
From:
Sent: 05 September 2014 13:08
To:
Cc:
Subject: Habitats Regulations Assessment of the Offshore Oil and Gas Licensing 28th Seaward Round: Habitats Regulations Assessment Stage 1 – Block and Site Screenings
Attachments: habitat Regulations Assessment letter 5 Sept 2014-1.pdf

To Whom it may concern

Please find attached Natural Resources Wales' response to the consultation on **Habitats Regulations Assessment of the Offshore Oil and Gas Licensing 28th Seaward Round: Habitats Regulations Assessment Stage 1 – Block and Site Screenings**

Regards

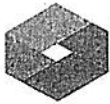
for

Natural Resources Wales, Cantref Court, Brecon Road, Abergavenny, NP7 7AX

Ein diben yw sicrhau bod adnoddau naturiol Cymru yn cael eu cynnal, eu gwella a'u defnyddio yn gynaliadwy, yn awr ac yn y dyfodol.

Our purpose is to ensure that the natural resources of Wales are sustainably maintained, enhanced and used, now and in the future.

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Ein cyf/Our ref:
Eich cyf/Your ref:

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Ebost/Email:

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By Email

5th September 2014

Dear

**Habitats Regulations Assessment of the Offshore Oil and Gas Licensing 28th
Seaward Round: Habitats Regulations Assessment Stage 1 – Block and Site
Screenings**

Natural Resources Wales (NRW) brings together the functions of the Countryside Council for Wales, Environment Agency Wales and Forestry Commission Wales, as well as some functions of Welsh Government. Our purpose is to ensure that the environment and natural resources of Wales are sustainably maintained, used and enhanced, now and in the future.

Thank you for consulting the Natural Resources Body for Wales (Natural Resources Wales) on the above document. NRW's comments are made in the context of our role as Statutory Nature Conservation Body under the Conservation of Habitats and Species Regulations 2010 (as amended) as further amended by paragraph 189 of the Natural Resources Body for Wales (Functions) Order 2013, and as advisers to the Welsh Government on matters pertaining to the natural heritage of Wales and its coastal waters.

Our comments are focused on the **Eastern Irish Sea (Blocks 103/2, 103/3, 106/14, 106/15, 106/19, 106/20, 106/22, 106/23, 106/24, 106/26, 106/27, 106/28, 106/29, 107/11, 107/16, 110/12b, 110/13c, 110/13e, 110/14b, 110/15b, 110/17, 110/18b, 113/29b, 113/28b)** as these blocks are in closest proximity to Welsh Territorial Waters (WTW) and, in our view, present the greatest potential risk to features of Welsh Natura 2000 sites. Please be advised, however, of the need for all plans or projects to take account of impacts in Welsh waters wherever they are and that this is particularly relevant in the context of mobile species. The Competent Authority (CA), which is DECC in this case, is advised to refer to advice from the other SNCBs for advice on sites outside of WTW.

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NRW agrees with and welcomes the conclusion that all of the above blocks will be taken forward to the next stage of the HRA, stage 2 – Appropriate Assessment (AA), and would be pleased to provide any additional information and advice to DECC during this process. In particular, we note that whilst the report details the blocks that will be taken forward to AA, there is only a very high level screening of Natura 2000 sites with no screening of interest features or consideration of conservation objectives. We therefore recommend that DECC consults NRW on any further screening or scoping for this assessment in addition to the draft AA, prior to public consultation, so that we can advise on this. In the meantime, we recommend that DECC refers to the advice on sources of information for the AA outlined in section 2 of this letter.

The advice outlined in this response should be read in conjunction with that provided by the other UK SNCBs to this and previous licensing round HRA reports, NRW's response to the 27th Round (attached as Annex 1 of this letter) and CCW's 'Guidance for plan making authorities in Wales'.¹

Our advice on the Stage 1 report is detailed below in section 1 followed by further comments in section 2 onwards to help inform further screening of Natura 2000 sites and features and any appropriate assessment that may be undertaken..

1. Comments on the Report

1.1 NRW welcomes the inclusion of 12nm line on figures to aid visualisation of which blocks are within WTW

1.2 Pg 11 – Relevant Natura 2000 sites: As you are probably aware, NRW and the other UK SNCBs are currently awaiting the conclusion of research commissioned by the JNCC on harbour porpoise distribution and abundance. This work will determine whether it is possible to identify areas of persistent high density for harbour porpoise in UK waters that in turn, could assist in the identification of SACs for the species. This programme of work is unlikely to conclude within the timeframe of the HRA, such that DECC cannot reasonably be expected to take account of it within their AA. However, we would suggest that a robust assessment of the potential effects of the 28th Round on harbour porpoise populations, together with measures to mitigate potential adverse effects as far as possible, would help minimise the risk of difficulties at a project level, should harbour porpoise SACs be identified in UK waters.

1.3 The CA should also be aware that NRW carried out a public consultation between January and April 2014 on marine extensions to three existing coastal SPAs: Glannau Aberdaron ac Ynys Enlli/ Aberdaron Coast and Bardsey Island SPA, Grassholm SPA and Skokholm & Skomer SPA. A report and final

¹ Tyldesley D (2012). Draft Guidance for Plan Making Authorities in Wales: The Appraisal of Plans under the Habitats Regulations for Countryside Council for Wales, CCW, Bangor: <http://www.ccqc.gov.uk/landscape-wildlife/managing-land-and-sea/environmental-assessment/doc.ashx?docid=eb91db10-e72d-4b7b-a704-d5c24113896c&version=-1>



recommendations have been sent to Welsh Government in relation to these three sites and currently we await the Ministers' decision. Welsh Ministers will consider our report and the responses received and take this information into account in deciding whether to make the proposed changes to the SPAs. In addition, in making their decision, the Welsh Ministers will comply with the Birds Directive, and also take into consideration the rulings of the European Court of Justice on how EU member states should apply the Birds Directive. NRW will then write to stakeholders to inform them of the Ministers' decision.

- 1.4 Figures 3.1 and 3.2 / Appendix A: Given the tight timetable for the consultation on the HRA Stage 1 Block Screening Report, we have not comprehensively cross-referenced all Welsh sites and features in Appendix A. Ramsar Information Sheets and SAC and SPA Natura 2000 Standard Data forms (in conjunction with the 2001 Review of the Birds Directive²), which are all available to download from the Joint Nature Conservation Committee's (JNCC) website, provide the definitive information on site features which should be used to inform the AA. We would also request that the AA is clear about those sites and features that are within its scope, to avoid possible confusion.
- 1.5 Pg 17 – High level controls identified for potential sources of effect: The inclusion of “European Protected Species (EPS) disturbance licences issued under the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007” in the list of high level controls for acoustic disturbance needs to be expanded upon to explain that whilst the issuing of such a licence does not in itself constitute mitigation, the process of applying for / assessing an application for an EPS disturbance licence does provide an opportunity for an assessment of whether an activity will be detrimental to the maintenance of the populations of the species concerned at a Favourable Conservation Status (FCS) in their natural range. If this is the case then an EPS disturbance licence cannot be issued. Also, the section outlining the use of PAMs in the list of mitigation measures for acoustic disturbance should refer to MMOs in accordance with JNCC guidelines³ for minimising the risk of disturbance and injury to marine mammals from seismic surveys, which require MMOs for seismic surveys during daylight hours and at sea states that are appropriate for visual assessments.
- 1.6 Pg 20 – NRW welcomes the inclusion of the section on the potential risks of seal corkscrew injuries posed by vessels with ducted propellers and reference to the current JNCC advice on this issue. We also advise that, particularly for grey seal, the use of defined commuting corridors for vessel traffic and maintaining a maximum distance at low speeds in the proximity of known seal haul-outs, could be included as potential mitigation and avoidance measures.
- 1.7 Section 4 – Screening Assessment Process: NRW advise that the screening assessment process outlined in this section of the report does not adequately address the issue (raised by NRW and the other UK SNCBs in our responses to

² UK SPA Birds Directive Review: http://jncc.defra.gov.uk/PDF/UKSPAVol_3.pdf

³ http://jncc.defra.gov.uk/pdf/JNCC_Guidelines_Seismic%20Guidelines_Aug%202010.pdf
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the 27th Round HRA) of mobile species that commute outside the boundaries of designated sites and the vulnerability of these species to impacts arising from licensing activities. Consideration should be given to the use of the Eastern Irish Sea blocks offered in the 28th Round by mobile SAC and SPA features including marine mammals and seabirds with large foraging ranges.

- 1.8 For marine mammal features, NRW advise that rather than using the buffer zones, as detailed in the HRA Stage 1 Block Screening report, both the Marine Mammal Management Units (MMMU's) as proposed by the UK Inter-Agency Marine Mammal Working Group⁴ and current understanding of connectivity issues should be used to inform the HRA screening process for marine mammals. We consider that the Management Units provide for a more robust approach to screening, taking account of the wide ranging nature of species and their connectivity with different areas. For the 'grey seal' feature of Welsh SACs, the relevant Management Unit is South and West England and Wales, while for 'bottlenose dolphin' the relevant Management Units are the Irish Sea and the Channel and South West England.
- 1.9 In our response to the previous (27th) licensing round, NRW referred to the development of a process of assessing the population consequences of disturbance (PCoD) for marine mammals, based largely on models which have been developed for bottlenose dolphin and harbour seal in the Moray Firth. The PCoD project, which was funded by The Crown Estate, DECC, Marine Scotland and the SNCAs, was initiated at a workshop hosted by CCW, NERC and JNCC in March 2012, primarily driven by the need to assess the consequences of multiple sources of disturbance (e.g. through piling and increased vessel use) on mammal populations around the UK due to the burgeoning offshore renewables sector. The interim framework, which draws largely on expert judgement to assess the levels of disturbance that mammal populations can sustain before their viability and conservation status are impacted, through effects on survival rate, growth rate, reproductive rate, has now been published⁵. The interim PCoD framework may also help to better understand the population consequences of multiple seismic activities, and might therefore be applicable to issues surrounding oil and gas exploration and development. We note that DECC have part-funded the development of the interim PCoD framework and so may wish to utilise this approach to inform the AA for the 28th Round.
- 1.10 For SPAs we recommend the use of the mean/max foraging radii detailed in Thaxter et al (2012)⁶ and consider that this provides for a robust approach to screening wide ranging seabird species during the breeding season into the AA. We consider that in order to take a robust approach to the assessment of

⁴ Anon. (2013). Management units for marine mammals in UK waters. Report of Interagency Marine Mammal Working Group established by UK Statutory Nature Conservation Agencies Chief Scientist Group.

⁵ <http://www.scotland.gov.uk/Publications/2014/02/8509>

⁶ Thaxter, C.B., Lascelles, B., Sugar, K., Cook, A.S.C.P., Roos, S., Bolton, M., Langston, R.H.W. & Burton, N.H.K. 2012. Seabird Foraging Ranges as a Preliminary Tool for Identifying Candidate Marine Protected Areas. *Biological Conservation* **156**: 53-61.



possible impacts on bird species, the HRA needs to take account of the possible impact on breeding seabird features outside of the breeding season, when they are not necessarily centrally placed foragers. We appreciate that this is a difficult issue to incorporate into the HRA given the uncertainty about areas utilised by SPA breeding seabird features during the non-breeding winter months. In February 2013 a briefing note⁷ was produced by JNCC and Natural England to help developers and regulators deal with this issue in relation to offshore wind, which may provide some useful guidance to inform how this issue might be incorporated in the 28th Round HRA. NRW can provide a copy of this briefing note on request, if necessary.

- 1.11 Annex 1 habitats outside SACs: In addition to assessing the possible effect of the 28th Round on European and international sites, we would advise that DECC should also consider, as far as is reasonably possible, impacts on Habitats Directive Annex I habitats outside of protected sites, to ensure compliance with Article 10 of the Directive⁸. NRW considers that the aim of the Habitats Directive to achieve FCS of Annex I habitats appears, through Article 10, to relate to the entire resource of a habitat type, at least in terms of extent, rather than applying only to the occurrence within the SAC network. We therefore consider that the impacts of development or activities associated with the 28th Round on undesignated Annex I habitat outside SACs should be assessed and adverse effects minimised or mitigated as far as possible. NRW would welcome further discussion with DECC on this issue.

2. Information to inform further screening and Stage 2 – Appropriate Assessment

2.1 Conservation Objectives for Welsh sites are provided within site 'Core Management Plans' and, in the case of European Marine Sites, within CCW's 'Regulation 35' advice documents. These can all be downloaded from the Countryside Council for Wales' website, which remains active at the time of writing, using the designated sites search facility⁹.

2.2 It is important that the AA also takes account of the condition and conservation status of features of European and international sites, as far as current evidence and information allow. Details of the conservation status of the relevant habitats and species within the UK during 2007-2013, as reported to the European

⁷ Natural England & JNCC (2012), Presenting information to inform assessment of the potential magnitude and consequences of displacement of seabirds in relation of Offshore Windfarm Developments.

⁸ Article 10 of the Habitats Directive states that... 'Member States shall endeavour, where they consider it necessary, in their land-use planning and development policies and, in particular, with a view to improving the ecological coherence of the Natura 2000 network, to encourage the management of features... which are of major importance for wild fauna and flora'. For sites to be ecologically 'coherent' they need to have links outside their designated area, in order to ensure that Annex I habitats and Annex II species can be maintained in favourable conservation status in the long term.

⁹ <http://www.ccw.gov.uk/landscape-wildlife/protecting-our-landscape/designated-sites-search.aspx>



Commission are available on JNCC's website¹⁰ Documentation at the country level was produced to support UK level reporting and should be available on request from JNCC. Information on the condition and conservation status of features at a Welsh site level is not currently available in a collated format that can easily be shared with DECC, with the exception of bird features (see paragraph 2.4 below). We would welcome further discussion on how DECC might take feature condition and conservation status into account in the AA for the 28th Round

- 2.3 NRW holds a number of datasets pertaining to natural heritage interests that might assist DECC with the AA. An overview of these datasets is provided in Smith *et al* (2011)¹¹.
- 2.4 Welsh seabird data: We would draw your attention to the availability of a European Seabirds at Sea / Wildfowl and Wetlands Trust aerial data combined dataset for seabirds in Welsh waters which may provide useful evidence to inform the development of the HRA. Further details on this dataset, which is available on request from NRW, are also provided in Smith *et al* (2011).
- 2.5 The most comprehensive and up to date information on colony counts for Special Protection Area features is available via JNCC's online Seabird Monitoring Plan (SMP) database¹². If information on specific features which have been scoped into the AA is not available on the SMP website, NRW will be happy to provide further clarification.
- 2.6 Welsh marine mammal data: In 2012 CCW published an Atlas of the distribution of marine mammals in Welsh and adjacent waters¹³. This provides information about mammal distribution that should be of assistance in the next stages of assessment as far as they relate to Welsh waters.
- 2.7 NRW recommend that DECC refers to the work undertaken as part of the EIA and HRA for the Burbo Bank Offshore Windfarm Extension to inform the assessment of the potential implications of the 28th Round on patterns of adult Atlantic salmon migration back into the River Dee and Bala Lake SAC and Dee Estuary SAC¹⁴.

¹⁰ JNCC information on the condition and conservation status of Habitats Directive habitat and species: <http://jncc.defra.gov.uk/page-4060>

¹¹ Smith K, Briggs J, Hamer J, Hill A and Walker P (2011). Natural heritage evidence to support strategic planning for marine renewable energy. CCW Policy Research Report No. 11/3. Available to download at: <http://www.ccw.gov.uk/landscape--wildlife/managing-land-and-sea/marinepolicies/planning--management/marine-renewable-energy.aspx?lang=en>

¹² JNCC's online Seabird Monitoring Plan (SMP) database: <http://jncc.defra.gov.uk/smp/>

¹³ CCW Marine Mammal Atlas: <http://www.ccw.gov.uk/landscape--wildlife/managing-land-and-sea/marine-mammalatlus.aspx?lang=en>

¹⁴ <http://infrastructure.planningportal.gov.uk/wp-content/ipc/uploads/projects/EN010026/2.%20Post-Submission/Application%20Documents/Environmental%20Statement/5.1.5.13%20Fish%20and%20Shellfish%20Ecology.pdf>



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If you have any questions regarding this response please contact our Marine
Industries Advisor, [redacted] in the first instance at
[redacted] or [redacted]

Yn gywir / Yours faithfully

cc. [redacted]



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Annex 1.

**NRW response to Offshore Oil & Gas Licensing 27th Seaward Round:
Public Consultation on Draft Appropriate Assessments, 19th April 2013**



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19th April 2013

By email only

Dear Sir / Madam,

**Offshore Oil & Gas Licensing 27th Seaward Round: Public Consultation on Draft
Appropriate Assessments**

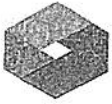
Many thanks for your e-mail dated 18th March 2013, inviting the Countryside Council for Wales (CCW) to participate in the above consultation.

From 1 April 2013 Natural Resources Wales brought together the work of the Countryside Council for Wales, Environment Agency Wales and Forestry Commission Wales, as well as some functions of Welsh Government. Our purpose is to ensure that the natural resources of Wales are sustainably maintained, enhanced and used, now and in the future.

Our comments are focused on the draft Appropriate Assessment (AA) for the **Eastern Irish Sea (Blocks 110/4b, 110/5, 110/9c, 110/10, 113/22 & 113/27d)** as these blocks are in closest proximity to Welsh Territorial Waters (WTW) and, in our view, present the greatest potential risk to features of Welsh Natura 2000 sites. Please be advised, however, of the need for all plans or projects to take account of impacts in Welsh waters wherever they are and that this is particularly relevant in the context of mobile species. The Competent Authority (CA) is advised to refer to advice from the other SNCBs for advice on sites outside of WTW.

Summary of NRW Response

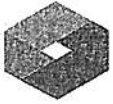
Based on the information set out in the draft AA, NRW is unable to agree with the overall conclusion of no adverse effect on site integrity (NAEOSI). We set out the reasons why we are unable to agree with the conclusions of the assessment in the following paragraphs and have provided more detailed comments that expand on this advice in Annex 1. We also refer the CA to the joint SNCB response to the Block Screening report for this licensing round (4th September 2012), which CCW contributed to.



1. **The draft AA currently lacks sufficient consideration of potential effects on mobile species site features out with their SPA / SAC:** thereby leading to lack of consideration of a number of species features of Welsh Natura sites e.g. cetaceans from Cardigan Bay, seals from Cardigan Bay, Pen Llyn a'r Sarnau and Pembrokeshire Marine SACs and birds from Skomer, Skokholm, Glannau Aberdaron, Ynys Enlli and Grassholm SPAs. The draft AA states that "*Natura 2000 sites to be considered in this assessment were identified based on their location in relation to the 6 Blocks, or part – Blocks which are the subject of licence applications and in terms of the foreseeable possibility of interactions*". As the SNCBs highlighted in our joint response to the Block Screening for this Round (4th September 2012) there is a need for the potential connectivity between Natura sites and proposed licensing areas to be addressed in future stages of the HRA. The SNCBs further advised that tests of likely significant effect (LSE) should not be based exclusively on the location of sites in relation to Blocks due to the large distances some mobile species are known to commute outside the boundaries of designated sites. NRW would urge the CA to provide more information as to how tests of LSE resulted in the Welsh sites listed above being screened out of the draft AA, if indeed location was not the only consideration.

2. **The draft AA currently contains insufficient evidence to support the assessment of the potential risk of adverse effect on site integrity (AEOSI) from oil spills:** much emphasis is placed on the Eastern Irish Sea being a 'gas province' and that therefore the risk is limited to diesel spills. However, no supporting evidence is provided. According to the most recent OPEP for the Liverpool Bay installations operated by BHP Billiton (March 2013) "all Liverpool Bay installations produce some liquid hydrocarbons as well as gas" and two of the production wells in the Douglas field that are currently producing oil have the potential to free-flow even if the installed electrical submersible pumps (ESP) were switched off. The AA should address this issue either by providing evidence that any activity in the blocks to be licensed in the 27th Round will be restricted to gas extraction or by considering the potential impact of crude oil spills on the relevant Natura sites, which should include sites along the North Wales coast.

3. **The draft AA currently contains insufficient detail on the consideration of potential in-combination effects:** particularly in terms of acoustic disturbance from offshore wind farms and other marine renewable developments, as well as impacts due to fishing, dredging and shipping activities. Whilst it may not be possible to consider cumulative effects in any detail, e.g. because the location and / or timing of development is not known, the HRA must be able to demonstrate that cumulative effects have been considered adequately. Furthermore, before the plan level HRA can conclude NAEOSI, any mitigations that the plan level HRA relies on must be clearly identified. It is NRW's view that, given the scale of increasing activity in the Eastern Irish Sea, there is considerable potential for effects from activities such as offshore wind farm development and oil and gas exploration / extraction to act in combination and that the AA should consider this in much more detail than is currently presented.



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There should also be a more thorough examination of appropriate high level mitigation measures such as a more strategic approach to the phasing or timing of all marine energy development projects through the developing marine planning system so that possible effects can be adequately managed over time.

NRW (previously CCW) were not involved in the preparation of the draft AA, therefore this public consultation has been our first opportunity to comment on the document. NRW believe that all the points outlined in this letter and the accompanying Annex could have been addressed prior to this public consultation if we had been consulted by the CA on the further screening and scoping of the draft AA, following the Block Screening assessment in 2012, and if our 'Guidance for plan making authorities in Wales: 'The appraisal of plans under the Habitats Directive' (2012) had been referred to from the outset.

If you have any questions regarding this response please don't hesitate to contact Dr [redacted] or [redacted] in the first instance

Yours Sincerely

cc.



Annex 1. Offshore Oil & Gas Licensing 27th Seaward Round: Public Consultation on Draft Appropriate Assessments

Detailed Comments

Section 3 Relevant Natura 2000 Sites (pages 8 – 16)

1. As previously stated (in the Joint SNCA response to the HRA Block Screening Report for this licensing round, dated 4th September 2012) consideration should be given to the use of the proposed licence areas by mobile SPA and SAC features that commute outside the boundaries of designated sites and the vulnerability of these species to impacts arising from licensing activities. The Draft Eastern Irish Sea AA does not adequately address the potential connectivity between a number of the mobile species features of Welsh Natura sites and the proposed licence areas. NRW therefore wish to take this opportunity to reiterate the above advice particularly with respect to the marine mammal and bird features of Welsh SACs and SPAs (see paragraphs 2 and 3 below).
2. Outside of the breeding season, grey seal distribution is widespread and significant non-breeding haul-outs for grey seal occur around the coast of Anglesey, the Dee Estuary and West Hoyle sandbank. Telemetry studies suggest that there may be some degree of connectivity between grey seal populations from the Pen Llyn a'r Sarnau, Cardigan Bay and Pembrokeshire Marine SACs and these non-breeding haul outs. NRW therefore advise that the AA should consider this issue. Similarly, there have been sightings of bottlenose dolphins in Liverpool Bay, with matches to the Cardigan Bay SAC population. NRW recommends that DECC refers to the following sources of information in any assessment of likely effects on marine mammals in the Eastern Irish Sea:
 - Baines, M.E. and Evans, P.G.H. (2012). *Atlas of the Marine Mammals of Wales*. CCW Monitoring Report No. 68. 2nd edition. 139pp.
 - Evans P.G.H. (2012). *Recommended Management Units for Marine Mammals in Welsh Waters*. CCW Policy Research Report No. 12/1. 69pp.
 - UK Statutory Nature Conservation Bodies paper on proposed Management Units (MU) for mammals in UK waters. This paper was endorsed by the UK Chief Scientists Group in January 2013. Once finalised, these MU will define the spatial scale at which impacts on the main species of mammals occurring in UK waters should be considered and assessed. The final outputs from the JNCC led Joint Cetacean Protocol (JCP), which are expected to be released in April / May 2013, will be used to provide population and density estimates for each of the MU. Once these MU become available, we would strongly encourage their use to inform the assessment of impact on marine mammals both at the plan and project level.



3. The AA has also omitted a number of Welsh SPA's which have the potential to interact with the proposed licensing area. For example Manx shearwaters from the following SPAs may use this area of the Eastern Irish Sea for foraging: Skomer, Skokholm, Glannau Aberdaron and Ynys Enlli SPA as well as Gannets from Grassholm SPA.

Section 4 Assessment of the effects of the plan on site integrity (pages 17 – 24)

4. Page 23, Table 4.3. The inclusion of "European Protected Species (EPS) disturbance licences issued under the *Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007*" in the list of high level mitigation options for underwater noise needs to be expanded upon to explain that whilst the issuing of such a licence does not in itself constitute mitigation, the process of applying for / assessing an application for an EPS disturbance licence does provide an opportunity for an assessment of whether an activity will be detrimental to the maintenance of the populations of the species concerned at a FCS in their natural range. If this is the case then an EPS disturbance licence cannot be issued.
5. Page 23, Table 4.3. Ducted propellers used by dynamic positioning vessels have been implicated in fatal corkscrew injuries of seals and cetaceans (harbour porpoise) (see Bexton *et al.*, 2012 *Aquatic Mammals*, 38(3), pp 229-240) and this is an issue of growing concern within SNCAs. The potential for this impact during construction / operation of oil and gas installations must be addressed both in this table outlining high level mitigation and also in the rest of the document. Internal SNCB "Guidance for staff advising on the potential risk of seal corkscrew injuries, April 2012" recommends the avoidance of using vessels with ducted propellers within a certain distance of seal populations / sites and during the breeding season. We also advise that, particularly for grey seal, the use of defined commuting corridors for vessel traffic and maintaining a maximum distance at low speeds in the proximity of known seal haul outs, could be included as potential mitigation and avoidance measures. Appropriate high level mitigation of this potential impact would be for the regulator to adopt this advice and ensure it is implemented at the project level subject to project specific circumstances.
6. Page 24. Table 4.3 The section outlining the use of PAMs in the list of mitigation measures for underwater noise should also refer to MMOs in accordance with JNCC guidelines for minimising the risk of disturbance and injury to marine mammals from seismic surveys (August 2010, 16pp), which require MMOs for seismic surveys during daylight hours and at sea states that are appropriate for visual assessments.
7. Page 24. Table 4.3 Contradictory statements in section on MCA and ETVs, suggest the first paragraph is removed. In our (as CCW) response to the MCA consultation on Modernising the Coastguard 2010 in May 2011, concerns were raised about the implications of the decision to reduce the number of Emergency Tow Vessels (ETV) in the UK in terms of the potential to increase the risk from, and reduce resilience to, a major pollution incident. NRW would need to see more detail on

how any new arrangements put in place for provision of ETV support in the event of an incident in Liverpool Bay before agreeing that this comprises a high level mitigation measure.

Section 5 Consideration of sites and potential physical and other effects (pages 25 – 35)

8. Pages 26 – 28. Much of the information in this section focuses on the physical impacts of other activities, rather than those associated with the oil and gas sector and would perhaps be better placed in Section 8 where the potential in-combination effects of physical disturbance to the seabed are considered.
9. Page 32: 5.5 Implications for relevant European Sites; 5.5.1 Liverpool Bay / Bae Lerpwl SPA. NRW feel that the draft AA currently contains insufficient evidence to support the conclusion that "Based on the extent of supporting sandbank habitat in these sites and the distribution and extent of likely activities, the overall exposure to physical loss can be considered to be low." Block 110/10 is situated wholly within Liverpool Bay SPA in an area of the site that has high aggregations of Red-throated divers as well as Common scoters in it. Without more detailed information about the activities that might be expected to take place in this block and what mitigation might be used, it is very difficult to tell whether it would or would not have a significant effect on the SPA. For example, rock armouring of new pipelines has the potential to cover feeding areas for Common scoter.

Section 6 Consideration of sites and potential acoustic effects (pages 36 – 47)

10. Page 36. As Salmon mortality at sea is already at an all-time high NRW would urge the CA to take all possible measures to minimise impacts on this species. NRW are aware that one of the offshore windfarm projects in Liverpool Bay is currently undertaking research to better understand the patterns of adult Atlantic salmon migration back into the River Dee and Bala Lake SAC and Dee Estuary SAC and would encourage DECC to refer to the results of this work if and when they become available.
11. Page 47. The conclusion that underwater noise would not result in significant effects on qualifying species appears to be based on the lack of evidence for adverse impacts. It is implied that, due to a lack of causal links in previous cases, future links can be ruled out too. The presumption in favour of future proposals due to previous proposals passing the Natura tests, (if this is what is meant in the document), is explicitly ruled-out in the EU Natura guidance 'Managing Natura 2000 Sites; The provisions of Article 6 of the Habitats Directive 92/43/EC'.
12. As previously stated in the joint SNCB response to the block HRA screening report for this licensing round (4th September 2012) we feel that the following statement is misleading: "Although seismic survey, piling and other oilfield noise is detectable by marine mammals, waterbirds and their prey, there is no evidence that such noise presents a risk to the viability of populations in UK waters." The information and evidence available for carrying out an assessment of population effects of



disturbance on marine mammal species is limited. A process of developing an agreed approach to assessing such effects is currently underway, initially through the development of an interim framework to assess the population consequences of disturbance (PCoD) for marine mammals, based largely on models which have been developed for bottlenose dolphin and harbour seal in the Moray Firth. The PCoD project, which is being funded by The Crown Estate, DECC, Marine Scotland and the SNCAs, was initiated at a workshop hosted by CCW, NERC and JNCC in March 2012, primarily driven by the need to assess the consequences of multiple sources of disturbance (e.g. through piling and increased vessel use) on mammal populations around the UK due to the burgeoning offshore renewables sector. The interim framework, which draws largely on expert judgement to assess the levels of disturbance that mammal populations can sustain before their viability and conservation status are impacted, through effects on survival rate, growth rate, reproductive rate, etc, will be finalised in early summer 2013. In the longer term, the development of a more robust, empirically-based model for assessing the population consequences of acoustic disturbance (PCAD) on marine mammal populations is the subject of one of the strands of work currently proposed as part of the Offshore Renewables Joint Industries Programme (ORJIP). The interim PCoD and proposed 'PCAD' frameworks may also help to better understand the population consequences of multiple seismic activities, and might therefore be applicable to issues surrounding oil and gas exploration and development. We note that DECC are part-funding the development of the interim PCoD framework and are also joint partners in the development of the ORJIP and so may have a view on whether these tools should be considered for use in any further iterations of the HRA for the 27th licensing round when it becomes available.

Section 7 Consideration of potential effects from oil spills on relevant sites (pages 48 – 65)

13. Page 50. A lot of emphasis is placed on the Eastern Irish Sea being a 'gas province' and that therefore the risk of spills is only from diesel. However, no supporting evidence is provided. According to the most recent OPEP for the Liverpool Bay installations operated by BHP Billiton (March 2013) "all Liverpool Bay installations produce some liquid hydrocarbons as well as gas" and two of the production wells in the Douglas field that are currently producing oil have the potential to free-flow even if the installed electrical submersible pumps (ESP) were switched off. The AA should address this issue either by providing evidence that any activity in the blocks to be licensed in the 27th Round will be restricted to gas extraction or by considering the potential impact of crude oil spills on the relevant Natura sites.
14. The AA should also address the potential for a crude oil spill caused by an interaction between the existing oil operating infrastructure in Liverpool Bay and any new activity arising from the 27th Round. For example, the potential for a collision between construction or exploration vessels and the Offshore Storage Installation vessel located to the north of the existing platforms (total capacity of 146,242 m³).



15. Much of this section is generic and contains little information on Liverpool Bay itself, i.e there are no maps or assessments of oceanographic or hydrographic processes within this area which may have critical influence on statements of effects of oil spills for marine mammals and other features. For example, oil spills in eastern Liverpool Bay, an area of low water movement and comparatively high retention lengths will have more impact than oil spills in high flow/energy areas e.g. western Liverpool bay/Anglesey Coast. The results of modelling the worst case scenarios of total loss of inventory from the OSI or a blow out one of the Douglas field well heads that are capable of free flowing (outlined in the most recent OPEP for the BHP installations in Liverpool Bay) indicate that even with variable wind speeds and directions over a 30 – 120 day period, there is a strong likelihood of crude oil being beached along the North Wales coast and in the Dee Estuary.
16. Pages 58 / 59, Table 7.2. NRW advise that there is currently insufficient evidence in the AA for us to agree with the conclusion that there are no sites potentially at risk for both cetaceans and seals. Furthermore, we would expect to see the Dee and Menai Strait Conwy Bay SACs considered in terms of the potential risk to their respective saltmarsh, estuary, mudflat and sandflat and large shallow inlet and bay features. We note that the AA does not assess the potential impact of a spill on birds which could be wintering in the area but are potentially from a breeding SPA elsewhere in the UK and refer the reader to paragraph 1 of this annex.

Section 8 In-combination effects (pages 66 – 71)

17. Overall this section is very short compared to the rest of the draft AA and lacks sufficient detail to support the conclusion of NAEOSI of the activities covered by this plan in-combination with other plans or projects. Given the scale of increasing activity in the Eastern Irish Sea and the likelihood of overlapping timescales for some projects, there is considerable potential for effects from activities such as offshore wind farm development and oil and gas exploration / extraction to act in combination. Therefore NRW advise that the AA should consider this in much more detail than is currently presented. We refer the CA to the joint SNCB responses to both the Block Screening report for this licensing round and also comments made in response to the 26th Round, where we advised the CA to provide a clear list and map of all plans and projects that have been included (or excluded) from consideration, alongside an assessment of any potential in-combination effects on the relevant Natura sites and their qualifying features. There should also be a more thorough exploration of appropriate high level mitigation measures such as a more strategic approach to the phasing or timing of all marine energy development projects through the developing marine planning system so that possible effects can be adequately managed over time.
18. Page 66. Section on MCT / Skerries Array needs to be updated now that it has been consented

Page 71, 8.3. "Available evidence (see e.g. UKBenthos database and OSPAR 2000) for the eastern Irish Sea indicates that past oil and gas activity and discharges has not lead to adverse impacts on the integrity of European sites in the area. The current controls on terrestrial and marine industrial activities, including oil and gas operations that could follow licensing, can be expected to prevent significant in-combination effects



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affecting relevant European site". It is implied that, due to a lack of causal links in previous cases, future links can be ruled out too. The presumption in favour of future proposals due to previous proposals passing the Natura tests, (if this is what is meant in the document), is explicitly ruled-out in the EU Natura guidance 'Managing Natura 2000 Sites; The provisions of Article 6 of the Habitats Directive 92/43/EC'.