Marine Plan for Offshore Wind Energy
<https://www.gov.scot/publications/sectoral-marine-plan-offshore-wind-energy/pages/7/>



Why is site selection for marine projects important?

- **Policy**

- EIA Directive (2014/52/EU)

Annex IV (2)

*A description of the reasonable alternatives (for example in terms of project design, technology, **location**, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.*

- The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 - Schedule 3
- Council Directive 92/43/EEC ("the Habitats Directive")
- Council Directive 2009/147/EC ("the Birds Directive")
- Conservation of Habitats and Species Regulations 2017
- Conservation of Offshore Marine Habitats and Species Regulations 2017





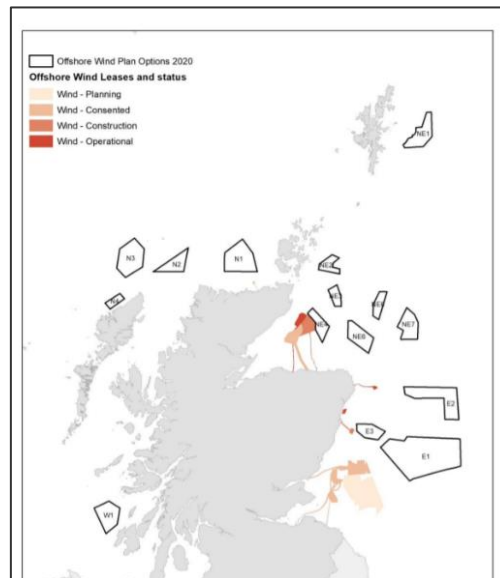
Why is site selection for marine projects important?

- **Practice**

- Competitive advantage
- Smoother EIA and Consenting
- Early consultation
- Environment and Engineering integration at the earliest opportunity

- **Pounds**

- Project investment – demonstrating consentability risk
- First stage of mitigation by design



Marine site selection – data and constraints

- **Highly-spatial nature of constraints analysis** and site selection work will lead to the generation of a large quantity of geospatial data
- **Open source desktop data combined with purchase of site specific data sets:**
 - Define key data sets and requirements
 - Understanding of data quality
 - Understanding of data resolution

Protected sites (SAC, SPA, Ramsar, MPA etc)	Existing subsea infrastructure
Other sea users (e.g. recreation)	Existing seabed leases (e.g. offshore wind, oil & gas, cables, aquaculture)
Shipping lanes, density and characteristics	Offshore ecology (benthic, fish ecology, marine mammals, ornithology)
Commercial Fishing activity	Fish spawning and nursery grounds
Military and civil aviation	Marine archaeology
Seascape, landscape and visual	Unexploded Ordnance





Marine site selection – define criteria

- **Define your criteria**

- What are you considering?
- What about each feature are you looking at in particular?

Criteria	What are we trying to score?
Benthic ecology	Presence and distribution of sensitive and / or protected seabed habitats in the project area e.g. Annex 1 habitats and species
Fish ecology	Presence and distribution of key sensitivities i.e. spawning & nursery areas (in particular those that use the seabed) and migratory fish
Ornithology	Presence and distribution of species present in the project area, in particular those species sensitive to collision risk and disturbance
Marine mammals	Presence and distribution of species in the project and surrounding area that are sensitive to underwater noise (i.e. whales and dolphins) and disturbance (e.g. seals)
Aviation & radar	Potential for interference with civil aviation and military radar; flight paths around airports
Shipping & navigation	Presence and distribution of commercial shipping in and around the project area, which could be interfered with
Commercial fisheries	Presence and distribution of fishing activities that could be excluded for the project area in the short term (e.g. during construction) and long term (during operation of the project)



Summary

- **Marine Spatial Planning**

- Balancing the many overlapping requirements for use of marine areas
- Integrating economic and social requirements whilst protecting marine environment
- Sets a framework for project development site selection and consent decision making
- Starting point for marine developments

- **Marine project site selection**

- Not intended to get a 'perfect answer'
- Robust
- Well documented
- Integrated approach
- Defendable assessment of alternatives approach
- Set a project on track for smoother EIA and consenting process

THANK YOU



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