



Oil & Gas  
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# Response to the consultation on proposals to revise the MER UK Strategy

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The consultation can be found on the OGA website: <https://www.ogauthority.co.uk/media/6501/oga-consultation-on-proposals-to-revise-the-mer-uk-strategy-6-may-2020.pdf>

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Enquiries to:  
OGA Strategy Consultation  
Oil and Gas Authority  
21 Bloomsbury Street  
London  
WC1B 3HF

Tel: 0300 020 1010  
Email: [strategyconsultation@ogauthority.co.uk](mailto:strategyconsultation@ogauthority.co.uk)

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# General information

## Purpose of this document

This document sets out the Oil and Gas Authority's ('**OGA's**') response to the consultation on proposals to revise the Maximising Economic Recovery Strategy for the UK<sup>1</sup>. This consultation ran from 6 May to 29 July 2020.

**This response issued: [insert date of publication]**

**Territorial extent: United Kingdom and United Kingdom Continental Shelf.**

## Additional copies:

Other versions of the document in Braille, large print, audio or Welsh can be made available on request. Please contact us using the 'enquiries' details to request alternative versions.

## Quality assurance

This consultation has been carried out in principle with the [government's consultation principles](#).

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

OGA Consultation Co-ordinator  
21 Bloomsbury Street  
London  
WC1B 3HF

Email: [ogaconsultationcoordinator@ogauthority.co.uk](mailto:ogaconsultationcoordinator@ogauthority.co.uk)

<sup>1</sup><https://www.ogauthority.co.uk/news-publications/consultations/2020/consultation-on-new-oga-strategy/>

# Part 1 – Introduction and background

1. This document summarises feedback received during the OGA's consultation on proposals to revise the Maximising Economic Recovery Strategy for the UK ('**MER UK Strategy**')<sup>2</sup>. The consultation was conducted between **6 May** and **29 July 2020**. The updated OGA Strategy can be found at **Annex 2**.
2. Part 1A of the Petroleum Act 1998 (the '**Act**') sets out the principal objective of maximising the economic recovery of UK ('**MER UK**') petroleum (UK petroleum is defined as petroleum which exists in strata beneath relevant UK waters). Under that Part, the OGA is required to produce a strategy which enables the principal objective to be met. That Part, at section 9A(3), also sets out that such a strategy may relate to other matters than those mentioned in that section.
3. The MER UK Strategy came into force in March 2016 and set out the 'Central Obligation', which imposes a binding obligation on all relevant persons when carrying out relevant functions. To assist with the effective delivery of the Central Obligation, the current Strategy sets out a number of Supporting Obligations and required actions and behaviours.
4. Since the MER UK Strategy came into force, there have been significant changes in the United Kingdom Continental Shelf ('**UKCS**') basin's operating environment and stewardship, including of course recent and ongoing fundamental changes in the external environment. One long-term fundamental change – for the oil and gas sector and for society as a whole – has been the speed of shift in the understanding of evidence of the impacts of climate change, and the accompanying shift in public and industry opinion on this matter.
5. The OGA is of the view that the oil and gas industry should go considerably faster and farther in reducing its own carbon footprint, or risk losing its social licence to operate. In addition, the OGA considers that the industry can play a critical role in delivering net zero for the UK as a whole<sup>3</sup>. The OGA considers that, in particular, industry is well positioned to use its unique skills, expertise and infrastructure to deliver carbon capture and storage – which is essential to tackling climate change – as well as supporting the development of a hydrogen economy.
6. The consultation sought respondents' views on the OGA's proposals to integrate relevant aspects in the Strategy where industry can assist the Secretary of State in meeting the net zero target. The consultation also sought views on proposals to update the OGA Strategy to reflect stewardship and other changes in the UKCS basin's operating environment; and clarifications of a number of legal and technical matters noted over the past four years, including during interactions with relevant persons. The revisions will enable the OGA to take a much greater role in supporting industry to drive the necessary changes.
7. A similar structure to that in the MER UK Strategy was proposed whereby the OGA Strategy sets out a Central Obligation and Supporting Obligations, together with a number of required actions.
8. These expand on how the Central Obligation applies in particular circumstances and specifies the actions to be adopted by relevant persons when carrying out activities in the UKCS. Although they are primarily intended to demonstrate how obligations under the Central Obligation apply in different circumstances, they bind relevant persons in the same way as the Central Obligation.
9. As in the MER UK Strategy, each of the obligations in the OGA Strategy are also subject to a number of Safeguards.

<sup>2</sup><https://www.ogauthority.co.uk/news-publications/consultations/2020/consultation-on-new-oga-strategy/>

<sup>3</sup>[https://www.ogauthority.co.uk/media/6625/ukcs\\_energy\\_integration\\_phase-ii\\_report\\_website-version-final.pdf](https://www.ogauthority.co.uk/media/6625/ukcs_energy_integration_phase-ii_report_website-version-final.pdf)

10. The OGA ran engagement workshops on **17 and 24 June 2020** to outline and discuss the proposals to revise the MER UK Strategy. These workshops were attended by over 270 industry representatives and other interested parties.
11. The OGA received 59 responses to the consultation. These included 22 operators, eight Non-governmental Organisations, seven trade bodies, seven private companies, five renewable companies, five academics, two arm's-length bodies, two private individuals and a trade union. The list of respondents can be found at **Annex 1**.
12. The OGA received a range of responses during the consultation on the proposed changes to the MER UK Strategy. We have considered these carefully to ensure that the post-consultation revisions to the OGA Strategy reflect the feedback.
13. The OGA has decided to proceed with the draft, with modifications, and has provided the revised OGA Strategy to the Department for Business, Energy and Industrial Strategy ('**BEIS**') Secretary of State to be laid in parliament.

# Part 2 – Proposed amendments to integrate the net zero target

## Summary of responses received

14. The consultation document proposed, among other things, to integrate relevant net zero considerations in the OGA Strategy where industry can assist the Secretary of State in meeting the net zero target.
15. Of the 59 organisations that responded to the consultation, 54 were generally in favour of the integration of the net zero target in the OGA Strategy.
16. A number of respondents provided comments on the aspects of wider energy policy and climate change, including the need for future oil and gas exploration and production; and that the OGA Strategy should be extended in its scope. These views have been noted by the OGA, but we have not provided a response, or set out any next steps, to this feedback as it was out of scope of the consultation.
17. The following section summarises the responses to Part 2 of the consultation and sets out the OGA's response to the key points raised.
19. Five respondents were supportive of the change of the title of the MER UK Strategy to the OGA Strategy. Respondents generally acknowledged that net zero and MER UK should not be held in isolation and each must work alongside the other. Three respondents suggested that the title should be further changed so it incorporates either net zero or sustainable energy strategy.
20. Nine respondents suggested that the proposed net zero ambition in the introductory principle (b) should be increased and directly reference either the Paris Agreement, the government's Clean Growth Strategy, or Carbon Budgets.
21. Fourteen respondents suggested that the term "*social licence to operate*" in the introductory principle (c) is subjective and an ever-evolving concept. They explained that this may be interpreted differently by different parts of society and different devolved governments across the UK meaning that relevant persons cannot be clear what is expected of them so should be deleted. Four respondents suggested that "*social licence to operate*", if retained, should be defined in the Strategy.

## Introduction

### Q1. Do you have any comments on the proposed changes to the Introduction?

#### Summary of responses received

18. Most respondents (54) were supportive of the proposals to integrate relevant aspects in the Strategy where industry can assist the Secretary of State in meeting the net zero target. Four respondents suggested that the proposed approach was fundamentally flawed as MER UK was incompatible with the Paris Agreement goals that the UK has signed up to. One respondent made no comment on the proposals to include net zero obligations.
22. Fifteen respondents suggested that "*in a proper and workmanlike manner*" are unnecessary in the introductory principle (h) so should be deleted as the sentiment remains without this additional wording. Respondents explained that there is a requirement in joint operating agreements for operators to act in a reasonable and prudent fashion, in accordance with good oilfield practice; this standard is well known and understood by the industry. Separately two respondents suggested that "*good oilfield practice*" should be defined.
23. Eighteen respondents explained that, given the additional obligations throughout the revised Strategy, particularly in the areas of governance, decommissioning, emissions reduction and carbon capture and storage ('**CCS**'), the revised Strategy appears to broaden the remit of the

OGA into areas already regulated by other bodies (i.e. Offshore Petroleum Regulator for Environment and Decommissioning ('OPRED'), Environment Agency ('EA'), Natural Resources Wales ('NRW'), Scottish Environmental Protection Agency ('SEPA') and Competition and Markets Authority ('CMA')). Ten respondents suggested that an additional high-level principle was added to the Introduction to clarify that the Strategy is not intended to create any regulatory overlap or increased regulation in areas which are presently under the remit of other regulatory bodies.

### OGA response to the views expressed

24. The OGA has re-named the MER UK Strategy as "*the OGA Strategy*", reflecting in part the explicit inclusion of the net zero target, and the OGA's view that MER UK should be considered in the context of such matters.
25. Reflecting on the feedback received, the OGA has added a further introductory principle (i) to clarify that the revisions to the Strategy are not intended to create any regulatory overlap in areas which are presently under the remit of other regulators.
26. The OGA has noted respondents' requests to define "*social licence to operate*". The OGA has not included a definition of "*social licence to operate*" as this term is only contained in the introductory principles which do not form part of the binding obligations in the Strategy. As set out in the Strategy, this term is also linked with good 'environmental, social and governance' ('ESG') practices and ESG is a well understood term in the context of corporate governance and investment.
27. The OGA has noted respondents' requests to provide definitions of "*in a proper and workmanlike manner*" and "*good oilfield practice*". These terms have been taken directly from the licence model clauses where they are undefined, so the OGA has declined to provide a definition here which may have unexpected consequences on the licences.
28. Noting the above, the OGA has updated (a), to reflect that the obligation applies to relevant persons, and added four additional introductory principles (b, c, h and i) to the introduction of the OGA Strategy, on: the net zero target; considering relevant persons' social licence to operate and develop and maintain good environmental, social and governance practices; complying with licence and other regulatory obligations; and that the OGA Strategy is not intended to create regulatory overlap. Further information on the OGA's role and role of other offshore regulators is set out in **Table 1** overleaf.
29. Although these introductory principles do not in themselves form part of the binding obligations created in the current or revised Strategy, they are intended to be of interpretive effect, helping to clarify the nature of the obligations created by the OGA Strategy.



**Table 1 – Offshore roles of the regulators**

OGA	OPRED
<ul style="list-style-type: none"> <li>• Offshore petroleum exploration and production licensing authority</li> <li>• cessation of production</li> <li>• consultee to OPRED, in relation to operators' decommissioning programmes</li> <li>• offshore decommissioning efficiency costs</li> <li>• consent to well activity</li> <li>• flaring and venting consents</li> <li>• asset stewarding and production efficiency</li> <li>• carbon dioxide storage licensing authority, stewarding projects that hold a licence</li> <li>• maintains the carbon storage public register</li> </ul>	<ul style="list-style-type: none"> <li>• offshore energy strategic environmental assessment</li> <li>• regulator for offshore environmental and decommissioning activity in relation to oil and gas exploration and exploitation, and carbon capture and storage</li> <li>• environmental consenting and monitoring of discharges to sea and emissions to atmosphere</li> <li>• reviewing, approving and monitoring the implementation of decommissioning programmes to make sure decommissioning solutions are consistent with regulatory obligations</li> <li>• offshore environmental inspection and investigation</li> <li>• regulator for offshore installations under the Greenhouse Gas Emissions Trading Scheme</li> <li>• protecting the taxpayer from bearing the full cost of decommissioning (as decommissioner of last resort)</li> </ul>
<b>EA / SEPA / NRW</b>	<b>Offshore Safety Directive Regulator OPRED and HSE</b>
<p>In relation to the onshore activities only:</p> <ul style="list-style-type: none"> <li>• environmental permitting of onshore gas terminals* – which includes permit conditions for emission limits, emissions monitoring and resource efficiency</li> <li>• environmental regulation against permit conditions for both Environmental Permitting Regulations and EU Emissions Trading Scheme of onshore gas terminals*</li> <li>• environmental permitting of any onshore, or near shore, dismantling activities</li> </ul>	<ul style="list-style-type: none"> <li>• oversee industry compliance with the Offshore Safety Directive and undertake related functions</li> </ul>
	<b>HSE</b>
	<ul style="list-style-type: none"> <li>• implementing health and safety legislation for offshore oil and gas operations</li> <li>• preventing major incidents associated with loss of containment of oil and gas; delivering targeted interventions</li> <li>• managing risk associated with ageing infrastructure and failure of asset integrity, and offshore dismantling and decommissioning activities</li> <li>• regulating onshore dismantling and decommissioning</li> </ul>
<b>COMAH Competent Authority (HSE and EA / SEPA / NRW)</b>	
<ul style="list-style-type: none"> <li>• the prevention and mitigation of impacts associated with major accidents at onshore gas terminals</li> </ul>	

\*Onshore terminals, or other infrastructure, processing hydrocarbons produced offshore are within scope of the OGA Strategy

## Central Obligation

### Q2. Do you have any comments on the proposed changes to the Central Obligation?

#### Summary of responses received

30. Almost all (54) respondents were supportive of the new net zero part in the Central Obligations. Four questioned the OGA's legal power to include net zero in the Central Obligation (with two suggesting it should be a supporting obligation) and one did not comment on this question.
31. Eleven respondents advocated that the new net zero clause 2(b) was not ambitious enough and suggested that it could be tied to the international Paris Agreement, Carbon Budgets, the Clean Growth Strategy, and use "*levels consistent with net-zero*".
32. Thirteen respondents requested that the OGA avoided a one size fits all approach and added a proportionality test to the net zero clause of the Central Obligation.
33. Nineteen respondents requested the OGA define what is meant by "*as far as reasonable in the circumstances*", explaining that this would provide the relevant person clarity on requirements and to avoid confusion with the powers of other regulators.
34. Ten respondents requested that the OGA clarify the hierarchy of the MER and net zero clauses in the Central Obligation. Eight respondents suggested that net zero should take precedence over MER. One respondent suggested that MER and the net zero obligations should be considered equally.
35. Three respondents suggested that the proposed net zero clause 2(b) is too prescriptive for inclusion as part of the Central Obligation. Explaining that the activities included here relate to greenhouse gas (GHG) emission reductions and supporting CCS projects, which are both already included in more detail within the relevant sections of the Supporting Obligations. Another
- five respondents thought that the list should be expanded to include additional activities such as Scope 3 emissions and hydrogen projects.
36. A respondent advocated that the net zero limb of the Central Obligation should reference the term "*as low as reasonably practicable*" instead of "*as far as reasonable in the circumstances*".
37. A respondent suggested linking the Central Obligation to employment and skills in the oil and gas supply chain.

#### OGA response to the views expressed

38. As set out in the consultation document "*maximising economic recovery*" must be considered in its wider societal and operational context: not least to reflect the significant changes in the UKCS basin's operating environment and stewardship that have occurred since the introduction of the MER UK Strategy, including the introduction in 2019 of the net zero by 2050 target<sup>4</sup>, which, as referenced in the consultation document<sup>5</sup>, the OGA considers is an integral part of MER that should be expressly reflected in the Strategy. Indeed, when the existing Strategy was produced in 2016, the reduction target was set at a lower level of 80%.
39. Indeed, the Act envisages such changing considerations being reflected. The Act provides that the strategy produced by the OGA is specifically: "*for enabling the principal objective to be met.*" The principal objective is the objective of "*maximising the economic recovery of UK petroleum*". The Act sets out a number of ways in which the principal objective may be met – such as development and construction of equipment used in the petroleum industry, and collaboration among parties involved in the sector but this is not a definitive list. In this regard, and as mentioned above, section 9A(3) of the Act provides that a strategy may relate to matters "*other than*" those listed.
40. Relevant to this, the OGA notes in particular section 8 of the Energy Act 2016 ('**EA 2016**') which provides expressly for the OGA to have regard to, when amending the Strategy, how the development and use of facilities for the storage

<sup>4</sup><https://www.legislation.gov.uk/uksi/2019/1056/contents/made>

<sup>5</sup><https://www.ogaauthority.co.uk/news-publications/consultations/2020/consultation-on-new-oga-strategy/>

of carbon dioxide may assist the Secretary of State to meet the net zero target. Indeed, the existing Strategy already made reference to CCS in the context of reuse or continued use of infrastructure for transporting and storing CO<sub>2</sub> (see existing MER UK Strategy, paragraph 20). This reference reflects the OGA's licensing functions in respect of CCS (e.g. as set out in the Energy Act 2008), as well as section 8 EA 2016, which the Strategy applies to<sup>6</sup>.

41. This makes sense as the point at which infrastructure can be considered for potential repurposing and reuse for CCS projects is most likely before decommissioning is planned and at the point of cessation of production. Section 47A of the Act provides further support for this in that it permits the OGA to have regard to activities under a carbon storage licence or activities relating to electricity generation when exercising its powers under the Act. In addition, section 47A provides that the OGA may have regard to proposals made in relation to carrying out these activities or proposals that it considers may in the future be made for carrying out such activities.
42. Section 8 EA 2016 also provides for the OGA to have regard to the need to work collaboratively with the government in the exercise of its functions. Again, the OGA notes the net zero target and that the government wrote to the OGA on 13 January 2020 confirming that for the government to reach this legally-binding commitment, “*significant engagement and support from across industry*” will be required, and that the government assumes therefore that the OGA will take into account the need for the industry to support the transition to net zero, when reviewing the existing Strategy.
43. Another consideration as required under section 8 of the Act is for the OGA to have regard to when revising the Strategy is “[*t*]he need to maintain a stable and predictable system of regulation which encourages investment in relevant activities.”
44. The existing Strategy already recognised the importance of investor confidence, setting out the high-level principle that “*in determining whether something is consistent with the principal objective the OGA will need to balance the economic recovery of petroleum with the need to maintain the confidence of new and current investors to invest in exploration and production of petroleum from relevant UK waters....*” (Introduction, principle (e) at page 5). In addition, the Safeguards included (and still include) safeguard at paragraph 6 which states that: “*No obligation imposed by or under this Strategy requires any conduct (including investment or funding activity) where the benefits to the UK deriving from that conduct are outweighed by the damage to the confidence of investors in oil and gas exploration and production projects.*”
45. The OGA has seen investors turning away from investment in companies which focus primarily on petroleum without considering the wider context of net zero and considers that requiring the sector in this way to take appropriate steps to assist with the Secretary of State in meeting the net zero target encourages investor confidence and investment.
46. Further, section 8 EA 2016 provides that the OGA is required to take into account the need for innovation in the industry. This includes innovation in working practices to bring down carbon emissions from operations, and encouraging energy efficiency. The OGA therefore considers it appropriate to encourage the use of such technology to assist the transition to renewables and production with lower emissions. The revised Strategy therefore proposes amended wording as regards technology, with a new emphasis on how technology can be used to assist CCS projects as well as other activities to bring down emissions from petroleum production activities.
47. This is also to be considered in the wider context where the government has announced it will review “*its policy on the future UK offshore oil and gas licensing regime as part of the wider aim of achieving net zero emissions by 2050.*”<sup>7</sup>
48. Consequently, the OGA has integrated the UK's net zero ambitions into its revised Strategy, including in the Central Obligation. Meaning that relevant persons in securing MER UK are now required “*in doing so*” to take appropriate steps

<sup>6</sup>For the avoidance of doubt, what OGA functions the Strategy applies to is defined to include the OGA's functions under Chapter 3 of Part 1 of the Energy Act 2008 (i.e. the storage of carbon dioxide).

<sup>7</sup><https://www.gov.uk/government/news/government-launches-review-into-future-offshore-oil-and-gas-licensing-regime>

to assist the Secretary of State in meeting the net zero target. As set out in the responses to questions six and seven, the amended definition of “*economically recoverable*” and the approach to carbon valuation will, where relevant, use the UK government carbon appraisal values for all GHG emissions combined with the associated real terms social discount rate.

49. On the specific wording, the Central Obligation in the OGA Strategy will remain as previously: to secure that the maximum value of economically recoverable petroleum is recovered from the UKCS, but with a new clause (b) added requiring relevant persons in doing so to take appropriate steps to assist the Secretary of State in meeting the net zero target.
50. The OGA has noted feedback from some respondents that the activities set out in clause 2(b) as to what is included are too prescriptive and should be deleted as they relate to GHG emission reductions and supporting CCS projects, which are included in more detail within the relevant sections of the Supporting Obligations. We also noted feedback from other respondents who proposed that the list of activities in clause 2(b) should be broadened to include Scope 3 emissions and hydrogen projects.
51. The current drafting specifies that the activities in clause 2(b) to reduce emissions and supporting CCS are illustrative and apply where such “*steps*” are “*appropriate*” to assist the Secretary of State to meet the net zero target. These activities include Scope 1 and Scope 2 emissions.
52. We have noted respondents’ requests to define “*as far as reasonable in the circumstances*” in the Central Obligation and elsewhere in the Strategy; this is not appropriate to do so as its definition depends on what the specific “*circumstances*” of each consideration is.
53. In summary, we have carefully considered respondents’ comments and consider that the Central Obligation strikes the right balance. The revised Central Obligation in the OGA Strategy is set out below. Please note the purple text reflects the changes from the MER UK Strategy Central Obligation:
2. Relevant persons must, in the exercise of their relevant ~~functions~~ activities, take the steps necessary to:
    - a. secure that the maximum value of economically recoverable petroleum is recovered from the strata beneath relevant UK waters; ~~and, in doing so,~~
    - b. ~~take appropriate steps to assist the Secretary of State in meeting the net zero target, including by reducing as far as reasonable in the circumstances greenhouse gas emissions from sources such as flaring and venting and power generation, and supporting carbon capture and storage projects.~~

## Supporting Obligations

### Q3. Do you have any comments on the proposed changes to the Supporting Obligations to embed the proposed net zero limb of the Central Obligation?

#### Summary of responses received

##### Development

54. Twenty-two respondents suggested that this Supporting Obligation should only apply to relevant persons where there is a real prospect of CCS facilities being developed relating to the infrastructure concerned. They explained that only a very small subset of UKCS assets are expected to be used in the main CCS cluster projects. Respondents also explained that the net zero requirements may be in conflict with MER UK as a result of significant additional costs and designed infrastructure to last beyond a field's life.
55. Fifteen respondents welcomed the new requirement during the development phase for relevant persons to reduce their emissions and take reasonable steps to support the development and use of infrastructure for CCS projects.

##### Asset Stewardship

56. Sixteen industry respondents noted the new metering and measurement requirement in the proposed Asset Stewardship Supporting Obligation. They suggested that this term was too broad, explaining that measurement and monitoring of emissions from these sources is currently regulated by OPRED and requested the OGA clarify why this change is required.
57. Five respondents welcomed the proposed changes to this Supporting Obligation to require owners and operators of infrastructure to maintain and operate it in a way that will “achieve optimum potential for reuse or repurpose”.

##### Technology

58. Sixteen industry respondents raised concerns about the addition of the obligation for relevant

persons to “develop” technology in the proposed Technology Supporting Obligation. Respondents explained that although relevant persons regularly use and deploy new technologies, for many technology development is not part of their business model. They also suggested that for many existing assets the application of new technology has limited potential and would be uneconomic both in a MER and net zero context.

59. Three respondents suggested extending the obligation beyond hydrogen and CCS (e.g. electrification of platforms). Three respondents suggested that the OGA should define the term “where appropriate”.

##### Decommissioning

60. Twenty-one respondents welcomed the evaluation of applicability of infrastructure reuse or re-purposing for CCS pre-decommissioning. Seventeen respondents requested clarity on how operators will “demonstrate” they have assessed all “viable options”.
61. Fourteen respondents explained that the Strategy needs to deal with the significant potential for regulatory overlap with OPRED on regulatory competency and enforcement. Respondents requested that it was clarified that OPRED remains the primary decision maker for decommissioning and is ultimate approval of decommissioning programmes.
62. Twelve respondents suggested that the term “or method of” should be defined or deleted, explaining that as drafted this suggests that the OGA can instruct industry in how to decommission infrastructure, which would be an extension of the current regulatory framework.
63. Twenty-one respondents explained that new requirement for relevant persons “to demonstrate [to the OGA], that all viable options for that infrastructure’s continued use including for reuse or re-purposing” could introduce significant delays to decommissioning activity and/or additional cost associated with mothballing and keeping infrastructure in a useable state.

64. Twelve respondents requested that the OGA define “*partial decommissioning*”; they also explained that this new term could have the unintended consequence of introducing significant delays to decommissioning. They explained that it could be cost effective to decommission some wells a long time before an asset reaches cessation of production before any reuse option has even been considered. This would have the potential to cause significant delays and undermine potential cost efficiencies.

### Carbon capture and storage projects

65. Twelve respondents welcomed this new Supporting Obligation. Twenty-two respondents asked for clarification for how this Supporting Obligation would work in practice, whether some proportionality test would be appropriate and sought assurance this obligation would only be enacted if there was a reasonable (including further requests for a definition of “*reasonable*”) prospect of a CCS project.
66. Eighteen respondents highlighted the need for government to finalise the policy framework for CCS, before the regulatory arrangements could be finalised.
67. Four respondents suggested that CCS was broken down into its individual components (capture, transport, and storage) in the revised Strategy.

### OGA response to the views expressed

#### Development

68. The OGA has noted respondents’ feedback that clause 9(c) of the proposed Strategy should only apply to relevant persons where there is a real prospect of CCS facilities being developed relating to the infrastructure concerned. The OGA considered that this is already covered, noting that the text “*where there is a reasonable prospect of any such project being developed*” is already included in the definition of CCS Project but for further clarity the OGA has added the same wording to the CCS Supporting Obligation. This amendment to the CCS Supporting Obligation emphasises that any CCS considerations in the Strategy, such as

the obligation at clause 9(c), should be taken in the context of a CCS project where there is “*a reasonable prospect of any such project being developed*”.

69. The OGA has updated the Development Supporting Obligation to include references to the net zero target, and CCS project considerations – in relation to the planning, construction and use of infrastructure – in the revised OGA Strategy.

#### Asset Stewardship

70. The OGA has noted respondents’ concerns that the proposed new metering and monitoring obligations create an overlap with the statutory role carried out by OPRED with respect to emissions. The new obligation requires relevant persons to undertake relevant and measurable metering and measurement activities. Should the same data sets be required by different regulators, relevant persons will not have to duplicate their effort and can provide the OGA with the same data.
71. The OGA has updated the Asset Stewardship Supporting Obligation to reflect net zero considerations. As set out in the consultation document changes include new provisions to require that relevant metering and measuring activities are undertaken, and infrastructure is maintained to achieve optimum levels of performance, to include energy efficiency, while reducing GHG emissions as far as reasonable in the circumstances. In order to do so, relevant persons should consider all applicable options for existing and new developments – for example, but not limited to, options for electrification of platforms.
72. This is not a “*one size fits all*” approach, and what is “*reasonable*” will depend on the circumstances under consideration. The OGA will work with industry to set out a net zero Asset Stewardship expectation aiming to address, among other things, the reduction of GHG emissions.
73. The OGA also adds a new requirement to this Supporting Obligation to require that infrastructure is maintained and operated so it may achieve optimum potential for future reuse or re-purpose in support of the net zero target.

## Technology

74. The OGA has noted respondents' feedback and comments that although relevant persons regularly use and deploy new technologies, for many operators developing new technologies is not part of their business model. As such the OGA has amended the proposed wording to refer instead that "*where appropriate*" relevant persons must ensure they "*encourage the development of such technologies*".
75. The OGA has revised the Technology Supporting Obligation to clarify that relevant persons must ensure that technologies are deployed to their optimum effect, and where appropriate encourage the development of such technologies, for the purposes of MER UK, and in doing so, reduce as far as reasonable in the circumstances GHG emissions from sources such as flaring and venting and power generation, where appropriate, enabling the planning and development of CCS projects and projects relating to hydrogen supply to be planned for and developed.

## Decommissioning

76. The OGA has noted respondents' feedback about the proposed addition of the term "*partial decommissioning*". As "*planning for decommissioning*" covers both the main Decommissioning Plan and the Preparation Work Scopes Decommissioning Plan, the OGA has simplified this Supporting Obligation by removing the reference to "*partial decommissioning*".
77. The OGA has made changes to this Supporting Obligation to clarify that relevant persons must ensure and be able to demonstrate that all continued or alternative uses for infrastructure in a region (as defined), including for CCS, have been suitably explored. This clarification does not overlap with the statutory decommissioning role carried out by OPRED who, with advice from the OGA and other regulators, is the primary decommissioning regulator.

## Carbon capture and storage projects

78. The OGA is the carbon dioxide storage licensing authority and approves and issues storage permits. The OGA does not regulate carbon capture. The OGA works collaboratively with government and industry on project engagement and stewardship, and is supporting government and others to identify existing infrastructure with reuse potential for carbon capture and storage or hydrogen projects. The OGA also asks relevant persons as part of cessation of production plans to show that they have considered development opportunities, including the CCS potential, for any infrastructure. The OGA is a consultee to OPRED, in relation to operators' decommissioning programme, in particular whether reuse opportunities or potential have been considered.
79. The OGA has noted respondents' comments on the government's policy on energy integration. We recognise that the foundation of the wider energy integration policy framework has yet to be finalised but this is out of the scope of this consultation.
80. The OGA has also noted respondents' comments about the possible disproportionate effect of this Supporting Obligation. As is set out in paragraph 1 of the Strategy, each of the Supporting Obligations clarifies how the Central Obligation applies in certain circumstances and is therefore linked to the Central Obligation. As drafted the CCS Projects Supporting Obligation requires relevant persons to "*have due regard*" to such projects when exercising their relevant activities, not to actually undertake such projects.
81. In response, it is worth highlighting that the text "*where there is a reasonable prospect*" is already included in the definition of CCS Projects, and the OGA has also added a further such test to this Supporting Obligation by including the text "*where there is, or is a reasonable prospect of, any such project being developed*".

82. Respondents' also made reference to The Storage of Carbon Dioxide (Access to Infrastructure) Regulations 2011<sup>9</sup> which set out a regime that specifically covers "*relevant infrastructure*" (defined to include a relevant pipeline or a relevant storage site). As is referred to above, the OGA is supporting government and others to identify existing infrastructure with reuse potential for carbon capture and storage projects, and such infrastructure goes beyond pipelines and storage sites as is set out in the BEIS consultation: Carbon Capture, Usage and Storage: A Government Response on the reuse of oil and gas assets in CCUS projects<sup>9</sup>.
83. In reference to the above, and as set out in the consultation document, the OGA is introducing a new CCS Projects Supporting Obligation in the OGA Strategy. This Supporting Obligation sets out how relevant persons can support and collaborate on these projects, including: negotiating access to infrastructure for carbon capture and storage projects in a timely fashion and in good faith; and permitting access to the relevant infrastructure to be used for the carbon capture and storage projects on fair, reasonable and non-discriminatory terms.

<sup>9</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/909642/CCUS-government-response-re-use-of-oil-and-gas.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/909642/CCUS-government-response-re-use-of-oil-and-gas.pdf)



# Part 3 – Other proposed amendments

## Summary of responses received

84. The following section summarises the responses to Part 3 of the consultation regarding proposals to update the MER UK Strategy to reflect stewardship and other changes in the UKCS basin's operating environment; and clarifications of legal and technical matters noted over the past four years, and sets out the OGA's response to the key points raised.

## Supporting Obligations

### Q4. Do you have any comments on the proposed clarifications to the Supporting Obligations to reflect stewardship and other changes in the United Kingdom Continental Shelf?

#### Summary of responses received

##### Corporate Governance

85. Twenty-four respondents raised specific concerns around the proposed new Corporate Governance Supporting Obligation, querying the value and purpose. Two respondents supported the proposed addition of this Supporting Obligation and proposed direction making power. The majority of respondents were silent on this proposed new Supporting Obligation.
86. Respondents were generally concerned that this proposed Supporting Obligation would grant the OGA the ability to interfere in the routine affairs of independent companies. Respondents stated that corporate governance is already well regulated in the UK (2020 UK Stewardship Code, UK Companies Act etc.) and they do not consider it appropriate that the OGA takes a role in this field. Given offshore licensees' existing regulatory and licensing obligations, respondents suggested further regulation is unnecessary.

87. Six respondents queried how typical unincorporated joint ventures can be bound by the proposed Supporting Obligation as creatures of contract, rather than separate legal persons.
88. Four respondents (three against and one in support) referenced the proposed direction making power.

##### Exploration

89. Sixteen respondents queried if the requirement for licensees to inform the OGA "as soon as they become aware" they will be unable to make a satisfactory expected commercial return ('SECR') was realistic.
90. Twelve respondents noted the change from "may" to "shall" in clause 7 and expressed concerns that relevant persons would now be obliged to accept the OGA's position on replacement work programmes.
91. Eleven respondents sought clarification on what is meant by "other related licence activities" in clause 5.

##### Asset Stewardship

92. Fourteen respondents noted the addition of allowing access to infrastructure on "non-discriminatory" terms and explained that access to infrastructure already has well-established Infrastructure Codes of Practice principles which are widely known and accepted, and that the proposed addition of "on non-discriminatory terms" was an unnecessary addition to the current "fair and reasonable" drafting.

##### Technology

93. There were no substantive comments on the proposal to address the minor inconsistency in the MER UK Strategy to clarify that the OGA does not need to create a Technology Plan to give effect to the technology obligation.

## Decommissioning

94. Fourteen respondents noted decommissioning was primarily for OPRED and were concerned about regulatory overlap. Respondents requested that the Strategy clarified that OPRED remains the primary decommissioning decision maker and that approval of decommissioning programmes will be conducted by it.

## OGA plans

95. Eleven respondents noted the proposed changes to allow the OGA to adopt an industry produced plan were reflective of current operations. These respondents highlighted that it would be valuable for any area plan participant, not necessarily just the Operator, to be able to present a plan to the OGA for consideration. This would provide further opportunities to promote collaboration between relevant participants.
96. One respondent noted that the OGA may adopt area plans which include future use of infrastructure and reservoirs for CO<sub>2</sub> transportation and storage. That respondent requested that more detail on this requirement, and any obligations for relevant persons to engage with other regulators on such a plan, be added to the Supporting Obligation.
97. Twelve respondents queried how the new obligation for relevant persons to “*demonstrate to the satisfaction of*” will be managed and what tests the OGA would apply. One respondent welcomed this proposed change.

## Collaboration

98. Twenty-two respondents were against the proposal to move Collaboration from the Required Actions to the Supporting Obligations, explaining that “*Collaboration has been delinked from the Central Obligation and has become an end rather than a means to an end*”. Respondents suggested that the loss of detail in the revised supporting obligation “*will lead to more, not less, disputes*”.

99. Three respondents supported the proposal to move Collaboration to the Supporting Obligations. One respondent noted that making Collaboration a Supporting Obligation was consistent with Section 9A of the Petroleum 1998 Act (which mandates collaboration) as part of the principal objective.

## OGA response to the views expressed

### Corporate Governance

100. We have noted that certain respondents raised concerns about the proposed new Corporate Governance Supporting Obligation, querying its value and purpose. Respondents’ concerns fell broadly into three categories:
- What behaviours do the OGA seek to address by the proposed supporting obligation?
  - Why does the OGA believe these are not adequately addressed by existing governance regimes?
  - Why does the OGA require a power to direct in order to address this?
101. The OGA aims to protect the good reputation of the industry amongst investors and the general public, noting for example that the OGA may grant licences to those persons it thinks fit (section 3(1) of the Act) and when exercising its functions must have regard to, among other things, the need to maintain a stable and predictable system of regulation which encourages investment in relevant activities (section 8 EA2016). This includes minimising any potential future risks to this reputation that could materialise in the event of a loss of strong governance in a licensee or a degradation in the value placed on the reliable delivery of projects. We further aim to ensure that companies have the desire and experience to navigate financial and operational challenges and are committed to the long-term health of the industry. Whilst aware this is not a panacea, the OGA’s involvement in corporate governance, we believe, will assist in countering any future UKCS-specific challenges, provide a level of trust to the investor community, and promote investment in the UKCS.

102. Recognising that a number of governance codes and principles exist already for public and private companies, such as the 2018 UK Corporate Governance Code, 2020 UK Stewardship Code and the Wates corporate governance principles, the OGA recognises that MER UK is not served by unnecessarily increasing the regulatory burden. Therefore, the OGA will likely reiterate relevant existing governance requirements, which many licensees in any event already follow, whilst including Strategy based specific requirements where relevant, in order to ensure a minimum level of good and proper governance across all licensees in the UKCS. Such Strategy based specific requirements could include licensees having to show that they have the requisite knowledge of the UKCS and the Strategy, including potentially appointing a Non-executive Director ('**NED**') as a UKCS champion. Also, it could include the licensees' board/senior management being able to show that key financial and commercial risks impacting on a licensee's ability to meet the requirements of the licence and its contribution to MER UK are managed actively and effectively, with both the risks and the strategy to manage them communicated clearly in its Annual Report and Accounts and/or relevant Financial Statements.

103. The OGA has noted the useful feedback about the corporate governance arrangements of joint ventures. We have considered the comments and have removed the proposed obligations on joint ventures in the Corporate Governance Supporting Obligation.

104. While the OGA has noted respondents' concerns about the direction, the OGA considers that, on balance, the direction making power should be included. It is worth highlighting that the OGA proposes to follow a 'comply or explain' approach, following the example of many existing governance codes. We currently intend issuing guidelines in relation to the Corporate Governance Supporting Obligation that set out general principles and licensees may then decide how to comply with those principles. Licensees should, however, be prepared, where requested, to explain to the OGA the how. The direction making power would then likely be used in very specific circumstances where there is an issue with a

particular company's or companies' Corporate Governance in the context of the Strategy. The OGA will provide more details as to what the OGA considers is "*good and proper*" governance in due course.

105. Therefore, the OGA has included the Corporate Governance Supporting Obligation, which reflects among other things that offshore licensees acting in the UKCS should have good and proper governance arrangements in place across the basin regardless of whether they are public or private companies.

### Exploration

106. We have noted respondent's comments on the new requirement for licensees to inform the OGA "*as soon as they become aware*" they will be unable to make a SECR when carrying out a work programme. Noting the underlying objective of the Strategy, to maximise the economic recovery of UK petroleum, the OGA considers it appropriate to be informed, for example, through the iterative stewardship discussions as soon as a licensee does become aware of such an issue. This will provide the OGA with the necessary time to explore with the licensee suitable alternatives.

107. We have noted respondents' requests for clarity about the scope of "*other related licence activities*" in clause 5. The OGA can confirm that "*other related licence activities*" include seismic and other data acquisition activities and use, undertaken after the exploration stage at later stages of the licence lifecycle.

108. Therefore, the OGA has amended, as proposed in the consultation, the Exploration Supporting Obligation relating to the planning, funding and undertaking of exploration activities to clarify that it also applies to other related licence activities, including seismic and other data acquisition and use, throughout the lifecycle of a project.

109. This change includes the clarification that licensees must inform the OGA as soon as they become aware that they consider they will be unable to make an SECR on the investment or activity.

## Asset Stewardship

110. The OGA has noted respondents' comments on the addition of allowing access to infrastructure on "non-discriminatory" terms and that access to infrastructure already has a well-established Infrastructure Code of Practice ('ICOP'). As set out in the consultation document, this proposed change to include "non-discriminatory" at clause 12.(b) is a well-understood regulatory principle that ensures requests for access be treated in a similar fashion, and should already be applied by owners/operators of infrastructure. Its aim is to ensure a level playing field and fairness for all parties concerned. Indeed, this principle of non-discriminatory negotiated access is one of the specific principles of ICOP. Further, ICOP states that "[d]iscrimination by an infrastructure owner includes the application by them of dissimilar conditions to equivalent transactions" and clarifies that "[t]his does not mean that infrastructure owners need to set fixed common prices for particular services, since different terms and conditions may be applied where there are differences in the service provided or the cost or risk of supply."
111. The OGA has amended, as proposed in the consultation, the Asset Stewardship Supporting Obligation to clarify that, in addition to the existing obligation to allow access on fair and reasonable terms, such access should also be allowed "on non-discriminatory terms". The OGA also proposed that such access should be negotiated in a timely fashion and in good faith.

## Technology

112. The OGA has amended, as proposed in the consultation, the Technology Supporting Obligation (clause 13) to clarify that the OGA does not need to create a Technology Plan to give effect to the Technology Supporting Obligation. This clarification addresses a minor inconsistency in the existing UK Strategy.

## Decommissioning

113. The OGA has noted respondents' concerns about the risk of regulatory overlap. As set in Table 1 above, the OGA has set out its understanding of the specific role each regulator has, noting that OPRED is the primary decision maker for decommissioning and approves decommissioning programmes.
114. Noting the above, the OGA has amended the Decommissioning Supporting Obligation to clarify that the cost-effective decommissioning of infrastructure should not prejudice the reuse or re-purposing of all viable options for that infrastructure's continued use.

## OGA plans

115. The OGA welcomes respondents' comments on the revision to provide for the OGA to adopt an industry produced plan. The OGA can confirm that a relevant person can present a plan to the OGA for consideration. The obligations in clause 17 explain that the OGA can adopt a plan that includes the reuse or repurposing of infrastructure for CCS projects, therefore there is no need to add further text to clause 18. Relevant persons would still need to get any required consents and approvals from the other regulators to take the plan forward.
116. The OGA has noted respondents' feedback and requests for further information about how the obligation in clause 19 for relevant persons to, where that person intends to carry out activities in a manner which is inconsistent with any current plan, "demonstrate to the satisfaction of the OGA how their alternative meets the obligations of this Strategy" will be managed and what tests would be applied.
117. The OGA has updated this Supporting Obligation to clarify that relevant persons must demonstrate to the OGA that their alternative approach to an OGA plan meets the obligations of the revised Strategy. The OGA can then analyse and adopt the alternative if it considers it appropriate. This enables an industry produced plan to be adopted by the OGA at a later stage.

<sup>10</sup><https://oilandgasuk.co.uk/infrastructure-code-of-practice-2/>

<sup>11</sup>For example, see Section 11.

## Collaboration

118. The OGA noted respondents' comments both for and against moving this requirement from the Behaviours and Actions section of the MER UK Strategy into the Supporting Obligations of the OGA Strategy.
119. In response to respondents' concerns that this move delinks the Obligation from the Central Obligation/MER, this was not the OGA's intention. In this regard, the OGA refers to section 9A(1) of the Act which specifically states that the "*principle objective*" is the objective of MER of UK petroleum through, among other things, "*collaboration among*" relevant persons. The OGA has also added the following new text to the start of the Obligation "*In undertaking Relevant Activities, relevant persons*" to make this clear. This additional text directly links it to the operations being undertaken and clarifies that Collaboration, even as a Supporting Obligation, is in support of the Central Obligation.
120. As set out in the consultation document the OGA has moved the Collaboration requirement from the Behaviours and Actions section of the existing Strategy into the Supporting Obligations of the revised Strategy. This move aligns the revised Strategy more closely with section 9A(1) of the Act.
121. As set out in the consultation document the OGA has amended this Supporting Obligation so that relevant persons are required to collaborate and co-operate with those seeking to acquire an interest or invest in offshore licences or infrastructure. In addition, the revised Strategy clarifies that relevant persons must collaborate with their supply chain (those providing goods or services to the industry) to support the efficient delivery of the Relevant Activities, to enable the principal objective to be met. In recognition of the role that Relevant Persons perform in supporting and developing an effective and efficient UK supply chain, the OGA intends to introduce a new Stewardship Expectation developed jointly with industry via relevant industry task forces, consistent with the development of previous Stewardship Expectations.

## Required actions

122. In addition to the Central and Supporting Obligations, the revised Strategy sets out required actions. These specify certain types of conduct which must be adhered to in demonstrating compliance with the Central Obligation or any of the Supporting Obligations.

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### Q5. Do you have any comments on the proposed changes to the Required Actions?

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#### Summary of responses received

123. Five respondents welcomed the revised name of the Required Actions section.
124. Thirteen respondents commented that the reference to "*having regard to relevant Stewardship Expectations*" should be in the introductory high-level principles or as a footnote, rather than in required actions. These respondents explained that the proposed change meant that the Stewardship Expectations were binding and equivalent to the Strategy.
125. Ten respondents clarified that their preferred approach was for the OGA to ensure the Stewardship Expectations are used to influence in a collaborative way. Respondents welcomed the OGA's reassurance that any new Stewardship Expectations will be developed jointly with industry.

#### Timing

126. One respondent requested that the Strategy should take account of the timing of the actions to deliver the net zero target.

#### Cost efficiency

127. Nineteen respondents supported the proposed change of this action from "*cost reduction*" to "*cost efficiency*". One respondent noted that this change is consistent with net zero considerations because "*cost efficiency*" includes external or environmental costs.

128. Eleven respondents noted that the introduction of reuse and repurposing is not appropriate as part of “*full lifecycle costs*” and could imply CCS projects are an integral part of the whole industry.
129. Three respondents suggested that cost efficiency should also include consideration of CCS projects, the reuse of and repurposing of infrastructure to support offshore renewable energy generation and the value to the UK from achieving net zero.

### **Actions where relevant parties decide not to ensure Maximum Economic Recovery**

130. Eleven respondents were concerned that the revisions to clause 26 may inadvertently extend the requirement to divest to onshore infrastructure related to upstream assets due to the lack of an explicit reference to a SECR test.
131. Two respondents suggested that the reference to a sole risk project in clause 27 may cause issues for relevant persons as Joint Operating Agreements may not allow this.
132. Twelve respondents noted that the revisions to clause 28 removed the confusion on application of the SECR Safeguard, clause 33, meaning that this would now apply with respect to the obligations in clauses 26 and 27. They suggested new text could be added to clauses 27 and 28 to clarify that these requirements only apply where the activity or investment in question allows for a satisfactory expected commercial return.
133. One respondent noted that the data provision obligations in clause 29(a) are a normal part of a divestment process. If this change is needed, they suggested that clause 29(a) is redrafted changing “*all relevant data*” to “*sufficient relevant data*”.
134. Three respondents suggested that the meaning of clause 29(c) wasn’t clear.
135. Eleven respondents provided comments on the Safeguards and suggested that these should be clarified and enhanced in order to provide appropriate assurance and protection for existing businesses to reflect the inclusion of the new net zero clause in the Central Obligation.
136. One respondent suggested that the Safeguards, and the existing references to them in the Central Obligation and Supporting Obligation sections, should be maintained in their current positions in the existing Strategy (i.e. at the front of the document, prior to the Central Obligation).

### **OGA response to the views expressed**

137. The OGA has renamed this section of the Strategy “*Required Actions*”, as they concern actions that relevant persons are required to take in fulfilling the Central Obligation and the Supporting Obligations.
138. The OGA has noted respondents’ views that “*having regard to relevant Stewardship Expectations*” should be in the introductory high-level principles or as a footnote, rather than in Required Actions. The Stewardship Expectations are not intended to have a binding legal effect themselves but rather set out expectations which, if followed, will help to facilitate delivery of the OGA Strategy. The new text in clause 23 of the Strategy requires relevant persons to have “*due regard*” to Stewardship Expectations when considering how to fulfil the obligations in the Strategy.
139. As is currently the case the OGA will continue to use the Stewardship Expectations to influence relevant persons in a collaborative way. As set out in the consultation document, any new Stewardship Expectations will be developed jointly with industry.
140. Noting the comments above, the OGA has added new text to clause 23 of the Strategy to clarify that relevant persons should have due regard to relevant Stewardship Expectations when considering how to act in accordance with this Strategy.

### **Safeguards**

135. Eleven respondents provided comments on the Safeguards and suggested that these should be clarified and enhanced in order to provide appropriate assurance and protection for existing

### **Timing**

141. The OGA has made, as proposed in the consultation, minor changes to the Timing required action to clarify that all Obligations in the

OGA Strategy, including any required actions, must be complied within a timely fashion.

### Cost Efficiency

142. As set out in the consultation document, the OGA has changed the title of the “*Cost Reduction*” required action to “*Cost Efficiency*”. This is better aligned with economic objectives and shifts focus from minimising the baseline costs to a project’s overall economic efficiency. It incorporates net zero considerations by emphasising that the lifecycle costs and associated benefits of different options should be appraised and that where relevant, carbon valuation should be included.
143. The OGA Strategy clarifies that the full lifecycle costs include both decommissioning and the reuse and/or re-purposing of infrastructure; that costs should be incurred in the most cost-efficient way; and to clarify that relevant persons should include an assessment of cost efficiency benefits from the reuse and re-purposing of infrastructure, as part of carbon capture and storage project considerations. This clarification does not affect the decommissioning cost reduction target.

### Actions where relevant parties decide not to ensure Maximum Economic Recovery

144. The OGA has noted the feedback about the data provision obligations in paragraph 29(a). The OGA has added new text to clause 29 of the Strategy to clarify that relevant persons seeking to divest a licence or infrastructure should “*provide access to sufficient relevant data and other information, including to allow bona fide persons to establish technical and financial competence*”.
145. The OGA Strategy clarifies that, where relevant persons are required to secure investment from other persons, that may include allowing others to undertake such investment as a sole risk project.
146. The OGA has made minor changes as set out in the consultation document to this required action to provide greater clarity in the drafting of the revised Strategy.

### Safeguards

147. The OGA has noted respondents’ requests to enhance the Safeguards in the OGA Strategy to reflect the net zero obligations. The OGA has no current plans to review the existing Safeguards which continue to provide balance to the obligations set out there, including the references to net zero considerations. As set out in the consultation document the OGA has added a clarification to the first Safeguard to explain that ‘*licence obligations*’ are not removed by the obligations in the revised Strategy. As set out in the consultation document the OGA has moved the position of the Safeguards. The OGA considers that moving the position of the Safeguards in the OGA Strategy does not change their significance.

### Definitions

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#### Q6. Do you have any comments on the proposed changes to the Definitions?

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#### Summary of responses received

148. Three respondents requested that the OGA set out the scope of carbon costs added to the definition of “*economically recoverable*” citing this could include, for example, carbon taxes on emissions, the cost of emission allowances, in addition to the investment costs associated with future emission reductions.
149. Two respondents suggested the removal of the OGA from the definition of “*relevant persons*” created uncertainty as to the extent to which the obligations under the Strategy apply to the OGA. One respondent requested that the definition of “*relevant persons*” was extended to include holders of Carbon Storage licences.
150. Five respondents provided drafting suggestions and sought clarifications on the proposal to revise the definition of “*region*”.
151. As set out in the summary of responses above, respondents suggested that several new definitions should be introduced to assist the interpretation of the revised Strategy.

## OGA response to the views expressed

152. The OGA has noted the feedback and suggestions for new definitions for the OGA Strategy. Many of the suggested definitions are terms already used in the MER UK Strategy, licence conditions, or have a common understanding so have not been included in the OGA Strategy.
153. To make it explicit that carbon emissions and carbon cost assumptions should be included by relevant persons within any pre-tax cashflows or economic assessments, the OGA has added the words “(including carbon costs)” to the definition of “economically recoverable”. As set out in the consultation document, the term “carbon” as used here should be understood to encompass emissions from all GHG.
154. Carbon costs can be considered as either the expected financial costs to companies resulting from carbon pricing mechanisms and market-based carbon prices or the estimated full economic costs of all GHG emissions at societal level, which are valued using carbon appraisal values.
155. In response to the views recorded above, and in response to question 7 (see below), the OGA has extended the definition of “economically recoverable” to clarify that where relevant for economic assessments of project or option appraisals, the full societal costs of GHG emissions should be included. The following has been added to the definition: “Where relevant, UK government carbon appraisal values for all greenhouse gas emissions will be used combined with the associated real terms social discount rate”; with a footnote confirming that – “[a]t the time of publication, current UK government carbon appraisal values are published by the Department for Business, Energy & Industrial Strategy; current real terms social discount rates are published by HM Treasury.” The OGA will work with industry on applying this approach.
156. As set out in the consultation document, the OGA is separately required under Section 9B of the Act to act in accordance with the revised Strategy when carrying out certain of its functions, as is the Secretary of State. For example, the OGA is obliged to: (i) collaborate in a timely fashion with industry and the Secretary of State when exercising its relevant functions; (ii) after seeking views produce or adopt a plan which sets out its view of how any of the obligations in the Strategy may be met; (iii) agree a work programme that enables the Central Obligation to be met; and, (iv) read the Strategy subject to the Safeguards. However, reflecting the different role the OGA has in this regulatory framework from relevant persons (e.g. the OGA does not hold a petroleum licence/has no operational decommissioning obligations), and for clarity, the OGA has removed itself from the definition of “relevant person” along with adding a separate paragraph to clause 1 confirming that this revision is not intended to change the statutory requirement for the OGA to act in accordance with the Strategy. The OGA has also tied in the definition of relevant persons with the persons listed in section 9A(1)(b) of the Act, now to include owners of relevant offshore installations.
157. As set out in the consultation document the OGA has amended the definition of “region” by including a reference to an area in which infrastructure relating to exploration and production of petroleum from relevant UK waters is, or is planned to be located. This revision of the definition clarifies that related onshore aspects, such as terminals or other infrastructure processing hydrocarbons produced offshore, are within scope of the OGA Strategy.
158. As a new net zero clause has been added to the Central Obligation, the OGA has defined “net zero target” in the OGA Strategy. This is linked to the definition in the Climate Change Act 2008 (as amended).
159. As set out in the consultation document to help clarify the new CCS Supporting Obligation, the OGA has added a new definition of “carbon capture and storage project” to the revised Strategy. It is for the OGA to consider, based on information and submissions provided by relevant persons, if “there is a reasonable prospect of a carbon capture and storage project being developed.” This assessment will normally be completed as part of the cessation of a production or decommissioning plan.



160. The OGA has included a new definition of “*relevant activities*” in the OGA Strategy. This replaces the definition of “*relevant functions*” in the Central Obligation, as the existing definition had an undefined concept (noting that industry does not have direct functions under the Act) and encompasses the definition of actions and activities as set out in section 9C of the Act.
161. A new definition of “*subsurface facilities*” has been added to the OGA Strategy for clarification purposes. This emphasises that “*subsurface facilities*” include wells, reservoirs and fields. In addition, the OGA has updated the definition of “*The OGA*” and “*Relevant*” UK waters in line with the EA2016 and the Act respectively.
165. Two respondents noted that the net zero definition in the Climate Change Act 2008 relies on “*total UK GHG emissions*” and suggested that this could result in goods and services procured from overseas as zero carbon for carbon accounting purposes.
166. A respondent suggested that guidance on how to value changes in emissions for economic appraisal should be consistent with UK government practices.

### OGA response to the views expressed

167. The OGA has noted the range of approaches and carbon price assumptions used by respondents for their own internal purposes. With regard to industry proposals and OGA regulatory consent decisions, the approach to carbon valuation will incorporate the objective of reducing emissions as far as reasonable consistent with maximising economic recovery. This is achieved by, where relevant, measuring the costs of GHG emissions using UK government carbon appraisal values – often referred to as shadow prices – combined with the associated real terms social discount rate.

## Q7. On what do you base your forecasts of future carbon prices?

### Summary of responses received

162. Respondents stated that they use a variety of sources to forecast future carbon prices. These include internal forecasts, current and future contract prices for European Union Emissions Trading System (“**EU-ETS**”) allowance, the IEA Sustainable Development Scenario, BEIS Short-term Traded Carbon Values for Appraisal Purposes, and the publicly available disclosures of industry peers. Responses also demonstrated that a range of carbon prices were being used, that these were expected to rise over time and that higher prices were used in sensitivity analyses to test the robustness of investments.
163. Respondents also noted that carbon price forecasts are difficult to make with confidence as they depend on the interaction of supply and demand side determinants i.e. economic activity levels and carbon pricing mechanisms. Five respondents noted the legislative uncertainty around the future of carbon pricing in the UK after EU exit.
164. Three respondents stated that carbon pricing must be sufficiently high to encourage development of low carbon technologies, though some noted that carbon pricing is not in the OGA’s remit.

## Costs and benefits

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**Q8. Do you have quantitative evidence of any specific impacts of the proposed revisions to the Strategy that you would like us to consider?**

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### Summary of responses received

168. Sixteen respondents requested that the OGA undertake a full Impact Assessment as they were unable to assess the potential impact of the revisions to the Strategy due to the perceived lack of clarity in key areas relating to the Central and Supporting Obligations and the lack of a guidance document/stewardship expectations outlining how the Strategy will be implemented and enforced by the OGA in practice.
169. Five respondents explained that the impact of the Strategy will very much be dependent on the circumstances and how the new obligations are implemented by relevant persons and the OGA.
170. Six respondents suggested that there would be additional compliance and administrative costs for industry and suggested these be clarified. Some suggested the impacts were set against the value of the benefits in the form of enhanced MER UK taking into account the environmental benefits and the enhanced ESG benefits to the industry, explaining that the latter can mean that raising of capital (both debt and equity) becomes easier and less costly.

### OGA response to the views expressed

171. The intended effect of the changes to the Strategy is to ensure net zero considerations are incorporated, as far as reasonable, consistent with maximising economic recovery. It is, however, not possible to forecast accurately the number or nature of circumstances where the revisions to the Strategy will lead to different outcomes compared with the existing Strategy. In addition, due to the absence of quantified estimates of impacts from the changes introduced by the revised Strategy, it is not possible to assess the full impacts at industry or societal level.

# Conclusion and next steps

172. The OGA has updated the OGA Strategy in Annex 2 to reflect respondents' feedback. For ease a version of the OGA Strategy with the revisions tracked can be found in Annex 3.
173. The OGA Strategy which reflects the feedback gathered during the consultation has now been laid in Parliament and subject to the parliamentary process will come into force.

# Regulatory impact assessment

## Costs and benefits

As outlined above in the response to question 8 in the consultation, no quantitative evidence was received which would support the development of a full impact assessment. The OGA Strategy will be included in the OGA's next Business Impact Target ('BIT') return, which considers the impact on business of changes to regulatory policies and practices under the government's BIT framework.

The OGA Strategy sets out a number of new or amended Obligations that would apply to all situations which may occur in the UKCS. It is not possible to forecast accurately the number or nature of circumstances where the revisions to the Strategy will lead to different outcomes compared with the existing Strategy. Due to this uncertainty, the OGA has not been able to quantify, in isolation, the potential costs to relevant persons associated with the implementation of the revised Strategy. However, many of the changes take the form of clarifications to existing Obligations rather than significant new burdens. Also, the new Obligations are still subject to Safeguards, which limit the scope for them to be unduly burdensome.

The change to the definition of "*economically recoverable*", where relevant should mean that the preferred option for future developments are likely to result in lower GHG emissions. In cases where this is applicable, and a lower emission option is pursued than would have previously been the case this may alter the commercial returns, resulting in a distributional impact. The scale of any such impact would depend on the number and nature of future developments or activities undertaken.

The revised Strategy applies to a slightly broader range of relevant persons because the definition of relevant person was amended (by section 73 of Energy Act 2016) to include "*owners of relevant offshore installations*" after the original Strategy was laid before Parliament but the impact has not been quantified.

## Equality Impact Assessment

The OGA has a general duty (the Public Sector Equality Duty) under section 149 of the Equality Act 2010 in carrying out its functions to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups; and
- foster good relations between different groups

Further details can be found at <https://www.equalityhumanrights.com/en/equality-act/equality-act-2010>.

We have considered whether each of the revisions proposed to the Strategy would have an adverse impact on persons with protected characteristics. Our assessment is that, given the corporate nature of relevant persons and the general application of the proposed revisions, it is not anticipated that there would be such an impact.

# Annex 1: List of organisations responding to the consultation

Apache  
BGS  
BNP Paribas Group  
BP  
Bratani Limited  
BRINDEX  
Capterio  
Carbon Capture & Storage Association (CSSA)  
Chevron Britain Limited  
Chrysaor  
City of London Law Society  
ClientEarth  
CMS Cameron McKenna Nabarro Olswang LLP  
CNOOC International  
Colibri Energy Consulting Limited  
Engineering Construction Industry Training Board  
ENI UK LTD  
Equinor UK Ltd  
Esso  
Exploration and Production UK Limited  
Friends of the Earth Scotland  
Global CCS Institute  
Grantham Research Institute & LSE  
Greenpeace and Global Witness (joint response)  
Hydrenor  
INEOS  
Institute of Materials, Minerals and Mining (IOM3)  
International Association of Geophysical Contractors  
Ithaca Energy  
Kellas Midstream Limited  
Neptune Energy  
North Sea Midstream Partners  
Ocean Winds  
OGTC  
OGUK  
Oil Change International  
Pale Blue Dot Energy  
Plan B  
Platform London  
Private individuals (x 2)  
Repsol Sinopec Resources UK Limited  
RMT  
RockRose Energy  
Scottish Carbon Capture & Storage  
Shell UK Limited  
Siccar Point Energy  
Hurricane Energy plc  
Spirit Energy  
Suncor Energy Services Inc  
Tailwind Energy Ltd  
TAQA  
TiGRE Group  
Total OGIA  
UKOOG  
University of Aberdeen Business School  
University of Leeds  
University of Nottingham  
Zero Waste Scotland





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