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Date: 26 November 2024

Dear Sara McLean,

Habitat Regulations Appraisal Screening under The Conservation (Natural Habitats, &c.) Regulations 1994 and The Conservation of Offshore Marine Habitats and Species Regulations 2017.

Thank you for the Habitat Regulations Appraisal (“HRA”) Screening Report received on 10 September 2024, in relation to the construction and operation of the proposed Spiorad na Mara Offshore Wind Farm (“the Proposed Development”). The Proposed Development will be located to the west of the Isle of Lewis, approximately 5 kilometres (“km”) at its nearest point to shore with a proposed landfall location within an area approximately between Labost and Borve.

Marine Directorate – Licensing Operations Team (“MD-LOT”) has consulted on the HRA Screening Report with NatureScot, Natural England, Natural Resources Wales, Republic of Ireland’s National Parks and Wildlife Service, Department of Agriculture, Environment and Rural Affairs, Western Isles District Salmon Fishery Board (“DSFB”), Fisheries Management Scotland, Royal Society for the Protection of Birds Scotland (“RSPB”) and Whale and Dolphin Conservation (“WDC”). Copies of the representations are attached (see Appendix 1). MD-LOT advise you to fully review and address these, however highlight some key points below. In addition, MD-LOT advise that the Report to Inform Appropriate Assessment (“RIAA”) must fully align with the impact pathways identified for assessment in the scoping opinion adopted by the Scottish Ministers in relation to the Proposed Development dated 29 May 2024.

Benthic, Subtidal and Intertidal Ecology

With regard to the identification of European sites and features, MD-LOT is broadly content with the sites and features identified in Table 5-1 of the HRA Screening Report.

MD-LOT is content with the conclusions presented in section 4.1.1.1 of the HRA Screening Report to screen out St Kilda Special Area of Conservation (“SAC”) and North Rona SAC. This is in line with the NatureScot representation.

MD-LOT acknowledges the precautionary approach of basing the assessment for benthic features on a 15 km Zone of Influence (“Zol”). Once project specific reporting is available, MD-LOT advises reviewing and, if necessary, revising the Zol. MD-LOT advises that, in line with the NatureScot representation, the Tràigh na Berie SAC should be screened in as it lies within the Zol.

Marine Mammals

With regards to the identification of European sites designated for marine mammal qualifying interests in Scottish waters, MD-LOT agrees with the NatureScot representation regarding seals and the selection of receptors. Consequently, MD-LOT is broadly content with the conclusions in Table 5-2 of the HRA Screening Report. However, while MD-LOT notes that otter is discussed as a qualifying interest of the Lewis Peatlands SAC in the Terrestrial chapter of the HRA Screening Report, this is not the case for the offshore environment. In line with NatureScot advice, MD-LOT advises the Developer to consider impacts to otters in the marine environment within 10 km of the Proposed Development.

MD-LOT advises the Developer to include all impacts that could affect marine mammals in the Report to Inform Appropriate Assessment (“RIAA”). This includes, but may not be limited to, disturbance from noise, physical structures, vessel presence, seabed damage and electromagnetic fields. This is supported by the NatureScot and WDC representations. Furthermore, different sources of impacts should be considered separately from one another, as detailed in the NatureScot advice on Table 7-2 of the HRA Screening Report.

MD-LOT also notes the Developer’s use of the Lewis Wave Array data on marine mammals, as described in Section 4.1.2.4 of the HRA Screening Report. MD-LOT advises that the additional data sources suggested by the WDC are used in conjunction with the Lewis Wave Array data in order to provide support for this older data source.

Given the concerns raised by the WDC about the methodology for digital aerial surveys (“DAS”) and the data subsequently obtained, described in Section 4.1.2.9 of the HRA Screening Report, MD-LOT advises that the Developer considers the WDC representation regarding collection of additional DAS data.

MD-LOT advises that the Developer considers mitigation methods that are proven to reduce noise levels e.g. bubble curtains. This is supported by the WDC representation.

Although not part of the HRA process, MD-LOT highlights the NatureScot and WDC representations with regard to MPAs which must be considered further within the Environmental Impact Assessment (“EIA”) Report.

Offshore and Intertidal Ornithology

With regards to the identification of European sites designated for offshore and intertidal ornithology in Scottish waters, MD-LOT is broadly content with the conclusions of the HRA Screening Report. However, MD-LOT highlights the NatureScot representation regarding the impact pathways caused by vessels, and advises these should be expanded to include visual disturbance from vessels, movement of vessels between the Proposed Development area and ports and temporary impacts to prey availability, during construction and decommissioning, in the RIAA.

Furthermore, MD-LOT advises the Developer to screen in impacts to key prey species, prey habitats, and prey availability from the Proposed Development itself, both alone and in combination with other Developments, for all phases of the Proposed Development's lifespan. This is supported by the NatureScot representation.

MD-LOT also notes the RSPB representation that, during the construction and operation of the Proposed Development, there is the potential for wider ecosystem impacts. These impacts should be considered by the Developer in the RIAA.

MD-LOT highlights the National Trust for Scotland representation, which does not support the screening out of the following qualifying interests at the following designated sites; Leach's petrel at St. Kilda Special Protection Area ("SPA"), fulmar at Seas off St. Kilda SPA and both fulmar and guillemot at the Mingulay and Berneray SPA. MD-LOT also highlights the NatureScot representation, which states that Seas off Foula SPA should be included in the SPA longlist on the basis of connectivity with breeding seabirds. MD-LOT advise the Developer should include these in the RIAA.

Table 5-4 and Section 7.4 of the HRA Screening Report lists species which qualify as a named component of breeding bird assemblages. MD-LOT agrees with the NatureScot representation that these species should be treated the same as a qualifying interest and, consequently, Table 5-4 should be reviewed.

MD-LOT highlights the NatureScot representation about the unsuitability of apportioning at stage 3 HRA. Instead, the Developer should use distances from the edge of the Proposed Development area to the edge of SPAs to establish connectivity, or lack thereof, in the RIAA.

MD-LOT agrees with the NatureScot representation that HRA Screening conclusions based on DAS should be based on two years of data. The HRA Screening Report is based on one year of data for breeding seabirds in the breeding season. Therefore, the Developer should not screen out petrel species or great skua based on low DAS count numbers. This includes Leach's petrel, which is within connectivity distance for several SPAs. This is also supported by the RSPB representation. MD-LOT notes the RSPB representation calling for these assessments to be quantitative. However, given the challenges of undertaking quantitative assessments for petrels, MD-LOT is content for the Developer to assess these species qualitatively, per the NatureScot representation.

For European and Leach's storm petrel, the Developer should screen in the impact of artificial lighting associated with the Proposed Development. The RIAA should also include greater detail on how this impact pathway will be assessed. This is supported by the RSPB representation.

MD-LOT agrees with the Developer's decision to screen in fulmar in Table 5-5 of the HRA Screening Report. The Developer is encouraged to assess distributional responses for fulmar in the RIAA. This is supported by the RSPB representation.

MD-LOT is broadly content with the Developer's approach to assessing vulnerability of species within connectivity distance. However, the Developer should make it clear in the RIAA precisely where these scores come from. This is supported by the NatureScot representation.

Migratory Fish and Freshwater Pearl Mussel (“FWPM”)

MD-LOT notes varying distances from each Atlantic Salmon SAC are presented in Table 5-14 of the HRA Screening Report and requests clarification on the meaning of distances marked as “at Sea”. Section 4.1.4.4 of the HRA Screening Report notes that Atlantic Salmon tracking studies are currently being conducted. Should connectivity be established between the Langavat SAC and the area of the Proposed Development, MD-LOT advises the Zol presented for Atlantic Salmon is reviewed and taken forward in the RIAA. This is in line with the Western Isles DSFB representation.

Section 3.2.4.9 of the HRA Screening Report states that tracking data from the tagging of salmon smolts could not establish connectivity to the south west of Scotland, north west of England or Northern Ireland. MD-LOT, in line with the Fisheries Management Scotland representation, notes that lack of evidence does not mean there are no impacts to diadromous fish. The Developer should determine whether there is wider connectivity to other SACs. If it cannot be proven there is no wider connectivity for an SAC, then the SAC should be included in the RIAA.

With regards to the identification of European sites and features identified within Table 5-4 of the HRA Screening Report, MD-LOT agrees with the sites screened in. MD-LOT is content with the River Derwent SAC being screened out however advises this site should still be considered as part of the EIA.

In relation to the pressures screened in for the North Harris SAC, MD-LOT advises impacts from the development on the freshwater habitats should be considered, as well as how these impact Atlantic salmon and sea trout populations and, subsequently, the freshwater pearl mussel feature of the site. This is in line with the NatureScot representation.

MD-LOT advises there is a risk of Invasive Non-Native Species (“INNS”) during both the construction and decommissioning activities, and INNS should therefore be screened in for these phases of the Proposed Development.

MD-LOT is unclear if increased risk of predation is considered within the HRA Screening Report. As a key pressure in relation to migratory fish and freshwater pearl mussel, MD-LOT requests this is considered in the RIAA.

MD-LOT advises that the representation by the Western Isles DSFB on mitigation measures is fully considered and taken forward in the RIAA.

Terrestrial Ecology and Ornithology

MD-LOT notes the NatureScot representation that the list of migratory non-seabirds assessed in the HRA Screening Report for terrestrial sites includes a number of species that are not relevant to the Proposed Development. The Developer should review the species and SPAs to be screened into the RIAA in line with the NatureScot representation. Where species are screened into the RIAA, the Developer should ensure a clear explanation is provided for differences in conclusions between different SPAs.

MD-LOT refers the Developer to the NatureScot representation on barrier effects. The Developer should consider a broader range of energetic costs to birds in relation to this impact pathway, as detailed in the representation.

MD-LOT highlights that curlew are not a qualifying interest of the Lewis Peatland SPA, as set out in paragraph 3.2.5.3 of the HRA Screening Report. Similarly, Table 5-15 of the HRA screening report references curlew for Ness & Barvas, Lewis SPA but this should be corncrake. This is supported by the NatureScot representation. Furthermore, when assessing disturbance for the corncrakes of Ness & Barvas, Lewis SPA, the Developer should increase the disturbance distance in line with the NatureScot representation. MD-LOT also highlights the RSPB representation, which advises that it would be best to situate any underground trenching corridors as close to existing sites of disturbance for the Lewis Peatlands SPA and Ness & Barvas, Lewis SPA. MD-LOT encourages the Developer to refer to the NatureScot guidance, as referred to in the RSPB representation.

MD-LOT advises that golden eagle should be scoped into the RIAA as a qualifying feature of the Lewis Peatlands SPA. This is supported by the NatureScot representation. The Developer should also consider the request in the NatureScot representation to produce a breeding bird mitigation plan to consider the potential disturbance of breeding birds.

MD-LOT notes the NatureScot representation regarding Table 7.6 of the HRA Screening Report and agrees that the Developer should not screen out likely significant effects for most qualifying species during the operational phase.

MD-LOT also draws the Developer's attention to the RSPB representation on conclusions drawn on golden eagle habitat and the need for further EIA consideration of white tailed sea eagles.

If the Developer cannot confirm that all onshore cabling will be undergrounded then the RIAA should assume the worst-case scenario, open-cut trenching. This is supported by the RSPB representation.

In-Combination Assessment

MD-LOT broadly agrees with the approach to the in-combination assessment outlined within section 6 of the HRA Screening Report, however advises that the advice provided by NatureScot in its representation relating to the consideration of terrestrial pressures and threats to SPA populations must be fully addressed and taken forward in the RIAA.

Yours sincerely,

Kate Taylor
Marine Directorate - Licensing Operations Team