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Date: 11 November 2024

Dear Hannah Page,

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 23 August 2024, in relation to the construction and operation of the proposed Ayre Offshore Wind Farm (“the Proposed Development”). The Proposed Development will be located approximately 22 kilometres (“km”) off the coast of Orkney with a proposed landfall location at Sinclair’s Bay Caithness.

Marine Directorate – Licensing Operations Team (“MD-LOT”) has consulted on the HRA screening report with Royal Society for the Protection of Birds Scotland (“RSPB Scotland”), NatureScot, Fisheries Management Scotland (“FMS”), Whale and Dolphin Conservation, Natural England, Caithness District Salmon Fishery Board and Department of Agriculture, Environment and Rural Affairs. Copies of the representations are attached (see Appendix 1). MD-LOT advises you to fully review and address these, however, highlight some key points below. In addition, MD-LOT advises that the HRA 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 2 October 2024 (“the Scoping Opinion”).

Annex 1 Habitats

Identification of European sites that are designated for Annex 1 habitats is considered in Section 4.2 of the HRA screening report. The HRA screening report concludes no connectivity to any European sites designated for Annex 1 habitats and therefore no potential for Likely Significant Effect (“LSE”). MD-LOT is content with this conclusion, in line with the NatureScot representation

Diadromous fish

With regards to the qualifying features to be considered, MD-LOT refers to Section 5.5.12 of the Scoping Opinion and advises that its advice remains unchanged and as such diadromous fish should be screened out from the HRA and instead must be considered through the Environmental Impact Assessment (“EIA”) Report for the Proposed

Development. This is in line with the NatureScot representation. Furthermore, MD-LOT advises that the impacts on diadromous fish, as outlined in the FMS representation, should be considered further as part of the EIA Report.

Marine Mammals

With regards to the European sites designated for Marine mammals identified in Section 4.4 of the HRA screening report, MD-LOT agrees that all relevant sites have been included; however, highlight the representation from NatureScot about the approach used to establish connectivity.

With regards to impact pathways, as detailed in Table 5.5 of the HRA screening report, MD-LOT disagrees with screening out injury and disturbance from subsea noise generated both during site investigation surveys and by wind turbine operation. This is in line with the NatureScot representation. Additionally, operational noise from dynamic cables should be screened in due to the scale of the proposed development.

MD-LOT disagrees with the position reached in the HRA screening report that there is no potential for LSE on bottlenose dolphin for the Moray Firth Special Area of Conservation (“SAC”). MD-LOT advises that potential impacts should be screened in for further assessment, in line with the response by NatureScot. Additionally, the Sanday SAC should be screened in for further assessment of potential impacts on harbour seal, due to the distance from the proposed array area.

MD-LOT highlights advice from NatureScot on the potential for LSE on prey availability during the decommissioning phase and advises that this should be considered for further assessment.

In agreement with NatureScot, MD-LOT advises that further assessment of *Nathusius' pipistrelle* bats under offshore HRA screening is not required and should be considered further in the EIA report.

MD-LOT disagrees with the screening out of potential impacts to otter for the Caithness and Sutherland Peatland SAC, in line with the advice from NatureScot. Additionally, MD-LOT highlights the response from NatureScot concerning otter as a European protected species.

Ornithology

MD-LOT notes, per Section 4.6.2 of the HRA screening report, at the time of writing only 12 months of Digital Aerial Surveys (“DAS”) were available and the intention to analyse the full dataset of 24 months and include in the Report to Inform Appropriate Assessment (“RIAA”). MD-LOT advises consulting with relevant stakeholders on the DAS analysis prior to submission of the RIAA.

MD-LOT highlights the representation from NatureScot regarding the approach to and screening of breeding colonies and migratory seabirds (Tables 4.7, 4.8, 4.10 and 4.11 in the screening report) and advises these should be revisited to address the concerns raised by NatureScot. Additionally, comments by NatureScot on potential vessel transit through any SPA should be addressed fully in the HRA.

MD-LOT is broadly content with the qualifying ornithological features screened in as per Table 5.13 of the HRA screening report. However, we highlight the NatureScot and RSPB Scotland responses on how the following species should be considered:

- Fulmar;
- Storm petrel;
- Great skua;
- Arctic skua; and,
- Red-throated diver.

MD-LOT highlights the response from RSPB Scotland concerning potential wider ecosystem impacts by the Proposed Development and advises these comments should be considered in full in the HRA.

In-combination Assessment

MD-LOT is broadly content with the proposals for the in-combination assessment, however, given the lack of detail at this stage cannot comment further. This is in line with the advice from NatureScot.

Yours sincerely,

Amy Woodward
Marine Directorate - Licensing Operations Team