Vattenfall Wind Power Ltd

Thanet Extension Offshore Wind Farm

Environmental Statement Volume 1

Chapter 2: Policy and Legislation

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Vattenfall Wind Power Ltd

Thanet Extension Offshore Wind Farm

Volume 1

Chapter 2: Policy and Legislation

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Drafted By:	GoBe Consultants Ltd
Approved By:	Helen Jameson
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Vattenfall UK

First Floor

1 Tudor Street

London

EC4Y 0AH

T +44 207 451 1150

www.vattenfall.co.uk

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2.1 Introduction

2.1.1 This chapter outlines the consents framework and the key legislation and policies that have been, and will continue to be, considered for the development of Thanet Extension Offshore Wind Farm (Thanet Extension), alongside the Environmental Impact assessment (EIA) process.

2.2 Renewable Energy Policy and the Role of Renewable Sources of Energy

2.2.1 The 'Meeting the Energy Challenge white paper' (DTI, 2007) published by the former Department for Business, Enterprise and Regulatory Reform (BERR) – now the Department for Business, Enterprise and Industrial Strategy (BEIS), described two long-term challenges for the UK:

- Tackling climate change by reducing carbon dioxide emissions both within the UK and abroad; and
- Ensuring secure, clean and affordable energy.

International Obligations on Climate Change and Reducing Carbon Emissions

Conference of the Parties 21 (2015 Paris Climate Conference)

2.2.2 The United Nations Framework on Climate Change (UNFCCC) was adopted at the Rio Earth Summit in 1992, as an international response to climate change. The framework sought to stabilise atmospheric GHG concentrations.

2.2.3 Annual Conference of the Parties (COP) is held to review the Conventions Implementation. There is a membership of 195 parties at the time of writing.

2.2.4 In 2015, COP21 was held in Paris. The conference negotiated a global Agreement with the key goal of limiting increases of global temperatures to "well below 2°C compared to pre-industrial levels". The parties will also "pursue efforts to" limit the temperature increase to 1.5°C. This was the first agreement for a binding and universal agreement on climate from all the parties/ world nations.

2.2.5 The agreement becomes legal binding when 55 parties, who produce over 55% of the world's GHG, ratify the Agreement. On 5th October 2016, the threshold for entry into force for the Paris Agreement was achieved and entered into force on 4th November 2016.

2020 Targets

2.2.6 At a European level, the European Parliament and Council agreed a climate and energy package known as the 20-20-20 targets in 2008. The targets to be achieved by 2020 include:

- A reduction in European Union (EU) greenhouse gas (GHG) emissions of at least 20% below 1990 levels;
- 20% of EU energy consumption to come from renewable energy sources; and
- A 20% reduction in primary energy use compared with projected levels, to be achieved by improvements in energy efficiency.

2.2.7 In order to meet these aggressive targets, the EU introduced Directive 2009/28/EC on the promotion of the use of energy from renewable sources (the Renewable Energy Directive). Article 3 and Annex I of this Directive set out the mandatory national targets for individual Member States to meet by 2020. As part of this, the United Kingdom (UK) is subject to a mandatory national target of deriving 15% of gross final energy consumption from renewable sources by 2020.

2030 Targets

- In October 2014, EU countries agreed on a 2030 framework for climate and energy, which included targets and policy objectives for the period between 2020 and 2030. The targets to be achieved by 2030 include:
- A 40% cut in greenhouse gas emissions compared to 1990 levels;
- At least a 27% share of renewable energy consumption; and
- At least 27% energy savings compared with the business-as-usual scenario.

2.2.8 To meet the targets, the European Commission has proposed:

- A reformed EU emissions trading scheme;
- New indicators for the competitiveness and security of the energy system, such as price differences with major trading partners, diversification of supply, and interconnection capacity between EU countries; and
- First ideas on a new governance system based on national plans for competitive, secure, and sustainable energy. These plans will follow a common EU approach. They will ensure stronger investor capacity, greater transparency, enhanced policy coherence and improved co-ordination across the EU.

2.2.9 In order to meet these targets, the Commission published a proposal for a revised Renewable Energy Directive on 30th November 2016.

Brexit

2.2.10 Following the UK referendum in 2016, which saw the UK voting to leave the EU, it is anticipated that the UK will leave the EU in 2019 with a period of transition that is yet to be determined. It is anticipated that the UK will remain subject to certain EU level targets, and furthermore the UK's own climate change targets as captured within *inter alia* the Climate Change Act 2008.

UK Climate Change and Energy Legislation and Policy

The Climate Change Act 2008

2.2.11 The Climate Change Act 2008 commits the UK to a net reduction in greenhouse gas emissions against the 1990 baseline by 2050. This is implemented through a system of carbon budgets, which are set by the Government for a period of five years each. The UK Government has legislated for the first four carbon budgets to cut emissions by 23% below 1990 levels by 2012, 29% by 2017, 35% by 2022, 50% by 2027, and 57% by 2032 (TSO, 2009b, 2011, 2016 (respectively)). The first target, 23% below 1990 levels by 2012, was met by the UK. Currently, the UK is on track to outperform the targets of the second and third carbon budgets (Committee on Climate Change, 2017).

2.2.12 The Climate Change Act 2008 also established the Committee on Climate Change. The Committee on Climate Change advises the UK and devolved administration governments on setting and meeting the carbon budgets, and on preparing for climate change. In May 2011, the Committee published the Renewable Energy Review, which sets out a detailed vision of the role of renewable energy in meeting longer term emissions targets. The Renewable Energy Review concludes that the development of renewable energy is a potentially significant contributor to delivering decarbonisation of the power sector by 2030 at reasonable cost. It also underlined that firm commitments of support for offshore wind and marine generation through to the 2020s should be made (Committee on Climate Change (2011).

The Energy Act 2013

2.2.13 The Energy Act 2013 received Royal Assent on 18th December 2013. The Energy Act makes provisions to incentivise investment in low carbon electricity generation, ensure security of supply, and help the UK meet its emissions reduction and renewables targets. In particular, the Energy Act contains provisions from the then Department of Energy and Climate Change (DECC) (now the Department for BEIS) for Electricity Market Reform (EMR).

2.2.14 The EMR sets out the framework for replacing Renewables Obligation Certificates (ROCs) with Contracts for Difference (CfD) to provide stable financial incentives to encourage investment in low carbon electricity generation. CfDs are private contracts between a low carbon electricity generator and the UK Government owned Low Carbon Contracts Company (LCCC). Under a CfD, the electricity generating party is paid the difference between the strike price (the price for electricity reflecting the cost of investment in low carbon technology) and the reference price (a measure of the average market price for electricity in the Great Britain market).

2.2.15 The aim of CfDs is to give greater certainty and stability of revenues to electricity generators by reducing exposure to volatile wholesale prices, whilst at the same time protecting the consumer from paying for higher generation support costs when electricity prices are high (BEIS, 2016). It is envisaged that CfDs will help to incentivise renewable energy development in the UK.

2.2.16 In April 2014, a total of eight projects were awarded contracts for difference under the 'Final Investment Decision (FID) Enabling for Renewables' process, thereby allocating the first CfDs that were introduced through the EMR programme. Of these eight projects, five were Offshore Wind Farm (OWF) projects (Beatrice, Burbo Bank Extension, Dudgeon, Hornsea Project One and Walney Extension). In February 2015, a further 27 projects were awarded CfDs in Allocation Round One, two of which were for offshore wind projects (East Anglia One and Neart na Gaoithe).

2.2.17 On 9th November 2016, notices were released by the Department for BEIS on the second CfD allocation round, in which applicants will compete for an annual budget of £290 million. The Second Allocation Round notices were released on 11th September 2017. Eleven projects were awarded CfD, three of which were offshore wind projects (Triton Knoll, Hornsea Project Two and Moray Offshore Windfarm (East)). The projects are consented to collectively generate over 3 GW of electricity. The strike price for two of the offshore windfarm projects (Hornsea Project Two and Moray Offshore Windfarm (East)) was approximately half of that in the auction held in 2015.

UK Climate Change and Energy Policy

2.2.18 In December 2011, the Government published its Carbon Plan (DECC, 2011b). The Carbon Plan states that electricity demand may rise by between 30% and 60% by 2050, which may require today's electricity capacity to double in order to deal with peak time demands. It goes on to state that "*renewable energy, particularly onshore and offshore wind farms*" is likely to be one of the three main low carbon sources to produce electricity (paragraph 44; DECC, 2011b). The document further sets out the policies for meeting the commitment of an 80% reduction in greenhouse gas emissions made under the Climate Change Act. It also describes the measures proposed to meet the first four carbon budgets. In June 2016 the government passed the fifth carbon budget to keep the UK on a cost-effective path to meet the 2050 target. The budget commits the UK to reduce its GHG emissions by 36% in 2020 and by 57% in 2030.

2.2.19 The Renewable Energy Roadmap (DECC, 2011a; 2012; 2013) updated some of the aims within the Renewable Energy Strategy (TSO, 2009c) and identified eight technologies capable of providing 90% of the renewable energy required to meet the UK's 2020 target of 15% of energy consumption derived from renewable sources. It suggests that offshore wind is an ideal technology for the UK, where shallow seas and strong winds make it an important national asset which will play a key role in enabling the UK to meet its legally binding 2020 renewable energy targets. Offshore wind has the potential to be generating up to 16 GW by 2020. Beyond 2020, there is a very high potential for further deployment, with up to 39 GW possible by 2030 (DECC, 2013).

2.2.20 In March 2016, a Strategic Environmental Assessment (SEA) (DECC, 2016) aimed to inform licensing and leasing decisions for offshore energy, by considering the environmental implications of the proposed plan/ programme and the potential activities which could result from their implementation.

2.2.21 For offshore wind, DECC's draft plan/ programme included further OWF leasing in the relevant parts of the UK Exclusive Economic Zone (EEZ) and the territorial waters of England and Wales. The technologies covered turbines of up to 15 MW capacity and tethered (i.e. floating) turbines in waters up to 200 m. The SEA concluded that the most favourable option was to restrict the areas offered for leasing and licencing, through the exclusion of certain areas together with a number of mitigation measures to prevent, reduce and offset significant adverse impacts on the environment and other users of the sea, and would allow the objectives of the draft plan/ programme to be achieved.

2.3 Consents Framework

2.3.1 The following primary and secondary legislation, guidance and planning policy is relevant to the EIA of Thanet Extension.

2.3.2 Where further explanation of these matters is relevant to a particular topic, this is provided in the relevant technical chapters.

Planning Act 2008

2.3.3 The Planning Act 2008 received Royal Assent on 26th November 2008, and has since been amended by the Marine and Coastal Access Act 2009, the Localism Act 2011, the Growth and Infrastructure Act 2013, the Infrastructure Act 2015 and the Housing and Planning Act 2016.

2.3.4 The Planning Act 2008 is primary legislation that establishes the legal framework for applying for, examining and determining applications for development consent taking account of the guidance in National Policy Statements (NPS).

2.3.5 The Planning Act 2008 brought in three major changes to the planning procedure for Nationally Significant Infrastructure Projects (NSIPs):

- The establishment of the Infrastructure Planning Commission (IPC) on 1st October 2009 to streamline the planning system for applications for development consent;
- Applications made will be for a Development Consent Order (DCO), which consolidates a range of previously separate consents; and
- Applications made will be made in accordance with the policy framework provided in NPS, taking into account representations made during the examination phase.

2.3.6 The IPC has since been abolished and responsibility for the determination of energy-related DCO applications now lies with the Secretary of State for BEIS, through the Planning Inspectorate's (PINS) National Infrastructure Directorate. The legislative arrangements that enacted this amendment are set out in the Localism Act 2011. The key stages in the DCO application process, from pre-application through to post-decision, along with the timescales associated with each key stage, are illustrated in Figure 2.1.

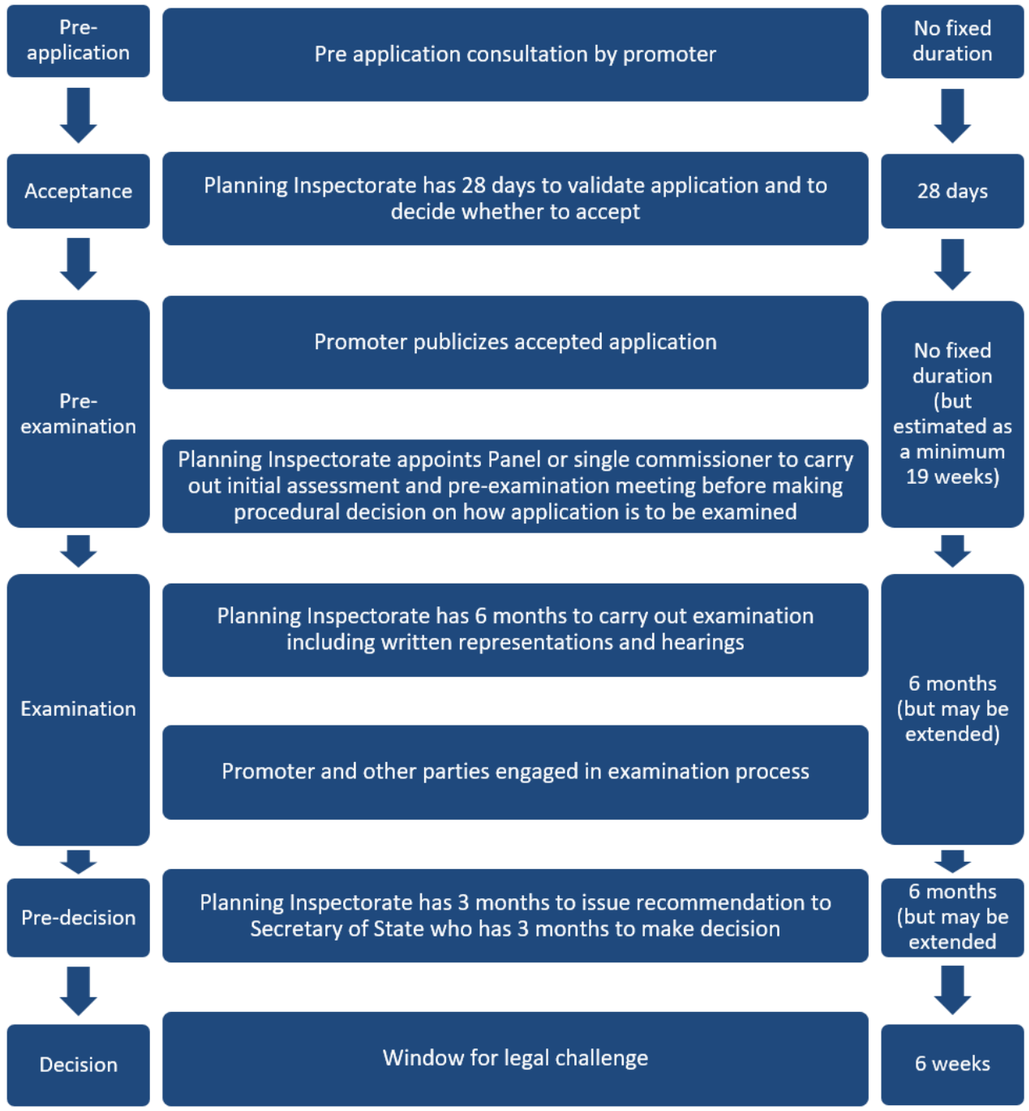

Figure 2.1: Graphical representation of the DCO application process with associated timescales.

2.3.7 The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 amended the Planning Act 2008 by providing procedures for the handling of non-material and material changes to DCOs. DCLG also produced guidance in December 2015, outlining the process on making changes to DCOs. There is no specific criteria as to what constitutes a material changes, however changes may be considered material if, for example, such changes would result in new or different significant environmental effects or require a Habitats Regulations Assessment (HRA). Even where the changes would only result in significant environmental impacts that are entirely positive, such changes may need to be treated as material changes (DCLG, 2015).

2.3.8 Section 28 of the Infrastructure Act 2015 amended the Planning Act further to give the Secretary of State the power to refuse to determine an application for changes to a DCO. This power would particularly be exercised where it is considered that the development that would be authorised as a result of the changes should in itself be the subject of a new application for a DCO under the Planning Act 2008 (DCLG, 2015).

2.3.9 Procedures related to the pre-application process under the Planning Act 2008 remain largely unaltered. However, the above legislation regarding changes to DCOs granted under the Act highlights the importance of the design envelope approach to renewable energy infrastructure developments in line with NPS EN-3, particularly where relatively large project design uncertainty exists during the pre-application stages.

Marine Licence and the Marine and Coastal Access Act 2009

2.3.10 The Marine and Coastal Access Act received Royal Assent on 12th November 2009. It introduced new planning and management systems for overseeing the marine environment, most notably through the requirement to obtain marine licences for works at sea (including the deposition or removal of any substance or object from the sea below Mean High Water). It created a strategic marine planning system that seeks to promote the efficient, sustainable use and protection of the marine environment, guided by the Marine Policy Statement and a series of Marine Plans (see paragraphs 2.56 – 2.57).

2.3.11 The Marine and Coastal Access Act 2009 provides the framework for a marine licencing system, which is administered by the Marine Management Organisation (MMO), a statutory consultee within the DCO application process. The Act also amended certain provisions of the Planning Act 2008. It inserts a new Section 149A 'Deemed Consent under a marine licence' in the Planning Act which enables any applicant for a DCO to seek within that DCO a deemed marine licence for operations carried out below the Mean High Water Spring tide level (MHWS) wholly in England, and in waters adjacent to England up to the seaward limits of the territorial sea, and (for England and Wales) the UK Renewable Energy Zone (REZ).

2.3.12 The Marine and Coastal Access Act 2009 also enabled the designation of Marine Conservation Zones (MCZs). MCZs are a type of Marine Protected Area (MPA) which seek to protect a range of nationally important marine wildlife, habitats, geology and geomorphology. MCZs can be designated anywhere in English and Welsh inshore and UK offshore waters. The designation of MCZs works towards fulfilling some of the UK's obligations under international agreements such as the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention).

2.3.13 Due to the proximity of the proposed development to an MCZ (the Thanet Coast MCZ), an appropriate assessment has been undertaken by the relevant authority to assess any likely significant impacts to MCZs. This is provided in Volume 4, Annex 5-3: Marine Conservation Zone Assessment (Document Ref: 6.4.5.3).

2.3.14 As part of this Thanet Extension Environmental Statement, an MCZ assessment screening has been undertaken and a report submitted for consideration as part of the PEIR. Through the Evidence Plan process, the findings of the screening and the preliminary findings of the MCZ screening were consulted on prior to submission of the PEIR and DCO application, with particular focus on the call to incorporate an assessment of impacts on the Goodwin Sands recommended MCZ (rMCZ).

2.3.15 A detailed MCZ assessment of Goodwin Sands rMCZ has not been undertaken for this proposed development. This is primarily as the conservation objectives for this site are not available at the time of writing/ assessment. In lieu of an MCZ assessment being undertaken, which would inherently require an assessment of the projects potential to affect the sites ability to meet its conservation objectives, an assessment of the potential for impacts on the habitats associated with the rMCZ has been undertaken.

2.3.16 Under the deemed consent process, the MMO will agree marine licence conditions with the developer for incorporation into the draft DCO following consultation with groups and organisations such as Natural England, the Maritime and Coastguard Agency (MCA) and the Centre for Environment Fisheries and Aquaculture Science (Cefas)). Note, that there are no statutory consultees specified within the Act (Defra, 2011).

2.3.17 Vattenfall Wind Power Ltd (VWPL) will be requesting a deemed Marine Licence(s) (dML) as part of the DCO submission for Thanet Extension.

The Localism Act 2011

2.3.18 The Localism Act 2011 received Royal Assent on 15th November 2011. The Act abolished the IPC and transferred the decision-making powers of the Commission to the Secretary of State. The Act also made a number or amendments to the Planning Act 2008 that have the effect of altering some aspects of the procedure for seeking development consent.

Growth and Infrastructure Act 2013

2.3.19 The Growth and Infrastructure Act 2013 received Royal Assent on 25th April 2013. It made amendments to the Planning Act 2008 by, amongst other things, removing requirements under Sections 127 and 138 to obtain certificates and consents from Secretaries of State responsible for certain statutory undertakers before a DCO is made.

The Infrastructure Act 2015

2.3.20 The Infrastructure Act 2015 received Royal Assent on 12th February 2015. The Act intended to make the delivery of infrastructure faster and more efficient through improvements to funding, management and refinement of the planning processes engaged. The Act made amendments to the Planning Act 2008 for NSIPs, primarily through the early appointment of inspectors in the application process, enabling a panel of two inspectors NSIP applications and a simplified procedure to make material and non-material changes to approved DCOs. The Act also provides new powers to compel landowners to provide access to land for the eradication of invasive and non-native species.

Housing and Planning Act 2016

2.3.21 The Housing and Planning Act 2016 received Royal Assent on 12th May 2016. The Act provides the necessary legislation for housing related to an NSIP to be consented within a DCO which, along with other measures, is intended to promote home ownership and boost levels of housebuilding in England.

2.4 Other Relevant Legislation

EIA Directive

2.4.1 EIA is a tool for systematically examining and assessing the impacts of a development on the physical, biological and human environment. This process allows management and mitigation measures to be identified to ensure the development is sustainable.

2.4.2 The legislative framework for Environmental Impact Assessment (EIA) is provided by European Directive 2014/52/EU (the 2017 EIA Directive), which codified the earlier European Directives 85/337/EEC, 97/11/EC and 2009/31/EC. The EIA Directive requires that EIA be undertaken in support of an application for development consent for certain types of project.

2.4.3 The Council of the European Union adopted on 14th April 2014 a directive amending directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (PE-CO_S 15/14, 7927/14 ADD 1).

2.4.4 Directive 2014/52/EU amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on environment was brought into force on 15th May 2014. Directive 2014/52/EU was to be implemented over three years with a deadline of 16th May 2017.

2.4.5 The primary objective of an EIA is described in Article 2 of the Directive, which states that:

"Member States shall adopt all measures necessary to ensure that, before consent is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location are made subject to a requirement for development consent and an assessment with regard to their effects."

2.4.6 Article 8 of the Directive also states that:

"The results of consultations and information gathered pursuant to [the EIA procedure] must be taken into consideration in the development consent procedure."

2.4.7 The purpose of the EIA Directive ensures that when an authority giving consent for a particular project makes its decision, it does so in the knowledge of any likely significant effects on the environment. The EIA Directive (2014/52/EU) sets out a procedure that must be followed for certain types of project before they can be granted the appropriate consent for that Member State. An EIA provides for the systematic assessment of a project's likely significant environmental effects for consideration by both the public and the relevant competent authority before a planning consent decision is made.

2.4.8 For projects which require development consent under the Planning Act 2008, the requirements of the EIA Directive have been transposed into UK legislation by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. These regulations are referred to in the Environmental Statement as 'the 2017 EIA Regulations'. These supersede the previous regulations, the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (the 2009 EIA Regulations).

2.4.9 The 2017 EIA Regulations came into force in the UK on 16th May 2017. Regulation 37 of the 2017 EIA Regulations provides transitional measures for projects for which an Environmental Statement was submitted or where a Scoping Opinion has been sought before 16th May 2017. In such cases, the provisions of the 2009 EIA Regulations (as amended) will continue to apply.

2.4.10 Therefore, for the purposes of Thanet Extension, as the Scoping Report was submitted on the 13th December 2016, the 2009 EIA Regulations (as amended) remain the relevant regulations to which the project relates. However, as a matter of good practice and in order to ensure as robust an EIA assessment as possible, the requirements of the 2017 EIA Regulations have been applied in this Environmental Statement. Further details on how the 2017 EIA Regulations have been applied in the Environmental Statement are presented in paragraphs 2.4.26 et seq.

2.4.11 VWPL has notified PINS (May 2018) prior to the application being submitted, detailing that this ES will adhere to the 2017 EIA Regulations. This was also explained to both PINS and all statutory consultees through the section 42 consultation process. A Regulation 6 notice was submitted on 4th January 2017. The decision to voluntarily apply with the 2017 EIA Regulations was undertaken in order to ensure that the final assessment is robust and accords with best practice.

EIA Regulations 2017

2.4.12 The 2017 EIA Regulations set out the requirements and provisions for screening (deciding if an EIA is required), scoping (setting out the scope for the EIA) and the submission of an Environmental Statement that reports the EIA process and its findings.

2.4.13 Under the 2017 EIA Regulations, certain projects are considered as 'EIA developments', and require an EIA as part of the application for a DCO. The schedules to the EIA Regulations contain the following categories of projects:

- Schedule 1 projects: these are always EIA development (for example, new nuclear power stations); and
- Schedule 2 projects: these are only EIA development if the individual project is likely to have significant effects on the environment (for example, wind farms).

2.4.14 Further information is provided below but in summary Thanet Extension is a Schedule 2 project. The Environmental Statement (in Volumes 1 to 8) present the EIA (adhering to the 2017 EIA Regulations) which has been undertaken for the proposed development.

2.4.15 Generic advice on EIA as relevant to Thanet Extension is provided by NPS EN-1, NPS EN-3 and NPS EN-5. These NPSs provide the primary basis for decisions by the Secretary of State on applications for nationally significant renewable energy infrastructure (defined in Section 1.8 of NPS EN-3; DECC, 2011d).

Environmental Impact Assessment in the context of Thanet Extension

2.4.16 The main stages of the EIA process in respect of Thanet Extension are:

- Decision to undertake an EIA;

- Scoping to determine the subject matter of the EIA and to identify potentially significant effects;
- Data review involving compiling and reviewing available baseline data and/or undertaking of baseline surveys to generate site-specific data;
- Assessment and design iteration, whereby the potential impacts of the development during the construction, operational and maintenance, and decommissioning stages of its life are assessed and feedback is provided to the design and engineering team(s) to modify the design of the development where possible in order to avoid, prevent, reduce and/or offset any significant adverse effects on the environment;
- Identifying any further mitigation or compensation requirements;
- Identifying residual effects;
- Consultation with the consultation bodies, stakeholders and the community, in accordance with all relevant requirements (the Planning Act 2008, EIA Regulations and the associated regulations and guidance);
- Preparing the Preliminary Environmental Information Report (PEIR);
- Preparing the Environmental Statement (i.e. reporting on the EIA process, updating the information provided in the PEIR); and
- Controlling and where necessary monitoring the effects of the project during construction, operation and maintenance, and decommissioning in accordance with the mitigation measures identified in the Environmental Statement and/or the requirements identified in the DCO and the related Deemed Marine Licence(s).

Screening

2.4.17 As noted previously only certain types of project require an EIA to be carried out under the 2009 (as amended) and 2017 EIA Regulations. Schedule 1 to the 2009 and 2017 EIA Regulations sets out those developments that are required to undergo an EIA. Schedule 2 sets out the developments that may need an EIA. Offshore wind farms are listed in Schedule 2 of the EIA Regulations (3i) as *'installations for the harnessing of wind power for energy production (wind farms)*'.

2.4.18 A proposed development is "EIA development" and therefore requires EIA to be undertaken if it is "*likely to have significant effects on the environment by virtue of factors such as nature, size or location*". Criteria to be taken into account in determining whether or not Schedule 2 development is EIA development are set out in Schedule 3 of the 2009 and 2017 EIA Regulations. Both the 2009 EIA Regulations (as amended) and 2017 Regulations allow for the request of a formal 'screening' opinion as to whether or not EIA is required. Taking into account the nature and scale of the development proposed, EIA has been undertaken for Thanet Extension without a formal screening opinion being requested from the Secretary of State.

Scoping

2.4.19 An Applicant can request advice from the Secretary of State on the information to be included in the Environmental Statement. The request is known as a "Scoping Opinion Request" and it is a voluntary process. The formal written advice from the Secretary of State in response to this is known as a "Scoping Opinion". A Scoping Opinion is defined as a written statement by the Secretary of State as to the information to be provided in an Environmental Statement. A Scoping Opinion Request, supported by a Scoping Report, for Thanet Extension was submitted to PINS in January 2017 (Vattenfall, 2016) (Document Ref: 6.8.1) with a Scoping Opinion provided by PINS in February 2017.

Consultation

2.4.20 Under the Planning Act 2008, it is the responsibility of the Applicant to ensure that pre-application consultation fully accords with the requirements of the Planning Act 2008 and the associated regulations and guidance, including the 2017 EIA Regulations. Consultation with the consultation bodies, stakeholders and the community has been undertaken on a regular basis throughout the development of the project proposals for Thanet Extension. The Statement of Community Consultation identifies the approach taken by Thanet Extension to formal community consultation.

2.4.21 In addition, the Secretary of State has statutory obligations under the 2009 (as amended) and 2017 EIA Regulations, which impose procedural requirements in relation to notifying and consulting prescribed consultation bodies in relation to Thanet Extension and the DCO application.

Preliminary Environmental Information

2.4.22 The 2009 and 2017 EIA Regulations require Preliminary Environmental Information (PEI) to be produced for public consultation by those seeking a DCO for NSIPs. The level of detail required for PEI is not defined by the 2009 and 2017 EIA Regulations (as amended); however, it must include the information specified in Part 1 of Schedule 4 to the 2009 and 2017 EIA Regulations. Guidance on the detail of PEI is however provided in PINS Advice Note Seven (Environmental Impact Assessment: Preliminary Environmental Information, Screening and Scoping).

2.4.23 The PEIR and its associated annexes constituted the PEI for Thanet Extension. The PEIR was intended to allow those taking part in the consultation to understand the nature, scale, location and potential significant environmental effects of the proposed project known at the time the consultation took place. This allowed individuals and organisations taking part in the consultation to build an informed opinion on the proposals and make an informed contribution to the pre-application process under the Planning Act 2008 and to the EIA process generally. The PEIR was submitted on the 27th November 2017 with the formal consultation period closing on the 12th January 2018.

Environmental Statement

2.4.24 The aim of an Environmental Statement is to demonstrate that the potentially significant environmental effects have been adequately assessed. It is also intended to support the DCO application. As outlined in the 2017 EIA Regulations Schedule 4, Part 1, the Environmental Impact Assessment (the result of which is the Environmental Statement) must include:

'1. A description of the development, including in particular—

(a) a description of the location of the development;

(b) a description of the physical characteristics of the whole development, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;

(c) a description of the main characteristics of the operational phase of the development (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;

(d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases.

2. A description of the reasonable alternatives (for example in terms of development 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.

3. A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.

4. A description of the factors specified in regulation 5(2) likely to be significantly affected by the development: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.'

2.4.25 The 2017 EIA Regulations amend in certain places the requirements outlined in the 2009 EIA Regulations with respect to the information to be included in an Environmental Statement. The following sections provide a definitive list of the new requirements introduced by the 2017 EIA Regulations and the extent to which they have been considered within the Thanet Extension Environmental Statement.

2.4.26 The main significant changes proposed to transpose the requirements of the 2017 EIA Regulations are detailed below and how this Environmental Statement aligns with the requirements.

2.4.27 The addition of a definition of the EIA process – Schedule 4, Part 1:

- This amendment is consistent with the previous practice in that the developer, VWPL in this case, have produced an Environmental Statement for the proposed development which has formed reasoned conclusions on the likely significant effects for each of the impacts assessed. In addition, VWPL have undertaken consultation as part of the PEIR project phase under Sections 42, 47 and 48. The application, which this Environmental Statement accompanies, will be submitted to a competent authority with the relevant information to enable informed decision making.

2.4.28 Changes to the circumstances in which a project may be exempt from the requirements of the Regulations – Regulation 33.

- This EIA Regulations 2017 details a limited number of exemptions that means compliance is not required with them. These exemptions are not applicable to the proposed development, therefore this Environmental Statement (Volumes 1 to 8) presents the EIA undertaken to determine likely significant effects.

2.4.29 Introduction of Joint and/ or Co-ordinated procedures for projects which are subject to the Habitats or Wild Birds Directives as well as the EIA Directive – Regulation 26.

- Both the Report to Inform Appropriate Assessment (Document Ref: 5.2) and the Environmental Statement (Volumes 1 to 8) accompany the development consent application.

2.4.30 The EIA must identify, describe and assess in an appropriate manner, in light of each individual case, the direct and indirect significant effects of the proposed development on the following factors – Regulation 5:

- Population and human health (Regulation 5(2)(a)):
    - This factor has been considered Volume 3, Chapter 12: Public Health (Document Ref: 6.3.12). This chapter has considered the effects of electro-magnetic fields. No significant adverse direct or indirect impacts have been identified for population and human health.
- Biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC(a) and Directive 2009/147/EC(b) (Regulation 5(2)(b)):
    - This environmental factor has been considered Volume 3, Chapter 5: Onshore Biodiversity (Document Ref: 6.3.5). No significant adverse direct or indirect impacts have been identified for biodiversity.
- Land, soil, water, air and climate (Regulation 5(2)(c)):
    - Consideration of the effects on land, soil or water resulting from the proposed development are provided in Volume 3, Chapter 6: Ground Conditions, Flood Risk and Land Use (Document Ref: 6.3.6). No significant adverse direct or indirect impacts have been identified for land, soil or water;
    - An assessment of implications for waterbodies of relevance to the Water Framework Directive is provided in both Volume 3, Chapter 6: Ground Conditions, Flood Risk and Land Use (Document Ref: 6.3.6) and Volume 4, Annex 3-1: Water Framework Directive Assessment (Document Ref: 6.4.3.1) for fresh and, transitional and saline waterbodies respectively. No degradation of the chemical and biological status of the waterbodies has been identified;
    - Consideration of the effects of the proposed development on air quality is provided in Volume 3, Chapter 9: Air Quality (Document Ref: 6.3.9). No significant adverse direct or indirect impacts have been identified for air quality; and
    - Consideration of the effects of the proposed development on climate is provided in Volume 1, Chapter 4: Site Selection and Alternatives (Document Ref: 6.1.4). Section 4.3, of this chapter, details the role of Thanet Extension in supporting the UK Government's commitments to low carbon energy and increased energy security. See additional considerations below under the amendments to Article 4(4).
    - Consideration of the beneficial effect in terms of climate change, in terms of positively contributing to greenhouse gas emission reduction targets, from Thanet Extension is presented in Volume 1, Chapter 3: EIA Methodology (Document Ref: 6.3.1).
    - In terms of assessing the resilience of the project to the effects of climate change, this forms an inherent part of this EIA which considers the future baseline environment in the assessment (see Volume 1, Chapter 3: EIA Methodology (Document Ref: 6.3.1)).
- Material assets, cultural heritage and the landscape (Regulation 5(2)(d)):
    - Considerations of the effects of the proposed development on build assets, including infrastructure, are provided in Volume 3, Chapters 3, 4, 6, 7, 8 and 11 (Socio-economics, Tourism and Recreation, Ground Conditions, Flood Risk and Land Use, Historic Environment, Traffic and Transport and Aviation and Radar) (Document Refs: 6.3.3, 6.3.4, 6.3.6, 6.3.7, 6.3.8 and 6.3.11 respectively) and Volume 2, Chapters 10 and 11 (Shipping and Navigation and Infrastructure and Other Users)(Document Refs: 6.2.10 and 6.2.11 respectively).
    - Considerations of the effects of the proposed development on natural assets, including habitats, are provided in Volume 3, Chapters 4 and 5 (Tourism and Recreation, and Onshore Biodiversity) (Document Refs: 6.3.4 and 6.3.5 respectively) and Volume 2, Chapters 3 to 9 (Water Quality and Sediment Quality, Offshore Ornithology, Benthic Intertidal and Subtidal Ecology, Fish and Shellfish Ecology, Marine Mammal Ecology, Designated Sites and Commercial Fisheries) (Document Refs: 6.2.3 to 6.2.9 respectively). No significant adverse direct or indirect impacts have been identified for material assets;
    - Consideration of the effects of the proposed development on cultural heritage is provided in Volume 2, Chapter 13: Marine Archelogy and Volume 3, Chapter 7: Historic Environment (Document Refs: 6.2.13 and 6.3.7); and
    - Consideration of the effects of the proposed development on landscape is provided in Volume 2, Chapter 12: Seascape, Landscape and Visual and Volume 3, Chapter 2: Landscape and Visual (Document Refs: 6.2.12 and 6.3.2).
- The interaction between the factors referred to in sub-paragraphs (a) to (d) (Regulation 5(2)(e)):
    - Consideration of the interactions between different factors is presented in Volume 2, Chapter 14: Inter-relationships (Document Ref: 6.2.14); and
    - All phases of the lifetime of the project, including operational impacts, have been considered throughout the EIA for each of the technical topics assessed.

2.4.31 Regulation 5(4) '*The significant effects to be identified, described and assessed under paragraph (2) include, where relevant, the expected significant effects arising from the vulnerability of the proposed development to major accidents or disasters that are relevant to that development*':

2.4.32 The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations 2017) require significant risks to the receiving communities and environment, for example through major accidents or disasters, to be considered. Similarly, significant effects arising from the vulnerability of the proposed development to major accidents or disasters should be considered.

2.4.33 Major accidents and disasters have not been assessed as an individual chapter however they have been considered for all relevant topic areas throughout the Environmental Statement including:

- The risk of vessel collisions and increased risk to life for those operating within proximity of the offshore proposed development boundary has been explicitly assessed within Volume 2, Chapter 10: Shipping and Navigation (Document Ref: 6.2.10);
- A full assessment of pathways of contaminants into water bodies, including surface and groundwater has been undertaken in Volume 3, Chapter 6: Ground Conditions, Flood Risk and Land Use, Volume 2, Chapter 2: Water Quality and Sediment Quality, Volume 4: Annex 3-1 Water Framework Directive Assessment (Document Ref: 6.3.6, 6.2.2 and 6.4.3.1); and
- In addition, the vulnerability to infrastructure through natural variability (such as storm events) and climate change has been considered for both offshore and onshore infrastructure. Volume 2, Chapter 2: Marine Geology, Oceanography and Physical Processes (Document Ref: 6.2.2) has considered the uncertainty in the baseline, such as sea level rise, increased storminess and changes to the wave climate, as a result of anthropogenic climate change over the lifetime of the development. Volume 3, Chapter 6: Ground Conditions, Flood Risk and Land Use (Document Ref: 6.3.6) considers the risk to the proposed infrastructure as a result of increased fluvial and tidal flooding as a result of climate change up to 2070 (beyond the lifetime of the project). Further details of consultation on flood risk as a result of climate change is Volume 5, Annex 6-2: Flood Risk Assessment (Document Ref: 6.5.6.2).

2.4.34 A major accident, as defined in the Control of Major Accident Hazards (COMAH) Regulations 2015 (as amended), means “an occurrence (including in particular, a major emission, fire or explosion) resulting from uncontrolled developments in the course of the operation of any establishment and leading to serious danger to human health or the environment, immediate or delayed, inside or outside the establishment and involving one or more dangerous substances”.

2.4.35 Offshore wind developments have an intrinsically low risk of causing major accidents. The turbines, blades towers and foundation bases of offshore wind farms have an excellent safety record with a very low failure rate and are positioned several kilometres offshore away from populated areas and the public. On the rare occasion that offshore turbine blades have been lost into the sea or damage has been caused to a turbine by a fire within the nacelle, this has resulted without injury. The performance of each turbine is constantly monitored through the SCADA system sending performance data through to a central, partly automated monitoring and control centre. As a result, a problem can be quickly detected and pre-prepared safety management action plans rapidly enacted.

2.4.36 Whilst exposed power cables on the seabed can pose a snagging risk to shipping and fishing vessels, the projects export and array cables will be buried where possible to protect the cables and remove the snagging risk. This is discussed in detail in Volume 2, Chapter 10: Shipping and Navigation and Volume 2, Chapter 9: Commercial Fisheries (Document Refs: 6.2.10 and 6.2.9 respectively), which also discusses the risk that the increased vessel movement to and from the site may pose to navigational safety during construction and operational phases.

2.4.37 The cables onshore and offshore pose very little risk to the public as they are designed to ‘trip out’ automatically should any failure in insulation along the cable be detected.

2.4.38 The onshore project substation is also located away from densely populated residential areas. The risk of substation fires is historically low; however, substation fires can impact the supply of electricity and create a localised fire hazard. The highest appropriate levels of fire protection and resilience will be specified for the onshore project substation to minimise fire risks.

2.4.39 The small quantities of lubricants, fuel and cleaning equipment required within the project will be stored in suitable facilities designed to the relevant regulations and policy design guidance.

2.4.40 The offshore wind industry strives for the highest possible health and safety standards across the supply chain. However, there have been incidents including a small number of worker fatalities during the construction and operation of offshore wind farms. Risks to the public onshore and sea users offshore during construction have been minimised through the use of controlled construction sites onshore and vessel safety zones offshore.

2.4.41 Safety zones are temporary exclusion enacted during construction, allowing VWPL and its contractors to control vessel movement to enable safe construction works to proceed.

2.4.42 Onshore, controlled or closed construction sites will be operated where construction works are undertaken in sections where access is strictly controlled during period when the works are ongoing.

2.4.43 VWPL recognises the importance of the highest performance levels of health and safety to be incorporated into the project. There is a commitment to adhere to a high level of process safety, from design to operations and for all staff, contractors and suppliers to have a high level of safety awareness and knowledge of safety and safe behaviour. VWPL will enact a Code of Conduct for suppliers, contractors and subcontractors. They must all comply with the Code as well as health and safety legislation. VWPL will ensure that employees working on the proposed development have undergone necessary health and safety training.

2.4.44 With a commitment to the highest health and safety standards in design and working practises enacted, none of the anticipated construction works or operational procedures is expected to pose an appreciable risk of major accidents or disasters.

2.4.45 In conclusion, the risk of 'major accidents and/or disasters' occurring associated with any aspect of the project, during the construction, operation and decommissioning phases is **Negligible** significance.

2.4.46 An Environmental Statement is a statement which includes at least (Schedule 4, Part 1):

- *1. A description of the development, including in particular—*
- *(a) a description of the location of the development:*
    - Volume 2, Chapter: Project Description (Offshore) and Volume 3, Chapter 1: Project Description (Onshore) (Document Refs: 6.2.1 and 6.3.1) provide information on the proposed development's design including dimensions, locations and relevant features of the project. Figures are provided in these chapters presenting the offshore and onshore Red Line Boundaries respectively.
- *(b) a description of the physical characteristics of the whole development, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases:*
    - Volume 2, Chapter: Project Description (Offshore) and Volume 3, Chapter 1: Project Description (Onshore) (Document Refs: 6.2.1 and 6.3.1) provide information on the proposed development's design including dimensions of land use requirements, such as for temporary onshore construction compounds and the areas required for the installation of project infrastructure. The chapters provide figures of the Red Line Boundary required for the proposed development and (where relevant) locations of all works areas and access routes. A full description of the works anticipated are presented in these changes for the construction, Operations and Maintenance (O&M) and decommission phases of the proposed development.
- *(c) a description of the main characteristics of the operational phase of the development (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used:*
    - Volume 2, Chapter: Project Description (Offshore) and Volume 3, Chapter 1: Project Description (Onshore) (Document Refs: 6.2.1 and 6.3.1) provide information for the anticipated maintenance activities required throughout the O&M phase of the proposed development. Each of the technical chapters within the Environmental Statement have assessed impacts of the operational phase activities and infrastructure.
- *(d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases.*
    - Volume 2, Chapter: Project Description (Offshore) and Volume 3, Chapter 1: Project Description (Onshore) (Document Refs: 6.2.1 and 6.3.1) provides a worst-case estimate for all anticipated expected residues and emissions, including noise, types of waste and pollutant sources for each phase of the development. The technical assessments, within the Environmental Statement chapters, for all relevant residues and emissions have been included as per the Scoping Opinion, including within the Noise and Vibration; Ground Conditions, Land Use and Flood Risk; Marine Water and Sediment Quality and Air Quality chapters (Document Refs: 6.3.10, 6.3.6, 6.2.3 and 6.3.9 respectively).
- *2. A description of the reasonable alternatives (for example in terms of development 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* (Schedule 4, Part 2):
    - Volume 1, Chapter 4: Site Selection and Alternatives (Document Ref: 6.1.4) presented an account for the alternatives considered and the reasons for the option/s taken forward for design/ assessment including potential effects of the proposed development on the environment and designated sites.
- *3. A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge* (Schedule 4, Part 3):

- Each of the technical assessments presents the current state of the environment, outlining the data and information used to inform the baseline characterisation for the assessment. For technical chapters, for which there is a relevant EIA Technical Review Panel, the data sources and information used to inform the baseline has been agreed through the EIA Evidence Plan process (Document Ref: 8.5); and

- Where the baseline may naturally evolve, without the proposed activities occurring, this has been considered within the relevant technical chapters. For example, the consideration of climate change altering the physical marine environment is presented in Volume 2, Chapter 2: Marine Geology, Oceanography and Physical Processes (Document Ref: 6.2.2).

- *4. A description of the factors specified in regulation 5(2) likely to be significantly affected by the development: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.* (Schedule 4, Part 4):

  - Each of these factors have been assessed within the Thanet Extension Environmental Statement, as per the Scoping Opinion (unless otherwise agreed through the EIA Evidence Plan), see paragraph 2.4.30 *et seq* (of this chapter) for further details.

2.4.47 *5. A description of the likely significant effects of the development on the environment resulting from, inter alia* (Schedule 4, Part 5):

- *(a) the construction and existence of the development, including, where relevant, demolition works;*

- *(b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;*

- *(c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;*

- *(d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);*

- *(e) the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;*

- *(f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change;*

- *(g) the technologies and the substances used.*

- *The description of the likely significant effects on the factors specified in regulation 5(2) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the development. This description should take into account the environmental protection objectives established at Union or Member State level which are relevant to the project, including in particular those established under Council Directive 92/43/EEC(a) and Directive 2009/147/EC(b).*

  - The scope of the assessments within the Environmental Statement, to determine the likely significant effects, was informed by the Scoping Opinion, see paragraph 2.4.30 *et seq* (of this chapter) for further details.

  - For each effect assessed within the technical chapters of the Thanet Extension Environmental Statement a justification is provided whether the effect is beneficial or adverse. Consideration of the temporal nature of the effect, and the potential for cumulative and/or transboundary effects are also presented. The assessment of all inter-related effects are provided in Volume 2, Chapter 14: Inter-related Effects (Document Ref: 6.2.14).

  - Further details of the methodology and the projects and plans considered in the cumulative assessments, within the technical chapters, are provided in Volume 1, Annex 3-1: Cumulative Effects Assessment (Document Ref: 6.1.3.1).

  - The Report to Inform Appropriate Assessment (Document Ref: 5.2) provides full details of the consideration of the Habitats Regulations and Birds Directives (see paragraph 2.4.50 *et seq* of this chapter) and assessment against conservation objectives.

- *6. A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved* (Schedule 4, Part 6)*:*

- Each of the technical chapters provided the methodology to classify the significance of potential effects. Most assessments present topic specific criteria to determine the magnitude of the effect and the sensitivity of the receptor. The magnitude and sensitivity are then used to determine the significance of the effect using a matrix based approach. Full details of the EIA Methodology employed throughout the Thanet Extension Environmental Statement are presented in Volume 1, Chapter 3: EIA Methodology (6.1.3). Where technical assessments have applied a different methodology justification and details are provided within the technical chapter, for example, see Volume 2, Chapter 12: Seascape Landscape and Visual Impact Assessment (Document Ref: 6.2.12).

- Each of the technical chapters includes a section which details uncertainties within the technical chapter, such as potential data gaps.

- *7. A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases* (Schedule 4, Part 7)*:*

  - For each of the identified technical assessments a description of the embedded mitigation and additional mitigation methods which could be employed are identified and assessed to how, if possible, they could reduce a likely significant effect; and

  - Draft monitoring plans including nature, location and size of the proposed monitoring for each type of parameters to be monitored will be provided where relevant and in relation to those significant adverse effects or where relevant as part of mitigation strategies.

- *8. A description of the expected significant adverse effects of the development on the environment deriving from the vulnerability of the development to risks of major accidents and/or disasters which are relevant to the project concerned. Relevant information available and obtained through risk assessments pursuant to EU legislation such as Directive 2012/18/EU of the European Parliament and of the Council(c) or Council Directive 2009/71/Euratom(d) or UK environmental assessments may be used for this purpose provided that the requirements of this Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.* (Schedule 4, Part 8):

  - Paragraph 2.4.33 *et seq*, of this chapter, provides details of the description and assessment of major accidents and/ or disasters within the Thanet Extension Environmental Statement.

- *9. A non-technical summary of the information provided under paragraphs 1-8* (Schedule 4, Part 9):

  - A non-technical summary is provided to accompany the development consent application. A draft non-technical summary was also provided to accompany the PEIR.

- 10. *A reference list detailing the sources used for the descriptions and assessments included in the environmental statement* (Schedule 4, Part 10):

  - Each of the Environmental Statement chapters includes a full reference list of all data sources, scientific papers and other information sources used to inform the technical assessment.

2.4.48 A requirement for Environmental Statements to be *'based on the most recent scoping opinion or direction adopted (so far as the proposed development remains materially the same as the proposed development which was subject to that opinion)'* – Regulation 14(3)(a):

- VWPL requested a Scoping Opinion from PINS in January 2017 through the submission of the Scoping Report. Details of the received Scoping Opinion (received February 2017) in relation to specific technical areas are included in the consultation table within each relevant technical chapter of this Environmental Statement, detailing the requested environmental information and how (and where) this has been included in this EIA. The additional topics and requirements necessitated by the EIA Regulations 2017 have been included within the Environmental Statement.

2.4.49 *The environmental statement must be accompanied by a statement from the developer outlining the relevant expertise or qualifications of such experts* – Regulation 14(4)(b):

- Volume 1, Chapter 1: Introduction (Document Ref: 6.1.1), provides details and affiliations of the organisations, which have contributed to the development of this Environmental Statement, demonstrating sufficient expertise and experience to qualify as 'competent experts'.

The Habitats Directive

2.4.50 EC Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive) is intended to protect biodiversity by requiring Member States to take measures to maintain or restore natural habitats and wild species listed in the Annexes to the Directive at a favourable conservation status. It provides for robust protection for those habitats and species of European importance.

2.4.51 EC Directive 2009/147/EC on the conservation of wild birds (known as the Birds Directive) provides a framework for the conservation and management of, and human interactions with, wild birds in Europe. It sets broad objectives for a wide range of activities.

2.4.52 In England and Wales, the Habitats Directive is implemented under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) and the Offshore Marine Conservation (Natural Habitats, & c.) Regulations 2017. The Marine Habitats Regulations transpose the Habitats Directive and the Birds Directive into national law.

2.4.53 The provisions of the Birds Directive are implemented through the Wildlife and Countryside Act 1981, the Habitats Regulations and the Offshore Marine Conservation (Natural Habitats & c.) Regulations 2017, as well as other legislation related to the uses of land and sea.

2.4.54 Under this legislation a network of protected areas (the Natura 2000 network) has been established. These are Special Areas of Conservation (SACs), for habitats and species, and Special Protection Areas (SPAs), for birds. The Habitats Regulations require that, where the possibility of a likely significant effect on a Natura 2000 site cannot be excluded (either alone or in combination with another plan or project), a competent authority must undertake an Appropriate Assessment as part of the Habitats Regulations Assessment (HRA) process. The Habitats Regulations state that it is the developer's responsibility to provide sufficient information to the competent authority to enable them to assess whether there are likely to be any significant effects and to enable them to carry out the appropriate assessment, where necessary.

2.4.55 The HRA is not formally a part of the EIA process; nevertheless the two are intrinsically linked and much of the baseline information and impact assessment is common to both. Data acquisition and assessment completed for the EIA will be sufficient for informing the assessment process under the HRA. To ensure consistency between the two processes, this Environmental Statement summarises the findings of the assessment under the HRA within the assessment of impact on designated sites.

2.4.56 As part of the Thanet Extension PEIR, HRA screening was undertaken and a screening report submitted for consideration. This development consent application is accompanied by both the HRA screening and the Report to Inform Appropriate Assessment (RIAA) for the proposed development. Through the Evidence Plan process, the findings of the screening and the draft RIAA were consulted on prior to submission with the development consent application.

European Protected Species (EPS) licence

2.4.57 The Habitats Regulations (together with the Marine Habitats Regulations for offshore areas) provide protection for certain species of plants and animals onshore (those species listed in Schedule 2 and Schedule 5 of the Regulations respectively), referred to collectively as European Protected Species (EPSs), and their breeding sites or resting places.

2.4.58 These regulations set out the activities that are prohibited, such as deliberate disturbance or creating damage to a breeding place.

2.4.59 The Regulations also provide for licences to be granted for certain operations, such as proposed developments that may affect protected species, subject to:

- There being no satisfactory alternative; and
- The action authorised not being detrimental to the maintenance of the population of the range of species concerned at a favourable conservation status in their natural range.

2.4.60 If disturbance cannot be avoided then an application for an EPS licence would need to be made to the MMO and/ or Natural England. The application and granting of such a licence is separate to the DCO consenting regime and will be applied for following the grant of any DCO. Where relevant and agreed with the relevant stakeholders, draft EPS licences are provided as accompanying documents to the development consent application.

Energy Act 2004 – Decommissioning

2.4.61 Sections 105 to 114 of the Energy Act 2004 introduced a requirement for decommissioning schemes for offshore wind and marine energy installations to be approved by the Department for Business, Energy and Industrial Strategy (BEIS) prior to commencement of construction of such projects.

2.4.62 These decommissioning provisions reflect the view of the UK Government – taking into account its international obligations under UNCLOS (United Nations Convention of the Law of the Sea) and OSPAR (the Oslo and Paris Convention) – that anyone who constructs, extends, operates or uses an installation should be responsible for ensuring that it is decommissioned at the end of its useful life. It incorporates the approach that those constructing and operating such projects should also be responsible for meeting the costs of decommissioning.

2.4.63 The potential effects associated with decommissioning Thanet Extension are assessed in this Environmental Statement and this phase of development is included within the development consent application. The Thanet Extension project team will develop and consult upon a decommissioning programme and obtain approval of this from BEIS at the pre-construction phase, in line with the requirements of the DCO.

2.4.64 Closer to the time of decommissioning, a decommissioning plan and programme would be required to be submitted prior to the construction of Thanet Extension. Further consents at this stage may be required. The decommissioning plan and programme would be updated during the lifespan of the wind farm to take account of changing best practice and new technology.

2.5 Relevant Policy

National Policy Statements

2.5.1 National Policy Statements (NPSs) set out national policy relating to nationally significant infrastructure development. Under Section 104 of the Planning Act 2008, NPSs are the policy documents to which the Secretary of State must have regard when deciding a DCO application, stating in Section 104(2):

"In deciding the application the [Secretary of State] *must have regard to-*

(a) any national policy statement which has effect in relation to development of the description to which the application relates (a "relevant national policy statement")."

2.5.2 The NPSs of relevance to the proposed development, all designated in July 2011, include:

- EN-1 Overarching NPS for Energy - provides the primary basis for decisions by the Infrastructure Planning Commission (IPC) on applications it receives for nationally significant renewable energy infrastructure;
- EN-3 Renewable Energy - provides the primary basis for decisions by the IPC on applications it receives for the renewable energy infrastructure defined as energy from biomass and/ or waste (>50MW), offshore wind (>100MW) or onshore wind (>50MW); and
- EN-5 Electricity Networks Infrastructure - Provides the primary basis for decisions by the IPC on applications it receives for the electricity networks infrastructure defined as above ground electricity lines of 132 kV and above; or other infrastructure for electricity networks that is associated with a NSIP.

2.5.3 EN-1 sets out national policy for energy infrastructure and has effect, in combination with the relevant technology-specific NPS of providing the primary basis for decision-making under the Planning Act 2008 as amended.

2.5.4 NPSs have been designed to guide the decision-making process for DCOs and are the primary policy documents for the purposes of decision making. The NPSs define the national need for certain types of infrastructure and issues to be considered by the examining body when assessing whether a location is acceptable for the type and scale of development, the approach to the mitigation of impacts and the establishment of design criteria.

2.5.5 As part of the EIA process the scope of the assessment work has been considered in the context of the NPS to ensure overall compliance with these documents. Relevant issues in EN-1, EN-3 and EN-5 have been identified and are assessed in detail in the relevant technical chapters.

Marine Policy Statement and Marine Plans

2.5.6 In support of the UK Government's vision of 'clean, healthy, safe, productive and biologically diverse oceans and seas', the Marine and Coastal Access Act 2009 introduced a marine planning system. This system comprises the Marine Policy Statement (MPS), a high-level framework for preparing marine plans and taking decisions affecting the marine environment, and marine plans. Marine plans translate the MPS into detailed policy and guidance for particular areas. Marine plans provide guidance for sustainable development in English waters and are intended to inform and guide decisions on marine and coastal development by conserving and enhancing the environment, reducing costs and increasing certainty for developers, and boosting economic and employment benefits.

2.5.7 The Department for Environment, Food and Rural Affairs (DEFRA) has agreed eleven marine plan areas with the aim of completing marine plans by 2021. The South East Marine Plan, in which Thanet Extension is situated, is in the early stages of development, with consultation on a draft plan expected in 2019 (MMO, 2016). Until the adoption of this plan, the Marine Policy Statement is used, along with consideration of the East Marine Plans, as they border the South East Marine Plan areas and are considered appropriate references.

Planning Policy

2.5.8 NPS EN-1 confirms that the energy NPSs have taken account of relevant planning policy held previously within Planning Policy Statements (PPSs) and Planning Policy Guidance Notes (PPGs) in England (paragraph 4.1.5; DECC, 2011c). Although reference to the NPS should be sufficient in principle for compliance purposes, VWPL is adopting the approach set out in NPS EN-3, which states that applicants and the Secretary of State should still have regard to extant planning policy guidance specifically related to renewable energy projects, although *"Whether an application conforms to the guidance or the targets will not, in itself, be a reason for approving or rejecting the application"* (paragraph 2.2.1; DECC, 2011d).

The National Planning Policy Framework (NPPF)

2.5.9 The National Planning Policy Framework (NPPF) is the set of national planning policies for England and provides guidance to local authorities and others in assessing planning applications for development. On 6th March 2014, the Department for Communities and Local Government (DCLG) launched the Planning Practice Guidance as a web-based resource. Section 5 sets out guidance on *"Renewable and Low Carbon Energy"*. Paragraph 001 states that:

"Increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and business." (DCLG, 2014).

2.5.10 The NPSs for NSIPs operate separately from the NPPF. NSIPs do not require planning permission and the NPPF does not contain specific policies for NSIPs. However, matters that the Secretary of State considers *"important and relevant"* when making decisions on NSIPs applications, may include the NPPF itself.

The Statutory Development Plan

2.5.11 NPS EN-1 (paragraph 4.1.5) provides that the policies contained within Development Plan documents and other Local Development Framework (LDF) documents may be considered important and relevant in decision making. However, in the event of a conflict, the NPSs prevail for the purpose of the Secretary of State's decision making (DECC, 2011, c).

2.5.12 A full summary of the relevant Statutory Development Plan documents in all Local Authority areas affected by the proposed onshore infrastructure for Thanet Extension is provided in the Planning Statement which accompanies the Environmental Statement. Particular considerations relevant to the assessment of environmental and socio-economic effects are identified in the specific Environmental Statement topic chapters.

Development Plans and Emerging Local Policy

2.5.13 Where it is deemed relevant and important, existing and emerging local-level planning policy and guidance may carry some weight in the consideration of an application for development consent, according to the stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies to the policies in the NPPF. Nevertheless, it is the NPS that provide national policy for a DCO application and provide the primary basis for decision-making under the Planning Act 2008.

2.5.14 In principle, the following existing local plans for the district and borough in which Thanet Extension will be located may be relevant for the EIA.

- Thanet Local Plan Saved Policies (original plan expired June 2009);
- Kent County Council Minerals and Waste Local Plan 2013-2030 (adopted July 2016);
- Kent County Council Kent Environment Strategy (2016); and
- Dover District Local Development Framework Core Strategy (adopted February 2010).

2.5.15 The Thanet Local Plan includes:

- Thanet Local Plan 2006 Saved Policies;
- Cliftonville Development Plan Document; and
- Kent Waste and Mineral Local Plan Saved Policies.

2.5.16 However, Thanet District Council are developing and consulting on a new draft Local Plan at the time of writing. The Local Plan will replace the 2006 Local Plan and will cover development up to 2031.

2.5.17 For Dover the following are primary policy documentation:

- Saved Policies of the Local Plan 2002;
- Dover District Local Development Framework Core Strategy 2010;
- Dover District Land Allocations Local Plan 2015; and
- Dover District Emerging Local Plan 2037 (under early stages of drafting).

2.5.18 In addition, Dover District Local Plan to 2037 as an emerging local plan may also be relevant for the determination of the DCO application.

2.5.19 Topic specific legislation and policy (and guidance) is explored in more detail within the technical chapters of the Environmental Statement.

2.6 Guidance and Best Practice

2.6.1 A series of guidance documents has been prepared by both central government (DCLG) and PINS. Under Section 50(3) of the Planning Act 2008, project promoters must have regard to these guidance documents when complying with the provisions of the Act.

2.6.2 In addition to the various guidance documents related to the Planning Act (2008), PINS has adopted 18 Advice Notes that are intended to assist individuals and organisations to engage more effectively in the process for making, commenting or deciding upon applications for development consent.

2.6.3 The way in which Thanet Extension has taken account of the guidance and advice notes is considered and explained within the topic chapters of the Environmental Statement, where relevant.

Planning Practice Guidance

2.6.4 On 6th March 2014, the DCLG launched the online national Planning Practice Guidance (PPG). This was accompanied by a Written Ministerial Statement setting out a list of the previous planning practice guidance documents cancelled when the site was launched.

2.6.5 The PPG consolidates (and revokes) guidance on the EIA process which was formally found in the following documents:

- Circular 02/99 Environmental Impact Assessment (1999);

- Environmental Impact Assessment: A Guide to Procedures (DETR, 2000);
- Note on Environmental Impact Assessment Directive for Local Planning Authorities (Office of the Deputy Prime Minister (ODPM), 2004); and
- Preparation of Environmental Statements for Planning Projects that Require Environmental Impact Assessment – A Good Practice Guide (Department of Environment (DoE), 1995).

Other Guidance

2.6.6 The EIA process has taken into account other relevant guidance, including:

- DECC Guidance Note 'Offshore Windfarm Consents Process' (Department of Trade and Industry (DTI), 2004);
- Guidelines for Environmental Impact Assessment, Institute of Environmental Management and Assessment (IEMA), 2004;
- Cefas guidance note for Environmental Impact Assessment in respect of Food and Environment Protection Act 1985 (FEPA);
- Coast Protection Act 1949 (requirements 2004));
- Nature conservation guidance on offshore windfarm development (Department of Environment, Food and Rural Affairs, 2005);
- Developing guidance on ornithological cumulative impact assessment for OWF developers (King *et al.,* 2009);
- The Design Manual for Roads and Bridges (DMRB) Volume 11: Environmental Assessment (and updates) (Highways Agency *et al.,* 2008);
- Guidelines for Ecological Impact Assessment in the UK and Ireland – Terrestrial, Freshwater and Coastal (CIEEM, 2016);
- Guidelines for Ecological Impact Assessment in Britain and Ireland – Marine and Coastal (CIEEM, 2010);
- Guidelines for Landscape and Visual Impact Assessment 3 (Landscape Institute and IEMA, 2013); and
- A Review of Assessment Methodologies for Offshore Wind Farms COWRIE METH-08-08 (Maclean *et al.,* 2009).

2.6.7 Guidance, standards and best practice that are relevant to the assessments undertaken in the technical chapters is addressed within those chapters.

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