

Habitats Regulations Appraisal of Draft Plan for Offshore Wind Energy in Scottish Territorial Waters: Information for Appropriate Assessment

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1. Summary

This report presents the review of information that is needed by Marine Scotland to undertake an Appropriate Assessment (AA) of the Draft Plan for Offshore Wind Energy in Scottish Territorial Waters. The background to this review, the process that was followed for this work and its findings are summarised below.

2. Background to the Study

A Draft Plan for Offshore Wind Energy (OWE) in Scottish Territorial Waters has been published by Marine Scotland which considers the potential of Scottish Territorial Waters to accommodate OWE developments from a national perspective. It makes proposals and defines potential areas as short, medium and long-term options for OWE generation.

Under the Conservation (Natural Habitats, &c.) Regulations, which implement the EC Birds and Habitats Directive in the UK, it is necessary to undertake a Habitats Regulations Appraisal (HRA) of this plan to determine whether it will have a “likely significant effect” (LSE) on sites designated for their nature conservation interest at an international level. It then needs to assess whether the integrity of these sites will be adversely affected. This requirement extends to Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and, in UK policy terms, to Ramsar sites.

Marine Scotland is carrying out the HRA for the short and medium term options identified in the Plan and will produce an Appropriate Assessment (AA) in fulfilment of its obligations under these Regulations. The path for undertaking an HRA of a plan is clearly laid out in Scottish Natural Heritage (SNH) guidance as prepared by David Tyldesley and Associates (in 2010)¹. This guidance describes a clear series of 13 stages which need to be completed (see Image 1). This process, which was followed for the Draft OWE Plan HRA, is essentially the same as that applied for previous plan-level HRAs that have been carried out for the Round 3 Offshore Windfarm (R3OWF) proposals and the Pentland Firth Strategic Area (PFSA) leasing round. These earlier HRAs were based on Natural England’s draft plan-level HRA guidance that was also prepared by David Tyldesley and Associates (in 2009) and these preceding HRAs provided valuable lessons which were considered as part of this work.

This HRA process was followed with guidance and oversight from a Project Steering Group (PSG). This PSG included representatives from: Marine Scotland, the Scottish Government, Scottish Enterprise, Highlands and Islands Enterprise, Scottish Natural Heritage, Joint Nature Conservation Committee, The Crown Estate, Scottish Renewables, the Whale and Dolphin Conservation Society, Scottish Environment Link and the Royal Society for the Protection of Birds.

3. Approach and Findings

One of the key issues that needed to be considered as part of this HRA work is that the details about how the individual project components of the Draft Plan will be implemented are not well understood at

¹ See following site for full document:
<http://www.snh.gov.uk/planning-and-development/environmental-assessment/habitat-regulations-appraisal/>

this stage. Another consideration is that there are recognised uncertainties in respect of the ‘sensitivities to impact’ of the relevant species and habitats that are qualifying features of the designated sites. This includes, for instance, uncertainties relating to the effects of turbine arrays on migratory seabirds. Notwithstanding these considerations, there needs to be a high level of certainty under the Habitats Regulations that the Plan will not have an adverse effect on the integrity of any designated site(s). To address this, a precautionary approach was adopted (as required) throughout the HRA process.

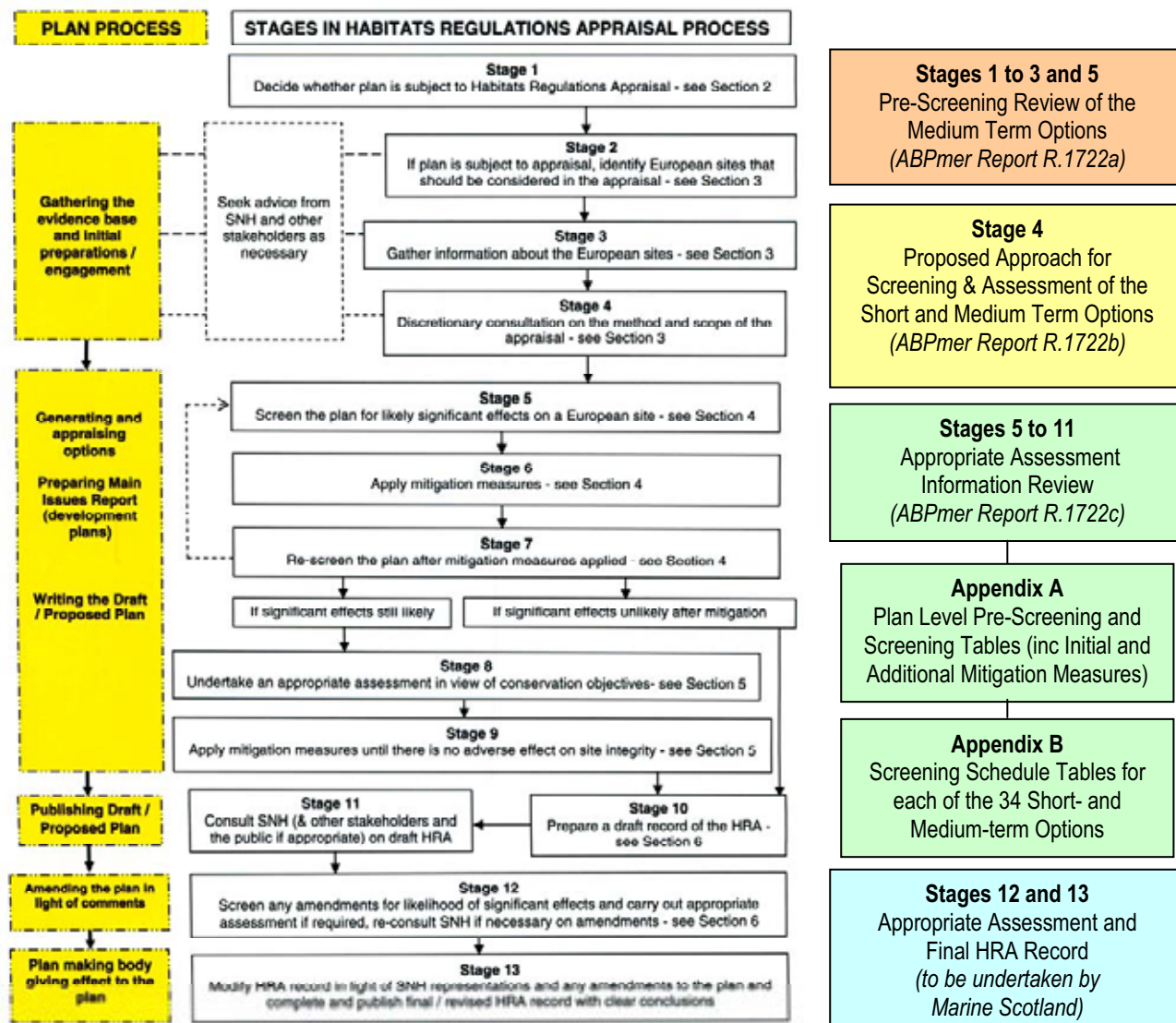


Image 1. Stages of the HRA process for plans showing reports produced for the assessment of the OWE Draft Plan²

² A separate, and preceding, pre-screening report was also produced for the short-term option areas only (Reference: - Halcrow, 2010. The Plan for Offshore Wind Energy in Scottish Territorial Waters. Pre-Screening for Appropriate Assessment. June 2010).

The approach taken was to follow the 13-stage process set out in the guidance and to create a series of reports and spreadsheets that describe the process and outcomes of the HRA in an auditable and objective manner. Image 1 illustrates the reports that were produced and identifies the stages of the process that they encompass. In outline though, the HRA process can most easily be summarised as following three steps:

1. Identifying (screening) the relevant species and habitat features of the European/Ramsar sites that need to be considered in the assessment (including agreeing the methods for this screening with the PSG);
2. Identifying which of these species, habitats and European/Ramsar sites can be excluded based on the 'initial' mitigation measures that are proposed in the Draft OWE Plan and the SEA Environmental Report (NB throughout this HRA there is a presumption in favour of including not excluding sites, in keeping with the precautionary principle); and
3. Undertaking an Appropriate Assessment (AA) to determine whether the draft Plan will affect the integrity of these sites and what additional mitigation measures are required to avoid any such effects.

At Step 1, two pre-screening studies were undertaken to identify the possible impacts of the short term options (Halcrow, 2010) and medium term options (ABPmer Report R.1722a) within draft OWE Plan on European sites. This pre-screening work was followed by the production of a working paper which set out the proposed approach to the screening of issues and assessment stages (ABPmer Report R.1722b). After screening, a large number of European/Ramsar sites (370) were taken forward into the assessment phase. This is because of the uncertainties described above; the effects of the turbines could be spatially extensive (e.g. to species migrating over long distances) and particular aspects of project development are not known at this stage including the locations of cable routes. Tabulated outputs from this process are shown in Appendix A of the Appropriate Assessment Information review report (ABPmer Report R.1722c).

For each of the 34³ short and medium term option areas between 18 and 88 European/Ramsar sites that were screened in (across a pre-defined area that extended 100km out from their boundaries). To these option-specific screening lists, a range of other SPA and SAC sites can be added that lie outside the 100km zone (which support long-distance foraging birds and/or migrating anadromous fish species). Each option area has its own table and map showing those screened in sites and these outputs from this process are respectively shown in Appendices B and C of the Appropriate Assessment Information review report (ABPmer Report R.1722c).

At Step 2, the application of the initial mitigation measures did not result in any of these qualifying interest features or European/Ramsar sites being excluded from the scope of the Appropriate Assessment. This is mainly because the measures are inherently generic in nature and there remains a need for further additional measures to provide assurance that the propose draft Plan activities do not have an adverse effect on integrity.

³ Please note that the draft Plan for OWE in Scottish territorial waters included 10 short term options, since publication one of the options – Bell Rock – was dropped due to irresolvable issues with radar impacts.

At Step 3, and following the initial phases of the assessment, there remained a LSE on the screened-in European/Ramsar sites and it was not possible to show that there would be no adverse effect on the integrity of these sites after consideration of the initial mitigation measures. Therefore, within this assessment, additional mitigation measures were identified and are to be applied at this Plan level to ensure that there will be no LSE via all pathways.

The initial and additional mitigation measures are presented alongside the screening tables in Appendix A of the Appropriate Assessment Information review report (ABPmer Report R.1722c). The extent to which individual measures are required at a project level will be dependent upon the details of the work to be undertaken but two of these additional mitigation measures are common to all impact pathways and represent the key requirements for the Plan's implementation. These are as follows:

1. Firstly, there needs to be a clear process for Plan implementation. In particular, this process needs to involve a phased/iterative approach to Offshore Wind Farm deployment linked to ongoing monitoring with the findings feeding back into the next phases of work. An 'Iterative Plan Review' (IPR) process has been identified (see Section 9.3) and will be pursued for the implementation of the Final Plan.
2. Secondly, as a matter of law, each project will be required to undergo project-level AA wherever the possibility of LSE on a European/Ramsar site cannot be excluded and will need to be undertaken in a manner that does not have an adverse effect on site integrity. However, the Plan-level HRA gives direction to future project level AAs by identifying mitigation measures should be considered at the project stage to avoid an adverse effect on the integrity of European/Ramsar sites.

On the basis of the application of the appropriate mitigation measures, it can be advised that it will be possible for the Draft Plan not to have an adverse effect on the integrity of a European/Ramsar site either alone or in-combination with other plans or projects.



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