



Department for
Energy Security
& Net Zero

Environmental Impact Assessment (EIA) – Assessing effects of scope 3 emissions on climate

Government Response to the consultation on
supplementary EIA guidance



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Introduction

On the 30th October 2024, the Government published a consultation on draft supplementary Environmental Impact Assessment (EIA) guidance for assessing the effects of scope 3 emissions on climate from offshore oil and gas projects, setting out expectations relating to Environmental Statement (ES) submissions made under the Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020 (SI 2020/1497) ("the Offshore EIA Regulations"). The consultation was open for 10 weeks closing on 8th January 2025. The consultation documents are accessible from:

<https://www.gov.uk/government/consultations/consultation-on-draft-supplementary-eia-guidance>

On 20th June 2024, the Supreme Court handed down its judgment in relation to the appeal case R (on the application of Finch on behalf of the Weald Action Group) v Surrey County Council and others ("the Finch case") for an onshore oil development project (Horse Hill Development). The Supreme Court upheld the appeal, concluding the Council's decision to grant planning permission for the oil development was unlawful because the end-use atmospheric emissions from burning the extracted oil were not assessed as part of the EIA. Whilst the facts of the Finch case related to an EIA carried under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (SI 2017/571), the judgment has implications for the application of the Offshore EIA Regulations in relation to certain offshore projects. It means that end-use emissions from the burning of extracted hydrocarbons need to be assessed as part of EIAs undertaken in relation to offshore oil and gas activities. The Offshore Petroleum Regulator for Environment and Decommissioning (OPRED), part of the Department for Energy Security and Net Zero (DESNZ), are responsible for administering the Offshore EIA Regulations.

In light of the judgment, OPRED decided to develop and consult on draft supplementary EIA guidance to provide clarity on EIA expectations when assessing the effects of scope 3 emissions on climate from proposed offshore oil and gas projects seeking development and production consent.

The consultation sought views on the draft supplementary EIA guidance and asked six questions. Following evaluation of the responses the government has made relevant changes to the guidance.

Summary of Responses to the Consultation

In total, there were 67 respondents to the consultation. 10 respondents did not respond to the consultation questions. The remaining 57 respondents provided varying levels of response to the consultation questions.

The respondents to the consultation included oil & gas companies, industry trade associations, academia, legal professionals, non-governmental organisations (NGOs), campaign groups, individuals, businesses, business associations, think tanks, consultancy, and professional bodies. Respondents addressed some or all the questions set out in the consultation document, offered comments on the proposals, and in some cases provided further references to relevant literature. The table below provides more information on the types of respondents and the associated organisations. Where no organisation has been named, this is to protect individuals' identities.

Response by type of respondent	Number of responses	Organisation name
Oil & gas companies	11	Shell Harbour Energy Serica Energy Repsol Equinor Jersey Oil and Gas Total Energies CNOOC Dana Ithaca Energy BP
Industry trade associations	2	Offshore Energies UK (OEUK) The Association of British Independent Oil Exploration Companies (BRINDEX)

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Response by type of respondent	Number of responses	Organisation name
Academia	9	University of Cambridge University of Reading University of Edinburgh Kings College London University of Oxford University College London Energy Institute University College London Green Corporate and Financial Reform Hub University of Durham Imperial College Grantham Institute
Legal professionals	1	n/a
Non-governmental organisations	6	Uplift UK Health Alliance on Climate Change Wildlife & Countryside Link (supported by 7 other organisations) Oceana UK Greenpeace Friends of the Earth
Campaign groups	10	Weald Action Group Mothers Rise Up Christian Climate Action Stop Rosebank (supported by 50 other organisations and individuals) Ocean Alliance Against Offshore Drilling (supported by 14 other organisations or individuals) Green Alliance Stop Cambo (supported by 419,859 organisations or individuals) Stop Climate Chaos Scotland Croydon Extinction Rebellion AVAAZ
Individuals	16	n/a
Business	1	Cambridge Open Engineering

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Response by type of respondent	Number of responses	Organisation name
Business associations	2	Aberdeen & Grampian Chamber of Commerce British Chamber of Commerce
Think tanks	3	Oil Change International E3G Carbon Tracker
Consultancy	3	Orbis Energy Limited Sustain:able Turley
Professional bodies	3	International Institute for Sustainable Development UK Environmental Law Association Institute of Environmental Management and Assessment

Responses to the Consultation and Government Response

Questions 1: Do you agree with the advice in the draft supplementary EIA guidance on how the baseline scenario should be set out in an ES?

Question 1(a): If not, please outline what else should be considered or done differently.

Summary of responses

13% of responses agreed with the approach to baseline scenarios as set out within the draft guidance. 64% of the responses disagreed, with 22% being neutral or not providing a response to this question. Most of the respondents provided full responses with some providing additional context or information.

A number of respondents also questioned the relevance of historical emissions data for establishing a historic baseline and considered it less important than future emissions.

The key messaging in response to this question was that the baseline scenario should be zero, i.e. the scope 3 emissions would not occur if the project does not happen in the first place.

A significant proportion of respondents commented that to establish a baseline scenario for scope 3 emissions, the receiving environment cannot be geographically confined and therefore a global baseline scenario must be considered.

A number of respondents also noted that the narrative for an "Alternative baseline" in the draft guidance was confusing and required clarity.

Government response

There was some misunderstanding on the description of the 'Determination of the baseline' section within the draft guidance. To rectify this, the section has been updated, including quotation from the Offshore EIA regulations.

It has also been clarified that in the case of scope 3 emissions, the effects are global and therefore a global baseline scenario of greenhouse gases must be considered in the ES.

The reference to "Alternative baselines" has been removed from the guidance.

Question 2: Do you agree with the approach to the selection of relevant scope 3 emissions from different downstream activities to be included in the assessment, i.e., emissions borne from the refinery process, transport of the oil or gas and end-use combustion?

Question 2(a): If not, please outline what else should be considered or what else should be left out.

Summary of responses

39% of the respondents agreed with the approach set out in the draft guidance on relevant scope 3 emissions. 36% of the respondents disagreed with the approach and 25% of the respondents were neutral or did not provide a response to the question.

The most common theme was that there should be a consistent approach to the calculation and that OPRED should prescribe a single method for the selection of scope 3 emissions. A significant number of respondents stated that the guidance should follow the same approach as the Finch judgment in that emissions should be calculated assuming that all product from the proposed project would be combusted¹. It was also commonly noted that the production figures for this assessment should be the highest possible production case from the project.

Some respondents did state that additional breakdown of the downstream emissions would provide useful context and that the full range of relevant scope 3 emissions categories should be assessed.

A number of respondents noted that "Substitution" should not feature at this stage and should not form part of estimating scope 3 emissions.

Government response

The guidance is not intended to be prescriptive as to the approach developers should take to assessment of scope 3 emissions. As set out in the Offshore EIA Regulations, it is for developers and their competent experts to assess the effects of a project on the environment in the first instance, and to set out that assessment in an ES. While the guidance sets out a number of expectations as to how that assessment could or should be done, OPRED accepts that alternative approaches may be possible or even preferable, either now or as approaches and scientific understanding develop over time.

In light of the responses, OPRED have amended the guidance to provide further clarity for selecting scope 3 emissions categories. All assessments should present the project scope 3 emissions estimate by using the p10, highest production case, and start from the (rebuttable) presumption that all produced hydrocarbons will be combusted, by multiplying the highest production case with suitable conversion factor.² Guidance also provides clarity on how Scope

¹ It should be noted that in Finch, it had been agreed by the parties, including the developer and the local planning authority, that it was inevitable that the oil extracted will be sent to refineries and the refined oil would eventually undergo combustion, producing GHG emissions which would have an effect on the climate.

² Suitable conversion factors for the combustion of the produced hydrocarbons could be taken from the most recently published Government conversion factors for company reporting of greenhouse gas emissions (DESNZ, 2024), or other suitable sources.

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3, category 11 emissions, related to combustion of the produced hydrocarbons, should be presented in the ES. This will provide consistency across all assessments.

Developers are still able to provide additional breakdown of the downstream emissions however for consistency, the minimum assessment prescribed in the guidance must be included in the ES.

The guidance now confirms that "Substitution" is not a relevant factor in determining whether scope 3 emissions from a project's downstream activities are an effect that needs to be assessed in an ES. The explanation of substitution has also been amended to better reflect the Finch judgment and related case law.

Question 3: To what extent do you agree with the advice given in the draft supplementary EIA guidance for evaluating the likely significant effects of scope 3 emissions on climate is helpful when it comes to preparing an ES?

Question 3(a): Do you have any other suggestions that could be considered?

Summary of responses

25% of respondents agreed with the text in the draft guidance for evaluating significant effects of scope 3 emissions on climate. 29% of respondents disagreed, and around 45% of respondents were neutral or did not provide a response to the question. A number of respondents provided useful additional context or information.

The most common theme in responses to the question was to do with clarifying the global vs national context linked to carbon budgets for assessing significance as well as taking account of the Paris Agreement objectives and targets to keep the global temperature rise well below 2°C and pursue efforts to limit the warming to 1.5°C.

Some respondents suggested that “carbon lock-in” should be assessed i.e., that ongoing investment in fossil fuel projects could increase the dependence on fossil fuels, potentially making it more difficult to transition to clean energy.

A number of respondents suggested that combustion of fossil fuels will always result in likely significant effects on climate.

Relevance of substitution was raised by a number of respondent groups. Some respondents were advocating the usefulness of discussing substitution in any assessment of significance while other respondents felt there was no place in the assessment for such a consideration.

Government response

Significance of environmental effects will always be considered by OPRED on a case-by-case basis, taking into account the information provided in the ES and subsequent EIA process. Assessing the likely significant effects of the project on the environment will also include the cumulation of effects with other existing or approved projects.

The guidance has been amended to encapsulate the fact that given the global effect of greenhouse gas emissions, the current state of the climate and concentration of carbon dioxide and other greenhouse gases in the atmosphere the expectation is that the sensitivity of climate as a receptor will be high.

The guidance has been further clarified to set out that the ES will need to consider how the greenhouse gas emissions associated with a project impact climate at a global and national level. The guidance clarifies that the assessment needs to consider project emissions in isolation and cumulatively (see the government response to question 4 below), against global emissions-reduction pathways.

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Substitution can be included to provide context to any discussion related to the assessment of likely significant effects but should not be used within the method of quantification of the emissions from the project. The guidance has been updated to reflect this.

Question 4: To what extent does the overview provided for assessing cumulative effects help convey the expectation on what other relevant projects (existing or planned) should form part of an assessment?

Question 4(a): Do you have any other suggestions that could be considered?

Summary of responses

9% of respondents agreed that the draft guidance helped to convey the expectation regarding the relevance of other projects to be included in a cumulative assessment. 39% of respondents disagreed with the overview provided in the draft guidance, and 52% of respondents were neutral regarding the draft guidance on expectations for cumulative assessment for scope 3 effects on climate.

A clear and common response was that the draft guidance should set out that cumulative assessment should capture other relevant existing and planned global oil and gas projects, given the global nature of the effects of scope 3 emissions.

Many respondents felt that the tie-back oil and gas project example was misleading and should be removed from the guidance. Some respondents felt that cumulative effects did not warrant being set out separately in the guidance and that any assessment of significance should also consider cumulative effects.

Government response

The guidance has been amended, confirming that the ES will need to include an assessment on the effects of scope 3 emissions on climate within a global context, noting that an assessment of cumulative effects forms an integral part of the overall assessment of the effects of the project on the environment.

The example given in the draft guidance regarding tie-back facilities has been removed to avoid confusion. The Offshore EIA Regulations are clear in that any EIA assessment of likely significant effects of the project, includes those effects arising from a cumulative effect of the project on climate.

Question 5: To what extent does the draft supplementary EIA guidance provide clarity on how to approach identifying suitable mitigation measures and subsequently implementing those measures?

Question 5(a): Do you have any other suggestions that could be considered?

Summary of responses

There were 10% of respondents who agreed that the draft guidance provided clarity on identification of suitable mitigation measures. 44% of respondents disagreed with the content of the draft guidance on the matter and 46% respondents either did not provide a response or were neutral on the expectations set out in the draft guidance.

Some respondents noted that the only conceivable means of mitigating scope 3 emissions was by offsetting (including geological storage of equivalent carbon). However, many respondents felt that offsetting had a poor record of implementation and effectiveness to date in terms of oil and gas projects and other fossil fuel projects. Some of the respondents felt the more appropriate means of mitigation is to avoid the extraction of oil and gas in the first instance.

Some respondents highlighted that scope 3 emissions were out of the control of the developers and therefore such an impact cannot be effectively mitigated. The same group of respondents felt that demand for the product itself (the oil and gas produced) can be viewed as a form of mitigation – i.e. reduction in demand due to alternative forms of energy.

Government response

The guidance has been updated to acknowledge that the expectation of effective mitigation for scope 3 emissions will be limited. OPRED's current view is that emission removal measures may be most appropriate for addressing any likely significant effects on the environment from scope 3 emissions.

Any mitigation proposed must not be speculative, with the guidance setting out that where mitigation is proposed, a delivery plan for the measures should be included in the ES. Any mitigation measure would need to be transparent and easily verifiable. Confirmation of the permanence of any selected measures would also need to be provided, including details of robust third-party monitoring, reporting and verification methodologies to ensure the measure is genuine and of high integrity, which may include UK Government removal standards as they are developed.

As things currently stand, the purchase of carbon credits is unlikely to be an effective mitigation measure for the purposes of EIA.

Question 6: Are the expectations on environmental protection objectives clear?

Question 6(a): Do you have any other suggestions that could be considered?

Summary of responses

22% of respondents agreed that the guidance was clear on expectation for environmental protection objectives. 28% of respondents disagreed with the guidance and 49% of respondents were either neutral on the matter or did not provide a response. As with most of the questions, respondents provided further clarification or additional information to support their comments.

The most common comment made related to the need to consider the Paris Agreement and the global aim to keep global temperature increase well below 2°C and pursue efforts to limit the warming to 1.5°C, at the centre of any climate related environmental protection objective (EPO). This was based on the fact that emissions (wherever they are emitted) result in global effects on climate, and therefore global greenhouse gas emissions are integral to the assessment of emissions on climate.

Various respondents highlighted that relevant EPOs should be referenced in the guidance and that further clarity on expectation for EPOs was required in the guidance, such as when the UK carbon budgets are applicable and where they are not. Some respondents believed that reference to environmental principles established under the Environment Act 2021 (such as the precautionary principle and polluter pays principle) are relevant EPOs. Some respondents also outlined that the guidance should include information on how EPOs will be considered as part of the decision making process for EIA. One respondent flagged that the objectives and assessment should ensure that all greenhouse gases are considered and not be focussed on carbon dioxide alone. Some respondents also made reference to the historical role of the UK in greenhouse gas emissions.

Government response

The guidance has been amended to better reflect the relevance of where climate EPOs are linked to those established in “retained EU law or at national level”, such as UK carbon budgets. The guidance has also been amended to contextualise the Paris Agreement.

The duty under section 19 to have due regard to the Environmental Principles Policy Statement (EPPS) does not directly apply to EIA decisions themselves, as these do not constitute “making policy”. The EPPS has, however, been taken into account in formulating the new guidance. The “environmental principles” set out in section 17(5) of the Environment Act 2021, including the precautionary and polluter pays principles, may also be relevant in EIA decision-making, and will continue to be taken into account as appropriate.

EIA decision making – factors to be taken into account when making a decision as to whether to agree to the grant of consent

Summary of responses

Some respondents highlighted the importance of being able to make an informed decision on the EIA, and that such a decision could only be achieved by having all the relevant information to hand to be able to make a decision on the significance of the effect and a decision on whether to give agreement to the grant of consent.

A number of respondents also commented that the UK should act on climate change according to the principle of common but differentiated responsibilities and respective capabilities, in light of the different national circumstances (CBDR) – a principle of the UN Framework Convention on Climate Change, and the Paris Agreement. The respondents go on to highlight that the guidance should set out how information in the ES will assist the decision maker when considering how a project aligns with the principles of CBDR.

Government response

The guidance has been amended to set out what information may be relevant for reaching a decision on whether agreement should be given to the grant of consent.

General feedback

Around 10 responses received did not address any particular consultation question but largely provided commentary related to the objection of any future oil and gas licensing or approval of new oil and gas developments.

The government notes the comments, however, the consultation is specific to the supplementary EIA guidance rather than the broader points raised on UK government oil and gas policy.

Overall Conclusion

The consultation process and the level of detail in the responses received has helped refine and improve the supplementary EIA guidance. The government welcomed all the views expressed in response to the consultation. The key amendments to the supplementary EIA guidance are:

Greenhouse gas emissions from scope 3 must be based on highest production levels. Substitution should not feature in methods to quantify the emissions.

The baseline environmental conditions for climate are the concentration of global greenhouse gases in the atmosphere.

It is expected that the assessment of likely significant effects of scope 3 emissions on climate will consider the effects at a national and global level. The assessment should also consider scope 3 emissions in relation to the current state of climate and global emissions-reduction pathways to aid the understanding of the effects of the project on climate.

Cumulative assessment should be carried out with consideration of the project interacting with other existing and planned oil and gas projects, in a global context.

Any proposed mitigation measure should not be speculative, and confirmation of the permanence of any selected measures need to be provided for in the ES. The ES need to include (where mitigation is proposed), any monitoring, reporting and verifications methodologies.

The guidance has been amended to set out what information may be relevant for reaching a decision on whether agreement should be given to the grant of consent.

Next Steps

The government is grateful for the responses received to the consultation and has updated the supplementary EIA guidance as described in this government response. The EIA process for oil and gas production projects will, as of 19 June 2025, be restored following a pause that was announced on 29 August 2024, while supplementary guidance was prepared. This guidance is supplementary to the Offshore EIA Regulations Guidance³ and will be updated when required.

³ The offshore oil and gas exploration, production, unloading and storage (Environmental Impact Assessment) Regulations 2020 - A guide. Retrieved from GOV.UK: <https://www.gov.uk/guidance/oil-and-gas-offshore-environmental-legislation#offshore-oil-and-gas-exploration-production-unloading-and-storage-environmental-impact-assessment-regulations-2020>

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