

SEA6

Post consultation feedback

Responses received

- a. Joint Nature Conservation Committee, English Nature, Countryside Council for Wales and Countryside Agency (JNCC/EN/CCW/CA)
- b. Council for National Parks (CNP)
- c. English Heritage (EH)
- d. Historic Scotland (HS)
- e. Royal Society for the Protection of Birds (RSPB)
- f. Scottish Environment Protection Agency (SEPA)
- g. Whale and Dolphin Conservation Society (WDCS)
- h. World Wildlife Fund-UK (WWF)
- i. Environment Agency (EA)
- j. Joint letter from Whale and Dolphin Conservation Society, RSPB, Marine Conservation Society, WWF-UK and National Trust for Scotland

Megan Douglas
Department of Trade and Industry
ERDU-LED
Atholl House
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JNCC OIA Ref: 3692

31 January 2005

Dear Megan

EIA: Environmental Report for DTI SEA 6

We received the above document from DTI on 7 November 2005. This is a joint response on behalf of Countryside Council for Wales (CCW), English Nature (EN), Countryside Agency (CA) and Joint Nature Conservation Committee (JNCC). CCW, EN and JNCC are all members of the Offshore Energy SEA Steering Group. As such we have had previous opportunities to feed our opinions into the planning and undertaking of this and past SEAs. In addition we had a number of discussions with the SEA consultants at various stages of the work for SEA 6 including at the scoping stage. We also attended both the expert assessment workshop (April 2005) and the stakeholder workshop (August 2005). We continue to support this iterative and open process and look forward to our involvement in future SEAs.

Overall, we agree with the conclusion, based on the projections of the likely scale and location of activities that could follow licensing, and after consideration of the nature and potential effects of a 24th licensing round, that DTI should proceed with the licensing under alternative 3: To restrict the area licensed temporarily or spatially.

We also agree with the conclusion, again based on the projections of the likely scale and location of activities that could follow licensing, that "Within the SEA 6 area, although the national and international importance of various populations and features is recognised, no blocks have been identified for exclusion since individual project consenting is expected to provide adequate spatial, temporal and operational controls".

Overall the document is well written and covers relevant issues. We do have some comments and these are detailed below identified by section numbers appropriate to the SEA 6, starting with our comments on the recommendations and conclusions together with comments relating to data gaps and also wind farm issues.

Recommendations (section 11.3)

We fully support all the recommendations given in Section 11.3. We have the following comments and clarifications:

1. Conclusions relating to licensing constraints and guidance to potential applicants recognise there is strong seasonality in sensitivity to oil and gas operations and we agree that there is no need to place additional controls at an SEA level to ensure appropriate mitigation of effects. Nevertheless, appropriate timing of operations is critical. In assessing the timing of

sensitivity, and after taking account of all resources likely to be affected, ES's often infer there is no period of reduced sensitivity overall, leading to the conclusion that there is no benefit in restricting activities to any particular period of time. However, the range of resources included within the analysis are often diverse e.g. conservation, ecological, commercial and amenity, and considered by the nature conservation agencies to have varying levels of sensitivity to oil and gas activities. For instance, we would consider that phytoplankton are considerably less sensitive than sea birds, fish much less sensitive than cetaceans. As you may be aware EN/CCW are already undertaking work to explore this issue but further work is required. We would be happy to discuss this and any further work with DTI.

2. We agree with Recommendation 1 that more explicit guidance be provided in relation to 'the requirement for licence applicants to demonstrate an adequate appreciation of the environmental sensitivities, potential temporal/spatial constraints...' at the license application stage and would be happy to work with DTI to develop some criteria for assessment of those applying for licences. In particular, showing the ability to assess temporal sensitivity versus cost and rig availability (as per recommendation 2) and provide some guarantees as to sensitivities that will be avoided at all costs should be considered at the licence award stage. This would show an understanding of what environmental constraints developers are committing themselves to, particularly in sensitive areas.
3. We fully support Recommendation 8, the recommendations for operational control which identifies onshore implications should include the consideration of sensitivities of natural heritage resources affected at the point of landfall when planning routes (e.g. onshore installations, pipelines etc). We would suggest that it is put more simply as "oil and gas developments" rather than start defining what is meant by "nearshore". The guidance will then help developers decide if visual impact needs further consideration.

Conclusions (section 11.1)

4. There will be a need for individual applications to address the cumulative effects of any new oil and gas activity (especially out with the spatial extent of existing operations) in relation to licensed/proposed wind farm developments should they be consented and built (particularly relevant to scenario areas 4-7). As the space available is reduced not just by wind farms themselves but changes in the spatial distribution of other activities in the area e.g. shipping routes and aggregates, it is uncertain what impacts there may be on sea birds in particular. Currently we have limited understanding of how much space seabirds require (e.g. Common Scoter, Red Throated Diver) and how use of this space might vary from year to year. There is a risk that, although development does not coincide with the areas that we know sea birds currently use, populations may be deterred from using these areas because of the lack of freedom to occupy space or move within these areas and they may be forced to areas which are sub-optimal.

The report discusses cumulative effects under section 9.12, but we suggest that in future a better approach may be to be more forthright about our lack of knowledge of impacts of noise on marine mammals. For example on page 48, fourth paragraph, the last sentence indicates 'there is no evidence suggesting acute trauma or direct mortality to marine mammals in the North Sea'. Whilst we agree that there is unlikely to have been significant population level effects from acute trauma or direct mortality on marine mammals resulting from oil industry activity, we would question whether there is evidence to show that there are no impacts? For instance, ship strike issues, the use of explosives offshore and other industrial activities cannot be without risk to marine mammals.

5. Noise Section 11.1,. The final sentence in this paragraph states “It is concluded that there is a low risk of potentially significant effects of underwater noise resulting from SEA 6 activity”. We feel this statement is misleading as our current state of knowledge does not allow us to properly assess the effects that underwater noise from activities in SEA 6 may be. Given noise impacts from current activities and potential activity from off-shore wind farms and associated noise increase, and considering the uncertainties with respect to biological effects of noise in the marine environment, we suggest that we need to proceed with greater care and in some instances, at the EIA stage, it may be necessary to implement the precautionary principal rather than proceed with an activity.
6. There is also the issue of in-combination acoustic impacts of seismic surveys and Offshore Wind Farm piling operations – we raise this now since it has not been addressed in the SEA documents, although we recognise that in combination noise effects will need to be specifically addressed at the individual development EIA stage.

Potential activity following licensing in SEA 6 Area (Section 4.3)

7. Section 4.3, pages 4-7, indicates “Up to 500km² 3D seismic data”, for each Scenario. If licences are granted there is potential for disturbance of marine mammals. We are concerned that for seismic surveys relating to licences awarded inside Territorial Waters the PON 14 process is only a notification process and not a consent process, hence following the JNCC Guidelines for Minimising Acoustic Disturbance to Marine Mammal from Seismic Surveys would be voluntary not a condition of consent. We suggest that for those Licences awarded inside territorial waters blocks should have a condition attached that the JNCC Guidelines must be followed to avoid any confusion in the future.

Base-line Information (Section 5 to 8)

8. Existing regulatory mechanisms provide a high degree of protection to *Modiolus* and other sensitive species and habitats where these are known to occur. However, mapping of these important marine features has been restricted to only certain parts of the subtidal around the Welsh coast. It is therefore essential that, outside of these mapped areas, site specific survey / EIA should assess for the presence of these features before exploration and production activities take place. We understand that this is a standard part of the EIA process, however, feel that as per Recommendation 5 (Section 11 page 5 of 6) the need for this type of survey should be highlighted to the operator at the license award stage and all impacts on this habitat should be fully assessed at the PON 15 or ES stage.
9. Although SEA 6 addresses the area up to the shoreline, mention of the inter-tidal region and the impacts upon it is limited to section 6.3.3 and oil spill impacts in section 5. In section 6.3.3 there is inconsistency in coverage of the inter-tidal region and this may be because the reports that have been relied upon to produce the SEA 6 report are out of date and may give misleading information. For example, the descriptions of Scenario areas 1 and 2 and Scenario areas 5, 6 and 7 (Figures 6.6, 6.7 and 6.10) do not appear to reflect the predominant substrata, habitats or species in these areas. We note that the sources quoted appear to be out of date and that more recent data, could have been used; including SAC information packs and SSSI citations for designated sites, and CCW’s intertidal phase 1 survey data for the intertidal non-designated stretches.
10. Section 6.5 concentrates on fisheries rather than fish species. There are over 180 species of marine and estuarine fish species in Welsh waters alone and we feel more use could have been made of many more sources of information (CEFAS, Environment Agency and Universities etc.) to give a broader and more accurate picture of the current situation in the SEA 6 area, especially the gaps in understanding on the distribution and status of non-

commercial fish species of conservation importance. We suggest that this information gap should also be considered under section 11.2.

11. Section 6.7 Seabirds and coastal water birds. This section is thorough on birds with respect to breeding and feeding/over wintering but lacks enough information on migration. In particular, the map on page 42 (figure 6.20) shows a purple line indicating the principal East Atlantic migratory flyway . This line suggests the migration is non-stop, however, as you will be aware, migrating birds make multiple stopovers and so necessitates taking off and landing at each migration stage, potentially increasing the risk of collision with structures. Larger species (such as Whooper swan and Pink footed goose) are more vulnerable to collision risk because they are less manoeuvrable. The majority of birds arrive in the designated Special Protection Areas (SPA's) of the NW coast (Morecambe Bay, Ribble & Allt Estuaries and Martin Mere) before moving onwards. Therefore, the East Atlantic Flyway should be represented further eastwards. Recent shore based visual and boat-based radar studies (commissioned by the East Irish Sea Developers Group (Offshore Wind)), indicate that these species fly between 6 and 15 km offshore when passing parts of Cumbria on approach to key SPA's, however migration on a wider front is suggested for those landing further south.

The East Irish Sea Windfarm Developments Group have also indicated that migratory birds are flying closer to the shore. This line does not accurately reflect the migration pathway of whooper swans and pink-footed geese (species protected under EU legislation) as it should really hug the coast more. The red dots within the bay areas indicate where many species stop on the migration routes for resting or feeding.

12. Section 6.8, Marine Mammals. We are aware that more information was obtained from the satellite telemetry study of grey seals (e.g. on dive depths & duration; swimming speed, water temperature; and from blood, blubber and skin samples). This was an intrusive study and we encourage DTI to ensure that further analysis and reporting of the data collected takes place.
13. Section 6.8.2.2 Pinnipeds. Little is known about the grey seal diet in the SEA 6 area and this aspect of their ecology should be examined more closely along with the prey foraging models and data capture methods from satellite transmitter tags. If indeed the grey seal population in the Irish Sea is a discrete population then management strategies in the SEA 6 Area may need reviewing. This will be particularly important if there is another outbreak of viral disease (e.g. the Phocine distemper outbreak similar to the outbreak in the North Sea) which could impact significantly on the 5-7,000 animals thought to make up the SEA6 population. We would encourage any further studies that help to further identify grey seal foraging areas and monitor medium-term population trends.
14. Section 8.3, Tourism and Leisure. The importance of tourism and leisure to the regional economy and the high level of recreational boating are stated in this section but not really considered later in the report. For example, no mention of recreational boating is made in 9.6. Physical presence and tourism is not mentioned in 9.11 other than in the summary table at 9.11.2. These issues warrant further discussion.
15. Section 9.6.2, Visual intrusion. Only the physical infrastructure appears to be considered in this paragraph and is seen as not significant. However, in 11.2, recommendation for operational controls point 6, refers to nuisance from light. The nature and extent of this nuisance should be considered under visual intrusion.

Assessment (Section 9)

16. Section 9.6.3 correctly identifies the potential impact of vessels on scoter. However, it goes on to say that, as the site is being considered for designation as an SPA and assuming designation goes ahead, any existing or new hydrocarbon activities would require an Appropriate Assessment, thus the relevant blocks need not be excluded from this licensing round. There is an assumption here that the designation will go ahead; however, there remains the possibility that it will not, or that that the final site will have different boundaries. Notwithstanding any designated site, common scoter is a BAP Priority species and is protected under Section 74 of the Countryside Rights of Way Act (2000), further consideration of the potential impacts on common scoter must take place within project specific EIA.
17. Section 9.6.4 The lack of seascape baseline documentation is noted in the report but in the conclusions and elsewhere this is not seen as having an impact on the SEA assessment as most projected SEA 6 developments would be sub-sea tiebacks. As mentioned above, light intrusion and the, albeit temporary, impact of construction and maintenance traffic do need to be considered against a baseline seascape assessment and so conclusions should be qualified.
18. Section 9.12. This section indicates that the report has taken the definition of cumulative as “only if the physical or contamination footprint of a project overlaps with that of adjacent activities”. It is possible that habitats and species will be exposed to isolated and cumulative effects even though the activity causing the effects is a distance from them (i.e. outside of the footprint). This is particularly true for more mobile species such as some fish species, marine mammals and birds, in fact even a local migrant (or transient) species may be subject to cumulative effects as it traverses the Irish Sea for a large part of it's journey.
19. Also on page 49, the top grey box indicates that cumulative effects are dominated by trawling and that in these areas the disturbance effect of oil and gas developments is likely to be offset by fishing exclusion. This is a misleading statement because the fishing exclusion may not stop vessels from fishing, it may mean that the fishing vessels move to another area and the end result is therefore that the effects are displaced and potential for more impacts overall.
20. Section 9.14, Environmental Problems: Tranquility/industrialisation – the aesthetic and recreational value of the coastline and its importance to the area for tourism is mentioned but a conclusion is drawn that SEA6 activities and developments will have a negligible contribution to the “industrialisation” of the offshore and coastal environment. There appears to be little data to support any conclusions on this issue. Similar unsubstantiated statements are made under the social implications. More information about what people value and on their perceptions of the area is needed, along with research on the impact further development would have on those views, is needed before such conclusions can be drawn. These issues are of particular importance within the AONBs, National Park and Heritage Coasts.

Information gaps (section 11.2)

21. We agree that the lack of seascape baseline should be identified as one of the most significant information gaps. However, the lack of baseline information is not restricted to England as this information is not currently available for Wales either and was one of the areas CCW highlighted as high priority in scoping discussions for SEA 6.

Understanding

22. The report suggests there is a gap in our “Understanding of underwater noise characteristics from seismic survey, development activities and facility operation” and that this “should be improved through further measurements of source level and frequencies”. There is an even greater gap in our knowledge of the effects underwater noise has on marine fauna at the individual, population and community level. A recent noise seminar/workshop at the National Physical Laboratory in London (13 October 2005), indicated that human ability to measure noise was far in excess of human ability to understand the biological consequences of that noise. We suggest this aspect of research (ability to understand the biological consequences) has lagged behind in recent years and as a consequence should be the highest priority for further study. Perhaps this SEA 6 report should recommend a commitment to initiate specific studies that will provide us with a better understanding for future SEA’s?

23. Offshore wind farms and integration of SEAs

In scenario 4 (East Irish Sea Basin) there are three offshore wind farms licensed, in scenario 5 there are five offshore wind farms licensed (one is operational and one is almost complete) and in scenario 7 there is one offshore wind farm licensed. There is the construction phase, operation phase and maintenance phase that will require significant increases of vessel activity. The cumulative and in combination effects of the wind farms combined with the oil/gas wells have largely been ignored in this report.

Further assessment is needed to determine the potential in-combination effects of future proposed oil and gas infrastructure and the numerous offshore wind farms in the east Irish Sea. It is also well documented that light at sea is an attractant to birds and if wells are flared there is a further potential for interaction with swan and geese (and other species) migrations possibly leading to greater mortality during migration if their flight paths are confused.

In the report ‘Future Offshore’ (DTI, 2002), it was proposed that an announcement of a second competition for site leases (second licensing round) for offshore wind farms, would be made in Spring, 2003. To assist decision-making on the design and terms of the competition the Department of Trade and Industry (DTI) commissioned a Strategic Environmental Assessment (SEA) in line with the requirements of the ‘SEA’ Directive¹. In the North West, the area covered by SEA6 overlaps with that covered by the R2 Offshore Wind SEA. However, the SEA6 reports do not appear to cross reference or utilise this information.

There is a need for a closer association between the SEA 6 (and future SEAs) and the research being undertaken by the offshore renewable industry (as a requirement of the Environmental Assessments), to identify potential ecological impacts and best practice mitigation. This work includes the effects of construction noise on Marine mammals, impacts on vulnerable bird species and will also include longer-term impacts over the life of the wind farms. Recent modelling studies (related to wind farms) are increasing our knowledge of the potential effects of in-water structures and associated noise effects to marine fauna, particularly noise generated during the construction phase. This information should be sourced on a regular basis to ensure implementation of suitable management strategies for mitigating effects.

Other minor points

24. Page 9 of the summary incorrectly states that some of the SAC's in the SEA 6 area extend beyond the territorial water limit. This is incorrect.

25. This is only a suggestion but it would be useful if the document had page numbers that were continued throughout the document rather than restarting at every section.

Please feel free to contact me if you would like to discuss further any of the points raised above.

Yours sincerely

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Senior Offshore Advisor

cc: Steve Benn English Nature
 Sarah Wood Countryside Council for Wales

13 January 2006

President Brian Blessed Chief Executive Kathy Moore

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By email to megan.douglas@dti.gsi.gov.uk.

Dear Ms Douglas

SEA6 Environmental Report

The Council for National Parks (CNP) welcomes the opportunity to respond to the above report. CNP is the national charity which works to protect and enhance the National Parks of England and Wales and areas that merit National Park status and promote understanding and quiet enjoyment of them for the benefit of all.

CNP would like to correct a drafting error in SEA 6: Conservation, section A2.3.5 on National Parks. This states that in England and Wales the purpose of National Parks is to conserve and enhance landscapes within the countryside (this is partially correct) whilst promoting public enjoyment of them (this is also partially correct) and having regard for the social and economic well being of those living within them (this is incorrect as this is not a purpose).

National Park statutory purposes¹ are:

- To conserve and enhance natural beauty, wildlife and cultural heritage of the Parks
- To promote opportunities for the public understanding and enjoyment of the Parks' special qualities

The National Park Authorities have a duty to seek to foster the economic and social well being of their local communities but this must be carried out in pursuit of the statutory purposes (so the duty is subsidiary to the purposes and must be carried out through them, not merely at the same time as them as the current wording of A2.3.5 suggests). The text in this section is therefore misleading and therefore should be reworded as follows:

In England and Wales the purposes of National Parks are to conserve and enhance natural beauty, wildlife and cultural heritage and to promote opportunities for the public understanding and enjoyment of their special qualities. In pursuing these purposes National Park Authorities have a duty to seek to foster the economic and social well being of their local communities.

¹ Section 5 of the 1949 National Parks and Access to the Countryside Act, as amended by Section 61 of the 1995 Environment Act.

Section A2.3.5 then goes on to state that the Environment Act 1995 also requires relevant authorities to have regard for nature conservation. This is only partially correct as the Act² actually requires relevant authorities to have regard to National Park purposes, which as stated above are wider than just nature conservation. We therefore recommend that the correct and full wording is used in this section and that the words 'nature conservation' are replaced by 'National Park purposes'.

CNP hopes that this clarification is helpful. Please do not hesitate to contact me should you require any further information.

Yours sincerely

Ruth Chambers

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² Section 11A of the 1949 National Parks and Access to the Countryside Act, as amended by Section 62 of the 1995 Environment Act.



ENGLISH HERITAGE

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26th January 2006

Dear Ms Douglas,

SEA 6 Consultation

This response provides our comments on the Strategic Environmental Assessment (SEA) for Area 6 public consultation exercise as notified to us by Hartley Anderson Ltd, in correspondence dated 3rd November 2005. For your information, please direct your response to this correspondence for my attention at Fort Cumberland.

English Heritage is the Government's advisor on all aspects of the historic environment in England. The National Heritage Act (2002) enabled English Heritage to assume responsibility for maritime archaeology in English territorial waters, modifying our functions to include securing the preservation of ancient monuments in, on, or under the seabed, and promoting the public's enjoyment of, and advancing their knowledge of ancient monuments, in, on, or under the seabed. The National Heritage Act (2002) also conferred responsibility for the UK-wide administration of The Protection of Wrecks Act 1973 from the Department for Culture, Media and Sport to English Heritage as well as the management of the sites in English territorial waters designated under that Act.

General comment

We are supportive of the manner in which the SEA 6 exercise was conducted with particular reference to the opportunities to comment, such as at the stakeholder workshop on 23rd August held at Manchester Airport.

Historic Environment Technical Reports

In reference to the technical reports provided as part of the assessment:

- *The scope of Strategic Environmental Assessment of Irish Sea Area SEA6 in regard to prehistoric archaeological remains* by N C Flemming; and
- *SEA 6: Irish Sea MARITIME ARCHAEOLOGY* Technical Report (Ref: 58890), May 2005 by Wessex Archaeology

We consider that the report by N C Flemming provides comprehensive treatment of the relevant archaeological issues for the prehistoric era. However, we must ensure that while seabed data gathering exercises driven by commercial objectives do have the capacity to reveal new archaeological information, operational controls are implemented to conserve and protect such interest *in situ*.

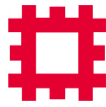
Regarding the maritime archaeology technical report by Wessex Archaeology, we consider the statement to exclude archaeological issues associated with wrecks of aircraft to be unacceptable. We have previously published archaeological guidance on military aircraft

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crash sites (see enclosed English Heritage, 2002, *Military Aircraft Crash Sites: Archaeological guidance on their significance and future management*. Also available as .pdf download from our website) and therefore such matters should have been included within the technical report. We also add that subsequent SEA exercises should ensure that maritime archaeological technical reports are inclusive of wrecked aircraft information.

Sea 6 environmental report

Section 9 - Consideration of the effects of licensing the Sea 6 area

9.5.2 Archaeology: "similar guidance for the offshore oil and gas industry has been produced by the unive" is this last word a typo?

Section 11 Conclusions and Recommendations

With regard to the statement "No significant visual intrusion is predicted based on the anticipated nature and scale of activities." We wish to stress that such assessment of visual intrusion must be inclusive of the 'setting' of sites of historic importance.

11.2 Information Gaps: We note the comment about "The lack of seascape baseline documentation for England" and add that the Liverpool Bay pilot study entitled Historic Seascapes, supported by the Aggregate Levy Sustainability Fund, when completed is intended to provide an historic environment overview to inform exercises such as SEA.

11.3 Recommendations and Operational Controls: we are supportive of paragraph seven as an essential means to assess the maritime archaeological interest of the proposed development area (rig site and associated pipelines). We also note the text of paragraph ten and we draw attention to the importance of assessing visual impact on the maritime historic environment.

Yours sincerely,

Dr Chris Pater
Marine Planner

cc. Charles Wagner (English Heritage, Head of Planning and Regeneration)
Jennie Stopford (English Heritage, North West Region)

Encs.

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Our ref: AMN/23/26
Your ref: SEA 6 Consultation

30 January 2006

Dear Ms Douglas

**Environmental Assessment of Plans and Programmes Regulations 2004
DTI Offshore Licensing SEA 6: Environmental Report**

Thank you for consulting Historic Scotland on the SEA 6 Environmental Report, sent to the Scottish Executive SEA Gateway on 3 November 2005. I have reviewed the Environmental Report on behalf of Historic Scotland and should make clear that this response is in the context of the SEA Regulations and our role as a Consultation Body.

I have set out some general comments on the Environmental Report below.

General comments

I welcome the inclusion in the Environmental Report of details on how the responses made by the Consultation Bodies at the scoping stage have been taken into account in the preparation of SEA 6 (Appendix 4).

The assessment of environmental impacts is based upon a detailed consideration of the effects on the environment arising from the potential activities following licensing in the SEA 6 area. In terms of the marine and coastal historic environment I am content that the Environmental Report identifies the key issues for consideration.

The assessment of impacts upon the historic environment is based on an analysis of the environmental baseline, including:

- data on the location of protected wrecks in the SEA 6 area
- review of maritime archaeology in the SEA 6 area (remains of ships, boats, maritime infrastructure and other such material remains)
- review of submarine prehistoric archaeology in the SEA 6 area

Section 7.7 of the Environmental Report identifies relevant data gaps, and notes that in addition to identified maritime and prehistoric remains, it is probable that there are potentially undiscovered sites. I agree that this issue is best considered at the site specific level, through EIA.

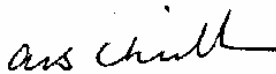
I note that potential impacts upon the historic environment are considered small in scale and duration, and can be mitigated through:

- existing consent processes
- the review of scoping briefs for site surveys by heritage agencies, where the likelihood of sensitive archaeological features is high

It will be important to ensure that these recommendations are implemented and acted upon at the project level.

I trust that these comments are of assistance to you. Please do not hesitate to contact me if you would like to discuss this response.

Yours sincerely



Amanda Chisholm
Strategic Environmental Assessment Team Leader



for birds
for people
for ever

Megan Douglas
ERDU-LED
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30 January 2006

Dear Ms Douglas

SEA6 – Strategic Environmental Assessment of the UK Continental Shelf in the Irish Sea and the re-offer of blocks previously offered for licensing

Please find enclosed a copy of the RSPB's response to the consultation on SEA6, the Strategic Environmental Assessment of the Irish Sea. The RSPB welcomes the opportunity to comment on this SEA covering the implications of further oil and gas exploration in UK waters.

SEA is a key tool for integrating environmental considerations into the planning and decision-making process, thereby enabling the impacts of development on wildlife to be avoided, or at least minimised. However, we believe that the DTI should take a stronger precautionary approach to the present lack of conservation designations in the SEA6 area, and the other marine areas re-offered in this Round. In view of a recent European Court of Justice judgement, we strongly advise that the plan be subjected to the requirements of the Habitats Directive, in particular the requirements of Articles 6(3) and 6(4) on appropriate assessment. Possible, candidate or designated Natura 2000 sites should be excluded from the 24th Licensing Round unless no adverse effect on the conservation interest of these sites can be demonstrated. The proposed licensing of blocks in the Liverpool Bay pSPA is of particular concern. A coastal buffer should protect sensitive nearshore blocks from licensing.

If you have any queries about any of our comments please contact us for further information.

Yours sincerely

Lisa Palframan

Lisa Palframan
Planning Policy Officer (Environmental Assessment)

SEA6 – Strategic Environmental Assessment of the Irish Sea for oil and gas licensing

RSPB Comments, 30 January 2006



The RSPB strongly supports the SEA6 process covering the implications of oil and gas exploration in the offshore areas of the Irish Sea. We also welcome the opportunity to comment on the SEA report and the DTI's assurance that further improvements will continue to feed back into the SEA process.

SEA is a key tool for integrating environmental considerations into decision-making, thereby enabling the impacts of development on wildlife to be avoided, or at least minimised. However, we believe that the DTI should be taking a stronger precautionary approach to the present lack of information about sensitive sites in the SEA6 area and in the other marine areas re-offered for license. We ask that all blocks which include potential SPAs or possible / candidate / designated SACs, be excluded from licensing until an appropriate assessment has been carried out of the plan to license these blocks. Licensing should proceed only if the appropriate assessment concludes that there will be no adverse effect on these sites as a result. We have particular concerns about the intention to license blocks within the Liverpool Bay pSPA, which has significant common scoter interest, such that we consider an adverse effect on the population of this species is likely.

We also believe a coastal buffer zone should be put in place throughout the SEA 6 area, to protect sensitive coastal habitats and species.

SEA 6 main comments

1. Offering for license of all blocks in the SEA6 area / Habitats Directive requirements

The overall conclusion of the report is to restrict the area licensed in temporal or spatial terms, according to conditions agreed at the individual project level, but without excluding any blocks from the license round.

We do not agree that individual project consenting is 'able to deliver adequate mitigation' (section 11.4) and that no blocks require exclusion. We therefore disagree with the overall conclusion of SEA 6. A particular issue is that designated offshore Natura 2000 sites are absent from much of the SEA6 area, due to the UK Government's delay in implementing the Birds and Habitats Directive.

Of serious concern is the Liverpool Bay pSPA, which we strongly urge be excluded from the oil and gas licensing round. From present evidence, we consider that oil and gas activities taking place in blocks within the pSPA would be unlikely to pass the appropriate assessment tests of the Habitats Directive.

The potential effects of the physical presence of oil and gas infrastructure on the Liverpool Bay common scoter population are dealt with in section 9.6. We feel that the assessment underplays the potential significance of the impacts of oil and gas activity in this area. For example, it suggests that 'substantial' disturbance of the common scoter population could result in 'locally significant' impacts. It is hard to see how such disturbance could be described as only *locally* significant when recognition of the importance of the site for the common scoter population means it is being considered for an *international* designation. We therefore fundamentally disagree with the assessment results in this respect.

The common scoters and the pSPA boundary follow the twenty metre water depth contour. In shallow sea areas, this extends some distance into Liverpool Bay (for example at Shell Flat). Any scoters outside the pSPA will be in deeper waters and so will not be tied to that particular patch of water, thus limiting the impact of any oil and gas development on the common scoter population outside the pSPA. The common scoters are reliant on the area within the pSPA boundary because the shallow water provides excellent feeding grounds, and they are highly susceptible to disturbance. During the autumn and winter periods they moult and become flightless, further increasing their susceptibility because they have no means of moving from the affected area. The building of infrastructure or other exploration / production activities is likely to disturb the common scoter population in the pSPA.

We acknowledge that appropriate assessment would be required in respect of any application to carry out activities that could have a significant effect on the pSPA, specifically on the common scoter. However, the requirements of the Habitats Directive are such that unless the DTI has ascertained that a project will not adversely affect the integrity of the European site, that project cannot proceed unless certain strict conditions are met.

Where the appropriate assessment concludes that it cannot be shown that there will not be an adverse effect on a European site, the competent authority can only agree to the plan if it is satisfied there are no (less damaging) alternative solutions; and that there are imperative reasons of overriding public interest¹ (that justify the damage); and it has secured all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected.

The SEA 6 assessment recommendations assume any effects can be mitigated (through routes, timings etc). Our experience with the Shell Flat wind farm proposal is that the effects cannot be mitigated, nor can they be compensated for (because it is simply not possible to create compensatory shallow feeding grounds). An oil or gas platform in an important scoter area could effectively sterilise part of the pSPA for

¹ Where a European site hosts priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest

scoters. If it is not possible to demonstrate 'no adverse effect' at the project consenting stage, the project would only be able to proceed in the absence of alternative solutions, for imperative reasons of overriding public interest and with the provision of like-for-like compensation.

The licensing round requires a financial commitment from developers, which builds up a momentum in favour of development and an expectation that it will proceed. The SEA process should be serving industry by playing a strategic role in giving certainty that the areas licensed stand a good chance of receiving consent at the project (and EIA / appropriate assessment) stage – thus saving expensive rejections. The available evidence suggests that oil and gas activities within the pSPA boundary are likely to impact on internationally important bird populations. Therefore, it would be prudent to protect blocks within the pSPA from licensing, since chances of successful application are slim due to the compulsory requirements outlined above.

A more strategic approach would be to carry out an appropriate assessment of the draft plan to offer the Irish Sea blocks for licensing. A European Court Judgement given earlier this year², found against the UK in respect of its interpretation of the Habitats Directive in relation to development plans in the land use planning system. Prior to the judgement, the UK did not subject development plans to appropriate assessment under Articles 6(3) and 6(4) of the Habitats Directive. The UK argued that they these plans do not in themselves authorise a particular programme to be carried out and that, consequently, only a subsequent consent can adversely affect such sites. It was therefore considered sufficient for only the project consent to be subject to the appropriate assessment procedure. This defence was rejected because other legal requirements (eg The Town & Country Planning Act 1990) necessarily mean that development plans may have '*considerable influence on development decisions*' and, as a result, on the sites concerned.

In the same way, we would argue that plans for oil and gas licensing rounds, although not expressly giving consent for potentially damaging activities, do have '*considerable influence*' on project consent for individual activities. We would also point out the considerable advantages to undertaking appropriate assessment at the strategic level. For example, it would give developers greater confidence that the licenses they apply for, are likely to permit them to progress to viable exploration and production projects. Until the appropriate assessment is complete, no blocks that include potential SPAs or possible / candidate / designated SACs should be licensed. The appropriate assessment would also need to deal satisfactorily with the UK's obligations in the absence of a complete network of designated marine sites. This means that areas containing qualifying habitats and species under the Birds and Habitats Directive must be properly protected.

² Case C-6/04: Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland, 20 October 2005. See paragraphs 51 to 56 for information concerning appropriate assessment of development plans

2. The draft plan

With the experience gained through the previous SEAs we feel that it is time to add further detail to the plan(s) being assessed. In particular, although we recognise that the predictions of potential activity (section 4.3) are best estimates made on current understanding, we still believe that it would benefit the assessment if for example, we were also given the likely impacts (and risks) should potential activity be half or double that predicted.

3. Poor application of the precautionary principle

The precautionary principle is a pillar of EU environmental law, enshrined in Article 174(2) of the Treaty establishing the European Community and referred to in the preamble to the SEA Directive 2001/42/EC. The precautionary principle can be defined as the following:

“Where there are threats of serious or irreversible damage to the environment, lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation”

European Environment Agency multilingual glossary
http://glossary.eea.eu.int/EEAGlossary/P/precautionary_principle

In policy-making, the precautionary principle permits a lower level of proof of harm to be used whenever the consequences of waiting for higher levels of proof may be very costly and/or irreversible.

Some sections of the assessment presented in the SEA 6 report do not demonstrate application of the precautionary principle, in our view. This has consequences for the overall conclusions of the SEA report. For example, section 9.4.6 states ‘**the balance of evidence suggests** that effects of seismic activities are limited....’ (emphasis added), which suggests a high degree of uncertainty. It then recommends existing measures are sufficient. Given the potential magnitude of impacts of acoustic disturbance on wildlife, the lack of certainty about whether the effects of seismic activities really are limited should have indicated the need for improved control measures to be put in place. Activities with such potentially serious impacts should not be permitted unless significant effects are unlikely.

The precautionary principle is also absent from discussions about oil vulnerability in chapter 6. Despite an acknowledged lack of data about the vulnerability of coastal waterbirds and serious potential impacts, licensing is recommended to proceed.

4. Active vs. passive environmental protection

Sector 6.7 recognises the importance of many areas of the Irish Sea for certain bird species, for example up to 60% of the British population of Manx shearwater breed in the SEA6 area. Several important locations support sizeable proportions of the world population of these species, for example the Grassholm gannet colony supports around 8% of the world population of gannets. Section 6.7.7 shows that seabirds in some blocks have a very high vulnerability to surface pollutants at certain times of

the year especially when they are moulting and flightless, thereby unable to avoid pollution and disturbance.

Despite these factors, the SEA report recommends licenses be offered for all blocks, with project consenting to deliver any mitigation thought necessary at a later stage.

As requested in our responses to past SEA reports and in the light of the ecological data and assessment findings for SEA 6, we would like to see more pro-active environmental protection in the SEA 6 area. For example, a coastal buffer zone should be put in place (as was done for offshore windfarms) to protect sensitive nearshore areas. As we have noted above, we also recommend that in order to comply with the requirements of the Habitats Directive, an appropriate assessment needs to be carried out of the plan to offer blocks in the Irish Sea for licensing. Until the appropriate assessment is complete, no blocks that include potential SPAs or possible / candidate / designated SACs should be licensed.

5. Assessment of cumulative effects

We acknowledge the difficulties inherent in the assessment of cumulative effects. However, we feel the assessment of cumulative effects (section 9.12) could be improved. In particular, this section does not take full account of the impacts of other sectors. Where, for example, were the cumulative effects of the physical presence of offshore windfarms and oil / gas infrastructure considered? This is a potentially significant issue in some areas e.g. Liverpool Bay.

The difficulties encountered in assessing cumulative effects demonstrate how a system of marine spatial planning could play a valuable role. A marine spatial plan for the Irish Sea would provide a joined-up process by which conflicts between present and future activities could be resolved. These activities would include oil and gas, but also others such as renewables, shipping and fisheries as well as nature conservation. An SEA would help ensure the outcomes of the plan are sustainable, for example by assessing the cumulative impacts that could arise from plan choices.

The final paragraph in this section is of concern. It states, '*As context, it may be noted that overall, although the acute effects of oil spills can be severe at a local scale, the cumulative effects of around a century of oil spills from shipping – and thirty years of oil and gas development – do not appear to have resulted in wide-scale or chronic ecological effects*'. As this statement cannot be supported by baseline ecological evidence, it is rather misleading. It is difficult to predict how the ecology of the Irish Sea would differ in the absence of the last 100 years of industrial activity.

6. UK Sustainable development strategy

The most recent UK Government Sustainable Development Strategy (SDS) '*Securing the Future*', was issued in March 2005. The SEA 6 report refers to the last strategy '*A better quality of life*', issued in 1999.

Future SEA reports will need to take account of the four new priority areas for action under the 2005 strategy, which are:

- Sustainable consumption and production
- Climate change and energy
- Natural resource protection and environmental enhancement
- Sustainable communities

It is clear that the Government now believes that sustainable development should be achieved through the integration of economic, social and environmental aspects, rather than through 'trade-offs' or 'balancing' of these aims. It is therefore concerning that the concluding paragraph of section 9.14 on environmental problems in the SEA 6 report states:

'It should be noted that contributions of the proposed activities to environmental problems may be balanced by corresponding social-economic benefits, in particular, security of energy supply, government and other revenues, employment...and skills retention'

The idea that the negative environmental impacts of an activity can be somehow 'balanced' by the economic gains from that activity is now inconsistent with the Government's own sustainable development policy. Progress towards sustainable development should be possible through meeting environmental, social and economic goals together over time.

To improve the oil and gas SEA process in the future and in line with Annex 1 of the SEA Directive, SEA7 and 8 should evaluate how the 25th and 26th licensing rounds take account of the objectives of the UK SDS and judge whether the draft plans will ensure progress towards sustainable development.

7. Common scoter in European waters

With reference to the perceived dichotomy in tolerance of disturbance between common scoter in NW European waters and those off the US and Canada (section 9.6.4), the birds in these populations are now considered to be separate species. The following is due to be published in *Ibis* shortly:

Common Scoter *Melanitta nigra*

Melanitta nigra is currently treated as a polytypic species with subspecies *M. n. nigra* and *M. n. americana*. A morphological analysis of seaducks (Tribe Mergini) concluded that these subspecies are sister taxa (Livezey 1995. *Condor* **97**: 233-255). Adult male *nigra* and *americana* differ diagnostically on the basis of bill shape and the extent of yellow pigment in the bill (Dwight 1914. *Auk* **3**: 293-308. Dement'ev & Gladkov 1952. *Birds of the USSR*; Cramp & Simmons 1977. *Handbook of the Birds of Europe the Middle East and North Africa*. Volume 1, OUP, Oxford; Astins 1992. *Birding World* **5**: 58-59). Occasional examples of *nigra* with unusually large extent of yellow in the bill are thought to refer to second calendar year (sub-adult) birds (Cramp and Simmons 1977). The shape of the nostrils in male *nigra* and *americana* is also different (Dwight 1914. *Auk* **31**: 293-308; Dean 1989. *Brit. Birds* **82**: 615-616). There are clear diagnostic differences between the male courtship calls of *nigra* and *americana* (Sangster, *Wilson Bull.* in revision). These differences are potentially important because both the call and the bill of scoters are significant components of the display repertoire, which may form the basis of female mating preference (Myres 1959. *Wilson Bull.* **71**: 159-168). Differences in the structure and coloration of bills of female *nigra* and *americana* have also been reported

(Waring 1993. *Birding World* 6: 78-79). On the basis of diagnostic differences in male courtship call and bill structure, it is recommended that two monotypic species should be recognised.

Common Scoter *M. nigra* (monotypic)

Black Scoter *M. americana* (monotypic).

Both species are on Category A of the British List.

This research lends further weight to our argument that the Liverpool Bay pSPA must be excluded from the 24th licensing round due to the sensitivity of the common scoter to disturbance from oil and gas activities in this area (see point 1 above).

8. Possible licensing of excluded blocks

Section 10.4 notes that the DTI are considering offering blocks 15/20c and 15/25d for licence. Last year, we supported a Wildlife and Countryside Link letter on this matter, strongly objecting to the possible licensing of these blocks. We now understand that these blocks are no longer being offered for licensing

Very few areas have been withheld from licensing on conservation grounds following SEAs 1-5. Once these areas are withheld, only with the provision of significant new evidence addressing why they were set aside in the first place (and proving that these areas will not be impacted) should licensing even be considered. Licensing of blocks 15/20c and 15/25d on the basis of current evidence would indicate to the industry that the recommendations from the SEA process are easily ignored and that even excluded blocks are in fact available. Such an outcome would undermine confidence in future SEA and licensing rounds.

9. Seabird data availability

We are pleased that survey data for seabirds in the Irish Sea area is more complete than for previous SEA areas, particularly in those areas that have been considered for renewables licensing or for conservation designations. For example, there are at least two years' worth of aerial survey data for certain areas due to the offshore wind farm licensing activities. However, we would point out that data availability for the whole of the Irish Sea area is still rather patchy. Where data collection has been more intensively conducted, this has yielded some significant results, such as the discovery of the extent of the Liverpool Bay common scoter population.

Section 11.2 on data gaps notes that the vulnerability of coastal waterbird populations (particularly in scenario areas 5 and 7) is recognised but not quantified. The text states that the lack of detailed data does not compromise the SEA process, as existing mechanisms allows for a precautionary assessment of proposed activities at a project-specific basis. As previously noted and as detailed in point 1 above, we do not agree that existing mechanisms are sufficient. We ask that an appropriate assessment of the draft plan be carried out and a coastal buffer zone be introduced.

10. Other comments

Section 3 reviews the nature conservation regulatory context with regard to oil and gas activities. We would also like to note an additional point. Under section 74 of the Countryside and Rights of Way Act 2000, the Secretary of State is required to have

regard to the purpose of conserving biodiversity in carrying out his functions, in accordance with the Convention on Biological Diversity 1992 (implemented in the UK through the UK Biodiversity Action Plan).

Section 7.4.1 notes extensions recommended for marine SPAs for common guillemot, razorbill, Atlantic puffin and breeding gannet. We consider the JNCC's recommendations inadequate since the proposed extensions exclude the foraging areas essential for maintaining colonies of these species. We are not reassured by claims that these will be recognised by analysis of European Seabirds at Sea data held by JNCC as these have inadequate coverage and resolution for this purpose. Therefore, we are calling on JNCC to propose a more suitable approach to determining foraging areas for colonies.

In our response to SEA5, we recommended that consideration be given to setting SEA objectives at the start of SEA6, as recommended by the ODPM SEA guidance³. The comparison of the predicted impacts of a plan against a set of SEA objectives, developed at the beginning of the SEA process to define environmentally favourable outcomes, is an internationally recognised SEA technique. An exercise was carried out at the SEA 6 assessment workshop aimed at setting such objectives. These are presented in section 9.15 of the SEA report. However, we do not feel that the purpose of setting objectives was fully understood. They can be used as an assessment technique, rather than solely helping to define the monitoring programme after the SEA report. Perhaps the baseline-led approach to assessment, as used in SEAs 1-6, is more suited to this type of SEA. However, the possible advantages of an objectives-led approach (in terms of a better test of whether environmental objectives will indeed be achieved through licensing) could still be explored prior to the production of the SEA7 report.

An overarching objective for the SEA 6 process was set, *to facilitate exploration and production of UK offshore hydrocarbon resources without compromising the biodiversity, ecosystem functioning and the interests of nature and heritage conservation, and other users of the sea*. We think this would be more suitable as an objective of the plan to license, rather than of the SEA. A suitable objective for the SEA would have environmental protection and promotion of sustainable development (intrinsically contributing to economic aims) as its core features. The SEA objective should be consistent with the Strategic Goals for the Marine Environment⁴, for example, goal I '*enhance and conserve the overall quality of our seas, their natural processes and their biodiversity*'. This goal acknowledges that for some protected areas and species, recovery, or restoration to favourable conservation status (as opposed to simply maintenance of the current condition) is important – oil and gas licensing should take account of that.

³ Now finalised as Office of the Deputy Prime Minister, Scottish Executive, Welsh Assembly Government and Northern Ireland Department of the Environment (2005) *A Practical Guide to the Strategic Environmental Assessment Directive*. <http://www.odpm.gov.uk/index.asp?id=1143289>

⁴ See Safeguarding Sea Life, joint UK response to the Review of Marine Nature Conservation – available at www.defra.gov.uk

Section 10.3 'Perspectives on prospectivity, scenarios and activity' could be improved by providing definitions and an explanation of the abbreviations used in the tables, for the benefit of the non-specialist. For example, what is the meaning of 'firm', 'contingent' and 'D/D' in practical terms? The SEA 2 table information might be suggesting that the actual seismic activity was significantly underestimated, but this issue is not addressed in the supporting text. It is difficult to give our views on this information without a better knowledge of these terms.

Our Ref: SEA00022/ER
Your Ref:

Department of Trade and Industry
ERDU - LED
Atholl House
86-88 Guild Street
Aberdeen AB11 6AR
FAO Megan Douglas

27 January 2006

By Email: sea.gateway@scotland.gsi.gov.uk

Dear Ms Douglas,

**Environmental Assessment of Plans and Programmes Regulations 2004
DTI Offshore Licencing SEA 6 - Environmental Report Consultation**

I refer to your consultation in respect of the Environmental Report into the above plan submitted to SEPA via the Scottish Executive SEA Gateway on 3 November 2005.

SEPA notes that you have taken account of the points that it made in its response to your Scoping consultation. Our comments are largely limited to those we raised at the Scoping stage and are restricted to the matters raised by the Environmental Report.

General

Overall, while the report does not perhaps follow the format of a typical Environmental Report, it does go into considerable detail on the environmental effects that may be raised by the licencing round – particularly in relation to the SEA topics of biodiversity, water, health and population. The associated technical reports in particular provide significant levels of information. This level of assessment for what is a strategic level programme covering a wide geographic area is welcomed.

While the level of assessment is detailed, consideration of mitigation options is less clear. While some of these are described in the text, it would be useful to summarise the key potential impacts and ways in which they can be mitigated – perhaps in association with the conclusions set out in 11. It may be that this is what section 11.3 is intended to provide, but it is not clear. One of the key benefits of SEA is to be able to identify required mitigation early in the plan making process. Where mitigation options have been identified it is important that they are clearly highlighted – in particular where these may need to be implemented by others. If 11.3 is to be used for this purpose then it is important that these mitigation measures are communicated to the relevant parties. A clear process for doing this should be put into place.

The identification of relevant data gaps within each section is noted and is a useful way to highlight work for future studies. Again, where gaps may be addressed in the future by others, it would be useful to (a) summarise them in one place and (b) put in place a process for alerting relevant bodies.

Chairman
Sir Ken Collins

Chief Executive
Dr Campbell Gemmell

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Specific Points

In our scoping response we highlighted a number of areas where we considered that were missing. Of these:

1. Other Plans and Programmes – This is now set out in 3.4
2. Mitigation measures – See above
3. Monitoring – This is now set out in 9.15, although it is not entirely clear how the monitoring regimes will assess environmental problems highlighted in the report.

In the scoping consultation we also requested better clarification of how the SEA process and the plan preparation process are integrated. This has now been set out in section 2 and provides a good summary of the SEA activity, including the research work that has been undertaken

It is hoped that these comments are helpful. Should you wish for clarification of any points raised in this response, please do not hesitate to contact me at the above address, on 01786 452431 or via the SEPA SEA Gateway at sea.gateway@sepa.org.uk .

Yours Faithfully,

Neil Deasley
SEA Gateway

WDCS comments on the 6th Strategic Environmental Assessment of the 24th round of offshore oil and gas licensing, in the Irish Sea.

WDCS welcomes the opportunity to comment on the 6th SEA and we hope that our comments will prove useful and can be taken into account.

WDCS are very supportive of the SEA process and believe that it has the potential to be a positive tool in integrating environmental considerations into offshore oil and gas licensing plans. We continue to be concerned however that the SEA process is unable to ensure effective protection for cetaceans from the impacts of oil and gas development because the necessary information on cetacean distribution and abundance, or the impacts of noise pollution, is not currently available to allow us to make confident and informed decisions.

In light of these significant data gaps, we believe a highly precautionary approach must be taken to licensing of oil and gas developments. Indeed, WDCS believes that these gaps in knowledge are so significant that no further licensing should go ahead until headway is made in filling these gaps in our knowledge. Once a better understanding is achieved, more informed decisions will be possible on how to integrate cetacean considerations into licensing plans.

Comments on the SEA Environmental Report

Section 6.8 – Marine Mammals

This section reviews, with some omissions, the current knowledge of overall cetacean distribution within the SEA 6 area. It shows the area is important for a number of species, and that the diversity of species recorded increases the conservation importance of this area. The lack of data from certain areas is not clearly shown however. The 1995 SCANS survey did not cover most of this area, and the results from the recent survey are not yet available. While there have been intensive studies in parts of the area, these are mostly coastal and large areas of the Irish Sea have received little effort. In fact, there remains a limited knowledge of the abundance and distribution of coastal species, and very little is known about those populations that inhabit offshore waters. Where new studies are taking place these are starting to show many previously un-studied parts of the area are of importance for cetaceans. For example, recent work around Anglesey has shown the importance of this area for harbour porpoise (Jones 2005).

The section also fails to appraise the importance of this area for certain species within both a UK and European context. The overall conservation importance of the Cardigan Bay area has been identified by Green and Simmonds (2003), and other reports have shown parts of the area to be of particular importance for certain species. For example, out of 14 areas identified by Evans and Wang (2005) as priority areas for harbour porpoise conservation around the UK coast, 4 are within the SEA 6 area. The regular recording of calves from certain areas such as Strumble Head, Bardsey and Skomer (Evans & Wang 2005, deBoer *et al* 2002, Pierpoint *et al* 1998) indicate this is an important nursery area for this species which has undergone serious declines in European waters.

The designation of SACs within Cardigan Bay indicates the European importance of this area for bottlenose dolphin, but both previous and more recent work has shown their presence in a much wider area, both of the Bay and beyond. A survey by Greenpeace and WDCS in 2002 showed animals with a calf in Tremadog Bay (Green and Simmonds, 2003), recent work by Friends of Cardigan Bay has shown the importance of the Sarns as foraging habitat (Hughes and Thomas 2004) and a recent analysis of sightings around the Welsh coast has indicated a wider distribution (Baines *et al* 2005).

Although little is known about the overall distribution and population trends of Risso's dolphin, it is quite likely the regularity of sightings in parts of this area (deBoer *et al* 2002, Baines *et al* 2005) indicate the area is of importance for this species as well. Further, considering the lack of effort conducted in the Irish Sea mentioned above, it is not possible to objectively assess the importance of this area for this species but regular reports of Risso's dolphins and other species in the waters around the Isle of Man indicate that it is potentially so.

Minke Whale sightings appear to have been increasing, and as they are mostly recorded offshore in areas where there has been little survey effort they are probably under recorded. Sightings indicate that animals may be

regularly moving along the channel between Britain and Ireland (Baines *et al* 2005) and these waters may therefore be important in migrations of this species. We do not consider there is enough information to state, as the SEA does, that the 'SEA 6 area does not represent an important area for this species'.

The SEA needs to include an assessment of the relative importance of the area as a whole, and identify specific sites within the area that appear to be particularly important for the various species conservation. Until this is done the SEA cannot adequately show areas to be avoided during forthcoming licensing rounds.

6.8.3: By catch and other non-oil issues

While previous studies have shown there is little threat from by catch in coastal fisheries WDCS is still concerned that offshore fisheries may have an effect and are not currently monitored. Although gill nets and similar fisheries are at a relatively low level in this area, there is still a fishery here and further work on by catch is needed. An analysis of standings data would have been useful in this section. [Can we give an example of this sort of analysis? – Sabin *et al.*?] The impact of fisheries on prey species could also have been addressed in this section.

Collision is another problem that needs further attention. Increasing boat traffic and fast ferries means that this is probably an increasing threat.

6.8.4: Conservation framework

Whilst no SACs have currently been proposed for harbour porpoise, 4 sites within the SEA area have been identified as possibly qualifying for SAC status (Evans and Wang 2005) and these should be identified as part of this assessment. Hughes (1999) also identifies sites in this region that meet the requirements of the Habitats and Species Directive.

6.8.5: Relevant data Gaps

WDCS broadly agrees with the data gaps identified. It is already known there are specific areas used by cetaceans – especially porpoise – for calving (see above) and they are almost certainly more prone to disturbance within these areas. More work is needed to identify these areas and their sensitivities, for all species. Meanwhile all currently known areas should be excluded from licensing on a precautionary basis, with a significant buffer zone, especially where noise is an issue (see below).

In addition, more work is needed in basic surveys of abundance and distribution of cetaceans across the region, particularly offshore and analysis of surveys and further work to identify those areas that are important for cetaceans both temporally and spatially. As described above, recent studies are starting to identify the existence of such areas for certain species. Those areas already identified should be excluded from licensing, and modelling could attempt to identify areas with similar qualities that should also be excluded on a precautionary basis until they are investigated.

7: Conservation

WDCS would like to see a precautionary approach being taken by DTI and for any potential SAC sites to be excluded from licensing, including those identified as potential sites for harbour porpoise (see above). The same applies for potential OSPAR and nationally important sites. Further research will be necessary before these can be identified for cetaceans and this should proceed before licensing commences.

9: Noise

This section notes that much of the SEA 6 area is subject to existing 'ambient' noise. WDCS consider that rather than mitigating the effects of seismic, as appears to be inferred, this may increase disturbance effects. In

considering ambient noise, anthropogenic noise – boats, existing oil and gas and windfarms – needs to be considered separately from natural background noise from waves etc.

There is increasing concern over the effects of anthropogenic noise on cetaceans. Within the SEA 6 area increases in boat traffic – especially leisure craft – have been noted, with possible effects on dolphin distribution (eg Bristow 2004). Other developments, including offshore wind farms and possible tidal power developments, with associated boat traffic will increase this noise. Cumulative effects of noise on cetaceans therefore need to be assessed. The discussion in 9.12 is wholly inadequate and needs to assess the cumulative effects across differing sectors, not just the cumulative effect of layers of oil and gas activity. As the SEA notes, distributional changes in cetaceans during and after seismic surveys has been recorded. If these animals have already been displaced from adjacent areas by other activities then they have fewer options and are likely to become stressed.

Temporal considerations also need to be taken into account. While winter sightings of some species are lower we do not know how much this is due to survey conditions, lower survey effort or actual changes in distribution. Bottlenose dolphins appear to move further offshore in winter, which takes them into potential areas for seismic survey under some of the scenarios.

9.4.7: Conclusion and data gaps

It is not sufficient to identify St Georges Channel and Cardigan Bay as the only areas of ‘sensitivity’ and then to state that as seismic survey in these areas is unlikely under the different scenarios they will not be affected. There are other areas, such as North Wales where there are other known populations of cetaceans, and all these areas should be specifically excluded from the licensing round and any potential seismic survey.

There appears to be no discussion in this SEA document of the intense noise and explosive pressure waves likely to be produced by decommissioning activities and the potential impacts of this on marine mammals. These activities are of significant concern because of the great potential for physical injury or death. We understand that guidelines to mitigate the impacts of decommissioning are under development and this is to be welcomed. We urge that industry is encouraged to comply with the current draft version of these and that once finalised they will be made a licence condition.

We do not believe that the evidence included in this document and previous SEA’s demonstrates that there is an acceptably low risk of potential effects. The conclusion that recent seismic survey effort has not resulted in significant changes in sightings frequency or behavioural responses is not illustrated by Stone (2003), the major piece of work looking at the effects of seismic activity on marine mammals in UK waters. This paper concluded that:

- With all small odontocete species combined, there were significant declines in sighting rates during periods when the airguns were firing. They more often headed away from vessels during shooting, obvious avoidance was displayed and increased swimming speeds.
- When results of all species of baleen whales were combined, they stayed further from the airguns during periods of shooting, altered course and headed away from the vessel more often. There was also a tendency by fin/sei whales to remain near the surface, where received sound levels are generally lower, during periods of seismic activity.
- Different cetacean species appear to react to seismic activity in different ways. Baleen whales orient away from the vessel and increase their distance from the source but do not move away from the area completely. As slower moving animals it is possible the strategy they have adopted is remaining near the surface where sound levels may be less, whilst moving slowly away from the source. Avoidance exhibited by small odontocetes appears to be mostly temporary although it is not known whether the animals seen later in a survey are the same individuals or new animals that have moved into the area. It is possible that animals may have no choice but to remain in an area, if there is some reason (e.g. food) that they need to be there. It is not known to what extent this disturbance poses a serious threat to the health of marine mammals. Many potential effects of seismic activity remain largely unknown, for example long-term effects, effects on vocalisations, social behaviour and physiology, consequences of auditory masking and the potential for damage to hearing.

The mitigation measures currently employed probably do provide some degree of protection but whether this is sufficient to prevent acute effects remains unknown. The extent and seriousness of the many actual and potential behavioural effects of seismic activity detailed by Stone (2003) are not known and we cannot with any

confidence determine that physical impacts have not occurred. The link between possible behavioural responses and the onset of physical damage cannot currently be determined. Further to this, no obvious or measurable response does not mean there is no impact.

Any prevention of effects by the employment of mitigation measures depends entirely on compliance by industry. When dedicated marine mammal observers were used, compliance was high and high quality data was provided. However, the review of seismic activities from 1998-2000 (Stone, 2003) showed that dedicated marine mammal observers were only used on 19% of surveys, lessening the effectiveness of the mitigation employed.

Data Requirements – Data gaps and recommendations for research and mitigative measures have not been detailed in this SEA. Given the likely significance of noise pollution as an issue and the importance of the data gaps that relate to it and cetaceans as a receptor, we feel they should be listed here again, with details of how they are being filled. By not including them, the impression given is that they are not very important.

Finally, we would like to re-iterate our concerns about controlled exposure experiments for assessing the acoustic effects of noise on cetaceans. Whilst we recognise the urgency of the need for an improved understanding of how noise may impact these animals, we are concerned that the exposure of the target animals (and other animals in the vicinity of the experiment) could be harmful and, therefore, we believe that it should only be conducted with great care and where aims, methods and independent scrutiny have been agreed according to an internationally defined protocol that should now be developed

11: Conclusions

Noise: As detailed above, we do not believe the area is of moderate to low sensitivity. You note that “some populations are regionally important. The potential effects of seismic and other underwater noise on cetaceans remains a significant area of uncertainty, and issue of importance for offshore exploration activities” and we do not believe that you can justify the conclusion that there will be no effect from proposed activities.

Cumulative effects: Cumulative effects need to take into account the effects of oil and gas activities on top of other sectors, not just cumulative within the sector.

Wider policy objectives: The SEA should start with an assessment of why the licensing round is necessary in the context of UK and European Energy Policy, Climate Change objectives etc.

Information gaps: Much more information is needed not just on calving areas but also other favoured habitats for all parts of the cetaceans life cycle and other areas as detailed above.

Recommendations: Temporal controls may be required to protect cetaceans as well as birds.

11.4: Overall conclusions

WDCS do not consider that spatial, temporal or operational controls are sufficient to protect the cetacean populations throughout the SEA 6 area. Areas known to be of importance for cetaceans should be excluded from this and future licensing rounds, and there should be a precautionary approach to certain areas until further knowledge can be obtained. Whilst recognising that the scenarios given indicate that licensing interest in most of the known areas of interest for cetaceans is unlikely, this does not mean they should be left on the table. We consider that some areas are of such importance they should be considered sacrosanct, as outlined in earlier submissions to DTI from the Joint Links Oil and Gas Environmental Consortium. Such sacrosanct areas should include sufficient buffers to protect them from seismic and other noise from possible nearby activities.

Finally, every SEA undertaken so far has identified the distribution and abundance of cetaceans and the effects of noise pollution as being significant information gaps but we can see little evidence that a serious attempt is being made to fill them. This must be addressed as a matter of priority. WDCS believes that these gaps in knowledge are so significant that a precautionary approach must be employed and no further licensing should go

ahead until headway is made in filling these gaps in our knowledge. Once a better understanding is achieved, more informed decisions will be possible on how to integrate cetacean considerations into licensing plans.

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WWF-UK's response to SEA 6

This is WWF-UK's response to the SEA6 Environmental Report issued October 2005 and comprises three sections: the first is general comments on the approach taken in conducting this SEA, the second on SEA6 locality-specific concerns, and the third on the offer of non-SEA6 blocks.

It should be noted that Section 6 was not included in the paper version of the Environmental Report distributed to some consultees. This Ecology section contained valuable information, highlighting the distribution and sensitivity of certain species likely to be found in the SEA6 area. As such, an omission of this section in some/all distributed copies of the Report could be considered a serious oversight in a consultation exercise.

SEA6 GENERAL COMMENTS

We gratefully acknowledged that some suggestions from our response to SEA5 have been included in the SEA6 Environmental Report, e.g. the inclusion of the relationship with other plans and programmes, and welcome the DTI's agreement to collate and monitor recommendations from this and previous SEAs to ensure that they are actioned in a timely and appropriate manner - we eagerly await the provision of this information and the process to manage their fruition. On the other hand, we are again concerned about the extent of the knowledge gaps where we simply don't fully understand our impact. We therefore urge the DTI to consider a precautionary approach and withhold from licensing any activity with the potential to cause harm where impacts are not yet understood, e.g. seismic in areas of known cetacean activity.

Consultation

WWF appreciate the opportunity to input into the SEA consultation, but bearing in mind the outcomes from previous SEA rounds, we have to seriously question the value the DTI holds in our involvement, as little regard is given to fundamental aspects of responses received from NGO's. WWF also question the validity of the process in that consultation has occurred alongside each SEA area assessment, with repeated calls for certain areas to be withheld from licensing due to their environmental value, and rarely has this been acted upon. Previous responses from ourselves and others (Royal Society for the Protection of Birds, Marine Conservation Society, Whale and Dolphin Conservation Society, etc) have each, continually and independently, requested that particular areas be considered outside the realm of licensing for oil and gas exploration and development. It is difficult to find an instance during the SEA process where NGO concerns have actually prompted an area to be deemed 'off-limits' to development.

The UK SEA Stakeholder consultation process seems to lack transparent opportunities to truly influence decision-making – a point made repeatedly by valid stakeholders during consultation workshops. Consultation is an opportunity to listen to what other informed, intelligent organisations believe to be important, for the benefit of the whole process. Indeed the Cabinet Office's own Code of Practice on Written Consultation¹ states that feedback should be provided on how the consultation process has influenced the policy, acknowledging the importance of stakeholder involvement in the process.

¹ UK Cabinet Office (2004). Code of practice on written consultation



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Unfortunately, we are still yet to be convinced how stakeholder inputs from SEA consultation exercises have actually influenced decision making, as they should according to Article 9b in the SEA Directive².

SEA approach

As highlighted in our previous responses, we continue to be disappointed that SEA is being used in such a limited, narrow context, only addressing piecemeal impacts from individual rounds of licensing. As portrayed in Figure 1, the level at which the DTI is using SEA to minimise impact seems inappropriate considering the variety and scale of impacts that receptors in the marine environment are exposed to e.g. cetaceans in conjunction with oil and gas, military activities, fishing by-catch, etc. Even the seaward licensing scheme sought in this SEA6 draft plan is separate again from the inshore licensing scheme – a very narrow approach.

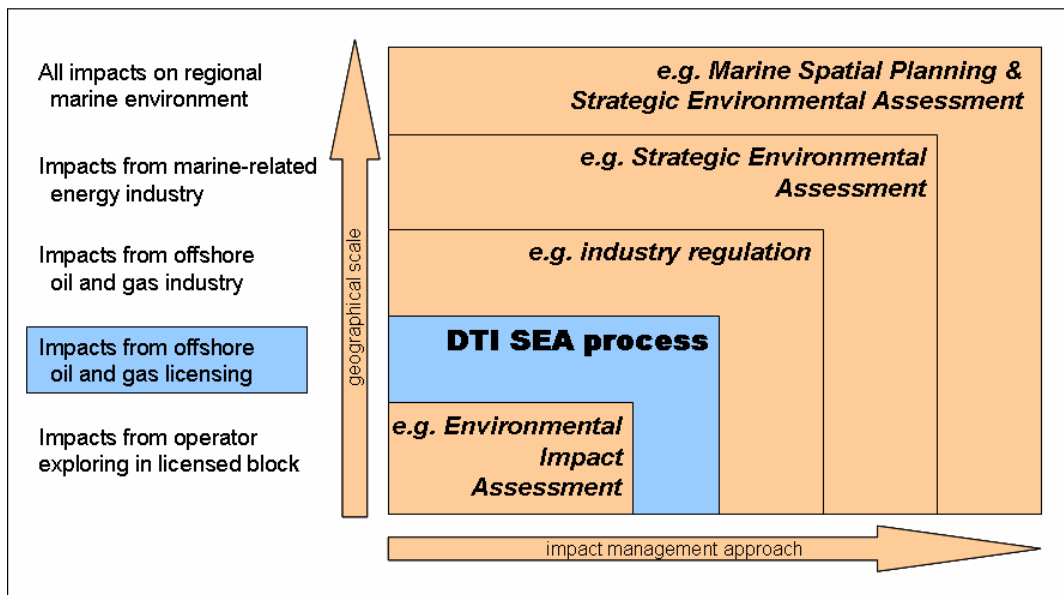


Figure 1: Level of DTI SEA process

Strategic environmental assessment should take into account the environmental sensitivities of a larger area than that which can be covered by environmental impact assessment, incorporating many aspects of human development as is appropriate. This indeed is a key element of Marine Spatial Planning (MSP) which will eventually guide future SEA development. With the progress of the proposed Marine Bill, with MSP at its core, we can no longer ignore the improved planning ability this will provide. The strategic approaches trialled within the Irish Sea Pilot could have valuably fed into this SEA. Meanwhile, if strategic thinking cannot be included at the strategic environmental assessment opportunity, it would be advantageous to better understand the DTI’s views on when impacts on marine habitats and species should be considered strategically. It would also be advantageous to better understand what kind of sensitive feature or special case *would* warrant an area to be withheld from licensing, if any at all. Deliberate disturbance of species deemed worthy of strict protection under Annex IV of the Habitats Directive is unlawful, whether significant or not.

The approach and template developed for each of the SEA areas has been rigidly adhered to, perhaps to the detriment of an improved process and regardless of evolving requirements since the first oil and gas licensing SEA was conducted. It has been stated that a review of the UK SEA process will occur once all SEA areas have been completed – we believe this is too late to refine a process which may already be lacking. For example, the preferred approach is that SEA should only focus on the licensing process – thinking outside of departmental barriers, why then have the DTI not combined both renewable and non-

² Directive 2001/42/EC of the European Parliament and of the Council on the Assessment of the Effects of Certain Plans and Programmes on the Environment

renewable energy licensing and therefore been able to consider the impacts from both *strategically*? We acknowledge that the licensing and development of each involves different aspects and impacts, but nevertheless this would have allowed the proper assessment of viable alternatives and scenarios in the SEA, something severely lacking from the current approach (see below). The 'draft plan' could then have focussed on 'implications of licensing for renewable and non-renewable energy exploitation and development in the SEA6 area'. This would have also minimised the duplication of effort involved in the paper exercise of assessing the same area several times, and allow a better assessment of impacts on receptors. The SEA Directive as it applies to sectors states 'energy' as a specific sector (Article 3-2a) - this is particularly appropriate in this SEA6 area where a variety of renewable and non-renewable energy prospects are located.

The draft plan (quoted from Section 4.2) is to offer blocks for Production Licence in a proposed 24th licensing round. Three alternatives are provided, but one of these is not an appropriate alternative to the draft plan, stating "to proceed with licensing as proposed" – this is the same as the draft plan. That leaves two other alternatives,

- not to offer any blocks for Production Licence award and
- to restrict the area licensed temporally or spatially.

As with previous SEAs, the opportunity to provide a reasonable set of alternatives has not been taken. Annex 1(h) of the SEA Directive specifically requires an outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment of alternatives was undertaken. The Guidance from the Office of the Deputy Prime Minister provides useful pointers in how to develop and assess alternatives, and we encourage the DTI and their consultants to approach this challenge with a little more creativity than in the past. The alternatives provided in the Environmental Report do not provide an adequate representation of alternatives available, have not been fully specified and an assessment is absent. Scenarios could have been built up to properly assess these alternatives i.e. systematic comparison of alternatives including for certain sensitive areas how impacts could be minimised by temporal or spatial restriction, or how alternative energy sources could be implemented to generate an equivalent amount as could be expected from hydrocarbon extraction. The alternatives are not even provided in the Non-technical summary, which rather indicates the importance attached to developing them.

We applaud the DTI for providing funding for the research undertaken in the SEA areas. We do feel however that there are still too many data gaps in some areas of our understanding. We would welcome a transparent process to collate, assess, prioritise and undertake research to improve knowledge in these areas – the DTI's announcement at the Offshore Forum meeting in January 2006 of an overhaul of the existing approach to offshore oil and gas R&D is welcomed and we look forward to contributing to the development of a new approach. Each SEA report so far has identified information gaps, and an urgent but strategic response to filling these is fundamentally important. Whilst they remain as data gaps, we have to rely on existing knowledge and the precautionary approach. The majority of NGO's believe the precautionary approach is not being adequately utilised as part of the search for exploitable reserves, therefore the timely provision of relevant, scientifically sound information should gradually reduce the need for such precaution. In the interim, where the DTI deems it appropriate to go ahead with licensing in nationally and internationally important areas, WWF would expect the latest technology to be the minimum standard allowable (e.g. extended reach drilling to avoid sensitive seabed habitats), and for zero discharge into the marine environment to be mandatory.

Climate change

Worryingly, climate change is not an aspect properly considered in the SEA6 assessment, as stated in the Environmental Report - "greenhouse gas emissions associated with combustion of hydrocarbons produced as a result of proposed activities are outside scope of assessment". This is directly in contravention of Annex 1(f) of the SEA Directive, and WWF have serious concerns that climate-changing impacts from previous, current and future licensing are being ignored in this way. Numerous habitats and species are being adversely affected by our changing climate, the true impacts of which we

don't yet fully understand³. Species found within the SEA6 area are already adjusting their distribution and breeding patterns due to climate-driven phenological change affecting food chains. With evidence such as this, WWF do not believe it is wise policy to continue to exacerbate an already dire situation, with unknown and unpredictable consequences.

The Govt has the responsibility to reduce the UK's contribution to climate change. WWF welcomes the recently announced Energy Review⁴ the Government is embarking upon, and hopes this will recognise this responsibility. It is imperative to change the balance of sources of energy used by the UK to minimise our national contribution to climate change, which can begin with a reduction in the proportion of energy use sourced from hydrocarbons. Hopefully the Review will acknowledge the increasing scale, development and applicability of renewable technologies. With a lessening reliance on fossil fuel sources of energy and the continually increasing contribution of renewables, we hope the review will ensure that further oil and gas development will be minimized. We also hope that a main objective of the Review will be to lessen demand for energy in the first place, and will contain strong messages and obligations about the need for behavioural change when using energy.

Each licensing round in turn has contributed to the continuation of oil and gas exploitation and thus continued our dependence on fossil fuels, promoting the associated changing climate from which we're now suffering. Eminent scientists are continually, and increasingly, warning of the impacts and consequences our business-as-usual approach is having. Continuing to burn fossil fuels, with the associated greenhouse gases emissions, will increase atmospheric CO₂-equivalent parts per million and therefore contribute to a global mean temperature increase, with well documented dangerous consequences⁵. Any hydrocarbon production resulting from this proposed round of licensing would not come on line for many years. During this interim period, we hope that proper and appropriate provision of research and development grants would have encouraged a more sustainable suite of energy sources and energy reduction options. Better that monies are spent here than in supporting non-sustainable sources of fuel with much longer term footprints, namely fossil fuel and nuclear.

Conservation / biodiversity

WWF are encouraged by the fact that research money has been put into the background scientific assessments for each of the SEA areas. But we question how the DTI can continue with oil and gas licensing and seismic testing, especially in areas of internationally important species, when they also admit that we don't fully understand the impacts. WWF does not consider this an appropriate use of the precautionary principle in an instance where its application would be beneficial. Admittedly, through application of mitigation measures such as the updated JNCC Guidelines, passive monitoring and use of the consent procedure, impacts may be lessened, but we still cannot say that impacts are reduced to a scientifically non-significant level as this is still a significant area of uncertainty. We agree with the recommendation made in the Environment Report Section 11.3 (Understanding, no.1) calling for an improvement in understanding of the underwater noise characteristics from seismic survey, development activities and facility operation, but would in addition add decommissioning to this list.

WWF and others do not propose areas to be excluded for licensing for the sake of it - we believe that certain sensitive areas should be excluded from licensing because of their ecological value, and the fact that the risks facing the area from exploration and development of oil and gas resources outweigh the benefits. The DTI has stated that the objective of the SEA is not to mark areas off-limits to oil and gas, but we beg to differ when this assessment is supposedly being undertaken at a strategic level considering areas of international importance for species and habitats. Continual reliance by the DTI on licence conditions and Environmental Impact Assessment (EIA) to achieve satisfactory results is disappointing.

³ Responses of species to changes in climate determine climate protection targets, Leemans and van Vliet. Avoiding Dangerous Climate Change symposium paper. Feb 2005

⁴ Our Energy Challenge: securing clean, affordable energy for the long term, Jan 2006.

⁵ Avoiding Dangerous Climate Change – Scientific Symposium on Stabilisation of Greenhouse Gases, Executive Summary of the Conference Report. Feb 2005

If there continues to be a reliance on EIA to address concerns on potential impacts on sensitive locations and species, WWF believe that a process should be developed that would help ascertain the success of this approach, i.e. a review of operational practice and impact vs. protection of sensitivities identified in EIA. The DTI is encouraged to comply with OSPAR OIC's 2005/6 Work Programme Item 17 (Case studies of reviews of EIAs) to share appropriate information on EIAs so that member states can assess the success or otherwise of relying on EIA to protect sensitivities.

The assessment of cumulative and synergistic impacts still lacks a satisfactory approach, and although can be challenging to achieve effectively, has been a consistent area of comment during stakeholder consultation opportunities. It is interesting to note that during consultations for offshore wind-farm licensing, there were similar comments from consultees regarding the approach taken during that process e.g. JNCC, BWEA, and others commenting that analysis of cumulative impacts was not comprehensive and requesting that potential effects (including cumulative impacts) from a variety of aspects be fully considered and assessed, in conjunction with impacts from all other marine and onshore users⁶ i.e. impacts on sediment processes, conservation sites, biodiversity habitats and species, and especially for marine mammals and birds. An approach focussing on assessing all impacts (in a compound fashion) on a few receptors could provide a useful process of articulating what overall impacts might be felt, especially on certain vulnerable species such as scoter or bottlenose dolphin, as touched on during discussions at the last Steering Group meeting. This should include not only the proposed oil and gas licensing, but existing oil and gas operations in the area, fishing impacts, exposure to military operations, ship strike, etc

SEA6 LOCALITY-SPECIFIC COMMENTS

The expert assessment reports generated through the SEA process provide a valuable synthesis of previously unknown or scattered scientific information, and WWF commends the DTI on providing funding for provision of such information.

- Coastlines along the SEA6 area contain vast areas of high biodiversity and conservation value, as indicated by the sheer number of locations bearing international and national protection designations including SACs, SPAs, Ramsar sites, IBAs, SSSIs/ASSIs, etc as detailed in the Conservation Report for SEA6⁷. The whole Irish Sea is of biodiversity value, but specific areas renowned for their wildlife include Cardigan Bay, Skomer and Skokholm, Strangford Lough, Carlingford Lough, the Clyde, Liverpool Bay, Llyn Peninsula, Anglesey, Ailsa Craig, etc The sheer number of designations proves what a valuable area the Irish Sea is for wildlife.
- In light of the coastal sensitivities around the Irish Sea, and poaching good practice from offshore wind licensing Round 2, we believe all coastal strips should be devoid of oil and gas licensing and development. During the offshore wind Round 2, as a consequence of the assessment and consultation process, the DTI stated that a coastal strip would be excluded from licensing - this would be of a minimum width of 8 kilometres but extending to 13 kilometres in areas of particular sensitivity⁸. This seems similarly appropriate for oil and gas licensing. Where development in near-shore areas is deemed appropriate by stakeholders, use of directional extended reach drilling from a minimal physical footprint in a non-sensitive area should be used in preference to the physical footprint of rig placement in sensitive and/or protected areas or their buffer zones.
- The two Welsh marine SACs are clearly of particular ecological importance for bottlenose dolphin and grey seal, but their designation also offers protection for a wide variety of other

⁶ R2 Offshore Wind Energy SEA Consultation Report Responses http://www.offshore-sea.org.uk/site/scripts/consultation_download_info.php?downloadID=97

⁷ SEA6 Conservation – report for the DTI, by CALM March 2005

⁸ Government Energy Renewables Policy – Round 2 rationale, available from http://www.dti.gov.uk/renewables/renew_2.1.3.3.htm

species. The diversity of cetacean species observed in the Irish Sea over many years of shore- and boat-based research have provided us with clear indications of localities favoured by the different species. The favoured habitats in these sites must be protected from unnecessary impact whilst we develop a better understanding of their significance. The Moray Firth marine SAC was designated to offer protection for bottlenose dolphin – our response to the SEA5 consultation (plus that of several other NGO's) was to request the withholding of oil and gas prospecting from that area, allowing a period during which further research could be undertaken on direct and indirect impacts from seismic survey. Unfortunately this opinion was disregarded and the DTI stated that impacts could instead be managed via license condition and EIAs. Once again, we request that the Cardigan Bay SAC area be withheld from oil and gas licensing, taking a precautionary approach, postponing licensing until targeted research allows us a better understanding of impacts. The Cardigan Bay area is relatively shallow so noise impacts would be exacerbated on any cetaceans and pinnipeds in the vicinity during seismic, piling or explosives. We acknowledge that bottlenose dolphins are a mobile species which will stray further than the boundaries of the SAC, but retaining a sacrosanct area where young can be safely reared is important to the long-term health of the small resident population in Cardigan Bay. The same could be said for the area off Bardsey Island favoured by the Risso's dolphins with its relatively defined distribution. We encourage the DTI to act in accordance with the intent of the Habitats Directive to protect these species and their habitat. If licensing were to go ahead in the Cardigan Bay marine SAC, this would be the first time oil and gas development were sanctioned in such an area, and the legitimacy of such a decision would possibly be of concern for many stakeholders.

- If seismic is to go ahead in the SEA6 area, WWF would insist that discussions with the Irish Government should be held to discuss timing and frequency so as to manage noise impacts across the median line between UK and Irish waters – this is recognising the fact that man-made boundaries hold no significance for mobile species nor noise propagation. The Irish Government is just initiating their SEA process for offshore oil and gas and we would therefore want the potential for any transboundary effects carefully managed, as is required under Article 7 of the SEA Directive. We assume consultation with the Irish Government on SEA6 has occurred, but are slightly worried that at no stage within the Noise assessment section in the Environmental Report (Section 9.4) is transboundary consultation on timings of noisy events mentioned. We believe this should be undertaken as a matter of urgency to ensure an effective temporal balance between any seismic, rig moves, underwater explosives or piling operations (or other such operations with the potential to cause cumulative transboundary impact). Added to this are impacts from military sources practising in the area – indeed the Environmental Report itself acknowledges that regarding cumulative effects “the effects of multiple noise sources, including the interaction of seismic survey and military sonar's, were identified as areas requiring better understanding”⁹. We are concerned about the potential for transboundary cumulative impacts on receptors that are already subject to quite a high ambient noise level, in a relatively closed water body such as the Irish Sea, being subjected to impacts that we as yet do not fully understand.
- The importance of grey and harbour seal haul-out sites in the majority of scenario areas in the Irish Sea indicates that strict temporal restrictions must be used when any development is allowed near these areas. To avoid detrimental impacts, their pupping, mating and moulting periods should be strictly avoided by any near-shore development if allowed. Propensity to physical disturbance and susceptibility to spills mean that potential production and shipping impacts need to be very carefully managed.
- Considering the impacts observed and documented over the last two summers, seabirds are already facing mounting pressures from climate change and food-chain disruption, along with an associated decline in numbers through breeding failures¹⁰. Although the Irish Sea area has a large

⁹ SEA6 Environmental Report, Summary p.16

¹⁰ Fears of poor seabird breeding season confirmed, RSPB press release 1st Sept 2005

number of international and national conservation designations for habitats of seabirds and coastal waterbirds, the DTI in previous assessments has not considered blocks in or near existing/future SPAs worthy of withholding from licensing – nevertheless once again we request that careful spatial licensing restrictions be applied around such sites. The proposal for an inshore SPA in Liverpool Bay due to the importance for red throated divers and common scoter (an internationally important site); the proposed Dee estuary SAC; the Dyfi estuary and Skomer; Strangford Lough; the seaward extension of coastal SPAs designated for seabird populations... these areas all provide valuable habitat for birds that are already suffering population losses. We must use the precautionary approach to prevent further impacts on these areas and species.

- The Modiolus beds surveyed during 2005 north-west of Anglesey showed interesting results. It is devastating that so many of the existing beds (Carlingford, Strangford peninsula, north and south of Isle of Man, Mull of Galloway, and NW Anglesey) have been decimated by dredging, leaving large areas that Modiolus will now never recover at¹¹ The Modiolus beds found off NW Anglesey fulfill the ‘reef’ definition under Annex I in the Habitats Directive – as summarised by Ivor Rees at the Expert Assessment Workshop, these beds offer an “oases of biodiversity and production in tide and sand scoured semi-deserts”. With the tubeworm *Sabellaria spinulosa* common on modiolus beds off north-west Anglesey this increases the importance of protection here¹². Physical damage to beds can be avoided via EIA and careful management of rig/anchor-placement, but the impact from particulates (cuttings) and discharges is a concern that must warrant careful spatial restriction on development. There should be a zero discharge practice at any development or pipeline with the potential for discharges or sediment to reach the beds - in this instance we especially agree with the Recommendation 5 as listed in Section 11.3 of the Environmental Report.
- Other potential Annex 1 habitats of conservation interest and requiring additional protection include the North West Irish Sea Mounds (bedrock and stony ground) and the Marine Derived Authigenic Carbonates (MDACs) at Texel 11 and Holden’s Reefs.
 - the JNCC are about to have sufficient data to recommend the North West Irish Sea Mounds as Annex I habitat as a proposed marine SAC (see p.98 of Conservation Report). Spatial restriction of licensing is required so that development does not impact on these areas.
 - the area around the MDACs at Texel 11 and Holden’s Reef should also be withheld from licensing at this stage, until better information is sourced on their particular structures and sensitivities. As discussed at the SEA6 Expert Assessment Workshop, the MDACs at these sites are worth protecting because of their sheer scale, and because no other comparable sites have been seen on the UK continental shelf¹³.
- One area where further knowledge is required which is not included in the Conclusions chapter is the impact of explosives for jacket deconstruction during decommissioning on cetaceans and pinnepeds. Jon Hammond (Sea Mammal Research Unit) mentioned this at the Expert Assessment workshop in Manchester in 2006, alluding especially to the curiosity of seals, but stating that “current mitigation measures are unlikely to be effective”¹⁴.
- As part of our response to the SEA5 Environmental Report, we requested that anticipated prospectivity be graphically represented, to better enable a comparison of anticipated prospectivity with sensitivity and species preference. Some form of GIS super-imposition might make this achievable by a GIS-guru, and we hope this is something that can be provided in the future.

¹¹ SEA6 Expert Assessment workshop, Manchester 2005 – discussion during Ivor Rees’s presentation

¹² Assessment of the status of horse mussel (*Modiolus modiolus*) beds in the Irish Sea off NW Anglesey, Ivor Rees, March 2005

¹³ SEA6 Expert Assessment workshop, Manchester 2005 – discussion during Louise Tizzard’s presentation

¹⁴ SEA6 Expert Assessment workshop, Manchester 2005 – discussion during Jon Hammond’s presentation

- Recognising the ‘benefit’ hailed by the socio-economic analysis, WWF believe that the limited provision of jobs from the incremental increase from the SEA6 predicted prospectivity, would be far outweighed by the risk benefit gained from tourism to what is still one of the most beautiful areas of our coastline. Tourism in an area like the Irish Sea is increasingly existing hand in hand with conservation, with a large proportion of tourists visiting the coastal area enjoying time by the sea, or even participating in the ever-increasing wonder that is wildlife-watching eco-tourism boats taking punters to enjoy marine wildlife in the wild. The beauty and remoteness of some of the coastlines around the Irish Sea allow a holiday experience memorable for all the right reasons – if some of those species and habitats are further impacted, this will detract from the experience somewhat..

OFFER & RE-OFFER OF NON SEA6 BLOCKS

Offer of previously withheld blocks

WWF specifically do not agree with the DTI’s offer of blocks 15/20c and 15/25d in the SEA2 area, included as part of the larger re-offer of areas previously undergone SEA.

The Challenger, Scotia and Scanner pockmarks all exhibit unusual biota¹⁵, being active methane-seeping structures. These areas were previously withheld from licensing due to the presence and sensitivity of these pockmarks; indeed the JNCC (in their response to the SEA2 assessment) stated they “recommend that no activities that might affect the large pockmarks in Block 15/25 be permitted, pending resolution as to whether or not the structures in these pockmarks are relevant for protection under the Habitats Directive”. As part of the UK submission of potential SAC features to the EU, the area has subsequently been offered up by the JNCC for potential SAC designation as Annex I habitat under the EU Habitats Directive.

In 2004, the DTI approached the Steering Group with information of an approach by an oil and gas company to explore in the region, and had commissioned a survey by the British Geological Survey (BGS) to investigate the origin of shallow gas in these blocks in the Outer Moray Firth area¹⁶. In response, Wildlife and Countryside Link expressed their dismay at these previously withheld blocks now being considered for licence by the DTI¹⁷. The DTI is now formalising their intention to offer these blocks by inclusion of such intention within the Environmental Report. Knowing how contentious this offer would be, it is noted with interest that information regarding the offer of these blocks is only mentioned in one small paragraph in the Discussion section (10.4), and not in the previous sections (10.2 Summary of SEA areas and relevant new information, and 10.4 Perspectives on prospectivity, scenarios and activity) or Non-technical Summary.

WWF feels that the new information generated by the BGS investigation, although a welcome contribution to the understanding of these features, does not provide adequate information to address the potential risks from allowing oil and gas development in these pockmark areas. The pathways linking the gas-charged sediments to the pockmarks are still not fully understood, and any oil and gas development activity in that area has the potential to cause structural or smothering damage to the sediments, pathways and/or pockmarks. We therefore disagree with the offer of these blocks, and encourage the DTI to reconsider their intention.

Drafted by Louise Johnson on behalf of WWF-UK

¹⁵ JUDD, A G. 2001. Pockmarks in the UK sector of the North Sea. UK Department of Trade and Industry Strategic Environmental Assessment Technical Report, TR_002.

¹⁶ Homles and Stoker, British Geological Survey “Investigation of the origin of shallow gas in Outer Moray Firth open blocks 15/20c and 15/25d”, Report to the DTI No.GC04/22 (Feb 2005).

¹⁷ Letter to DTI (Kevin O’Carroll) from Wildlife and Countryside Link (Joan Edwards), dated 13th May 2005.

RESPONSE TO DTI CONSULTATION

Environmental Report – Strategic Environmental Assessment (SEA) of Draft Plan for a 24th Seaward Round of Offshore Oil and Gas Licensing – October 2005

The Environment Agency welcomes the preparation of the Environmental Report for the SEA of the Draft Licensing Round Plan, and is pleased for the opportunity to comment. Our issues relate to aspects of the SEA process as well as to some of the conclusions reached, as described in individual sections below.

Baseline conditions and key sensitivities

With regard to ecological sensitivities, please note the following:

1. The UK has not yet fully identified or designated offshore marine sites for habitats and species of national and international conservation importance. Without these designations in place, the DTI will need to take extra care not to license oil & gas activities that could have an adverse affect, either individually or in combination with other activities, on marine habitats and species with potential for designation. Provision also needs to be made to incorporate areas of importance highlighted by DEFRA's Review of Marine Nature Conservation.
2. The DTI as the Competent Authority under the Habitats Regulations for oil & gas must ensure that an Appropriate Assessment is undertaken for all oil & gas activities that may have a significant effect on sites protected by the Habitats Directive, as identified in SEA6. If it is found that an oil and gas development is likely to have an adverse effect on sites or species, the development may not be permitted.
3. As highlighted in the SEA6, a number of sites are being considered as potential offshore Special Protection Areas (for birds). If the sites were to be so designated, Appropriate Assessments would again be required for permitting of existing and new hydrocarbon developments and associated activities in the area.
4. The results of the Irish Sea Pilot Project have identified the Marine Landscapes present in the SEA6 area. These appear to not be included within the supporting documentation.
5. In light of the fact that a range of offshore areas may be proposed as potential conservation sites, and that the principles of marine landscapes (identified by the Irish Sea Pilot) have not been included within this SEA,

we would wish to ensure that, for those areas to be considered for licensing, options are maintained for spatial and/or temporal controls as required.

6. The Conservation Regional overview Table 7.5 “SACs *along the coast of north west England*” includes the River Dee and Bala Lake for salmon, but fails to include the River Derwent & Bassenthwaite Lake SAC and the River Eden & Tributaries SAC. Both include salmon, sea lamprey and river lamprey as qualifying features. Table 7.5 needs to be amended to include these two sites, as the SACs may be relevant to proposals. Species conservation within the SEA 6 area fails to mention salmon, sea or river lamprey.
7. We would wish to ensure that the requirements of fish migration (salmon, sea trout and eels) are catered for at the time of both the exploration and production programmes adjacent to the mouths of the important rivers on the Cumbrian coast; and that similar work in the bays detailed above takes this requirement into account.
8. Given the points above, we disagree with the SEA conclusion that, “subject to regulatory controls outlined, there are no areas within the SEA 6 scope which should be excluded from licensing, and no general timing constraints which can be justified”.

Potential Fisheries Issues and Impacts

9. The fisheries issues expected on the West Coast will be very similar to those which apply on the East coast, where exploration has already been carried out. Namely, the issues most of concern from a migratory fish standpoint relate to undersea noise and disturbance and discharges and spillages.
10. The issues will of course become more significant as the coast is approached in general and the mouths of the migratory rivers are neared. The coastal blocks lying between the Solway 'bay' and Morecambe Bay 'bay' contain a number of significant salmon and sea trout rivers with virtually no estuaries. Potential fisheries impacts in these areas would be a special concern.
11. The Solway Firth, Morecambe Bay the Ribble Estuary and the Dee/Mersey 'bay' themselves are areas through which significant numbers of migratory fish need to pass successfully. The latter, in relation to the Mersey, is not currently of the same stature as the other areas but it is anticipated that its significance will progressively increase. Again, the fisheries importance would need to be considered.
12. Concerns exist within our National Salmonid centre about potential risks to migratory fish homing mechanisms arising from major engineering works at sea. The potential for such impacts would need to be explored on a development specific basis.

Other Plans and Programmes

13. Please note the following additional plans and programmes for consideration in your review:
14. The State of the Seas Report was published by Defra in March 2005. It indicates the UK's progress towards delivering our vision for the marine environment, how far we still have to go and the kinds of challenges and threats that the marine environment faces. Its inclusion in the review is recommended.
15. The Government's vision for clean, safe, healthy, productive and biologically diverse oceans and seas is outlined in the first [Marine Stewardship Report "Safeguarding our Seas"](#), published in May 2002, and prepared jointly by Defra, the Scottish Executive, the Welsh Assembly Government and the devolved administration in Northern Ireland. Again, consideration of relevant points within the report is recommended.
16. The Marine Bill, currently being drafted, will introduce a better system for managing marine resources, so as to simplify the development consent process, while ensuring that potential conflicts between uses of the sea and sustainability objectives are managed. The draft Marine Bill will be published in 2006. Depending on timing, it may be possible to consider some of the key aspects of the Bill in the SEA process.
17. Any licensing arrangements off the Welsh coastline will need to be consistent with the land use aspects of the Wales Spatial Plan (WSP), adopted by the National Assembly for Wales in November 2004; and with the implementation programmes being developed across each of the six areas of Wales.
18. Any licensing arrangements should also take account of the emerging proposals for marine spatial planning in England, including the Liverpool Bay pilot project.

SEA Objectives

19. Objectives are a driving force of the SEA approach, as emphasised in ODPM guidance¹. An over-riding objective is provided for SEA6, namely "to facilitate exploration and production of UK offshore hydrocarbon resources without compromising the diversity, ecosystem functioning and the interest of nature and heritage conservation, and other users of the sea" (Section 2.2). A number of monitoring objectives are also identified and highlighted in Section 9.15 of the Environmental Report. However, it is unclear whether a standard set of objectives was used to shape and direct the SEA; and whether the proposed development scenarios were compared against these. There is no evidence that the objectives

¹ ODPM, September 2005: A Practical Guide to Strategic Environmental Assessment

identified in the monitoring section of the report were used in the SEA. Clarity on this issue is required.

20. There is evidence of consideration of a range of effects, as required by the directive, in Section 9.3, but these are not objectives. This is more akin to the EIA approach to environmental assessment.

Alternatives

21. The SEA Directive requires the review of “realistic alternatives”. SEA6 looks at three specific situations, namely (Section 4.2):

- (i) not to offer any blocks for Production Licence award;
- (ii) to proceed with the licensing programme as proposed;
- (iii) To restrict the area licensed temporally or spatially.

22. More detail and sub-options could have been reviewed, in particular with reference to Alternative (iii), eg:

- (i) To bar from the area licensed the blocks considered of greatest environmental sensitivity, in particular along coastal areas (Cardigan Bay, Eastern Irish Sea)
- (ii) To reduce the size of the 24th Licensing Round
- (iii) To permit a longer-term development scenario, hence less likelihood for short-term impacts or disturbance over a wide area

23. No significant discussion of the relative impacts of different alternatives is provided, or which alternative would be most effective in achieving environmental objectives set out in the SEA. The value of reviewing other alternatives should be considered. A more formal comparison of development options would have been helpful. Other potential alternatives could have been suggested.

General

24. The SEA6 does not refer to the shift in emphasis in marine nature conservation outlined in the DEFRA review of Marine Nature Conservation July 2004, namely from focusing on the protection of specific species and habitats to one focusing instead on an ecosystem approach. Such a shift requires us to better integrate marine conservation with sustainable social goals and economic growth, and address our objectives for marine nature conservation alongside the full range of human activities and demands that we place on the marine environment. It places emphasis on a management regime that maintains the health of ecosystems alongside appropriate human use of the marine environment. Better consideration of such a management regime would be welcome within the SEA6.

FURTHER INFORMATION

Further information on this consultation response can be obtained from Lucia Susani, Environmental Assessment Policy and Process Manager, Tel 0118 953 5457, Kings Meadow House, Kings Meadow Road, Reading RG1 8DQ or by e-mail: lucia.susani@environment-agency.gov.uk

February 2005



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31st January 2006

Dear Kevin,

6th Strategic Environmental Assessment of the plan for the 24th round of offshore oil and gas licensing, in the Irish Sea.

The organisations listed below are supportive of the SEA process and believe that it has the potential to be a positive tool in integrating environmental considerations into offshore oil and gas licensing plans. We will be responding individually to the consultation to take into account the individual areas of concern within our organisations.

We continue to be concerned that the existing SEA process is unable to ensure effective environmental protection, and feel it needs improvement. Some of the issues we highlight, such as data gaps will in part be helped by Marine Spatial Planning. However, there are several parts of the existing SEA approach that are of concern to the signatory NGOs.

- Data gaps & the Precautionary Approach 1: considerable data gaps are identified both in the SEA and in our individual responses; in many areas information is not currently available to allow us to make confident and informed decisions. Where this is the case a precautionary approach needs to be taken, as enshrined in EU environmental legislation. We are concerned that there is insufficient evidence of the potential risks presented by oil and gas activities in certain areas, such that the SEA cannot confidently refute the need for additional controls to protect sensitive receptors. This weakens the overall conclusions of the SEA report.
- Data gaps, the Habitats Directive & the Precautionary Approach 2: While the DTI is funding many important surveys for the SEAs there are still some

significant data gaps, that have been identified during this and previous SEAs, which there does not appear to be any co-ordinated, transparent attempt to fill. Meanwhile, licensing is proposed to continue despite the lack of information. We believe that some of these gaps in our knowledge, such as the habitat requirements of certain cetacean populations, are so significant that an SEA should not be considered complete without them. In fact, we are so concerned about these data gaps that, following the precautionary approach, we question whether licensing in some areas of the sea should even go ahead until headway is made in filling them. Under the Habitats Directive action must be taken to ensure the favourable conservation status of populations of some cetaceans outside designated SACs as well as within them, yet without adequate data this is not possible. Once a better understanding is achieved, more informed decisions will be possible on how to effectively integrate environmental considerations into licensing plans.

- **Protected Areas, the Habitats Directive and the Precautionary Approach:** We are concerned that SEA 6 fails to adopt a precautionary approach in considering licensing designated and/or potential Natura 2000 sites. Inclusion in the licensing round of all SACs and SPAs indicates to industry that obligations to protect Natura 2000 sites have limited meaning in practice. Nor does it take into account the implications for the licensing round of the recent ECJ judgment against the UK Government in respect of the need for appropriate assessment of sectoral plans where these have considerable influence on development decisions. Because these plans have 'significant influence' over project consenting, they must now be subject to a 'strategic' appropriate assessment where they are likely to have a significant effect on SPAs / SACs (including potential sites). It also does not take into account existing SAC conservation objectives and management plans or assess how licensing may impact upon these. In addition, we do not agree that license conditions can be assumed sufficient to protect such areas or to enable their conservation objectives to be met. In line with the precautionary approach, as discussed above, those SACs and SPAs or those areas known to be important for habitats and species which are particularly vulnerable to oil and gas impacts, should be identified through the SEA process and excluded from licensing. Such exclusion should also include a sufficient buffer zone to ensure full site protection. One example of such a site is Cardigan Bay SAC that is designated for Bottlenose dolphin. We feel that given the known and potential impacts of seismic testing, piling, drilling and contaminants from oil & gas that such a site should be excluded from the 24th Round. While we acknowledge that directional drilling could prevent many impacts, we do not see sufficient commitment to such an approach in the SEA to confirm this.
- **Previously excluded blocks:** We are concerned that blocks that were excluded from licensing for their conservation interest through earlier SEAs are subsequently being considered for possible licensing (refer to the letter from Wildlife and Countryside Link to DTI dated 13th May 2005). We believe that unless there can be shown to be highly significant changes to either the

conservation status of the blocks, or to exploration/exploitation technology, then such blocks should remain excluded from future licensing rounds.

We remain committed to the SEA process but are concerned that there are significant flaws in the current approach such that wildlife populations could be adversely affected by licensing decisions, and breaches in EU legislation may occur if the process is not improved.

Yours,

on behalf of:

Whale and Dolphin Conservation Society
RSPB
Marine Conservation Society
WWF-UK
National Trust for Scotland

Cc:

Christine Rumble, Department of Environment Food and Rural Affairs
Wendy Twell, Welsh Assembly Government
Rose Iles, Welsh Assembly Government
Neal Rafferty, Scottish Executive
Zoe Crutchfield, Joint Nature Conservation Committee
Steve Benn, English Nature
Sarah Wood, Countryside Council for Wales
John Baxter, Scottish Natural Heritage
George Lees, Scottish Natural Heritage
Rosemary Bradley, Environment & Heritage Service Northern Island