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## Glossary

Application Site	The area within the red line Planning Boundary comprising the Onshore Transmission Works (OnTW), as defined.
Consented Offshore Transmission Works (OfTW)	Offshore substation platforms and their foundations and substructures, interconnector cables and offshore export cables, as consented by the Scottish Ministers on 10 October 2014.
Consented Offshore Wind Farm	Wind turbine generators and their foundations and substructures, and inter-array cables, as consented by the Scottish Ministers on 10 October 2014.
EIA Report	Report presenting the findings of the Environmental Impact Assessment (EIA).
ICOL's Offshore Transmission Works (OfTW)	Offshore substation platforms (OSPs) and their foundations and substructures, interconnector cables and Offshore Export Cables. This refers to either the Consented OfTW or Revised OfTW, as defined.
ICOL's Offshore Wind Farm	This includes proposed wind turbine generators, foundations and substructures and inter-array cables. This refers to either the Consented Offshore Wind Farm or Revised Offshore Wind Farm, as defined.
Onshore Substation	The electrical substation comprising of all the equipment and associate infrastructure required to enable connection to the electrical transmission grid.
Onshore Substation Site/Substation Site	The indicative area within the Application Site where the Onshore Substation and screening will be located.
Onshore Transmission Works (OnTW)	All proposed works within the Application Site, typically including the Onshore Substation, cables transition pits, cable jointing pits, underground electricity transmission cables connecting to the Onshore Substation and further underground cables required to facilitate connection to the national grid. This includes all permanent and temporary works required. See <i>Chapter 5: Description of Development</i> for full details.
Original Application Site	The red line planning boundary in which the Original OnTW was to be located in accordance with planning permission in principle with East Lothian Council (ELC) reference 14/00456/PPM.
Original Onshore Substation	The electrical substation comprising of all the equipment and associate infrastructure required to enable connection to the electrical transmission grid as was granted planning permission in principle in September 2014, under ELC reference 14/00456/PPM.
Original OnTW	The OnTW, as was granted planning permission in principle in September 2014, under ELC reference 14/00456/PPM.
Original OnTW EIA	The Environmental Impact Assessment (EIA) that was prepared to support the planning application for the Original OnTW and reported in the Original OnTW ES, as defined.
Original OnTW ES	The Environmental Statement (ES) that was submitted to support the application for the Original OnTW in 2014.
Scoping Opinion	The Scoping Opinion adopted by ELC as to the scope and information to be provided in support of an application for the OnTW, as defined.
Scoping Report	Report prepared as the first stage of the EIA process in support of a request for a Scoping Opinion from ELC, under Regulation 17 of the EIA Regulations. The Report was submitted in July 2017.

## Abbreviations and Acronyms

<b>DECC</b>	Department of Energy and Climate Change
<b>EGPS</b>	Scottish Government Electricity Generation Policy Statement
<b>EIA</b>	Environmental Impact Assessment
<b>ELC</b>	East Lothian Council
<b>ELLP</b>	East Lothian Local Plan
<b>EPS</b>	European Protected Species
<b>ES</b>	Environmental Statement
<b>GW</b>	Gigawatts
<b>HRA</b>	Habitats Regulations Assessment
<b>ICOL</b>	Inch Cape Offshore Limited
<b>LDP</b>	Local Development Plan
<b>MIR</b>	Main Issues Report
<b>NGET</b>	National Grid Electricity Transmission
<b>NPF3</b>	National Planning Framework 3
<b>OfTO</b>	Offshore Transmission Owner
<b>OfTW</b>	Offshore Transmission Works
<b>OnTW</b>	Onshore Transmission Works
<b>PPP</b>	Planning Permission in Principle
<b>SESplan</b>	Strategic Development Plan for Edinburgh and South East Scotland
<b>SPP</b>	Scottish Planning Policy
<b>WFD</b>	Water Framework Directive

## **2 Policy and Legislation**

### **2.1 Introduction**

- 1 This chapter describes the policies and guidance which support, or are drivers for, the development of offshore renewable energy and are relevant to the Onshore Transmission Works (OnTW). Specific consideration is given to relevant planning policy and the regulatory requirements for the OnTW planning application.
- 2 *Chapters 6 to 13* of this EIA Report take into account the relevant policy and legislation outlined in this chapter. Specific guidance relevant to the individual assessments is detailed in each technical chapter.

### **2.2 Project Policy and Legislative Drivers**

- 3 There are a number of policies and legally binding targets at a national and international level which are drivers for ICOL's Offshore Wind Farm, Offshore Transmission Works (OfTW) and OnTW. These are described in terms of climate change and energy commitments, in *Sections 2.2.1 and 2.2.2* respectively.

#### **2.2.1 Climate Change**

- 4 Current awareness of climate change has resulted in commitments, legislation and policy designed to reduce carbon emissions and to increase the proportion of renewable energy generation. Those of most relevance to ICOL's Offshore Wind Farm, OfTW and OnTW are described below.

##### **Climate Change Act 2008**

- 5 The *Climate Change Act 2008* (United Kingdom Parliament, 2008) requires that UK emissions are reduced by at least 80 per cent by 2050, compared to 1990 levels. The Act provides a legal framework for ensuring that the UK Government meets its commitments to tackle climate change. Devolved administrations have defined their own legally binding targets which are the same or more stringent than those defined by the UK Government.
- 6 The Act also introduced a system of legally binding carbon budgets to set a ceiling on carbon emissions over successive five yearly periods. The first three budgets require emissions to be reduced by at least 37 per cent on baseline levels by 2020. The fourth carbon budget (2023 – 2027) requires the UK to reduce emissions by 51 per cent by 2025 and the fifth carbon budget (2028-2032) requires a 57 per cent reduction on emissions by 2030.

##### **Climate Change (Scotland) Act 2009**

- 7 The *Climate Change (Scotland) Act 2009* (the 2009 Act) (Scottish Parliament 2009) contains provisions that set a legally binding target for reducing carbon dioxide emissions by at least 42 per cent by 2020 and at least 80 per cent by 2050, compared to 1990 levels. These targets are more stringent than the UK targets (see above).

- 8 The 2009 Act places sustainable development duties on Scottish Ministers and public bodies relating to climate change and is underpinned in Scotland by a series of strategies and policies which provide further detail on how climate change targets can be achieved.
- 9 *The Climate Change Delivery Plan: Meeting Scotland's Statutory Climate Change Targets* (Scottish Government 2009a) sets a framework for action to achieve emissions reductions including a series of ten pledges, the first of which directly relates to the implementation of renewable energy to promote large scale, decentralised and sustainable generation.
- 10 Subsequent strategies include *Low Carbon Scotland - Meeting the Emissions Reduction Targets 2010-2022: The Report on Proposals and Policies* (Scottish Government, 2011a) and its updated draft document *Low Carbon Scotland: Meeting our Emissions Reduction Targets 2013-2027: The Second Report on Proposals and Policies* (Scottish Government, 2013a). These documents set out proposals and policies to achieve the statutory emissions targets and identify decarbonisation of electricity generation as a key driver of progress towards a low carbon economy. The commitment to renewable energy is clearly set out along with the Scottish Government's commitment to supply and deliver the equivalent of at least 100 per cent of gross electricity consumption from renewables by 2020.

#### **A Low Carbon Economic Strategy for Scotland: Scotland – A Low Carbon Society**

- 11 The Low Carbon Economic Strategy (Scottish Government, 2010a) is an integral part of the Government's plan to secure sustainable economic growth. It is also a key component of the Scottish Government's broader approach to meet Scotland's climate change targets and secure the transition to a low carbon economy.

#### **2.2.2 Energy**

- 12 Energy policy and national planning policy (see *Section 2.4.1* below) are material to the determination of planning and other consent applications and provide a clear framework and strategy which are central to the background and context of ICOL's Offshore Wind farm, OfTW and OnTW.

#### **European Renewable Energy Directive**

- 13 The Renewable Energy Directive (2009/28/EC) (European Parliament, 2009) sets renewable energy targets from EU Member States such that the EU will reach 20 per cent of energy from renewable sources by 2020. The UK's individual target is to generate 15 per cent of energy from renewable sources by 2020.

#### **The UK Renewable Energy Strategy**

- 14 The Strategy (HM Government, 2009b) details how the UK can reach its goal of 15 per cent of energy from renewables by 2020. The aim of this strategy is that, by 2020, renewable energies will be used to supply the equivalent of nearly all 26 million homes in the UK with their current electricity needs, and four million homes with their current heating needs. This strategy predicted that 30 per cent of UK electricity will come from renewable sources by 2020 with more than two-thirds of that coming from onshore and offshore wind developments.



**UK Renewable Energy Roadmap**

- 15 The Roadmap (DECC, 2011) sets out the analysis undertaken by the Office of Renewable Energy Deployment to understand recent trends in renewables deployment in the UK, proposed/pipeline projects and barriers to delivering these projects successfully and cost effectively. This document also sets out a targeted programme of action that the UK Government is taking to increase renewables deployment.
- 16 The 2013 Update to the Roadmap notes that the UK is currently the world's biggest offshore wind market with more capacity deployed than any other country (page 8). Paragraph 50 notes that the Offshore Wind Industrial Strategy contains a vision that offshore wind will be a core and cost-effective part of the UK's long-term electricity mix.
- 17 Paragraph 40 of the 2013 Update states that while offshore wind will play a key role in enabling the UK to meet its legally binding 2020 renewable energy targets, in the following decades as offshore wind becomes a more mature technology and costs fall, the sector has a very significant role to play in the 2020s and out to 2050 to help the UK achieve its ambitious plans to decarbonise the economy and tackle climate change. The OnTW are an essential component of ICOLs Offshore Wind Farm allowing energy generated there to be distributed to end users.

**2020 Routemap for Renewable Energy in Scotland, The Scottish Government, (updated December 2013 and September 2015)**

- 18 The Scottish Government's 2020 Routemap for Renewable Energy in Scotland, published in 2011, established a target for the equivalent of 100 per cent of Scotland's electricity demand to be supplied from renewable sources by 2020.
- 19 The 2013 Update states that the Scottish Government's aim is to ensure that we have a largely decarbonised electricity system by 2030. It states that this can be achieved by achieving a carbon intensity of 50 gCO<sub>2</sub>/kWh of electricity generation in Scotland. In 2010, the carbon intensity of the grid was officially reported to be 347 gCO<sub>2</sub>/kWh but is estimated to have fallen to 289 gCO<sub>2</sub>/kWh in 2011. Achievement of the 2030 decarbonisation target will require an 83 per cent reduction in carbon intensity in relation to electricity generation in Scotland between 2011 and 2030. Offshore wind farms can make a positive contribution to these targets, of which the OnTW form a component part.
- 20 The 2015 Update confirms in the Ministerial Foreword that in the first half of 2014, renewables overtook nuclear as Scotland's largest single source of electricity for the first time. The 2015 Update noted that as at March 2015, Scotland had 7.4 Gigawatts (GW) of installed renewable electricity generation capacity, with an additional 8.9 GW of capacity either under construction or consented, the majority of which is expected from wind generation, particularly offshore.
- 21 In the Offshore Wind Sectoral update, the 2015 Update states that 'offshore wind is showing increasing promise as a source of renewable energy, and huge economic value'.

- 22 In the section entitled ‘Looking to the Future’ the 2015 Update states that with the right support renewable energy technologies have the potential to transform our energy system, and become a cornerstone of Scotland’s economy.

### **Electricity Generation Policy Statement 2013**

- 23 The Scottish Government’s Electricity Generation Policy Statement 2013 (EGPS) (Scottish Government, 2013d) examines Scottish electricity generation and considers the necessary changes to the current approach in order to meet the targets established by the Scottish Government.
- 24 In paragraph 7, the EGPS reaffirms the important role that Scotland can play in developing greater onshore and offshore grid connections within and across the UK and Europe, of which the OnTW would form an important part. This theme is developed further in the EGPS and paragraph 78 which states that the Scottish Government’s vision is to connect, transport and export Scotland’s full energy potential. Scotland can and must play its part in developing onshore and offshore grid connections to the rest of the UK and to European partners.
- 25 Paragraph 90 reinforces the importance of onshore grid reinforcements, a range of which are designated as national developments in National Planning Framework 3 (NPF3). These identified developments include the onshore infrastructure required to support a new and modified offshore grid and associated Map 5 identifies land at Cockenzie as part of the anticipated grid upgrades.
- 26 Paragraph 30 of the EGPS notes that the Scottish Government expects offshore renewables to play a major role in meeting the renewable energy targets for 2020 and beyond. The same paragraph notes that with 25 per cent of Europe’s offshore wind potential, the manufacturing, supply chain, job creation and training opportunities present Scotland’s communities with a huge economic opportunity.
- 27 In highlighting how to deliver the Scottish Government’s objectives for electricity generation, the EGPS (paragraph 105) states that *“a sustained annual renewable development rate of more than twice that ever experienced in Scotland [is required] and thus will depend upon investment in and installation of large-scale schemes. Especially offshore wind.”*

### **Blue Seas – Green Energy: A Sectoral Marine Plan for Offshore Wind Energy in Scottish Territorial Waters 2011**

- 28 The Blue Seas – Green Energy plan for offshore wind energy development in Scottish waters (Marine Scotland, 2011) sets out the Scottish Government’s vision for developing offshore wind energy up to and beyond 2020. It recognises the enormous potential for offshore generation, estimating a potential 206 GW of offshore wind, wave and tidal resource in Scotland. This plan aims at maximising the contribution that offshore wind energy makes to generation in Scotland. Inch Cape is identified as one of ten short-term sites to be delivered.

**Draft Climate Change Plan (2017)**

- 29 The Scottish Government's Draft Climate Change Plan is a draft of the Scottish Government's Third Report on Policies and Proposals, the Climate Change Plan, for meeting its greenhouse gas emission reduction targets from 2017-2032.
- 30 Paragraph 2.3.1 notes that climate change is already affecting Scotland. In Scotland the average temperature in the 2000s was 0.90 °C warmer than the 1961-1990 average and warmer than any other decade since records began in 1910, and annual rainfall has increased by around 11 per cent over the past century. Adapting to the impacts of climate change is a global challenge faced by all countries (paragraph 2.3.5).
- 31 Paragraph 2.2.4 notes that electricity will be increasingly important as a power source for heat and transport, as such the total volume of electricity supplied within Scotland will increase to 2032. Paragraph 7.2.1 notes that by 2030 Scotland's electricity system will be wholly decarbonised and supply a growing share of Scotland's energy needs.
- 32 Policy Outcome 1 of the Draft Plan notes that Scotland's electricity grid intensity will be below 50 g CO<sub>2</sub> per kilowatt powered by a high penetration of renewables, including offshore wind.

**Scottish Energy Strategy: The Future of Energy in Scotland (2017)**

- 33 This Scottish Energy Strategy was published in December 2017 and sets out the Scottish Government's vision for energy systems in Scotland up to 2050. The strategy explores the opportunity for a "*whole-system view*" of energy policy, focussing on a new 2030 all-energy target for the equivalent of 50 per cent of Scotland's heat, transport and electricity consumption to be supplied from renewable sources (page 6).
- 34 The strategy document goes on to describe on page 44 the "*huge industrial and economic potential attached to offshore wind development*." The Government's continued support for the growing offshore wind sector is confirmed again on page 45 of the strategy document, underlining in particular the importance of the creation of opportunities for Scottish manufacturers and the Scottish supply chain from developments taking place in UK waters and beyond.

**2.3 Regulatory Requirements**

- 35 The key regulatory requirements applicable to the OnTW are; planning permission under the Town and Country Planning (Scotland) Act 1997 (as amended) (the 1997 Act) (Scottish Parliament, 1997), together with the applicable Environmental Impact Assessment (EIA) regulations and Habitats Regulations Assessment (HRA) regulations. The applicable EIA regulations are the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (Scottish Parliament, 2017) and the applicable HRA regulations are the Conservation (Natural Habitats, &c.) Regulations 1994 (United Kingdom Parliament 1994) (as amended in Scotland) (Scottish Parliament, 2004a).

36 This section describes the legislative context and regulatory requirements which relate to the OnTW.

### 2.3.1 Development Consents

37 ICOL's Offshore Wind Farm and OfTW are subject to a separate consenting regime from the OnTW.

#### Offshore Consents

38 In July 2013, applications for the following were submitted to Marine Scotland:

- Marine licences under the Marine (Scotland) Act 2010 (Scottish Parliament, 2010) to allow the deposit of the Consented Offshore Wind Farm and OfTW and their construction, alteration or improvement within the Scottish Marine Area;
- Consents under Section 36 of the Electricity Act 1989 (United Kingdom Parliament, 1989) for the construction and operation of the Wind Turbine Generators (WTGs) and inter-array cables; and
- A declaration under Section 36A of the Electricity Act 1989 (United Kingdom Parliament, 1989) to restrict rights of navigation.

39 These applications were subsequently granted consent in October 2014.

#### Onshore Planning Permission under the Town and Country Planning (Scotland) Act 1997

40 In September 2014, ICOL received Planning Permission in Principle (PPP) for the Inch Cape OnTW under ELC reference 14/00456/PPM (referred to in this EIA Report as the Original OnTW). Due to a change in the overall project programme, ICOL initiated steps to renew this PPP in November 2016.

41 Following a project review ICOL decided not to pursue the renewal application related to the Original OnTW and that PPP expired in September 2017.

42 ICOL is applying for a new PPP for the OnTW under the 1997 Act (as amended) (Scottish Parliament, 1997). Under section 25 of the 1997 Act, the application for PPP must be determined in accordance with the development plan unless material considerations indicate otherwise. An assessment of the OnTW against strategic and local development policy is included in the Planning Statement submitted with the OnTW application. Relevant development policies referred to in this EIA Report are detailed in *Section 2.4* below.

43 The OnTW is classified as a 'National Development' in respect of NPF3 (National Development 4, High Voltage Electricity Transmission Network). ICOL has undertaken Pre-Application Consultation (PAC) associated with the OnTW details of which are set out in an accompanying PAC Report.

### 2.3.2 Protection of Habitats and Species

#### Introduction

- 44 Sites designated for their European importance for nature conservation value include Special Protection Area (SPAs) and Special Areas of Conservation (SACs). These internationally important designations form the Natura network and are protected under legislation as described below.

#### The Birds Directive

- 45 Directive 2009/147/EC (the Birds Directive) (European Parliament, 2009) requires member states to protect all wild birds, their nests, eggs and habitats. The Birds Directive implements the provisions of the Habitats Directive as regards the designation of SPAs which are intended to provide protection to birds which are particularly rare or vulnerable, and migratory birds.

#### The Habitats Directive

- 46 Directive 92/43/EEC (the Habitats Directive) (European Parliament, 1992) defines the basis upon which areas can be designated in order to conserve natural habitats and protect wild fauna and flora. The Habitats Directive has a major contribution to implementing the Biodiversity Convention agreed at the 1992 Rio Earth Summit. As well as establishing Natura sites and setting out how they should be protected, the Habitats Directive has a number of wider implications, such as those relating to European Protected Species. The requirements of the Habitats Directive are translated into specific legal obligations by the Conservation (Natural Habitats &c.) Regulations 1994 (the Habitats Regulations) (as amended) (United Kingdom Parliament, 1994).

#### ***Habitats Regulations Appraisal***

- 47 Where the potential for likely significant effects on European designated sites has been identified, an Appropriate Assessment (AA) must be carried out by the relevant competent authority (in this case, the Council). The Habitats Regulations are distinct from the EIA Regulations and the AA is a separate process to EIA. The purpose of an AA is to assess whether there will be an adverse effect on the integrity of a European designated site as a result of a proposed project (either alone or in combination with other plans or projects). By comparison an EIA is an assessment, prepared by the applicant, of the effects of a proposed development on the environment generally.
- 48 Information to inform an AA in respect of each of the SACs and SPAs for which a likely significant effect from the Consented Offshore Wind Farm, Consented OfTW and Original OnTW was identified and presented in the ES for ICOL's Offshore Wind Farm and OfTW (ICOL, 2013). Screening for likely significant effects and/or the information to inform an AA, alongside the AA undertaken by the competent authority, are collectively referred to as a Habitats Regulations Appraisal (HRA). Information to inform an AA for those sites for which a likely significant effect from the OnTW have been identified and are presented in an HRA which has been submitted as a standalone document alongside this EIA Report.

### ***European Protected Species***

- 49 European Protected Species (EPS) Licences may be granted to authorise activities which would otherwise be illegal under the Habitats Regulations. Regulation 39 of the Habitats Regulations relates to EPS and Regulation 44 provides clarity on the circumstances under which EPS licences are required. ICOL will apply for any required EPS licences once consent has been granted and a detailed construction method statement is produced.

### **Ramsar Convention**

- 50 The Convention of Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention, 1971) was adopted in Ramsar, Iran in 1971 and ratified by the UK Government in 1976. Ramsar sites have subsequently been designated to protect wetlands that are of international significance in terms of their ecology, botany, zoology, limnology (freshwater science) or hydrology. All Ramsar sites in Scotland are also either SPAs or SACs.
- 51 Potential impacts on the Firth of Forth Ramsar Site have been considered in the EIA Report in *Chapter 6: Ecology*. Relevant information to inform an HRA for the intertidal area is contained in the OnTW HRA which has been submitted as a standalone document alongside this EIA Report.

### **2.3.3 Environmental Impact Assessment**

#### **The Environmental Impact Assessment Directive**

- 52 The EIA Directive (85/337/EEC) (European Parliament, 1985) introduced a Europe-wide procedure to ensure that the environmental consequences of projects are identified and assessed before authorisation is given. Since its introduction the Directive has been amended several times, the most up to date version being Directive 2011/92/EU. The purpose of the EIA Directive is to ensure that, in considering whether to grant consents for developments that are likely to have significant environmental effects, the consenting authorities have all the necessary environmental information on which to base their decision.
- 53 In Scotland, the EIA Directive has been brought into Scots law through a number of Scottish Statutory Instruments relevant to individual consenting regimes.

#### **EIA Regulations**

- 54 The EIA Directive is applied to the different consent regimes in the UK by different sets of regulations. This EIA Report has been submitted to the Council under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (the EIA Regulations) (Scottish Parliament, 2017).
- 55 The EIA Regulations prohibit consent from being granted unless the environmental information, as defined in those Regulations, has been taken into consideration.

### 2.3.4 The Water Environment

#### The Water Framework Directive

- 56 The Water Framework Directive (WFD) (2000/60/EC) (European Parliament, 2000) was introduced in 2000 to establish systems to manage the water environment. The WFD applies to the water environment - rivers, lochs, estuaries, coastal and underground water. Under the WFD European Union member states are required to protect and improve their inland and coastal waters.

#### Water Environment and Water Services (Scotland) Act 2003

- 57 The WFD was enacted in Scotland through the Water Environment and Water Services (Scotland) Act 2003 (Scottish Parliament, 2003). Section 2 imposes a duty on the Council to secure compliance with the requirements of the WFD when exercising certain functions, including the determination of planning applications. The most relevant WFD requirement is the need to prevent deterioration in the status of a water body. In Scotland this requirement extends up to three nautical miles from land.

## 2.4 Planning Policy

- 58 National, regional and local planning policies of relevance to the OnTW are detailed in *Sections 2.4.1 and 2.4.2* below.

### 2.4.1 National Planning Context

- 59 NPF3 and Scottish Planning Policy (SPP) are national policy. These documents are complemented by additional topic specific advice and guidance on good practice which are communicated through planning circulars and Planning Advice Notes (PANs). SPP is a statement of Scottish Government policy on nationally important land use matters whereas the National Planning Framework is a strategy for Scotland's long term spatial development. The most recent versions of both documents were published in 2014.

#### National Planning Framework for Scotland

- 60 NPF3 (Scottish Government, 2014) is the long term spatial strategy for Scotland. The key aims of NPF3 are:
- *to create a successful, sustainable Scotland with fairly distributed opportunities;*
  - *to create a low carbon Scotland and to be a world leader in low carbon energy generation, both onshore and offshore;*
  - *to create a natural and resilient Scotland where natural and cultural assets are respected and represent a sustainable economic, environmental and social resource for the nation; and*
  - *a connected Scotland, making better use of our existing infrastructure, and having improved internal and international transport links.*



- 61 As part of the strategy for achieving the vision for Scotland as a “low carbon place” NPF3 specifically references the desire for Scotland to become “a world leader on offshore renewable energy” (paragraph 1.2) and has stated that in order to support this vision there should be “*planning enabling development of onshore links to support offshore renewable energy development.*”. It is highlighted that “*a strategy for the marine grid, connecting with the onshore network, will help to provide greater clarity on the offshore projects required.* (Commentary on National Development 4)”
- 62 Page 39 of NPF3 discusses Cockenzie specifically and states that whilst it is “*safeguarded as a site for future thermal generation, it may present opportunities for renewable energy-related investment*”. NPF3 also states, that in the event of there not being enough land to accommodate competing developments, priority should be given to “*those which best make use of the locations assets and which will bring the greatest economic benefits*”<sup>1</sup>. NPF3 clearly therefore sees Cockenzie as offering opportunities for energy related development beyond just thermal generation.

#### **Scottish Planning Policy**

- 63 Scottish Planning Policy (SPP) (Scottish Government, 2014) highlights support for offshore renewable energy generation and the role the planning system has in the development of the offshore industry. SPP states in paragraph 89 that “*Plans should identify areas of largely developed coast that are a major focus of economic or recreational activities that are likely to be suitable for further development; areas subject to significant constraints; and largely unspoiled areas of coast that are generally unsuitable for development*”. Paragraph 89 goes on to state that “*this broad division does not exclude important local variations...or essential onshore developments connected with offshore energy projects...*”.
- 64 Paragraph 90 of SPP comments that development plans “*should provide for the development requirements of users requiring a coastal location, including...land-based development associated with offshore energy projects.*”

#### **2.4.2 Strategic and Local Planning Policy Context**

- 65 The Application Site is located entirely within the local authority boundary of East Lothian. The current Development Plan framework comprises:
- The Strategic Development Plan for Edinburgh South East Scotland (SESplan) (SDPA, 2013) approved by Scottish Ministers in June 2013; and
  - The East Lothian Local Plan (ELLP) 2008 (East Lothian Council, 2008), adopted by ELC in October 2008.
- 66 The SESplan and the ELLP together comprise the Development Plan for East Lothian. All applications for planning permission in East Lothian are assessed against these two documents.

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<sup>1</sup> At the time of submission ICOL is unaware of any competing developments.



**Strategic Development Plan for Edinburgh and South East Scotland (SESplan) 2013**

- 67 The revoked Edinburgh and the Lothians Structure Plan 2015 was replaced by the SESplan (SDPA, 2013) in June 2013. The SESplan highlights in paragraph 124 that Local Development Plans (LDPs) *“should promote the use of renewable energy and should encourage development that will contribute towards national renewable energy targets.”* The Plan further highlights the requirement to consider environmental and community impacts for onshore developments.

**Proposed Strategic Development Plan for Edinburgh and South East Scotland (SESplan)****2016**

- 68 The Proposed Strategic Development Plan (October 2016) was submitted to Scottish Ministers in June 2017. An examination by Reporters of unresolved objections will now follow. The Proposed SESplan continues to provide policy focused on supporting the development of renewable energy. A number of key locations are identified as part of the *“Forth Energy Business Cluster”*, including the site of the former Cockenzie Power Station, and paragraph 4.26 states that this is *“reflecting the opportunity for these sites to contribute to.... servicing of offshore renewables...”* Table 4.1 of the Proposed SESplan goes on to highlight the potential for making use of the coastal locations of these *“cluster”* sites, including at Cockenzie.

**East Lothian Local Plan 2008**

- 69 The Local Plan (East Lothian Council, 2008) does not address onshore works associated with offshore wind developments specifically however there is Council support of Government policy to secure greater energy generation from renewable sources (Section 9.6 of ELLP). The benefits of renewable energy development will be weighed up against the impact on the local environment and features of interest.
- 70 The Local Plan Proposals Map indicates that two primary land use allocations and associated planning policies overlap with the boundary of the Application Site (see Figure 2.1 below). The Onshore Substation and majority of the Application Site is within policy designation NRG1: Electricity Generating Stations with a small area, where there will be a temporary closure of open space during construction for a period of up to 3 months, within Policy C3: Protection of Open Space (East Lothian Council, 2008).

**Policy NRG1: Electricity Generating Stations**

- 71 As demonstrated in Figure 2.1 below, most of the Application Site is within an area designated as Policy NRG1.
- 72 Land designated under Policy NRG1 is that which has been *“identified for use as or in association with a power generating station.”* The land is *“safeguarded for that purpose. Uses incompatible with such use will not be permitted.”*
- 73 In addition to these land use allocations, there are a number of ELLP policies which will be relevant in the consideration of the OnTW application. These are detailed below, categorised

by relevant ELLP topic, and summarised in Table 2.1 below, with reference to their consideration in this EIA Report.

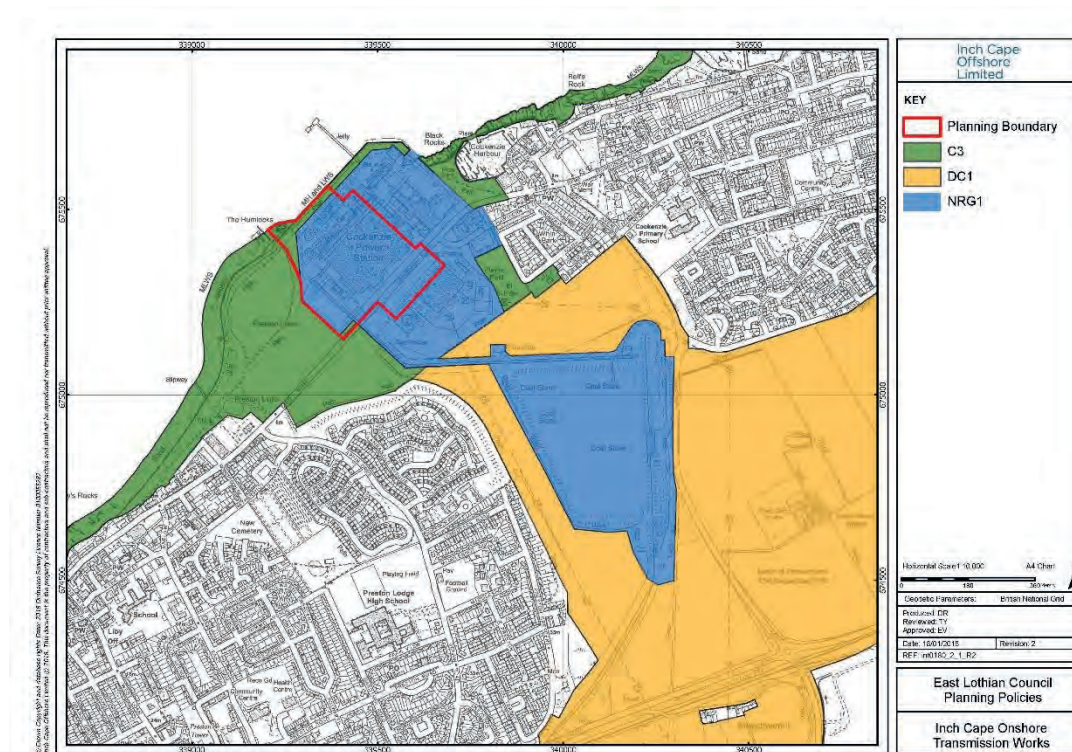
### **Policy C3: Protection of Open Space**

Policy C3 protects the recreational needs of the community. Under the Policy, open space which makes a significant contribution to recreational and leisure activities or the amenity of an area will be retained in such use.

74 The Policy states that *“Alternative uses will only be considered where there is no significant loss of amenity or impact on the landscape setting and:*

- *the loss of a part of the land would not affect its recreational, amenity or landscape potential, or*
- *alternative provision of equal community benefit and accessibility would be made available, or*
- *provision is clearly in excess of existing and predicted requirements.”*

75 A small area of the Application Site is situated within an area covered by Policy C3, along the north western boundary of the Application Site. There will be a requirement for temporary closure of this small area of open space for health and safety reasons during construction for a period of up to three months.



**Figure 2.1 East Lothian Council Planning Policies**

**Biodiversity and Natural Heritage**

- **Policy NH1a:** Internationally Protected Areas – this policy protects the status of Natura 2000 sites including SPAs and SACs or Ramsar sites. The policy highlights that development which would have an adverse effect on the conservation interest of any of these sites will not be permitted, unless it is established that; *“there are no alternative solutions; and there are imperative reasons of over-riding public interest including those of a social or economic nature.”* The policy further states that *“where a priority habitat or species (as defined in Article 1 of the Habitats Directive) would be affected, prior consultation with the European Commission is required unless the development is necessary for public health or safety reasons.”* The intertidal portion of the Application Site is adjacent to the Firth of Forth SPA;
- **Policy NH1b:** Sites of Special Scientific Interest – this policy states that development that is likely to affect a SSSI will only be permitted where it can be demonstrated that; *“the objectives of designation and overall integrity of the site will not be compromised; or any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, economic or environmental benefits of national importance; and there are no alternative solutions;”*
- **Policy NH2:** Wildlife and Geological Areas – this policy protects sites designated for their natural heritage value. Mitigation measures should be detailed for any development that could potentially have damaging effects on a designated site of natural heritage value;
- **Policy NH4:** Areas of Great Landscape Value – this policy protects Areas of Great Landscape Value (AGLVS). Any development which harms the landscape character and appearance of AGLVs will not be permitted;
- **Policy DP12:** Biodiversity Assessment – this policy applies where a development site contains trees (including individual trees, hedges or woodland) or aquatic habitat (ponds, watercourses, marshland). In this instance *“information must be provided showing the location and brief description of the feature(s)”*;
- **Policy DP13:** Biodiversity and Development Sites – this policy states that development on a site that requires a biodiversity assessment will not be permitted where it results in a net loss of the biodiversity resource identified unless; *“it can be shown that the development has been designed and sited to minimise such losses (i.e. there are no alternative, better sites); and mitigation is implemented where possible or the contribution of the development to the good planning of the area clearly outweighs the loss of or reduction in biodiversity.”* The policy places a duty on developers to show that they have had regard to the potential of the site for improving biodiversity value through built environment measures and landscaping; and
- **Policy DP14:** Trees on or adjacent to Development Sites – this policy ensures that the design and layout of new development incorporates any tree (including hedgerows) that makes a significant positive contribution to the setting, amenity, or nature conservation value of an area. The loss of such trees will only be permitted where *“it is essential to facilitate development which could contribute more to the good planning of the area than*

would retaining the tree or trees.” In this instance, appropriate replacement planting may then be made a condition of planning permission.

### **Built and Historic Environment**

- **Policy ENV1:** Residential Character and Amenity – *“the residential character and amenity of existing or proposed housing areas will be safeguarded from the adverse impacts of uses other than housing”*. A development will not be permitted where it is *“incompatible with the residential character and amenity of an area”*.
- **Policy ENV3:** states that new development that harms the setting of a Listed Building will not be permitted.
- **Policy ENV7:** Scheduled Monuments and Archaeological Sites - where a proposed development might affect any site or area included in the East Lothian Sites and Monuments Record (of known or suspected archaeological interest), the developer must first undertake and make available to the Planning Authority a professional archaeological assessment and if necessary, a field evaluation. Under this policy a development that *“would harm a site of archaeological interest or its setting, particularly a Scheduled Monument, will not be permitted.”* Where archaeological advice concludes that the significance of the remains is not sufficient to justify their physical preservation in situ when weighed against other material considerations, including the benefits of the proposed development, the development may be permitted with the *“proper provision for the excavation, recording, and analysis of the archaeological remains in advance of the commencement of development.”*
- **Policy ENV8:** Gardens and Designed Landscapes – *“development that would harm the conservation objectives of areas included within the Inventory of Gardens and Designed Landscapes”* will not be permitted.

### **Education and Community Services**

- **Policy C6:** Rights of Way - this protects rights of way and bridleways from obstruction.
- **Policy C7:** Core Paths and Other Routes – this policy provides that development that affects a Right of Way or Core Path or will harm its amenity will only be permitted where the overall integrity of the route and network is maintained.

### **Development Policies**

- **Policy DP 1:** Landscape and Streetscape Character – under Policy DP 1, all new development must be *“well integrated into its surroundings by responding to and respecting landform, and by retaining existing natural and physical features at the site that are important to the area.”* Hard and soft landscaping should be used to provide an attractive setting for the development.
- **Policy DP 2:** Design – Policy DP 2 sets criteria for the design of all new development (with the exception of alterations and extensions). Buildings must; *“be appropriate to its location in terms of its positioning, size, form, massing, proportion and scale, and use of a limited palette of materials and colours that complement its surroundings; create or*

*contribute to a sense of place and complement local character; where relevant, position and orientate buildings to articulate, overlook, properly enclose and provide active edges to public spaces to create a sense of welcome, safety and security; maximise opportunities to provide effective access and linkages to the surroundings; provide a well connected road layout within the site that ensures access for all in the community, favouring, where appropriate, walking, cycling, public transport then cars as forms of movement, and clearly distinguish public space from private space, and protect private space; ensure privacy and amenity, with particular regard to levels of sunlight daylight and overlooking; retain physical or natural features, including watercourses, which are important to the amenity of the area or provide adequate replacements.”*

- **Policy DP16:** Flooding – states that development will not be permitted where it is likely that it will *“cause unmanageable flood risk, either on or off site, or would require additional unplanned public investment for flood protection works.”*

### **Transportation**

- **Policy T2:** General Transport Impact – provides that a new development *“must have no significant adverse consequences for road safety; the convenience, safety and attractiveness of walking and cycling in the surrounding area...the capacity of the surrounding road network to deal with traffic unrelated to the proposed development; and the residential amenity as a consequence of an increase in motorised traffic.”*

**Table 2.1: East Lothian Local Plan Policy Summary**

<b>Policy Number</b>	<b>Nature of Policy</b>	<b>Location of consideration in this EIA Report</b>
NH1a: Internationally Protected Areas	This policy protects the status of Natura 2000 sites including SPAs, SACs and Ramsar Sites.	<i>Chapter 6: Ecology</i>
NH1b: Sites of Special Scientific Interest	Developments that are likely to affect a SSSI will only be permitted where it can be demonstrated that the overall site integrity will not be compromised, any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, economic or environmental benefits or national importance and there are no alternative solutions.	<i>Chapter 6: Ecology</i>
NH2: Wildlife and Geological Areas	Sites designated for their natural heritage value are protected under this policy. Identification of mitigation measures is required for any development that could potentially have damaging effects on such a site.	<i>Chapter 6: Ecology</i>



<b>Policy Number</b>	<b>Nature of Policy</b>	<b>Location of consideration in this EIA Report</b>
Policy NH4: Areas of Great Landscape Value	Any development which harms the landscape character and appearance of AGLVs will not be permitted.	<i>Chapter 8: Landscape and Visual</i>
DP12: Biodiversity Assessment	Information must be provided to show the location and a brief description of trees, or aquatic habitat.	<i>Chapter 6: Ecology</i>
DP13: Biodiversity and Development Sites	Development on a site which requires a biodiversity assessment will not be permitted where it results in a net loss of the biodiversity resource identified unless; “it can be shown that the development has been designed and sited to minimise such losses (i.e. there are no alternative, better sites); and mitigation is implemented where possible or the contribution of the development to the good planning of the area clearly outweighs the loss of or reduction in biodiversity.” The policy places a duty on developers to show that they have had regard to the potential of the site for improving biodiversity value through built environment measures and landscaping.	<i>Chapter 6: Ecology</i>
DP14: Trees on or adjacent to Development Sites	The policy ensures that the design and layout of new development incorporates any tree (including hedgerows) that makes a significant positive contribution to the setting, amenity, or nature conservation value of an area.	<i>Chapter 6: Ecology; Chapter 8: Landscape and Visual</i>
Policy ENV1: Residential Character and Amenity	The predominantly residential character and amenity of existing or proposed housing areas will be safeguarded from the adverse impacts of uses other than housing. Development incompatible with the residential character and amenity of an area will not be permitted.	<i>Chapter 8: Landscape and Visual</i>
Policy ENV3: Listed Buildings	New development that harms the setting of a Listed Building will not be permitted	<i>Chapter 9: Cultural Heritage</i>
ENV7: Scheduled Monuments and Archaeological Sites	Where a proposed development might affect any site or area included in the East Lothian Sites and Monuments Record (of known or suspected archaeological interest), the developer must first undertake and make available to the Planning Authority a professional archaeological assessment and if necessary, a field evaluation.	<i>Chapter 9: Cultural Heritage</i>

<b>Policy Number</b>	<b>Nature of Policy</b>	<b>Location of consideration in this EIA Report</b>
ENV8: Gardens and Designed Landscapes	Development that would harm the conservation objectives of areas included within the Inventory of Gardens and Designed Landscapes” will not be permitted.	<i>Chapter 8: Landscape and Visual; Chapter 9: Cultural Heritage</i>
C3: Protection of Open Space	This Policy protects open space for community use. Alternative uses will only be considered where there is no significant loss of amenity or impact on the landscape setting.	<i>Chapter 12: Socio-Economics, Tourism, Land Use and Recreation</i>
C6: Rights of Way	Protects rights of way and bridleways from obstruction.	<i>Chapter 8: Landscape and Visual; Chapter 12: Socio-Economics, Tourism, Land Use and Recreation</i>
C7: Core Paths and Other Routes	Development that affects a Right of Way or Core Path or will harm its amenity will only be permitted where the overall integrity of the route and network is maintained.	<i>Chapter 8: Landscape and Visual; Chapter 12: Socio-Economics, Tourism, Land Use and Recreation</i>
DP 1: Landscape and Streetscape Character	All new development must be “well integrated into its surroundings by responding to and respecting landform, and by retaining existing natural and physical features at the site that are important to the area.” Hard and soft landscaping should be used to provide an attractive setting for the development.	<i>Chapter 8: Landscape and Visual</i>
DP 2: Design	Criteria on the design on all new development.	<i>Chapter 8: Landscape and Visual</i>
DP16: Flooding	Development will not be permitted where it is likely that it will “cause unmanageable flood risk, either on or off site, or would require additional unplanned public investment for flood protection works.”	<i>Chapter 7: Hydrology, Geology and Hydrogeology</i>
NRG1:	“Land which is identified and safeguarded for use as or in association with a power generating station. Incompatible uses will not be permitted.”	<i>Chapter 8: Landscape and Visual; Chapter 12: Socio-Economics, Tourism, Land Use and Recreation</i>

Policy Number	Nature of Policy	Location of consideration in this EIA Report
T2: General Transport Impact	A new development “must have no significant adverse consequences for road safety; the convenience, safety and attractiveness of walking and cycling in the surrounding area...the capacity of the surrounding road network to deal with traffic unrelated to the proposed development; and the residential amenity as a consequence of an increase in motorised traffic.”	<i>Chapter 11: Traffic and Transport</i>

### **East Lothian Proposed Local Development Plan 2016**

76 The East Lothian Proposed Local Development Plan 2016 (Proposed LDP) was published for public consultation in late 2016. Most recently the Council has submitted the Proposed LDP to Scottish Ministers to allow for an Examination process to be undertaken to consider outstanding objections. At the time of writing, the examination process has concluded and the Examination Report is expected to be published during February 2018. The Council then expects to confirm its intention to adopt the Proposed LDP within three months of the Examination Report publication.

77 The main land use policy in the Proposed LDP that applies to the application site is PROP EGT1. This policy states:-

**PROP EGT1:** Land at Former Cockenzie Power Station – states that the site is “*safeguarded as a site for future thermal power generation and Carbon Capture and Storage, consistent with ‘National Development 3’ in the Scottish Government’s National Planning Framework 3. Other forms of development within the site will not be supported during the lifetime of NPF3 to avoid prejudicing its future use for this National Development, unless and until an appropriate thermal power generation proposal is implemented and the extent of any residual land that could be used for other purposes has been confirmed.*” EGT1 goes on to state that Supplementary Guidance will be created to guide redevelopment at the site should either the NPF be reviewed during the lifetime of the LDP or if there is surplus land, following the implementation of a thermal generation scheme. Importantly the policy adds that “*Any redevelopment proposal will be expected to make best use of the location’s assets and bring significant economic benefits.*”

78 The contents of and weight to be attached to draft Policy PROP EGT1 is discussed further in the Planning Statement submitted with the planning application. The Planning Statement considers the OnTW in greater depth in relation to the adopted Development Plan and emerging policy considerations.



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