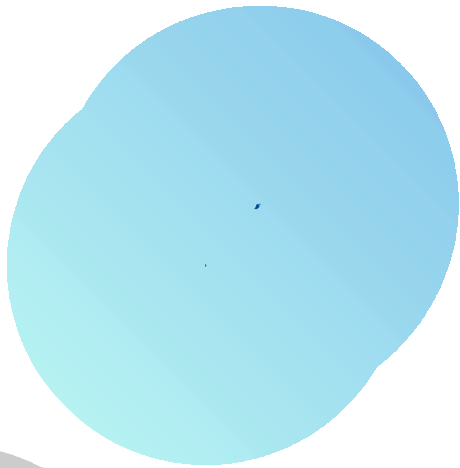


Orkney Islands Regional Marine Plan
Habitats Regulations Appraisal
Record: Draft



ORKNEY
ISLANDS COUNCIL



The Scottish Government
Riaghaltas na h-Alba

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Glossary

AA	Appropriate Assessment
HRA	Habitats Regulation Appraisal
LSE	Likely Significant Effects
MHWS	Mean High Water Springs
MRE	Minor Residual Effects
nm	nautical miles
OIRMP	Orkney Islands Regional Marine Plan
SAC	Special Area of Protection
SPA	Special Protection Area

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1. Introduction

- 1.1. The Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention) was adopted in 1979 and came into force in 1982. The Convention established internationally a binding legal framework for the conservation and protection of flora and fauna and their natural habitats. To implement the Bern Convention in Europe, the European Community adopted Council Directive 79/409/EEC on the Conservation of Wild Birds (the Birds Directive) in 1979, as well as Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the Habitats Directive) in 1992. Following Brexit, these conventions are now carried forward under current Scottish legislation via the Conservation (Natural Habitats, &c.) Regulations 1994¹.
- 1.2. The Habitats Regulations have been amended as a result of leaving the EU so that European sites are both protected, and continue to operate, as they have done since their original designation. The changes to the Regulations also mean that the requirements of the Directives continue to be relevant to the management of European sites.
- 1.3. The Habitats Directive aims to protect habitats and species which are considered to be of European interest and listed in the Directive's annexes, while the Birds Directive seeks to protect all European wild birds as well as the habitats of species that are listed in Annex I. The directives led to the establishment of Special Areas of Conservation (SAC) and Special Protected Areas (SPA) which together form the Natura 2000 network of protected sites across Europe; these are now referred to as 'European sites' in Scotland.
- 1.4. Article 6(3) of the Habitats Directive requires that any plan or project, which is not directly connected with, or necessary to, the management of a European site, but would be likely to have a significant effect on such a site, either individually or in combination with other plans or projects, shall be subject to an '*appropriate assessment*' of its implications for the European site in view of the site's conservation objectives. In the light of the conclusions of that assessment, and subject to the provisions of Article 6(4) of the Habitats Directive, the competent authority, which in the context of the Orkney Islands Regional Marine Plan, is Orkney Islands Council on behalf of Scottish Ministers under the *Delegation of Functions etc (2020)*², may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned.

¹ [The Conservation \(Natural Habitats, &c.\) Regulations 1994](#)

² [Delegation of Functions \(regional marine plan for the Scottish Marine Region for the Orkney Islands\) Direction 2020 - gov.scot \(www.gov.scot\)](#)

1.5. Article 6(4) provides that if, in spite of a negative assessment of the implications for the site, and in the absence of alternative solutions, the plan or project must nevertheless be carried out for imperative reasons of overriding public interest, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of European sites are protected.

1.6. *Habitats Regulations Appraisal of Plans – Guidance for plan-making bodies in Scotland* (2015)³ describes a 13 stage appraisal process (see Table 1) that meets the procedural requirements of Article 6(3) and the Regulations in most instances. The appraisal of the Orkney Islands Regional Marine Plan (OIRMP) has followed this guidance in consultation with Scottish Natural Heritage, which rebranded as 'NatureScot' in August 2020, and will hereafter be referred to constantly as NatureScot.

³ [Habitats Regulations Appraisal of Plans - plan-making bodies in Scotland - Jan 2015.pdf \(nature.scot\)](#)

Table 1: Habitats Regulations Appraisal 13 stage process

Stage 1:	Decide whether Plan is subject to HRA
Stage 2:	Identify European sites that should be considered in the appraisal
Stage 3:	Summarise available information about the European sites
Stage 4:	Discretionary consultation on the method and scope of the appraisal
Stage 5:	Screen Plan for likely significant effects on a European site
Stage 6:	Apply mitigation measures
Stage 7:	Re-screen Plan (if significant effects are unlikely after mitigation go to Stage 10)
Stage 8:	If significant effects still likely, undertake an appropriate assessment in view of conservation objectives
Stage 9:	If significant effects still likely, apply mitigation measures until there is no adverse effect on site integrity
Stage 10:	Prepare draft HRA record
Stage 11:	Consult NatureScot on draft HRA record
Stage 12:	Screen any amendments for likelihood of significant effect and undertake further assessment if necessary (including re-consulting NatureScot on amendments if necessary)
Stage 13:	Modify HRA Record in light of representations and any amendments to the Plan and publish final/revised HRA Record

2. Undertaking the Habitats Regulations Appraisal process

In order to assess if an HRA is required for the OIRMP, the criteria outlined in Figure 1 below were used.

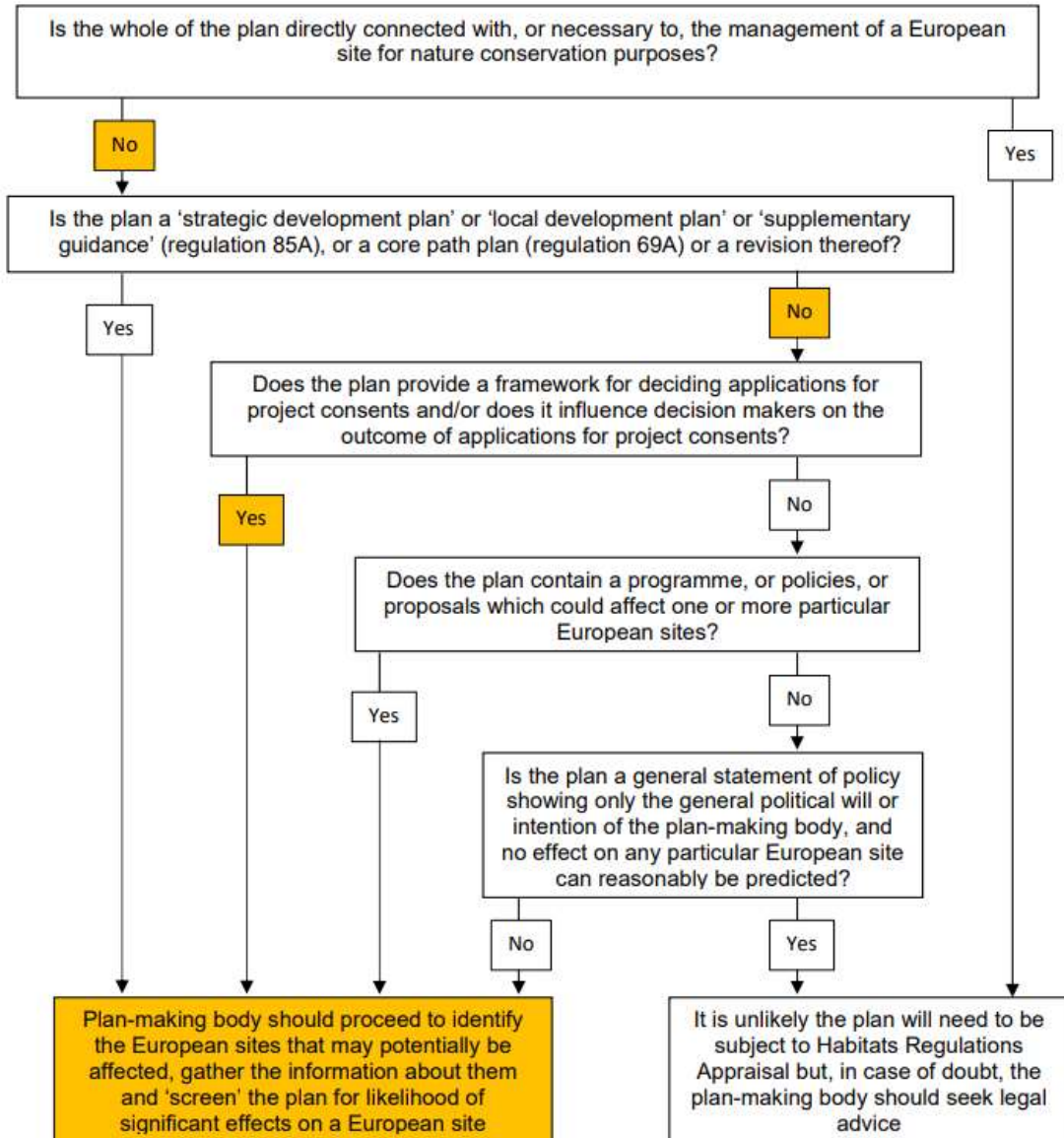


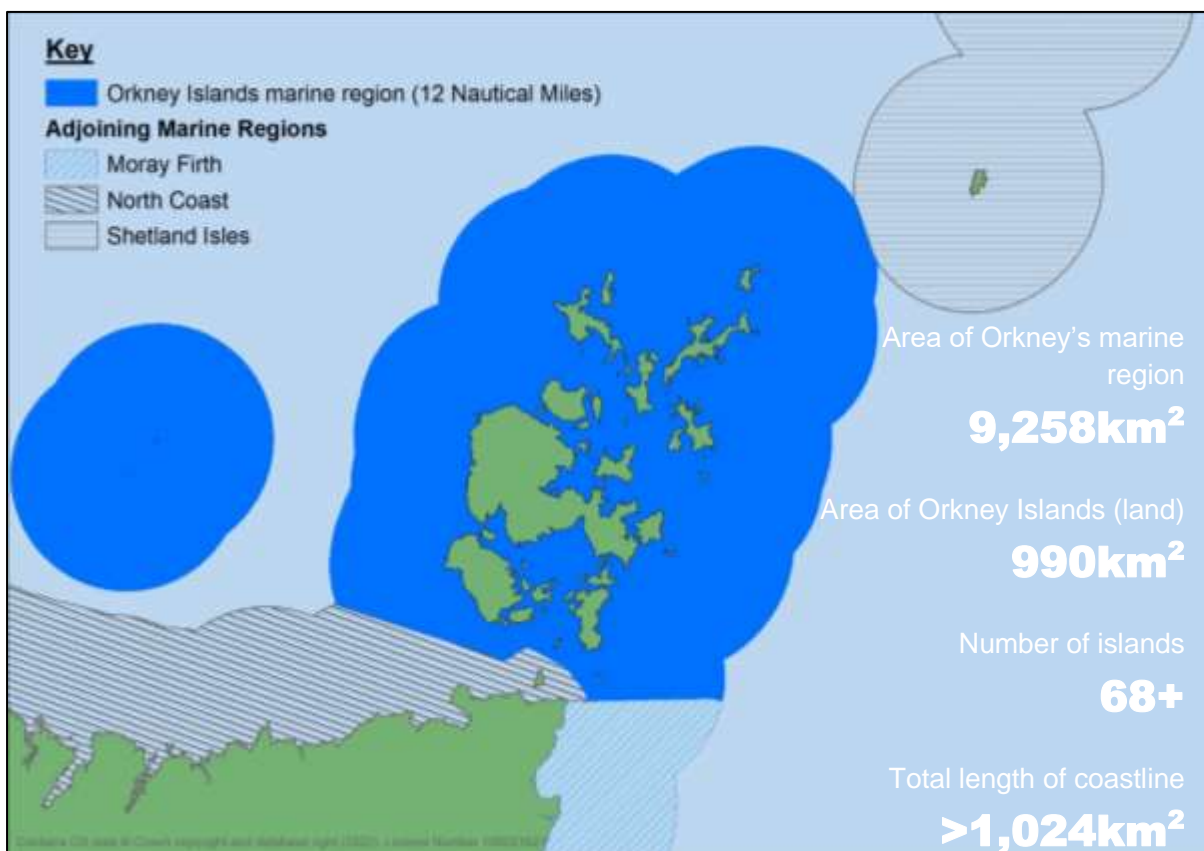
Figure 1 - Habitats Regulation Appraisal Decision Criteria (Source NatureScot)

2.1. **Stage 1** of the process assessed the OIRMP against the criteria in Figure 1 to determine whether an HRA is required. It was considered that an HRA is required because:

- it is not directly connected with or necessary to the management of a European site for nature conservation purposes;
- it is not a plan identified by regulations 85A or 69A; and

- it provides a framework for deciding applications and influencing decision-makers.

The OIRMP will guide decision making on, for example, Marine Licences (from the Marine Directorate of the Scottish Government), CAR licences from SEPA, marine-related planning and works licence applications (from Orkney Islands Council) and lease options (from Crown Estate Scotland). It will influence decision makers on the outcome of those licence applications, the OIRMP is therefore subject to HRA and steps 3-5 of Table 1 are required. The OIRMP area is the Orkney Islands marine region which extends from Mean High Water Springs (MHWS) to the 12 nautical mile boundary around the Orkney Islands (see Map 1).



Map 1: Orkney Islands Marine Region area

2.2. **Stage 2** requires the European sites that will be included in the Appraisal to be identified. The OIRMP covers the administrative area of the Orkney Islands marine region, as defined in the Scottish Marine Regions Order 2015, and includes the isolated islets of Sule Skerry and Sule Stack in these regional marine waters, which are located approximately 60km to the west of the Orkney mainland. Within this area, Orkney's European sites consist of eighteen SPAs and six SACs; all have marine and/or coastal elements; there is also one Ramsar site. The qualifying interests of certain sites include mobile species

which can forage over considerable areas; therefore all of these European sites (see Map 2 and Appendix 1) have been scoped into the Appraisal.

2.3. **Stage 3** requires a summary to be prepared of the available information about the European sites. This is provided in Appendix 1: *Summary of European sites in Orkney's marine and coastal waters* which lists the sites, along with information on their qualifying interests, any existing pressures and their vulnerabilities to change and/or the potential effects of the Plan. Policy areas where there is potential for adverse effects include aquaculture and wind energy development, for example. In addition, a number of marine renewable energy projects are currently being progressed and, should these be developed during the lifetime of the Plan, there is potential for the associated onshore/coastal infrastructure to impact on the interests of certain sites.

2.4. Conservation objectives for SACs are generally structured as follows.

For SAC habitat features:

- To avoid deterioration of the qualifying habitat thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and
- To ensure for the qualifying habitat that the following are maintained in the long term:
 - Extent of the habitat on site.
 - Distribution of the habitat within site.
 - Structure and function of the habitat.
 - Processes supporting the habitat.
 - Distribution of typical species of the habitat.
 - Viability of typical species as components of the habitat.
 - No significant disturbance of typical species of the habitat.

For SAC species:

- To avoid deterioration of the habitats of the qualifying species (listed below) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and
- To ensure for the qualifying species that the following are maintained in the long term:
 - Population of the species as a viable component of the site.

- Distribution of the species within site.
- Distribution and extent of habitats supporting the species.
- Structure, function and supporting processes of habitats supporting the species.
- No significant disturbance of the species.

Conservation objectives for SPAs are generally structured as follows:

- To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and
- To ensure for the qualifying species that the following are maintained in the long term:
 - Population of the species as a viable component of the site.
 - Distribution of the species within site.
 - Distribution and extent of habitats supporting the species.
 - Structure, function and supporting processes of habitats supporting the species.
 - No significant disturbance of the species.

Information on the marine related SACs and SPAs was obtained from the NatureScot Sitelink⁴.



Map 2: European sites map

2.5. At **Stage 4** Orkney Islands Council consulted NatureScot to agree the method and scope of the appraisal. The benefit of early engagement enables NatureScot to advise the plan-making team on options, draft policies or proposals that may have a likely significant effect (LSE) or minor residual effects (MRE) on European sites and on possible mitigation measures. This is envisaged to save time and effort later in the HRA process.

2.6. At **Stage 5** the Plan was screened for its likely significant effects on Orkney's European sites. The screening process considered:

- the Plan's Vision, guiding principles, aims and objectives;
- the General policies and the
- Sector policies;

⁴ [SiteLink \(nature.scot\)](https://www.nature.scot/sitelink)

- for likely effects of future development within Orkney's marine and coastal waters.

Screening is a term used to describe the initial stages of the HRA, however it is not a term used explicitly in the Habitats Directives or Regulations (DTA, 2015)⁵. The main purpose of the screening stages, according to the NatureScot guidance, is to:

- a) Identify all aspects of the plan which would have no effect on a European site, so that they can be eliminated from further consideration in respect of this and other plans;
- b) Identify all aspects of the plan which would not be likely to have a significant effect on a European site (i.e. would have some effect, but minor residual), either alone or in-combination with other aspects of the same plan or other plans and projects; and which therefore do not require 'appropriate assessment' but will need to be screened for the likelihood of significant effects in-combination with other identified minor residual effects; and
- c) Identify those aspects of the plan where it is not possible to rule out the risk of significant effects on a European site, either alone or in-combination with other plans or projects. This means that the conclusion is that there is an LSE, and this provides a clear scope for the parts of the plan that will require 'appropriate assessment'.

For the purposes of screening, it is important to provide an interpretation of what is considered to be a 'likely significant effect'. In the 'Waddenzee Ruling' the European Court of Justice said in re-iteration: *'...any plan or project not directly connected with or necessary to the management of the site is to be subject to an appropriate assessment of its implications for the site in view of the site's conservation objectives if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in-combination with other plans or projects.'* Therefore it may be interpreted that 'a precautionary approach 'is employed where a LSE cannot be ruled out, either alone or in-combination with other plans or projects.' The screening process includes a series of systematic steps to eliminate or 'screen out' elements of the OIRMP not likely to have a significant effect on a European site. This will then ensure that other elements of the OIRMP are 'screened in' to the 'appropriate assessment, and therefore subject to further appraisal.

The findings are presented in the following tables:

- **Table 2** Screening the effects of the Vision, guiding principles, aims and objectives;

⁵ [Habitats Regulations Appraisal of Plans - plan-making bodies in Scotland - Jan 2015.pdf \(nature.scot\)](#)

- **Table 3** Screening the effects of the General policies on European sites;
- **Table 4** Screening the effects of the Sector policies on European sites.

2.7. A three-step 'screening' process is outlined by the guidance⁶ and this has been followed to screen the OIRMP:

Step 1: screening out general policy statements;

Step 2: screening out projects referred to in, but not proposed by the plan;

Step 3: screening out aspects of the plan that could have no likely significant effect on a European sites, along or in combination with other aspects of the same plan, or with other plans or projects.

At Step 3 policies and proposals were screened out for the following reasons:

3a: Aspects which protect the natural environment;

3b: Aspects that will not lead to development or other change;

3c: Aspects which make provision for change but could have no conceivable effect on a European site, because there is no link or pathway between them and the qualifying interests, or any effect would be a positive effect or would not otherwise undermine the conservation objectives for the site;

3d: Aspects which make provision for change but which could have no significant effect on a European site (minor residual effects), because any potential effects would be so restricted that they would not undermine the conservation objectives of the site⁷;

3e: Aspects which are too general so that it is not known where, when or how the aspect of the plan may be implemented, or where any potential effects may occur, or which European sites, if any, may be affected.

Step 1: Screening out general and strategic policy statements

The aim of this step is to identify and screen out general policy statements, including 'general criteria based policies', and to record that they will not be likely to have a significant effect on a European site. The OIRMP incorporates a number of general and strategic policy statements. The OIRMP has been based on a vision that 'the Orkney Islands marine region is clean, healthy, safe and productive; Orkney's

⁶ [Habitats Regulations Appraisal of Plans - plan-making bodies in Scotland - Jan 2015.pdf \(nature.scot\)](#)

⁷ [Habitats Regulations Appraisal \(HRA\) - Environmental assessment - gov.scot \(www.gov.scot\)](#)

marine and coastal environment is rich in biodiversity and managed sustainably to support thriving and resilient local communities’.

This vision is supported by a number of strategic objectives which are, by their nature, general and holistic. These objectives are sustained by topic-related policies, which are either General or Sector Policies. Proposed development and/or activities should be guided by the relevant General Policies included in the OIRMP and are considered in relation to the applicable sector-based policies. The General Policies should be applied proportionately by public authority decision makers. Decision makers need to consider whether the type, location and/or scale of a development or activity, and its associated impacts or effects, justify the application of a specific general policy or a provision within such a policy. As for any planning/licencing decision, it will be for the decision maker to determine the appropriate policy application. It is necessary for decision makers to exercise professional judgement regarding issues and related policy that should be scoped into a decision making process. The aim of this approach is to ensure that Orkney’s marine waters are clean, safe, healthy and productive.

The OIRMP screening results for strategic and general policy statements are summarised in Table 2 and General and Sector Policies screening results are summarised in Table 3. This assessment has been carried out in accordance with the guidance⁸ Stage 5: Screening Step 1.

The following have been screened out:

- Vision, guiding principles, aims, objectives (see Appendix 2);
- General Policies
- Overarching policies within the Sector Policies

Sectoral Policies

The OIRMP screening results for Sector Policies are summarised in Table 4. This assessment has been carried out in accordance with Guidance⁹ Reference Stage 5: Screening Step 1.

⁸ [Habitats Regulations Appraisal of Plans - plan-making bodies in Scotland - Jan 2015.pdf \(nature.scot\)](#)

⁹ *ibid*

Table 2: Strategic and general policy statements included within the Orkney Islands Regional Marine Plan

Title	Statement	Comment
Vision	The OIRMP has been based on a vision that ‘the Orkney Islands marine region is clean, healthy, safe and productive; Orkney’s marine and coastal environment is rich in biodiversity and managed sustainably to support thriving and resilient local communities’.	This may be regarded as a general policy statement as it is aspirational, strategic and very general. Screened out of the appraisal under screening Step 1.
Guiding Principles	The OIRMP has been developed in accordance with five Guiding Principles adopted to help steer the plan making process, strategy and policies: Sustainable development and use; ecosystems-based approach; coexistence; partnership working and stakeholder participation and an integrated approach to marine and land-use planning.	This is regarded as a general policy statement/principle as it is aspirational, strategic and very general. Some have a strategic approach intended to protect the natural environment including European sites from inappropriate development or adverse impacts. Screened out of the appraisal under screening Step 1.
Aim	Sustainable development, activities, and use of the marine and coastal environment of Orkney is supported. Sustainable development, activities and use should maintain, and where appropriate enhance, biodiversity and ecosystem services; protect natural capital for future generations; and provide social and economic benefits for local communities.	This is regarded as a general policy statement as it is aspirational, strategic and very general. Screened out of the appraisal under screening Step 1.

Title	Statement	Comment
Objectives	Nine high level objectives (see Appendix 2) provide a framework for the General and Sector Policies.	These are regarded as a general policy statements as they are aspirational, strategic and very general; some have a strategic objective intended to protect the natural environment including European sites from inappropriate development or adverse impacts. Screened out of the appraisal under screening Step 1.

Table 3: General policies included within the Orkney Islands Regional Marine Plan.

Policy Type	Relevant part of the plan	Comment
General	The General Policies in Section two of the OIRMP: GP1 Sustainable development, activities and use GP2 Safety GP3 Climate change GP4 Supporting sustainable social and economic benefits GP5 Safeguarding natural capital and ecosystem services GP6 Water environment GP7 Coastal development and coastal change GP8 Historic environment GP9 Nature GP10 Seascape and landscape	All of the General Policies set strategic aspirations and are general in nature. None of them direct activities to a particular location nor are they linked to a European site. In consequence, none of the policies will result in effects on European sites. Policies listed here have therefore been screened out of the appraisal under screening step 1.

Policy Type	Relevant part of the plan	Comment
	<p>GP11 Surface and underwater noise, and vibration</p> <p>GP12 Marine litter and waste</p> <p>GP13 Non-native and invasive non-native species</p> <p>GP14 Amenity, well-being and quality of life of local communities</p>	

Table 4: Sector policies included in the Orkney Islands Regional Marine Plan

Sector Policy Type	Relevant part of the plan	Comment
Commercial fishing	SP1: Commercial fishing	No likely significant effect on a European site as this policy is intended to protect important fishing grounds from inappropriate development and/or activities. The policy aims to minimise damage to fish habitats and fish stocks. The policy itself does not lead to any development and is related to qualitative criteria. The policy has therefore been screened out of the appraisal under screening Step 1.

Sector Policy Type	Relevant part of the plan	Comment
Aquaculture	<p>SP2a: Finfish and shellfish farming</p> <p>SP2b: Seaweed cultivation</p>	<p>Policies SP2a and SP2b have been screened in to the appraisal. Although the policies are general in nature and do not direct developments to any particular site, they could support development and/or activities that affect a European site, hence there is a likely significant effect (LSE) and they need to be subject to appropriate assessment.</p>
Shipping, ports, harbours and ferries	<p>SP3a: Safeguarding navigation, harbour infrastructure and operations</p> <p>SP3b: Commercial ports and national developments</p> <p>SP3c: Scapa Flow north and east safeguarded area</p> <p>SP3d: Port and harbour development and/or activities</p>	<p>Policies SP3a (i) – (v), SP3b – SP3d) have been screened in to the appraisal. Although the policies are general in nature and do not direct developments to any particular site, they could support development and/or activities that affect a European site, hence there is a likely significant effect (LSE) and they need to be subject to appropriate assessment.</p>

Sector Policy Type	Relevant part of the plan	Comment
Pipelines, electricity and telecommunications infrastructure	<p>SP4a: Pipeline, electricity and telecommunication infrastructure development and/or activities</p> <p>SP4b: Safeguarding existing pipeline, electricity and telecommunication cable infrastructure</p>	<p>Policy SP4 has been screened in to the appraisal. Although the policies are general in nature and do not direct developments to any particular site, they could support development and/or activities that affect a European site, hence there is a likely significant effect (LSE) and they need to be subject to appropriate assessment.</p>
Offshore wind, wave and tidal renewable energy generation	<p>SP5a: Offshore wind energy</p> <p>SP5b: Wave and tidal energy</p>	<p>Policy SP4 has been screened in to the appraisal. Although the policies are general in nature, they could support development and/or activities that affect a European site, hence there is a likely significant effect (LSE) and it needs to be subject to appropriate assessment.</p>
Zero carbon fuels, oil and gas transition	<p>SP6: Zero carbon fuels, oil and gas transition</p>	<p>Policy SP6 has been screened in to the appraisal. Although the policies are general in nature and do not direct developments to any particular site, they could support development and/or activities that affect a European site, hence there is a likely significant effect (LSE) and they need to be</p>

		subject to appropriate assessment.
Sector Policy Type	Relevant part of the plan	Comment
Tourism, recreation, leisure and sport	<p>SP7a: Tourism, recreation, leisure and sport development and/or activities</p> <p>7b: Safeguarding tourism, recreation, leisure and sport uses</p>	<p>Policy SP7 has been screened in to the appraisal. Although the policy is general in nature and does not direct developments to any particular site it could support development and/or activities that affect a European site, hence there is a likely significant effect (LSE) and it needs to be subject to appropriate assessment.</p>

Step 2: Projects referred to in, but not proposed by, the OIRMP

The Guidance¹⁰ specifies that this step involves:

1. The screening out of any references to specific proposals for projects referred to in, but not proposed by, the plan; and
2. If it is necessary to consider the effects of the plan being appraised in-combination with the effects of other plans or projects, the minor residual effects of these other projects may be relevant and should be checked for in-combination effects.

The supporting text in Sector Policy 5: Offshore wind, wave and tidal renewable energy generation, makes reference to the two Plan Option areas North 1 (N1) and North East 2 (NE2), within the Orkney Islands marine region. In addition, at the time of writing, the draft Plan Option areas for wave and tidal energy development have been identified in the Sectoral Marine Plans for Offshore Wind, Wave and Tidal Energy in Scottish Waters Consultation Draft¹¹. However, these areas have been identified in other plans, and are referred to in, but not proposed by, the OIRMP, they have been screened out of the appraisal under Step 2.

¹⁰ [Habitats Regulations Appraisal of Plans - plan-making bodies in Scotland - Jan 2015.pdf \(nature.scot\)](#)

¹¹ [Supporting documents - Draft Sectoral Marine Plans for Offshore Renewable Energy in Scottish Waters: Consultation Paper - gov.scot \(www.gov.scot\)](#)

In-combination assessment

The requirement for in-combination assessment has been reviewed in two steps: the potential effects on European sites of the plan on its own, and the potential effects on European sites of the plan in combination with other plans or projects.

OIRMP on its own

All of the General Policies have been screened out of further assessment, as they are either general policy statements, or are not policies and/or proposals generated by this plan. Most Sectoral policies have been screened in. In consequence, it is felt that in-combination effects cannot be ruled and should be re-assessed after mitigation has been applied to sectoral policies.

OIRMP in combination with other plans/proposals

The OIRMP has been drafted to be in conformity with the National Marine Plan and to be compatible with other planning, legislative and regulatory regimes (Figure 2). Given that the focus of the OIRMP is on policies rather than proposals, this part of the HRA focuses on the potential for cumulative effects of the OIRMP, the National Marine Plan (NMP), NPF4 and the Orkney Local Development Plan (OLDP).

The OIRMP, NMP, NPF4 and OLDP set out a framework of social, economic and environmental policies which identify the issues to be taken when making decisions about development and/or activities in the coastal and marine environment.

The OIRMP, NMP and the OLDP include a presumption for sustainable development, activities and use. While alone, policies encouraging economic growth have the potential to result in effects on the qualifying interest of European sites, in these plans, this is balanced by the requirement for development, activities, and use to be sustainable; this is further elaborated by policies which protect Natura interests.

The cumulative effect of this policy framework is that sustainable development is supported, focusing on the right type of development in the right place. The policy frameworks work to avoid the potential adverse effects of development and/or activities on European sites, in both coastal and marine environments.

Notwithstanding subsequent mitigation measures which may be applied to the sectoral policies within the OIRMP in Stage 6 of the HRA, the policies within the OLDP and NMP are general in nature, none of them direct activities to a particular location without providing policy caveats which consider European sites. This, in combination with the policies to protect Natura interests, means that there will be no in-combination effects of the frameworks on European sites.



Figure 2 - OIRMP Policy Context (terrestrial and other planning/regulatory regimes)

Record of outcome

The majority of the OIRMP policies have been screened out for having no LSE on a European site and are included in Table 2 and Table 3. However, all 'sectoral policies' in Table 4, with exception of policy SP1, have been screened in. This is because they identify provision for change in certain locations, some of which could have a LSE on a European Site, or could support a development and/or activity which may have LSE.

2.8. At **Stage 6** mitigation measures were applied to policies where the likelihood of significant effects could not be ruled out and these elements of the Plan were rescreened at **Stage 7**.

2.9. After re-screening the policies it was determined that it was not possible to determine during Stages 1-7 whether the sectoral policies would not have a LSE on a European site. Therefore all sectoral policies should be subject to an appropriate assessment'.

2.10. The appropriate assessment at Stage 7 demonstrates the plan policies are deemed to not have any risk of adverse effect on site integrity, thus removing the requirement to undertake further appropriate assessment and apply any further mitigation (**Stages 8 and 9**).

3. Appropriate Assessment

3.1 As per the guidance¹² and in consultation with NatureScot, mitigation measures already included case-specific policy restrictions and policy caveats which were

¹² [Habitats Regulations Appraisal of Plans - plan-making bodies in Scotland - Jan 2015.pdf \(nature.scot\)](#)

deemed to be suitable for the policies. An assessment of the policy mitigations is outlined in Table 5.

Table 5: Appropriate assessment of sector policies

Policy	Policy issue	Mitigation measure	Outcome
<p>SP2A: Finfish and shellfish farming</p> <p>SP2B: Seaweed cultivation</p>	<p>Policies SP2a and SP 2b have been screened in to the appraisal. Although the policies are general in nature and do not direct developments to any particular site, they could support development and/or activities that affect a European site, hence there is a likely significant effect (LSE).</p>	<p>Proposals for development and/or activities should comply with the relevant General Policies, including GP9ci, which specifically protects European sites. In addition, SP2a and SP2b include a requirement to avoid, minimise and/or appropriately mitigate significant adverse impacts on, but not limited to, nature conservation designations.</p>	<p>No further action needed.</p>
<p>SP3a: Safeguarding navigation, harbour infrastructure and operations</p> <p>SP3b: Commercial ports and national developments</p> <p>SP3c: Scapa Flow north and east safeguarded area</p>	<p>Policies SP3a (i) – (v), SP3b – SP3 3d have been screened in to the appraisal. Although the policies are general in nature and do not direct developments to any particular site, they could support development and/or</p>	<p>Proposals for development and/or activities should comply with the relevant General Policies, including GP9ci, which specifically protects European sites. In addition, SP3d includes a requirement to avoid, minimise and/or appropriately mitigate significant adverse impacts on, but not limited to, nature conservation designations.</p>	<p>No further action needed.</p>

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SP3d: Port and harbour development and/or activities	activities that affect a European site, hence there is a LSE.		
SP4a: Pipeline, electricity and telecommunication infrastructure development and/or activities; SP4b: Safeguarding existing pipeline, electricity and telecommunication cable infrastructure	Policy SP4 has been screened in to the appraisal. Although the policies are general in nature and do not direct developments to any particular site, they could support development and/or activities that affect a European site, hence there is a LSE.	Proposals for development and/or activities should comply with the relevant General Policies, including GP9ci, which specifically protects European sites. In addition, SP4a includes a requirement to avoid, minimise and/or appropriately mitigate significant adverse impacts on, but not limited to, nature conservation designations.	No further action needed.
SP5a: Offshore wind energy; SP5b: Wave and tidal energy	All the policies listed here have been screened in to the appraisal. Although the policies are general in nature, they could support development and/or activities that affect a European site, hence there is a LSE.	Proposals for development and/or activities should comply with the relevant General Policies, including GP9ci, which specifically protects European sites. In addition, SP5a and SP5b include a requirement to avoid, minimise and/or appropriately mitigate significant adverse impacts on, but not limited to, nature conservation designations.	No further action needed.
SP6: Zero carbon fuels, oil and gas transition	Policy SP6 has been screened in to the appraisal. Although the policies are	Proposals for development and/or activities should comply with the relevant General Policies, including GP9ci, which specifically protects European sites.	No further action needed.

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	<p>general in nature and do not direct developments to any particular site, they could support development and/or activities that affect a European site, hence there is a LSE.</p>		
<p>SP7a: Tourism, recreation, leisure and sport development and/or activities; 7b: Safeguarding tourism, recreation, leisure and sport uses</p>	<p>The policy listed here has been screened in to the appraisal. Although the policy is general in nature and does not direct developments to any particular site it could support development and/or activities that Affect a European site, hence there is a LSE.</p>	<p>Proposals for development and/or activities should comply with the relevant General Policies, including GP9ci, which specifically protects European sites. In addition, SP7a includes a requirement to avoid, minimise and/or appropriately mitigate significant adverse impacts on, but not limited to, nature conservation designations.</p>	<p>No further action needed.</p>

4. In Combination Effects

- 4.1 The Habitats Directive recognises that policies and proposals may also have likely significant effects in combination, including with other plans and projects.
- 4.2 Following mitigation all the policies and proposals of the OIRMP have been screened out of the assessment, either because they are general policy statements (Step 1); are projects referred to in, but not proposed by, the OIRMP (Step 2); or have no likely significant effects on any European site (Step 3). The policies and proposals therefore do not need to be assessed in combination.
- 4.3 At this stage there are no other plans or projects which could have likely significant effects in combination with the ORIMP, therefore no further consideration of in combination effects is required.

5. Conclusion

- 5.1 Orkney Islands Council, on behalf of Scottish Ministers, concludes that it has been ascertained through this Habitats Regulations Appraisal that the adoption of the Orkney Islands Regional Marine Plan, alone or in combination, would have no adverse effect on the integrity of any European sites site.
- 5.2 This draft Habitats Regulations Appraisal Record will be sent to NatureScot (**Stage 10**) alongside the draft OIRMP, and made available on the Council's website and formal consultation responses requested (**Stage 11**). This consultation period will run from 1 August to 25 October 2024.

Appendix 1 - Summary of European sites and Site Condition in Orkney's marine and coastal waters (Source: NatureScot)

Site	SPA/SAC/Ramsar qualifying interests	SPA/SAC/Ramsar Site Condition
Auskerry SPA	Breeding storm petrel, breeding Arctic tern.	Arctic tern unfavourable declining (2018). Storm petrel favourable declining (2018).
Calf of Eday SPA	Breeding cormorant; breeding fulmar; breeding great black-backed gull; breeding kittiwake breeding guillemot; breeding seabird assemblage.	Cormorant breeding favourable recovered (2016). Fulmar breeding favourable maintained (2016). Great black backed gull unfavourable declining (2016). Guillemot breeding unfavourable declining (2016). Kittiwake breeding unfavourable declining (2016). Seabird assemblage breeding unfavourable declining (2016).
Copinsay SPA	Breeding seabird assemblage; breeding fulmar; breeding great black-backed gull; breeding guillemot; breeding kittiwake.	Fulmar breeding favourable maintained (2015). Great black backed gull unfavourable declining (2015). Guillemot unfavourable no change (2015). Kittiwake unfavourable declining (2015). Seabird assemblage, breeding unfavourable no change (2015).

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Site	SPA/SAC/Ramsar qualifying interests	SPA/SAC/Ramsar Site Condition
East Sanday coast SPA/Ramsar site	SPA - Non-breeding bar-tailed godwit; non-breeding turnstone; non-breeding purple sandpiper. Ramsar – Non-breeding purple sandpiper; non-breeding turnstone.	SPA Bar-tailed godwit non-breeding favourable maintained (2015). Purple sandpiper non-breeding favourable maintained (2015). Turnstone non-breeding favourable maintained (2015). Ramsar Purple sandpiper non-breeding favourable maintained (2015). Turnstone non-breeding favourable recovered (2015).
Faray and Holm of Faray SAC	Grey seal.	Grey seal favourable maintained (2014).
Papa Westray (North Hill and Holm) SPA)	Papa Westray SPA Breeding Arctic skua; breeding Arctic tern.	Papa Westray SPA Arctic skua breeding unfavourable declining (2015). Arctic tern breeding unfavourable no change (2017).
Hoy SPA/SAC	SPA - Breeding seabird assemblage; breeding Arctic skua; breeding great skua; breeding great black-backed gull; breeding guillemot; breeding	SPA Arctic skua breeding unfavourable declining (2019).

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Site	SPA/SAC/Ramsar qualifying interests	SPA/SAC/Ramsar Site Condition
	<p>kittiwake; breeding peregrine; breeding red-throated diver; breeding fulmar; breeding puffin.</p> <p>SAC – Blanket bog; dry heaths; wet heathland with cross-leaved heath; base-rich fens; hard-water springs depositing lime; plants in crevices in base-rich rocks; Alpine and subalpine heaths; acid peat-stained lakes and ponds; vegetated sea cliffs.</p>	<p>Fulmar breeding unfavourable no change (2017).</p> <p>Great black-backed gull breeding unfavourable declining (2019).</p> <p>Great skua breeding unfavourable declining (2019).</p> <p>Guillemot breeding unfavourable no change (2017).</p> <p>Kittiwake breeding unfavourable declining (2017).</p> <p>Peregrine breeding favourable maintained (2013).</p> <p>Puffin breeding unfavourable declining (2004).</p> <p>Red-throated diver breeding favourable maintained (2007).</p> <p>Seabird assemblage breeding unfavourable declining (2019).</p> <p>SAC</p> <p>Acid peat-stained lakes and ponds favourable maintained (2014).</p> <p>Alpine and subalpine heaths favourable maintained (2014).</p> <p>Base rich fens favourable maintained (2014).</p> <p>Blanket bog favourable maintained (2014).</p>

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Site	SPA/SAC/Ramsar qualifying interests	SPA/SAC/Ramsar Site Condition
		<p>Dry heaths favourable maintained (2014).</p> <p>Hard-water springs depositing lime favourable maintained (2006).</p> <p>Plants in crevices on base-rich rocks favourable recovered (2015).</p> <p>Vegetated sea cliffs favourable maintained (2010).</p> <p>Wet heathland with cross-leaved heath favourable maintained (2004).</p>
Orkney Mainland Moors SPA	<p>Orkney Mainland Moors SPA</p> <p>Breeding hen harrier, breeding short-eared owl and breeding red-throated diver; non-breeding hen harrier.</p>	<p>Orkney Mainland Moors SPA</p> <p>Hen harrier breeding favourable maintained (2013).</p> <p>Hen harrier non-breeding favourable maintained (2013).</p> <p>Red-throated diver breeding favourable maintained (2007).</p> <p>Short-eared owl breeding favourable maintained (2004).</p>
Loch of Isbister SAC	<p>Loch of Isbister SAC</p> <p>Very wet mires often identified by an unstable 'quaking' surface; Otter; Naturally nutrient-rich lakes or lochs which are often dominated by pondweed.</p>	<p>Naturally nutrient-rich lochs often dominated by pondweed unfavourable declining (2014).</p> <p>Otter favourable maintained (2011).</p> <p>Very wet mires often identified by an unstable quaking surface favourable maintained (2012).</p>

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Site	SPA/SAC/Ramsar qualifying interests	SPA/SAC/Ramsar Site Condition
Stenness SAC	Loch of Stenness SAC Lagoons.	Lagoons favourable maintained (2013).
Marwick Head SPA	Breeding seabird assemblage; breeding guillemot; breeding kittiwake.	Guillemot breeding unfavourable declining (2017). Kittiwake breeding unfavourable declining (2015). Seabird assemblage breeding unfavourable declining (2015).
Papa Westray SPA	Papa Westray SPA Breeding Arctic skua; breeding Arctic tern.	Arctic skua breeding unfavourable declining (2015). Arctic tern breeding unfavourable no change (2017).
North Orkney SPA	Great northern diver (<i>Gavia immer</i>), non-breeding; Red-throated diver (<i>Gavia stellata</i>), breeding	Condition not assessed for either species
Orkney Mainland Moors SPA	Orkney Mainland Moors SPA Breeding hen harrier, breeding short-eared owl and breeding red-throated diver; non-breeding hen harrier.	Orkney Mainland Moors SPA Hen harrier breeding favourable maintained (2013). Hen harrier non-breeding favourable maintained (2013). Red-throated diver breeding favourable maintained (2007). Short-eared owl breeding favourable maintained (2004).

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Site	SPA/SAC/Ramsar qualifying interests	SPA/SAC/Ramsar Site Condition
Pentland Firth Islands SPA	Breeding Arctic tern.	Arctic tern breeding unfavourable no change (2018).
Rousay SPA	Breeding seabird assemblage; breeding guillemot; breeding Arctic skua; breeding Arctic tern; breeding fulmar; breeding kittiwake.	Arctic skua breeding unfavourable no change (2015). Arctic tern breeding unfavourable declining (2007). Fulmar breeding favourable maintained (2016). Guillemot breeding unfavourable declining (2016). Kittiwake breeding unfavourable declining (2016). Seabird assemblage unfavourable declining (2016).
Sanday SAC	Reefs; subtidal sandbanks; intertidal mudflats and sandflats; Harbour seal.	Harbour seal unfavourable declining (2013). Intertidal mudflats and sandflats favourable maintained (2008). Reefs favourable maintained (2008). Subtidal sandbanks favourable maintained (2008).
Scapa Flow SPA	Black-throated diver (<i>Gavia arctica</i>), non-breeding; Eider (<i>Somateria mollissima</i>), non-breeding	Condition not assessed for either species
Stromness heaths and Coast SAC	Dry heaths; base-rich fens; vegetated sea cliffs.	Base rich fens favourable maintained (2014).

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Site	SPA/SAC/Ramsar qualifying interests	SPA/SAC/Ramsar Site Condition
		Dry heaths favourable maintained (2008). Vegetated sea cliffs favourable maintained (2012).
Sule Skerry and Sule Stack SPA	Sule Skerry and Sule Stack SPA Breeding gannet; breeding storm petrel; breeding seabird assemblage; breeding guillemot; breeding Leach's petrel; breeding puffin; breeding shag.	Sule Skerry and Sule Stack SPA Gannet breeding favourable maintained (2013). Guillemot breeding favourable maintained (2015). Leach's petrel breeding unfavourable declining (2018). Puffin breeding favourable declining (2015). Seabird assemblage breeding favourable maintained (1998). Shag breeding unfavourable declining (2015). Storm petrel breeding favourable declining (2018).
Switha SPA	Non-breeding Greenland barnacle goose.	Greenland barnacle goose non-breeding favourable maintained (2013).
Orkney Mainland Moors SPA	Orkney Mainland Moors SPA Breeding hen harrier, breeding short-eared owl and breeding red-throated diver; non-breeding hen harrier.	Orkney Mainland Moors SPA Hen harrier breeding favourable maintained (2013). Hen harrier non-breeding favourable maintained (2013). Red-throated diver breeding favourable maintained (2007).

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Site	SPA/SAC/Ramsar qualifying interests	SPA/SAC/Ramsar Site Condition
		Short-eared owl breeding favourable maintained (2004).
West Westray SPA	Breeding guillemot; breeding seabird assemblage; breeding Arctic skua; breeding Arctic tern; breeding fulmar; breeding kittiwake; breeding razorbill;	<p>Arctic skua breeding unfavourable declining (2017).</p> <p>Arctic tern breeding unfavourable no change (2017).</p> <p>Fulmar breeding favourable recovered (2017).</p> <p>Guillemot breeding unfavourable declining (2017).</p> <p>Kittiwake breeding unfavourable declining (2017).</p> <p>Razorbill breeding favourable recovered (2017).</p> <p>Seabird assemblage breeding unfavourable declining (2017).</p>

Appendix 2: Vision, Guiding Principles, Aim and Objectives for the Orkney Islands Regional Marine Plan

Vision	
The Orkney Islands marine region is clean, healthy, safe and productive; Orkney's marine and coastal environment is rich in biodiversity and managed sustainably to support thriving and resilient local communities.	
Guiding principles	
The Orkney Islands Regional Marine Plan has been developed in accordance with five guiding principles adopted to help steer the plan-making process, strategy and policies.	
A	Sustainable development and use Sustainable development and use are enabled whilst living within environmental limits; ensuring a strong, safe, healthy and just society; achieving a sustainable economy; promoting good governance; using sound science responsibly; and supporting the delivery of the United Nations Sustainable Development Goals. ¹³
B	Ecosystems-based approach An ecosystems-based approach is used to manage human activities and enable climate change mitigation, as well as adaptation to the predicted effects of climate change.
C	Coexistence Coexistence between marine development, activities, and use is supported to minimise potential conflict and maximise synergistic benefits.
D	Partnership working and stakeholder participation This Plan is developed through an inclusive process of partnership working and stakeholder participation.
E	Integrated approach to marine and land-use planning Land and marine development are planned in a joined-up way to address development and infrastructure requirements, and associated impacts, across the interface between land and sea.

¹³ United Nations Sustainable Development Goals <https://www.un.org/en/sustainable-development-goals>

Aim	
Sustainable development, activities, and use of the marine and coastal environment of Orkney is supported.	
Sustainable development, activities and use should maintain, and where appropriate enhance, biodiversity and ecosystem services; protect natural capital for future generations; and provide social and economic benefits for local communities.	
Objectives	
Number	Objective
1	A clear strategic direction is provided for development, activities and use in the Orkney Islands marine region and there is greater certainty for prospective developers, investors and local communities.
2	Development, activities and use are managed within an ecosystem approach, to protect and, where appropriate, enhance the biological, chemical and physical functioning of the marine and coastal environment, including the management of cumulative impacts.
3	A rapid and just transition to a low-carbon economy is supported to achieve net-zero commitments.
4	Mitigation of, and adaptation to, climate change is supported.
5	Socio-economic benefits and prosperity are delivered for local communities and the wider economy.
6	The well-being of local communities and the amenity of marine and coastal places are protected and enhanced.
7	Reliable information is provided on existing and proposed coastal and marine development, activities, use and assets.
8	Spatial planning and data are provided, enabling sustainable coexistence and synergies between existing and new marine development, activities and use, and the environment.
9	Plan users are assisted in navigating the relevant legislative and policy frameworks more easily and effectively.

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