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Your Ref:

Our Ref: 131128_EN010024_2140773

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Dear Mr Lloyd

Thank you for giving the Planning Inspectorate the opportunity to comment on the draft Habitats Regulations Assessment (HRA) documents for the Navitus Bay Wind Park. We have now reviewed the documents and have set out some comments below which we hope will be helpful. Please note that the comments provided below are based on a high level review at this stage and are given on a without prejudice basis. Comments are limited to the HRA process and do not address the conclusions reached within the document. As these comments constitute section 51 advice under the Planning Act 2008 (as amended), they will be placed on the Planning Inspectorate's register of advice on the website.

1. Overall document structure

1.1 The Planning Inspectorate was provided with two reports:

- Habitats Regulations Assessment: Screening Report - final draft for stakeholder comment (the 'Screening Report')
- Habitats Regulations Assessment Report - Version 2B - draft for stakeholder comment ('HRA Report')

1.2 The two documents provided reflect the two stage screening process that has been undertaken by the applicant. The Screening Report identifies a likely significant effect (LSE) for a high number of features and European sites; however the HRA Report contains further screening information and goes on to exclude LSE(s) for the majority of these. It is assumed that the applicant intends to submit these two documents together, however the Planning Inspectorate considers that the format in which the information is presented is currently confusing with respect to the staged screening process and separate reports, and considers that it would be easier to understand if all screening information was presented together, either into a single 'no significant effects' report or a 'no significant effects' section of the overall HRA report. It is important to remember that the information in the HRA report must be accessible to both expert and non-expert audiences. It is particularly important that the process by which conclusions have been reached is clear to the Examining Authority. It would be helpful, particularly in respect of the Screening Report if there was more linking text between the tables which

explained how the tables relate to each other.

- 1.3 We note that the initial screening table (Table 5.2 of the Screening Report) identifies potential effects on a site by site basis and that the HRA Report then switches to a receptor led approach for an update to the assessment of LSE, before moving to a site led approach for the consideration of Significant Adverse Effects. You have specifically requested the Planning Inspectorate's comments on this approach; as currently drafted, these switches in approach make it difficult to understand and follow the reports.

2. HRA Screening Report

- 2.1 Four potential layouts have been identified in Table 4.1, and a summary of turbine parameters is provided in Table 4.2; however it is not clear how these have been applied to the HRA. The applicant should ensure that any parameters upon which the assessment is based are clearly explained in the HRA reports, and are secured within the draft DCO.
- 2.2 The screening criteria stated in Table 5.1 for geographical extent of habitat loss, damage or degradation (terrestrial and freshwater habitats) is for all European sites within 100m of the onshore infrastructure designated for habitat features. This search parameter is stated to be precautionary and based on Environment Agency Pollution Prevention Guidance 5 and Natural England Commissioned Report NECR032; however this distance does not appear to be referred in these documents. The search parameter appears small for dust and potential pollutants, and does not appear to consider the potential for linkages to further European sites e.g. along watercourses. The Planning Inspectorate recommends that further justification is therefore provided for this screening criteria.
- 2.3 The second column of Table 5.2 identifies those features that have been selected for inclusion as being potentially affected (please note column heading should read 'affected' rather than 'effected'); the rationale for inclusion is not explicitly clear in the table and the reader needs to refer to the screening criteria as detailed in Table 5.1 and assume that the feature is included if it meets one or more of these criteria. It would be useful for Table 5.2 to explain why the feature was screened in, perhaps by numbering the criteria in Table 5.1 and incorporating into Table 5.2. Table 5.2 does not identify the features of the European sites that would not be potentially affected and the reader must refer to Appendix C to identify these. When the screening matrices are completed for this project as requested by the Planning Inspectorate's Advice Note 10 all the designated site features should be included (see below for further comment).
- 2.4 Column five of Table 5.2 details the features for which there is considered to be a LSE. The Planning Inspectorate considers that the current justifications for screening out some features require further clarification. Therefore, we advise the following:
 - The conclusions of no LSE should provide more detailed references to specific paragraphs of other application documents which support such statements. For example, conclusions of no LSE has relied upon the ABPmer 2013 in a number of instances. The Planning Inspectorate has not had sight of this document but assumes it is modelling undertaken in support of the ES and therefore will be provided with the application. If not part of the ES, but being relied upon for the HRA, the document should be appended to the

HRA report.

- Descriptors such as recorded in 'small numbers' should be avoided, or accompanied with the actual numbers seen and comparing with the 'size of designated populations' (e.g. for Common scoter).
- Providing further detail regarding '*the ranging behaviour exhibited by these species during the winter period making the potential working areas insignificant in terms of area*'. From the information provided, the Planning Inspectorate is unable to determine what such ranging behaviour comprises (i.e. for those species not contained in Appendix B).
- Where a European site is screened out on the basis that it is too far from the project (e.g. with regards to coastal processes), this distance should be clearly stated and further justification provided as to why impacts could not spatially overlap (e.g. with supporting references to any modelling undertaken in the Environmental Statement (ES)).

The list above is not exhaustive. The applicant must ensure that all conclusions are sufficiently justified; this could be by means of cross referencing to the ES.

- 2.5 Appendix B contains seabird species range and LSEs. It is recommended that the table contains evidence for how the foraging distance and ranging behaviour have been defined.
- 2.6 Column four of Table 5.2 details mitigation measures; however it is unclear whether the mitigation measures have been taken into consideration when reaching the conclusions on LSE reported in the final column. It would be helpful if the heading for the columns currently headed 'mitigation measures' and 'likely significant effects' are amended to make the relationship between the two columns clearer.
- 2.7 Where mitigation measures are being relied upon to reach a conclusion of no LSE, it would be useful if the HRA report identified where specifically in the draft Development Consent Order (DCO) these measures are secured.
- 2.8 Section 5.2 of the Screening Report refers to the European sites that support migratory species that may pass through the proposed Navitus Bay Wind Park. This appears to refer to the list of sites in Table D1 in Appendix D. However this is not made clear, nor is it clear what the relationship is between Table D1 and Table 5.2.
- 2.9 The Screening Report does not contain paragraph numbering; this would be useful for referencing purposes. In addition, the tables provided in both reports are vast and difficult to navigate; numbering rows would also be useful for referencing purposes.

3. HRA Report

- 3.1 Table 3.1 details receptors screened in to the assessment (i.e. summarises the Screening Report) however it does not identify the sites to which these features apply. It would be useful for the relevant sites to be identified in the table to avoid the need to cross refer to the Table 5.2 of the Screening Report.
- 3.2 Table 5.2 of the Screening Report identifies a LSE on Southern Damsel Fly (*Coenagrion mercuriale*) at Dorset Heath SAC. This feature was not carried forward into Table 3.1 of the HRA report (as a receptor screened into the assessment). The applicant should ensure consistency across the two reports.
- 3.3 Consistency should also be checked for within each individual report. It is noted

in the HRA Report that common, sandwich, roseate and little terns are identified in Table 3.1 (as receptors screened into the assessment) and are subsequently screened out of the assessment in sections 5.11, 5.12. However these features are not contained within Table 4.7 (Summary of European sites that have been excluded from this assessment).

- 3.4 Great skua is identified in Table 3.1 of the HRA report (as a receptor screened into the assessment), and an annual collision rate calculated in Table 4.6, however no further commentary on the feature is provided within the report. The Planning Inspectorate recommends further detail is provided, as per the other features identified in Table 3.1.
- 3.5 Paragraph 1.22 states that piling '*would only potentially be in operation for around 4 hours in any 24 hour period (over a maximum of 436 days during the 4.5 year construction period)*'. This assumption, and any other assumptions and mitigation measures that are detailed and relied upon in the HRA should be captured within the draft DCO, and relevant referencing to the ES made if further detail is provided there. A reference to the draft DCO requirement would be useful.
- 3.6 The assessment of LSE has relied upon the results of a number of assessments which have not been provided at this stage (e.g. Subacoustech 2013, Thomson Ecology 2013a, APEM, 2013a). As with the supporting information for the Screening Report, the Planning Inspectorate expects this information to be submitted as part of the application (or as a minimum to be summarised in the ES), and for more specific referencing (i.e. to paragraph numbers) to be provided within the HRA report to direct the reader to the exact location of the information which supports the conclusion.
- 3.7 The Planning Inspectorate would expect to see the methodology and results of the ornithological survey programme to be provided either within the HRA reports, or for a reference to the information within the ES to be provided. Where the HRA report conclusions relies on the outputs of models, the choice of model and parameters used in the modelling should be clearly explained and justified. It should also be clear how effects have been apportioned to individual SPA populations.
- 3.8 It would also be helpful to identify if the Statutory Nature Conservation Bodies have agreed with the choice of methodologies and models.

4. Matrices

- 4.1 We note that integrity matrices have been provided within the HRA Report but no screening matrices have been completed and draw your attention to Advice Note 10: Habitat Regulation Assessment (Version 5), which states:

*'The **screening matrices** must reflect the screening exercise undertaken in its entirety, showing the screening result for **all** European sites including **all** features for which the European site(s) are designated, even if the screening exercise has concluded no LSE on certain European sites or features. This may include European sites and features screened out at the very beginning of the process, for example, those not mentioned by the consulted SNCBs as having the potential to be affected*

... If the relevant matrices are not submitted with the DCO application and in sufficient detail, the Examining Authority (ExA) will request these in their first round of examination questions'.

The objective of the matrices is to support the ExA in preparing a Report on the Implications for European Sites (RIES) that will ultimately be submitted to the Secretary of State (SoS) with the purpose of providing the competent authority with a complete factual account of the information and evidence available to them for the purposes of undertaking his HRA. The screening matrices are used to provide confidence to the ExA and SoS that all relevant European sites, features and effects have been considered and support the conclusions made in the HRA reports.

- 4.2 We stress that it is in your interest to complete the matrices in advance of submission of the application to reduce pressures during the examination process, should the application be accepted. Given the number of European sites identified within your HRA documents, we appreciate that it would be an onerous task for you to complete a screening matrix for every European site identified in the Screening Report. You may wish to consider providing a list at the start of the matrices outlining which of the European sites initially captured by your screening criteria have later been screened out because no pathway exists or the distance between Navitus Bay Wind Park and the European site is too great for an effect to occur rather than providing individual matrices. The list though should make clear whether this applies to all the designated features or simply some of them e.g. Tracey Island SAC (all features), Hobbiton Cliffs SPA (puffin, guillemot and common gull). Note that if mitigation is being relied on to avoid LSE then matrices must be provided.
- 4.3 Three integrity matrices have been provided in the HRA Report. The matrices should contain all features which have been screened in for the relevant European sites, and should not just refer to Annex I habitat or Annex II species. There is currently no footnote provided for the operational phase; this should either be included or the omission explained in introductory text.
- 4.4 The matrices should provide a brief summary of the baseline environment, the assessment undertaken and the conclusion reached for each relevant feature. Precise paragraph references to the ES or HRA Reports should be provided.

5. General matters

- 5.1 The distance of each European site from the project site should be clearly identified within the reports, and the locations of each site identified visually using figures where appropriate. In addition, given that a number of bird species from distant European sites have been considered, based on their migratory routes, a visual representation of such migrations would also be useful if possible.
- 5.2 The HRA Screening Report refers to SOSS 5 (section 5.2), whereas the HRA Report refers to SOSS 2 (Table 4.7); the applicant should ensure consistency across the documents.
- 5.3 Whilst it is up to applicants to decide how to present information, the Planning Inspectorate considers that reports presented in A3 folders are difficult to handle and store physically, and that when text of reports is presented in two columns on A3 paper it is difficult to read on screen; A4 documents are preferable where possible. A3 figures are however welcomed, in an A3 volume where this would avoid folding the figures with a potential loss of clarity.
- 5.4 The Planning Inspectorate notes and welcomes that the applicant has engaged with the evidence plan process for the project. It is encouraging to note that the applicant is also consulting with statutory nature conservation bodies on the

draft HRA reports. Confirmation should be sought from Natural England, the Joint Nature Conservation Committee and any other relevant parties that all relevant European sites, features and potential impacts have been considered; that they are content with the screening criteria used; and that they are content with the three sites identified for appropriate assessment. Any such supporting information should be submitted with your application. This will be of particular importance given the large number of sites and features considered within the Screening Report.

I hope you find these comments useful. Please do not hesitate to contact me should you have any queries.

Yours sincerely

Hannah Pratt

Hannah Pratt

EIA and Land Rights Advisor

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.