

E: ms.marinerenewables@gov.scot

Mr Andrew Blyth
Highland Wind Limited
c/o Copenhagen Offshore Partners
93 George Street
Edinburgh, Midlothian
Scotland, EH2 3ES

Date: 17 June 2022

Dear Mr Blyth,

Habitat Regulations Appraisal Screening in regard to The Conservation (Natural Habitats, &c.) Regulations 1994 and The Conservation of Habitats and Species Regulations 2017 and Marine Protected Area Assessment Screening in regard to The Marine (Scotland) Act 2010

Thank you for the Nature Conservation Appraisal (“NCA”) Screening Report received on 02 February 2022, in relation to the construction and operation of the proposed Pentland Floating Offshore Wind Farm (“PFOWF”), to be located approximately 6.5 kilometres (“km”) off the coast of Dounreay, Caithness (“the Proposed Development”), which identifies designated sites proposed to be assessed under Habitat Regulations Appraisal (“HRA”) and Marine Protected Area (“MPA”) assessment. Other designated sites (Sites of Special Scientific Interest and Seal Haul-Out Sites) are also included and will be assessed under the relevant environmental impact assessment regulations.

We have consulted on the NCA Screening Report with NatureScot, Fisheries Management Scotland (“FMS”), Royal Society for the Protection of Birds (“RSPB”), Northern District Salmon Fishery Board (“Northern DSFB”) and Caithness District Salmon Fishery Board (“Caithness DSFB”). In addition, advice from Marine Scotland Science (“MSS”) on the NCA Screening Report was sought. Copies of the representations and MSS advice are attached (see Appendix 1). We advise you to fully review and address these, however highlight some key points below. In addition, we advise that the HRA and MPA assessment must fully align with the impact pathways identified for assessment in the scoping opinions adopted by the Scottish Ministers in relation to the Proposed Development, dated 28 September 2021 and 16 May 2022 (“the Scoping Opinions”).

Diadromous fish

With respect to the qualifying features to be considered, we advise that the Special Areas of Conservation (“SACs”) with Atlantic salmon listed as a qualifying interest included in tables 4.5 and 4.7 of the NCA Screening Report are correct. However, we also highlight to the Developer the MSS advice that a further four SACs should be screened in: Berriedale and Langwell Waters, Langavat, Endrick Water and North Harris. We also

advise the SACs with fresh water pearl mussels must be screened in, per the NatureScot representation and MSS advice. SACs designated for sea and river lamprey can be screened out for the lamprey qualifying interest.

As regards potential impacts, “fish aggregation” around the floating structure and associated infrastructure should be expanded to “fish and/or predator aggregation”, as supported by MSS advice.

Marine Mammals

With regards to the list of marine mammal species considered in Table 4.3, we are content with those included with the exception of the white-beaked dolphin. This does not require consideration as there are no protected sites for this species in Scottish waters, per MSS advice. For the avoidance of doubt, common dolphin can be similarly screened out. We note that Table 4.3 uses numbers for bottlenose dolphin which are out of date. We refer the Developer to estimates provided in NatureScot’s response in Appendix 1.

As regards designated sites to be taken forward for assessment in Table 4.4, we advise that only SACs with seal qualifying interests within the Orkney & North Coast Management Unit are screened in, in line with MSS advice and the NatureScot representation.

We largely agree with the impact pathways in Table 4.6 of the NCA Screening Report but consider that effects on water quality (e.g. turbidity) can be screened out in line with MSS advice. We note that all North Sea SACs designated for harbour porpoises are included in the NCA Screening Report and advise that impact pathways and distance are used to focus on the qualifying features and SACs which are likely to experience significant effects, as supported by the NatureScot representation and MSS advice.

Ornithological features

We agree with the use of a qualitative narrative in assessing migratory collision risk due to the MS commissioned project assessing migratory collision risks not yet being published, as set out in the NatureScot representation and MSS advice.

As regards impact pathways, we request that the Developer screen in the potential pathway of entanglement in secondary interactions diving birds may have with discarded fishing gear, as supported by MSS advice.

The approach of using apportioning to assess likely significant effects at screening stage is not acceptable. We support the approach recommended by NatureScot advice provided by NatureScot and MSS to define the ‘long-list’ of Special Protected Areas (“SPAs”) and features that have connectivity which can then be revised by consideration of ‘at-sea’ distances as a biological sense-check for species that are known to fly around land. The MSS apportioning tool should be used where applicable. Regarding the outstanding questions on approaches for assessment methodology raised in an email from HiDef of 02 March 2022, we direct you to the response from NatureScot of 18 March 2022 and MSS advice on 30 March 2022.

When undertaking apportioning, the most up-to-date data available on the Seabird Monitoring Database highlighted by RSPB and MSS should be included if relevant to the

species and sites being examined. We also advise that the Caithness and Sutherland Peatlands SPA for red-throated diver detailed by RSPB should be included in the HRA.

With respect to the qualifying features to be considered in Table 4.7, impacts to storm petrels and shearwaters should be assessed qualitatively within the HRA, including a discussion of these species biology and ecology in relation to detection and impact pathways, as outlined in the RSPB representation and MSS advice. We also draw your attention to the incorrect listing of several species as SPA qualifying features in Table 4.7 – these species should be considered in apportioning as non-SPAs per the NatureScot representation and MSS advice.

With regards to wader and wildfowl species (and other migratory species/taxa) such as red-throated divers, these should be considered in a migration assessment alone and in-combination in line with the RSPB representation and MSS advice. Assessment of terrestrial SPA species that could have connectivity with the project below Mean High Water Springs should be undertaken where they have been observed in the survey data and they are within foraging range of the development site, in line with the NatureScot representation. Additionally, with regards to the Caithness Lochs SPA (and greylag and Greenland white-fronted geese), we highlight that this should be considered in more detail per the NatureScot representation.

Nature Conservation Marine Protected Areas

As regards potential impacts on nature conservation Marine Protected Areas (“NC MPAs”), we advise that only those which affect features within the boundary of the site need to be considered, per the NatureScot representation. As such, North-west Orkney NC MPA (for sandeel), Southern Trench NC MPA (for minke whale), North-east Lewis NC MPA (for Risso’s dolphin) and the Sea of the Hebrides NC MPA (for basking shark and minke whale) can be screened out of the NCA.

In Combination Assessment

We advise that all operational and consented developments (including tidal and wave energy projects such as MeyGen and EMEC’s Fall of Warness and Billia Croo sites) with impacts on the same protected sites as the Pentland Floating Offshore project should be screened in to the in-combination assessment. This view takes into consideration the NatureScot, RSPB and Northern DSFB representations. Cut off dates for the cumulative assessment have been previously agreed between Marine Scotland – Licensing Operations Team and Highland Wind Limited via email correspondence on 06 December 2021.

Yours sincerely,

Rebecca Bamlett
Marine Scotland - Licensing Operations Team