



Lot A – WP 2.1.1 and 2.1.2 Environmental and Regulatory Impacts Appraisal

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Introduction to Environmental Impact Assessments – Jersey

As part of the consideration for offshore wind development in Jersey waters, Jersey Government is keen to ensure the most appropriate and best practice approach to environmental impact assessment (EIA) is developed.

The following slides provide a detailed overview of best practice EIA criteria and survey requirements, relative to Jersey, French (EU) and UK laws, in order to produce an EIA report in support of a consent application.

Furthermore, recommendations have been made outlining the potential EIA criteria and guidance Jersey could use to enable the development of a future offshore wind farm. Appreciating that Jersey Government wishes to identify the “highest bar” for data collection and assessment to support the production of EIA reports. Prior to the full consideration of the leasing approach, the recommendations encapsulate robust and science-based approach to EIAs, drawing on both UK and French approaches- moving forward EIA requirements will be tailored to Jersey need.

On the basis that both UK and French EIA legislation leans heavily on the EU EIA Directive 2011/92/EU, the following slides also highlight relevant articles of the Directive which can help align future requirements relating to the development of offshore wind in Jersey waters.



EIA Directive 2011/92/EU

Requirements for an EIA are set out within the EIA Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, which are then implemented by individual member states via regulations. The Directive sets out that:

(7) Development consent for public and private projects which are likely to have significant effects on the environment should be granted only after an assessment of the likely significant environmental effects of those projects has been carried out. That assessment should be conducted on the basis of the appropriate information supplied by the developer, which may be supplemented by the authorities and by the public likely to be concerned by the project in question.

(8) Projects belonging to certain types have significant effects on the environment and those projects should, as a rule, be subject to a systematic assessment.

(9) Projects of other types may not have significant effects on the environment in every case and those projects should be assessed where the Member States consider that they are likely to have significant effects on the environment.

Introduction to EIAs

Developer

1) Assesses if their project falls under the relevant schedules for EIA projects. If the project falls under Schedule 2, the developer submits a Screening Request to the regulator to determine if an EIA is required. The **Screening Request** must contain sufficient information to allow the Regulator to assess the project.

Screening

3) Upon confirmation from regulator that an EIA is required, a Developer can request a Scoping Opinion to detail the extent of the assessments required. A **Scoping Report** is typically an extensive report detailing EIA chapters and proposed surveys approaches and assessments to understand the environmental baseline at the project site.

Scoping

5) Full impact assessment (**Environmental Statement** – but often has different names depending on jurisdiction) in support of a consent application is produced and submitted alongside the application. Identifies potential environmental impacts and outlines mitigation measures to reduce negative effects. Must reflect requests included in the Scoping Opinion.

EIA

Regulator

2) Determines a **Screening Opinion** for projects that fall under Schedule 2, to confirm to developer if an EIA is required for a specific project, based on its size and scale.

4) Regulator will consult on the Scoping Report from the Developer with a range of key stakeholders and produce a **Scoping Opinion** to agree with statements in the Scoping Report or highlight alternative or further assessments required.

6) Environmental Statement reviewed as part of application review, including consultation with key stakeholders. **EIA Consent Decision** determines whether the Environmental Statement is appropriate and supports the approval of the EIA, and subsequently the application for development.

Differing approaches to EIA and supporting data – Jersey, UK and France

Though the EU EIA Directive 2011/92/EU underpins much of the UK and French EIA requirements, there are differences between how both countries approach the development of an EIA report to support a consent application, and the amount of work undertaken by governments in supporting this.

Jersey approach to EIAs

The Planning and Building (Jersey) Law 2002 sets out the current legislative requirements for the development of buildings in a sustainable manner. Included within this Law is a requirement that applications must submit an environmental impact statement.

The Planning and Building (Environmental Impact) (Jersey) Order 2006 subsequently sets out the requirements for which a project would require such an environmental impact statement and the requirements to be included within such a document.

This approach aligns closely with the principles set out within European Union legislation, under the EIA Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment.

UK approach to EIAs

The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) set out the EIA requirements for UK developments within the marine environment. The regulations: set out those projects that may require an EIA; cover consultation requirements; as well as describing how an appropriate authority (the regulator) should make an EIA Consent Decision.

Historically, data collection to support an EIA has been undertaken by the developer of an awarded offshore wind lease. As development has become more challenging, due in part to cumulative effects and a requirement for developments to be further offshore (including floating wind), the Crown Estate has more recently moved towards a de-risking approach by carrying out initial surveys at proposed leasing areas, before award of sites to developers

France approach to EIA

The French approach to the initial data collection for offshore windfarm development has historically differed from the UK. It has been a state-led approach, meaning initial data collection at proposed offshore wind sites has been carried out by the government and then provided to the successful bidder for site development.

Article L122 of the Code de l'environnement sets out the expectations for an EIA to support a developer's application for consent. Through using the government collected data as a basis for their EIA application, the developer is more likely to be required to carry out only supplementary data review/collection.

Understanding EIA criteria and project specific elements

An EIA for any project typically evolves as more information is gathered throughout the process.

Setting criteria, guidance and best practice is key for governments to establish expected requirements that developers must adhere to. However, a project can have very different environmental impacts depending on the specific site location, site characteristics and technologies used.

To ensure the EIA undertaken delivers the most useful and scientifically robust analysis, a well-defined pre-application process is required. This enables the developer, government and stakeholders to identify and home in on the more critical impacts that will need deeper analyses for the EIA whilst still addressing the other factors. These identified impacts will be considered against potential mitigation measures, which are detailed within the EIA and secured through relevant consent conditions. Further reporting may be required nearer the commencement of the activity, in which case conditions may contain additional sign off requirements.

Therefore, EIA criteria and guidance need to ensure sufficient and appropriate assessments (data collection / analyses) are undertaken to determine the potential impacts of a project. However, this EIA guidance should stop short of being prescriptive on mitigation approaches or monitoring requirements, as this is entirely informed by the project details and identified potential impacts from the data collected.



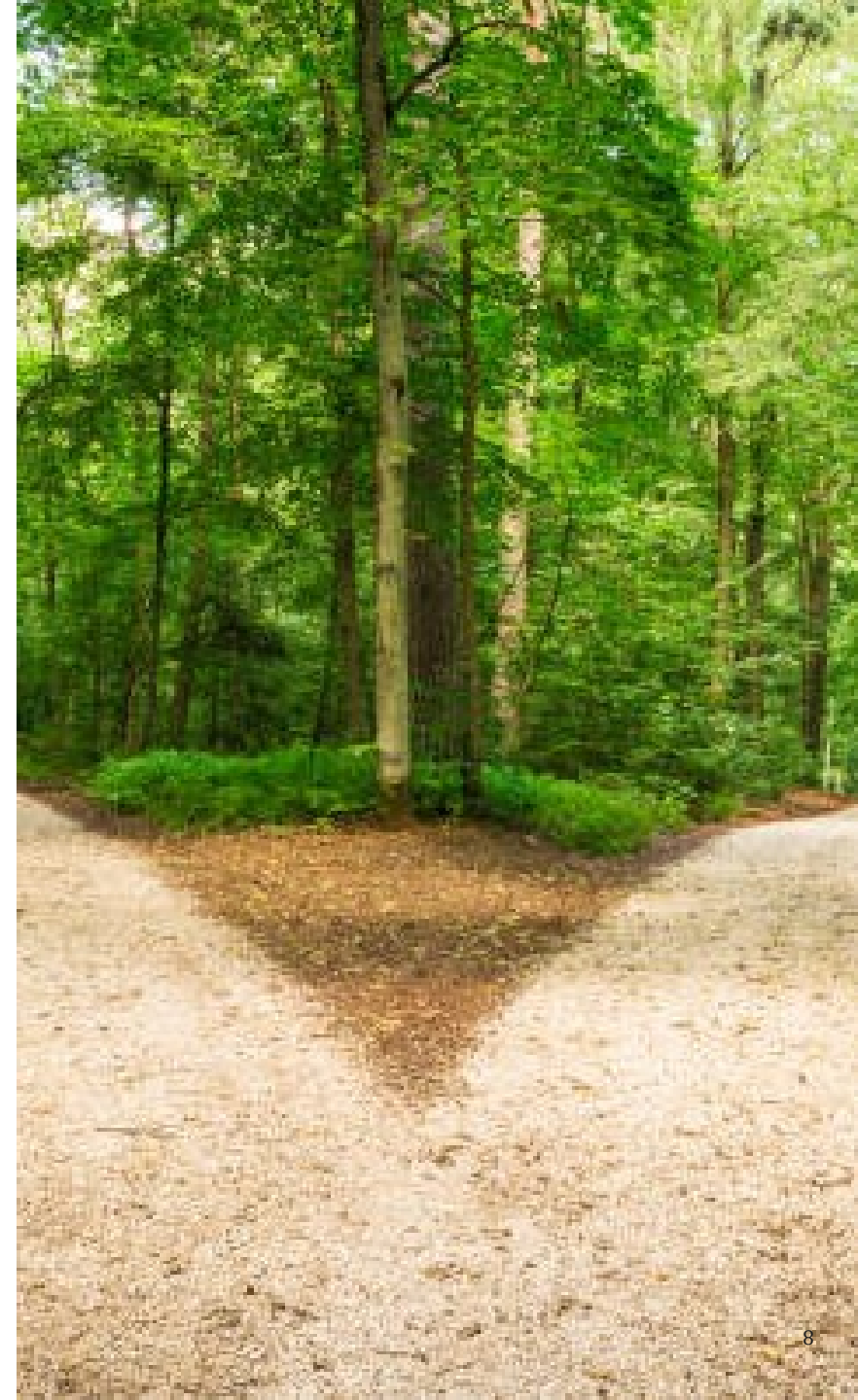
Developing a Jersey specific EIA approach

Creating a robust, fit for purpose EIA approach

Developing a robust EIA process that is tailored to the specific country in which a project is being undertaken is essential for ensuring both regulatory compliance and meaningful environmental protection. Each country has its own unique environmental conditions, ecosystems, regulatory expectations, and cultural or community values that must be reflected in the assessment process. Though many new offshore wind markets have leaned on EU and UK process to EIA as one of the most mature robust approaches, each country has adapted this to fit their specific environmental and project requirements, as would be the case for Jersey too.

In the context of Jersey, there is further consideration required with regards to which country the electricity will be exported to, as an EIA will be required for any infrastructure that runs through that country's waters. It is important therefore that the EIA process developed for Jersey considers both the specific environmental conditions of Jersey waters as well as also ensuring that the EIA criteria meets, at a minimum, that of the country where electricity is being exported to.

As work is still underway to determine which country the electricity will be exported to, the final drafting / development of the EIA requirements will be undertaken and depend on that process being completed.



EIA Directive- Scoping and Information to include in an EIA

- Scoping and information to be provided in an EIA is set out within Article 5 of the Directive.
- Part 2. reflects the requirement to give an Opinion- now commonly referred to as a Scoping Opinion.
- Part 3. details expectations that are required as part of an EIA submission by a developer.

Article 5

1. In the case of projects which, pursuant to Article 4, are to be made subject to an environmental impact assessment in accordance with this Article and Articles 6 to 10, Member States shall adopt the necessary measures to ensure that the developer supplies in an appropriate form the information specified in Annex IV inasmuch as:

- (a) the Member States consider that the information is relevant to a given stage of the consent procedure and to the specific characteristics of a particular project or type of project and of the environmental features likely to be affected;
- (b) the Member States consider that a developer may reasonably be required to compile this information having regard, inter alia, to current knowledge and methods of assessment.

2. Member States shall take the necessary measures to ensure that, if the developer so requests before submitting an application for development consent, the competent authority shall give an opinion on the information to be supplied by the developer in accordance with paragraph 1. The competent authority shall consult the developer and authorities referred to in Article 6(1) before it gives its opinion. The fact that the authority has given an opinion under this paragraph shall not preclude it from subsequently requiring the developer to submit further information.

Member States may require the competent authorities to give such an opinion, irrespective of whether the developer so requests.

3. The information to be provided by the developer in accordance with paragraph 1 shall include at least:

- (a) a description of the project comprising information on the site, design and size of the project;
- (b) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
- (c) the data required to identify and assess the main effects which the project is likely to have on the environment;
- (d) an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects;
- (e) a non-technical summary of the information referred to in points (a) to (d).

4. Member States shall, if necessary, ensure that any authorities holding relevant information, with particular reference to Article 3, make this information available to the developer.

Typical EIA Report Table of Contents

The below outlines the list of information government authorities would typically expect to see as part of a marine EIA report deliverable (note this does not consider further EIA requirements for a project that has terrestrial impacts).

- **Non-Technical Summary**
- **EIA report**
 1. Introduction
 2. Policy and Legislation Context
 3. Project Description
 4. Site Selection and Alternatives
 5. Stakeholder Engagement and Consultation
 6. EIA Methodology
 7. Marine Physical Processes
 8. Water and Sediment Quality
 9. Benthic and Intertidal Ecology
 10. Fish and Shellfish Ecology
 11. Marine Mammal Ecology
 12. Ornithology
 13. Commercial Fisheries
 14. Shipping and Navigation
 15. Infrastructure and Other Marine Users
 16. Military, Aviation and Communications
 17. Seascape, Landscape and Visual Assessment
 18. Socio-economics, Recreation and Tourism
 19. Archaeology and Cultural Heritage
 20. Climate Change
 21. Major Accidents and Disasters
 22. Inter-related effects
 23. Transboundary effects
 24. Cumulative impact assessment
 25. Summary of monitoring and mitigation
- **Supporting Figures**
- **Supporting Appendices**

EIA Report expectations to inform criteria setting

The following slides provide a high-level overview of EIA chapters as used in the UK to demonstrate the criteria required to undertake an EIA. This is what the responsible authority will be required to evaluate and monitor compliance.

2. Policy and Legislation Context

This section is not a requirement of the EIA criteria or guidance but is included by the developer to frame the specific policy and legislation to which the EIA is adhering.

3. Project Description

The description of development will provide detailed information on the type and size of components being used (turbines, foundations, cables etc.), the locations of those components including cable routes. How the project will be constructed, using which methods, the proposed construction timeframe. Any variations that may need to be considered taking into account larger turbines coming on the market, micro-siting of foundations due to unstable ground conditions etc.

4. Site Selection and Alternatives

Depending on how much influence the developer has had on selecting the specific site boundaries. This section provides an overview of the assessment typically as a detailed GIS

Constraints map the developer has undertaken to select the site, with possible variations (alternatives) to be considered, along with rationale for site selection.

5. Stakeholder Engagement and Consultation

An overview of the pre-application stakeholder engagement and consultation undertaken in preparation of the EIA. It summarises the approach taken to consultation and outlines key feedback received through this process.

6. EIA Methodology

An overview of the approach and method used throughout the EIA to identify and evaluate the likely impacts and subsequent effects (including cumulative and inter-related) of the Development upon physical, biological and human receptors. This is then supported with the various sub-chapters on methodologies within each specific topic chapter.

EIA Report expectations to inform criteria setting

The below chapters focus on key topic areas to assess the likely significant environmental impacts of the infrastructure project during the construction, operation and maintenance, and decommissioning phases.

- 7. Marine Physical Processes
- 8. Water and Sediment Quality
- 9. Benthic and Intertidal Ecology
- 10. Fish and Shellfish Ecology
- 11. Marine Mammal Ecology
- 12. Ornithology
- 19. Archaeology and Cultural Heritage

Please see the supporting MS Excel file for detailed information on relevant data collection methods that are used to support the production of these chapters within an EIA report. They will also be supported by desktop studies.

13. Commercial Fisheries

Presents an existing baseline typically established from desk studies, available fisheries data and stakeholder engagement, and considers the potential impacts from the project across its lifetime.

14. Shipping and Navigation

This considers the likely significant effects associated with the construction, operation and decommissioning of the wind farm and associated Offshore Transmission Infrastructure (OfTI) on shipping and navigation.

15. Infrastructure and Other Marine Users

Presents data from desk-based studies and project surveys (see excel spreadsheet, alongside stakeholder engagement to identify potential impacts.

16. Military, Aviation and Communications

An overview of the likely significant effects on military, civil aviation and communication impacts associated with the construction, operation and decommissioning of the wind farm and transmission. Data collection focuses on desk-based studies and stakeholder engagement.

Jersey EIA Report expectations to inform criteria setting

17. Seascape, Landscape and Visual Assessment

This assessment will typically involve GIS modelling and visual representations using coastal images at specific locations, overlaid with graphics of potential infrastructure, to demonstrate potential impacts.

18. Socio-economics, Recreation and Tourism

This aims to provide an overview of the possible impacts associated with socio-economic, recreation and tourism. Including details of consultation activities, the socio-economic baseline, impacts and mitigation strategies.

20. Climate Change

This chapter uses available desk studies to consider both the potential impact to the project from a changing climate e.g. risk of increased storm damage) and the overall impact from the project to greenhouse gas emissions (when viewed as a replacement of fossil fuels).

21. Major Accidents and Disasters

Considers the potential for major impacts to the project based on a risk based approach and available desk studies (may be informed by project data).

22. Inter-related effects

Considers the potential that multiple effects from the project act collectively to have an increased effect on key receptor groups. Therefore relies extensively on other chapters data collection and analysis.

23. Transboundary effects

Pertinent to the Jersey context is cross boundary assessment and how the offshore wind farm may interact with other jurisdictions. Due to the importance of cross boundary interactions, the EU Directive provides specific legislation with regards to how this is managed. Further detail on the EU Directive description of cross boundary assessment is provided in the following slides.

24. Cumulative impact assessment

Considers the effects of the project alongside other marine activities to cause significant impacts collectively (that may be different from the project alone). Relevant to Jersey when considering the project location and the potential of cross-boundary effects with other projects, therefore encouraging effective consultation strategies.

25. Summary of monitoring and mitigation

Detailing the commitments from the topic chapters to reduce potential impacts from the project.

EIA Directive- Consultation requirements

Consultation with various stakeholders is critical and guidance on stakeholder consultation is needed to ensure that all stakeholders have had the opportunity to voice their thoughts as well as having had the time to consider the project and gather information of use to the government and developer. This slide discusses how consultation is legislated for within the EU EIA Directive.

- Consultation requirements are covered under Article 6 of the Directive.
- This covers both statutory consultees as determined by the relevant member state, and the requirements for engaging with the public.

1. Member States shall take the measures necessary to ensure that the authorities likely to be concerned by the project by reason of their specific environmental responsibilities are given an opportunity to express their opinion on the information supplied by the developer and on the request for development consent. To that end, Member States shall designate the authorities to be consulted, either in general terms or on a case-by-case basis. The information gathered pursuant to Article 5 shall be forwarded to those authorities. Detailed arrangements for consultation shall be laid down by the Member States.

2. The public shall be informed, whether by public notices or by other appropriate means such as electronic media where available, of the following matters early in the environmental decision-making procedures referred to in Article 2(2) and, at the latest, as soon as information can reasonably be provided:

- (a) the request for development consent;
- (b) the fact that the project is subject to an environmental impact assessment procedure and, where relevant, the fact that Article 7 applies;
- (c) details of the competent authorities responsible for taking the decision, those from which relevant information can be obtained, those to which comments or questions can be submitted, and details of the time schedule for transmitting comments or questions;
- (d) the nature of possible decisions or, where there is one, the draft decision;
- (e) an indication of the availability of the information gathered pursuant to Article 5;
- (f) an indication of the times and places at which, and the means by which, the relevant information will be made available;
- (g) details of the arrangements for public participation made pursuant to paragraph 5 of this Article.

3. Member States shall ensure that, within reasonable time-frames, the following is made available to the public concerned:

- (a) any information gathered pursuant to Article 5;
- (b) in accordance with national legislation, the main reports and advice issued to the competent authority or authorities at the time when the public concerned is informed in accordance with paragraph 2 of this Article;
- (c) in accordance with the provisions of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information ⁽⁶⁾, information other than that referred to in paragraph 2 of this Article which is relevant for the decision in accordance with Article 8 of this Directive and which only becomes available after the time the public concerned was informed in accordance with paragraph 2 of this Article.

4. The public concerned shall be given early and effective opportunities to participate in the environmental decision-making procedures referred to in Article 2(2) and shall, for that purpose, be entitled to express comments and opinions when all options are open to the competent authority or authorities before the decision on the request for development consent is taken.

5. The detailed arrangements for informing the public (for example by bill posting within a certain radius or publication in local newspapers) and for consulting the public concerned (for example by written submissions or by way of a public inquiry) shall be determined by the Member States.

6. Reasonable time-frames for the different phases shall be provided, allowing sufficient time for informing the public and for the public concerned to prepare and participate effectively in environmental decision-making subject to the provisions of this Article.

EIA Directive- Cross-boundary assessment requirements

Cross-Boundary Assessments are covered under Article 7. This sets out consultation requirements with other affected member states.

Article 7

1. Where a Member State is aware that a project is likely to have significant effects on the environment in another Member State or where a Member State likely to be significantly affected so requests, the Member State in whose territory the project is intended to be carried out shall send to the affected Member State as soon as possible and no later than when informing its own public, *inter alia*:

- (a) a description of the project, together with any available information on its possible transboundary impact;
- (b) information on the nature of the decision which may be taken.

The Member State in whose territory the project is intended to be carried out shall give the other Member State a reasonable time in which to indicate whether it wishes to participate in the environmental decision-making procedures referred to in Article 2(2), and may include the information referred to in paragraph 2 of this Article.

2. If a Member State which receives information pursuant to paragraph 1 indicates that it intends to participate in the environmental decision-making procedures referred to in Article 2(2), the Member State in whose territory the project is intended to be carried out shall, if it has not already done so, send to the affected Member State the information required to be given pursuant to Article 6(2) and made available pursuant to points (a) and (b) of Article 6(3).

3. The Member States concerned, each insofar as it is concerned, shall also:

- (a) arrange for the information referred to in paragraphs 1 and 2 to be made available, within a reasonable time, to the authorities referred to in Article 6(1) and the public concerned in the territory of the Member State likely to be significantly affected; and
- (b) ensure that the authorities referred to in Article 6(1) and the public concerned are given an opportunity, before development consent for the project is granted, to forward their opinion within a reasonable time on the information supplied to the competent authority in the Member State in whose territory the project is intended to be carried out.

4. The Member States concerned shall enter into consultations regarding, *inter alia*, the potential transboundary effects of the project and the measures envisaged to reduce or eliminate such effects and shall agree on a reasonable time-frame for the duration of the consultation period.

5. The detailed arrangements for implementing this Article may be determined by the Member States concerned and shall be such as to enable the public concerned in the territory of the affected Member State to participate effectively in the environmental decision-making procedures referred to in Article 2(2) for the project.

Other non-EU markets using EU / UK EIA legislation

As global leaders in offshore wind, UK, Denmark, Germany and the Netherlands have well-established EIA frameworks that have evolved with the industry over time. As such, other, newer markets have assessed UK and EU offshore wind EIA guidance as models to inform their own offshore wind permitting, legislation, and environmental assessment processes. Examples of other non-EU countries relying on EU / UK practices are outlined below. It should be noted that whilst other countries have used EU / UK practices as a starting foundation, they have each deviated from EU /UK approach in order to develop their own country / environment specific EIA approach.

United States

- Bureau of Ocean Energy Management has drawn on UK / EU practices for marine spatial planning, noise mitigation, cumulative impact assessment, avian risk and marine mammal protections.
- Early projects like Vineyard Wind, South Fork, and Ocean Wind aligned (where possible) with EU/ UK practices.

Taiwan

- Consulted many UK and EU experts and developers to adopt a UK-style EIA process, specifically used for Round 1 and 2 offshore wind auctions.
- Early projects required baseline studies and cumulative impact assessments modelled on EU guidance.

Japan

- Relied on UK and German guidance to shape its EIA protocols.
- Also consulted many UK and EU experts to help shape the EIA process, noise mitigation and stakeholder engagement.

South Korea

- Consulted many UK and EU experts (consultants, supply chain and developers) to help shape their offshore wind regulatory framework.
- EIA guidelines reference EU/UK standards for benthic surveys, underwater noise, and decommissioning planning.

Thank you
