

Review of the East Anglia THREE Offshore Wind Farm Project

Habitats Regulations Assessment (HRA) Report

(28 August 2015)

- 1.1 The information contained within this note is in response to a request from East Anglia Offshore Wind (EAOW) (the applicant) on 29 July 2015 for the Planning Inspectorate (the Inspectorate) to provide an informal review of the 'Information for the Habitats Regulations Assessment (Volumes 1 - 7)' (dated July 2015) (hereafter named the 'draft HRA Report') for the proposed East Anglia THREE (EA3) offshore wind farm project. The Inspectorate understands that the draft HRA Report has also been issued for comment to Natural England (NE) and the Marine Management Organisation (MMO).
- 1.2 The Inspectorate welcomes the opportunity to comment on draft documents as this enables us to provide advice about any omissions or potential procedural risks for the acceptance or examination stages. This advice forms parts of our pre-application service, details of which are available in the Inspectorate's pre-application prospectus which outlines the structured and facilitative approach to support that the Inspectorate can offer during the pre-application stage.
- 1.3 The Inspectorate's comments on the applicant's draft HRA Report are set out below. The comments provided are without prejudice to any decisions taken by the Secretary of State during acceptance or by the Examining Authority (ExA) during examination, if the application for the proposed development is accepted for examination.
- 1.4 These comments are not a detailed review of the draft HRA Report and its findings, but are intended to provide helpful comments/observations as appropriate. The applicant should note that the Inspectorate has provided comments in the absence of the Environmental Statement (ES), which supports the HRA Report, and it is therefore possible that comments made by the Inspectorate on the draft HRA Report could be answered by the information contained within the ES.
- 1.5 Please note that reference to 'European sites' within this document is to Special Areas of Conservation (SACs); Sites of Community Importance (SCIs); candidate SACs (cSACs); possible SACs (pSACs); Special Protection Areas (SPAs); potential SPAs (pSPAs); listed or proposed Ramsar sites; and sites identified, or required, as compensatory measures for adverse effects on European sites.

General Comments on the draft HRA Report

- 1.6 The Inspectorate welcomes the use of the Evidence Plan process during the pre-application stage of the proposed development, which appears to have resulted in the early agreement of a number of HRA-related matters. The Inspectorate recognises and welcomes that agreements have been reached with consultees regarding various sites and qualifying features. It would be useful if more detailed explanations were included in the HRA Report to justify those items that have been agreed during the Evidence Plan process. In the draft HRA Report there are currently very few references to the Evidence Plan and specific agreements reached.
- 1.7 The applicant should consider including evidence of agreements reached with consultees. For example, points of agreements/disagreements could be provided for items such as (but not limited to): the European sites and qualifying features to be included in the HRA Report and those that can be excluded; potential effect pathways and buffers; the information, models and data used to inform the assessment; population numbers; conservation objectives; avoidance rates etc. The record of agreements (or matters of disagreement) could take the form of copies of correspondence appended to the HRA Report and/or Statements of Common Ground (SoCG). The Inspectorate understands that the applicant intends to include signed SoCG with any application made and welcomes this approach.
- 1.8 The Inspectorate notes that the draft HRA Report is currently composed of several separate volumes of information. Whilst this approach documents the development of the HRA Report during the pre-application stage, it makes it more difficult to identify and follow the European sites screened by the applicant and carried forward to consideration of adverse effects on site integrity, and it is not entirely clear as to what the proposed development comprised at the point of writing each volume. The applicant may wish to consider compiling the information into one HRA Report, which describes the screening process carried out and the consideration of adverse effects on site integrity, such that it is valid at the point of making a DCO application.
- 1.9 The Inspectorate notes there are a number of discrepancies between the volumes in respect of the European sites and qualifying features screened in and out of likely significant effects (LSE). For example, the conclusion in Table 6.2 in Volume 2, that certain European sites '*...support birds that will migrate across the North Sea to reach the site*', is contradicted by Table 2.1 of Volume 3, which states that survey data shows little or no evidence of features occurring within the project area. The Inspectorate advises that applicant check for consistency between the separate volumes of the HRA Report, should no one single HRA Report be

produced, to make clear the conclusions of the screening of European sites.

- 1.10 Related to the above point, it would be clearer if the volumes were written in the past tense, stating what has been done rather than what will be done, given that the identified deadlines are now historic and that the 'proposed' work should now have been undertaken.
- 1.11 The applicant should ensure that the project description used to inform the assessment provided in the draft HRA Report is consistent throughout, including between the various volumes in the final HRA Report. Draft HRA Report Volume 1 acknowledges that the details in Volume 2 do not represent the final design for the application (Section 2, paragraph 15), and that where relevant to this assessment the detail has been updated in subsequent volumes of the HRA Report. However, if the DCO application is accepted, the ExA would need to be satisfied that any European sites screened out in Volume 2 of the HRA Report (which are not carried forward to subsequent volumes of the HRA Report) have been screened out on the basis of the project for which consent is sought, to ensure that the high-level screening for the project is still valid. The HRA Report should be clear as to the description of the proposed development considered in each volume of the HRA Report. In the event that you do not produce a single HRA Report or update Volume 2 (high-level screening), you may wish to consider including a statement in Volume 2 as to whether this alteration in the project description would affect the high-level screening undertaken based on an earlier description of the project and/or state whether the conclusions of the high-level screening remain valid, with supporting reasons.
- 1.12 In a number of volumes it is not always made clear whether the proposed development as a whole has been considered for each category of receptor/European site. For example, buffer zones are included on a number of figures around the wind farm zone, but these do not include for the offshore cables connecting to the land (for example, Figure 5.2 in Volume 2). As noted in paragraph 1.11 above, the HRA Report should ensure the HRA has been undertaken having regard to the entirety of development as proposed in the DCO application. This comment is also applicable to Volume 3, where the HRA Report refers to numbers of birds in the EA3 site (for example, at paragraph 54). The HRA Report should also make clear whether the assessment has considered the potential for LSE as a result of the offshore cable works.
- 1.13 The Inspectorate recommends that the draft HRA Report be updated to take into account the fact that the DCO has now been granted for East Anglia ONE, any changes to the proposed timetable for East Anglia FOUR, together with any changes to the list of projects considered in the in-

combination assessment for EA3. Clarification should also be provided regarding any infrastructure required for the EA3 development that has been secured through the consented East Anglia ONE DCO and how this has been assessed in the HRA Report for EA3, for example, the onshore cable ducts.

- 1.14 The Inspectorate notes a number of discrepancies and differences between the various volumes when referring to European sites. For example, Volume 1 refers to 'European and Ramsar sites'. Volume 2 refers predominantly to SACs and SPAs but then includes SCIs and pSPAs in the tables of European sites. The Inspectorate recommends that the HRA Report clarify what is being considered as a European site, having regard to the relevant legislation and policy. As described in Paragraph 1.5 above, legislation and policy in England considers that 'European sites' are SACs, SCIs, cSACs, pSACs, SPAs, pSPAs, listed or proposed Ramsar sites, and sites identified, or required, as compensatory measures for adverse effects on European sites.
- 1.15 It is noted that generic conservation objectives are provided for the European sites; however, conservation objectives will differ depending on the qualifying feature. The HRA Report should clearly identify which European sites conservation objectives apply. Conservation Objectives should be provided for those European sites where the potential for LSE has been identified, in the event that the Secretary of State undertakes an appropriate assessment.
- 1.16 The final HRA Report should also contain or cross-refer to a figure/plan which clearly identifies the location of the European sites which have been considered in the HRA. A plan identifying any statutory sites or features of nature conservation is required to accompany a DCO application, as specified by Regulation 5(2)(l) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the 'APFP Regulations'), and a plan identifying European sites affected is also recommended in the Inspectorate's Advice Note 10 (AN10) Habitat Regulations Assessment relevant to Nationally Significant Infrastructure Projects.
- 1.17 There are a number references throughout the draft HRA Report to supporting information being contained in ES topic chapters and appendices. It would be helpful to the reader if more specific cross-references were included in the HRA Report, enabling the reader to accurately locate the relevant information. The Inspectorate also recommends that more specific references be included to the data and evidence underpinning the assessment and its conclusions. For example, the reasoning behind the distances applied when identifying potential effects are not always evidenced or explained/justified in the draft HRA

Report. The Inspectorate recommends further referencing of relevant sections of the ES be included or further justification be provided in the final HRA Report. The Inspectorate also notes that reference is also made to ES chapters/appendices '*as previously presented for the PEIR*'. The Inspectorate queries whether the ES chapters and/or supporting appendices would have been amended since the issuing of the PEIR and therefore, whether it would be more appropriate to include references to the relevant ES chapter/appendix only.

- 1.18 The Inspectorate notes that the tables of European sites provided in the various volumes of the draft HRA Report do not always qualify the type of European site that is listed (whether it is a SAC or SCI, for example), or state in which Country they are located, or provide the distance to the proposed development. For example in Table 5.1 of Volume 2 the Country and designation is absent. It would be helpful for this information to be included, and for tables within each volume to be consistent for the receptor types (where relevant and appropriate).
- 1.19 The Inspectorate notes that European sites have been considered in the draft HRA report that are located in Scotland. No reference has been included to any agreements with the relevant Statutory Nature Conservation Body (SNCB) for European sites in Scotland regarding the conclusions of the HRA Report in respect of these sites. The Inspectorate advises that any response from the SNCB regarding these European sites should be included with the DCO application to support the HRA. It is also recommended that the applicant submit evidence of the attempts to obtain a response.
- 1.20 Volume 2 of the draft HRA Report explains the consideration given to non-UK European sites, and concludes that no LSE on any non-UK European sites have been identified. The applicant may wish to note and consider the advice in the DECC Guidelines on the assessment of transboundary impacts of energy developments on Natura 2000 sites outside the UK (March 2015). There is reference to correspondence with the Netherlands regarding potential impacts on European sites located in the Netherlands, in particular, the Bruine Bank (Brown Ridge) pSPA; however, is unclear whether the applicant's conclusion of no LSE on this site has been discussed and/or agreed, with the appropriate SNCB in the Netherlands. This is also the case with regards to European sites identified in Germany, Belgium and France. This should be clarified in the final HRA Report.
- 1.21 Reference has been made in the draft HRA Report to the Inspectorate's 'Report on the Implications for European Sites' (RIES) for the East Anglia ONE Wind farm project and the statements contained within the RIES. The applicant should note that the RIES compiles, documents and signposts information provided during the examination and is not the

ExA's opinion or conclusion on the effects of the development. Where the applicant wishes to refer to information provided during the course of the East Anglia ONE examination, the applicant is advised to refer to that information directly, providing a copy of this information where appropriate, instead of referring to the RIES. The applicant may also wish to refer to the Secretary of State for Energy and Climate Change's HRA Report for East Anglia ONE, where appropriate.

- 1.22 The final HRA Report should ensure the use of HRA terminology rather than EIA terminology. For example, several volumes refer to cumulative impacts, such as Volume 6, particularly Section 5.4 where 'cumulative' and 'in-combination' are used interchangeably. Reference in the assessments to terms such as 'temporary' should also be fully explained in respect of the receptor/qualifying feature being assessed.
- 1.23 The Inspectorate notes that not all acronyms used in draft HRA Report are provided in full at the point of first occurrence (e.g. TTS, ETG, SMRU). For clarity and ease of reading, the Inspectorate recommends that acronyms be explained in the HRA Report or a glossary be provided. As a general point, the HRA Report should be checked for typographical errors and the table of contents corrected prior to issue.
- 1.24 The list of guidance documents and references provided in the draft HRA Report is helpful. The applicant is advised to check that they are always relying on the latest versions of such documents, as they may be subject to change during the preparation of the HRA Report and since the production of earlier volumes of the report, such as Volume 2. The Inspectorate has not undertaken a cross-check of the lists of references against the documents referenced in the text. The applicant should check these prior to submission.
- 1.25 The Inspectorate welcomes the intention to submit matrices as part of the DCO application. Screening and integrity matrices should be produced and completed in accordance with AN10. The production of matrices aid applicants in preparing their information for the purposes of HRA and will form an integral part of the information submitted with the application. At present it is noted that the bird qualifying features for a number of European sites have been identified broadly in Table 2.1 to Volume 3, for example '*breeding, wintering and passage waterbirds*'. It is difficult to identify the qualifying species for which each European site is designated, and where a site has been taken forward for further consideration, whether this applies to all the qualifying features of that site. The Inspectorate advises that for sites that have been screened in, the HRA Report make clear which qualifying features have been screened in and whether all of the remaining qualifying features for that site have been screened out from further consideration.

Volume 1 Introduction (HRA_Vol_1_RevB)

- 1.26 When identifying the criteria for determining which other plans and projects are considered in the in-combination assessment, the Inspectorate recommends the applicant consider the criteria suggested in the Inspectorate's AN9 (Rochdale Envelope) and AN10, which includes a wider range of categories compared with the criteria identified in paragraph 26 of the draft HRA Report (Section 3.2.6). Please note the types of in-combination projects and plans listed in AN9 and AN10 are not intended to be exhaustive.
- 1.27 For clarity, it is advised that you provide a list of all the other plans and projects considered for inclusion in the in-combination assessment and state whether these have been agreed with the relevant consultees, for example, NE, the relevant planning authority, and/or the MMO. Where plans and projects have not been taken forward for inclusion in the in-combination assessment, an explanation of why should be provided against each of the discounted plans and projects. To support this explanation a plan should be provided showing the location of each of these other plans and projects, or cross-refer to an appropriate plan in the ES.
- 1.28 It is not clear from Volume 1 what stage in the HRA process has been reached in the draft HRA Report. Section 3.1 states that '*This report contains only the first part of the Stage 1 screening process*'; however, Volume 1 also states '*This assessment stage [Stage 2 Appropriate Assessment] will be reported in the form of a HRA Report and the results of the assessment summarised in the form of a series of matrices.*' It would appear that Volumes 5 and 6 present information to inform an appropriate assessment (i.e. Stage 2 of the HRA process), should one be required. The Inspectorate recommends that the final HRA Report (and Volume 1 in particular, if no single report is to be produced), should make clear which stage of the HRA process has been reached in the HRA Report. This would make it obvious to the reader what stage of the process has been reached for EA3.

Volume 2: High Level Screening (HRA_Vol_2_RevB)

- 1.29 The approach to categorising European sites in Volume 2 is acceptable; however, it would also be helpful to include a summary of the number of European sites that have been considered for each category early on in the document. It is difficult to ascertain how many sites have been considered across categories. This can only be achieved by looking at the tables of European sites screened-in and -out of the HRA at the end of the document.

- 1.30 When considering potential effects on migratory fish, it is unclear which effects are direct (i.e. on the fish themselves), and which are indirect (i.e. on their habitat/food source). This should be clarified in the final HRA Report.
- 1.31 The Marine Mammals sub-section in Volume 2 is missing the initial paragraphs concerning potential effects, which is included for other receptor groups. It would be helpful if the approach to the summary of potential effects on marine mammals was consistent with previous sections on habitats and migratory fish. This should identify which effects would be direct and which would be indirect.
- 1.32 The assessment states that it considers marine mammal features which are either a grade A, B or C feature. The Inspectorate considers that this has the potential to confuse readers, as any of these grades would qualify as a 'qualifying feature' of a European site. Therefore, the Inspectorate suggests that references to such are replaced with the term 'qualifying features' for clarity and also consistency with the rest of the document. This comment also applies to the same approach adopted in Volume 4.
- 1.33 It is noted that Tables 6.2 and 6.4 in Volume 2 are very similar to Table 5.6 but the former tables include a summary of reasons for screening in or out of HRA and are presented at the end of the report. The applicant may wish to consider merging the tables in these two sections or including the reasons behind screening-in or -out in Table 5.6 (the screening section), which occurs earlier in the document.
- 1.34 The Inspectorate notes that only one SPA has been screened out of the further assessment, Lough Foyle SPA. The reasons to support screening out of Lough Foyle SPA is not explained in Section 4 of Volume 2 and only appears in Table 6.4, in the Section 5 (conclusions). As there is only one site screened out in Table 5.6, the applicant is advised to explain the screening out of Lough Foyle SPA in Section 4, which would reduce the need for readers to navigate across a large document.
- 1.35 Table 6.1 provides a summary of the reasons for screening in European sites with marine mammal interest features and concludes that they are '*within agreed range*'. The HRA Report should explain the agreed range for each species, this could be through specific cross-references to the ES (where appropriate), and specify whether SNCBs have agreed these ranges. For a number of rows within Table 6.1 it is unclear whether the conclusions stated apply to one or more qualifying feature. For example, in the second row (BEMNZ0002 SBZ 1/ZPS 1) it is assumed that the conclusion of '*within agreed range*' relates to both harbour porpoise and grey seal; however, the table would benefit from clarification in this regard.

Volume 3: Ornithology Final Screening (HRA_Vol_3)

- 1.36 Table 2.1 introduces the concept of '*Biologically Defined Minimum Population Scale (BDMPS) regional populations*'. The HRA Report should explain their relevance and which BDMPS has been used in the assessment. Cross-references to the appropriate sections of the ES should be included, where relevant.
- 1.37 In relation to the Deben Estuary SPA and Ramsar site, Table 2.1 states that '*...features such as avocet remain on the intertidal areas behind the sea wall and so would not be at risk of disturbance from construction work*'. This statement should be further justified and explained with details of the location of the sea wall relative to the construction works and its dimensions.
- 1.38 In relation to the Forth Islands SPA, Table 2.1 states that the site is within the maximum foraging range of gannet. It is therefore unclear why the site has been screened out. As described previously, it would also be useful for the table to include a reference the tracking data information relied upon in reaching the conclusion of no LSE.
- 1.39 It is noted that the distance (km) from the proposed development site to the Frisian Front SPA has been omitted (Table 2.1 and Table 5.6, Volume 2). The Inspectorate recommends this be included or an explanation be provided as to why this information is not available.
- 1.40 Given the proximity between the location of the consented East Anglia ONE development and the proposed EA3 development, Section 2.2.2 helpfully identifies which European sites have been considered for LSE. However, where reliance is placed on the sites and features screened out by the Secretary of State in respect of East Anglia ONE HRA, the EA3 HRA Report should distinguish whether these sites and features were screened out based on consideration of effects from the project alone or in-combination. This is due to the potential for changes to the in-combination assessment, given the time-lag between the Secretary of State's HRA for East Anglia ONE and the proposed submission date of the EA3 DCO application.
- 1.41 Volumes 3 and 5 discuss potential likely significant effects on the lesser black-backed gull qualifying feature of the Alde-Ore Estuary SPA. The lesser black-backed gull are noted to also be a qualifying feature of the Alde-Ore Estuary Ramsar. Volume 3 makes reference to the Ramsar site alongside the SPA; however, the remainder of Volume 3, and Volume 5, do not refer specifically to the Ramsar site. The Ramsar is a distinct European site, albeit for the same qualifying feature. The assessment should make clear the potential for likely significant effects and the consideration of adverse effects on site integrity for both the Alde-Ore

Estuary SPA and Alde-Ore Estuary Ramsar site. It would be helpful to produce matrices for these two sites.

- 1.42 Volume 3 considers LSE on Flamborough and Bempton Cliffs SPA and the proposed extension to this site, Flamborough and Filey Coast pSPA. However, Volume 5 of the draft HRA Report only discusses and concludes on Flamborough and Filey Coast pSPA. As the Flamborough and Bempton Cliffs SPA is an existing, formally designated European site, the Inspectorate would expect to also see consideration of this SPA in the final HRA Report. The HRA Report should confirm whether or not the conclusions of effects on features of the Flamborough and Filey coast pSPA are equally applicable to the Flamborough Head and Bempton Cliffs SPA, where qualifying features and reference populations are the same for both sites. It is recommended that the applicant agree with NE whether an assessment of both the existing SPA and pSPA should be included in the HRA Report, and the correct qualifying features and reference populations to be considered.
- 1.43 The Inspectorate recognises the proposed extension to the Outer Thames Estuary SPA as a recent development and welcomes the consideration of this extension in the HRA Report.
- 1.44 Paragraph 44 refers to the Potential Biological Removal threshold for kittiwake. It would be useful if this value was provided and an explanation of how this has been derived. In addition, the paragraph should confirm whether the cumulative numbers referred to are those from the East Anglia ONE assessment for the EA3 assessment.
- 1.45 Paragraph 51 refers to a population viability analysis for the lesser black-backed gull population of the Alde-Ore Estuary SPA; however, it is unclear how this data has been used in the assessment. This is not referred to further. The HRA Report should clarify how this information has been used to inform the assessment.
- 1.46 The main text of Volume 3 should also clearly refer to the appendices included with Volume 3 and link them to the overall assessment. At present there are very few references to these appendices in the main text. In particular, Appendix 2 '*Auk disturbance and displacement assessment – extracted from ES Chapter 13 Offshore Ornithology*' is fairly long, and it would be useful for the HRA Report to identify the relevant extracts applicable to the HRA Report.

Volume 4 Marine Mammals Final Screening (HRA_Vol_4_RevB)

- 1.47 The Inspectorate notes that there are differences in the number of European sites for harbour porpoise and grey seal screened in Volume 2 (34 and 21, respectively) compared with those in Volume 4 (33 and 24,

respectively). It is assumed that there is a difference of two additional sites for harbour porpoise as a result of consideration of two dSACs; however, no further explanation is provided regarding the differences. The applicant may wish to explain the differences between the two volumes. As described under general comments above, it would be helpful if one HRA Report be provided to make clear the sites that have been screened for LSE. Consistency between volumes should be checked.

- 1.48 Table 1.1 identifies a site in the Netherlands, site code NL2008004, but notes that there are no site details and screens it out from further consideration; however, no explanation is provided regarding the absence of further information on this site, so the basis on which it has been screened out is unclear.
- 1.49 Section 4.1 identifies potential impacts on the European sites and their features; however, it does not consider potential pollution impacts during construction/decommissioning, although it is indicated in Volume 6 that harbour porpoises are vulnerable to pollution. The final HRA Report should address if there is any potential likely significant effects as result of pollutants released by the proposed development.
- 1.50 In relation to potential impacts of pile driving on marine mammals, paragraph 25 states that '*The footprint area of the combined area for two concurrent monopile installations using the maximum hammer energy of 3,500kJ is considered to approximate to the worst case scenario for spatial impact*', and the reader is directed to Table 1.4. The Inspectorate has been unable to identify any commitment to limiting piling to a maximum of two concurrent monopile installations, or with regard to the maximum hammer energy, in the recently provided draft DCO. If this is relied upon for the HRA, the applicant should consider how this would be secured with reference to relevant DCO Requirements.
- 1.51 Section 4.2.2 concludes that any potential impacts on marine mammals are unlikely to have a significant effect at the population level because they will be '*localised and temporary*'. However, the anticipated duration of the temporary impacts is not stated, nor does it explain why such impacts cannot be significant. This conclusion requires further substantiation.
- 1.52 The Inspectorate notes that the Final Screening presented in Section 5 and Tables 1.5, 1.6 and 1.7 make no reference to potential collision risk or in-combination effects, the approach to which is described in the previous section. The conclusions regarding these potential effects are thus not described and it is unclear whether a likely significant effect has been screened out. The HRA Report should include the complete screening assessment.

- 1.53 It is unclear how the value of 3.5km referred to in paragraph 49 has been derived. Table 1.4 identifies a fleeing response/ Temporary threshold shift distance of <2.5km. The Inspectorate recommends this be clarified.

Volume 5 Report on Ornithology (HRA_Vol_5)

- 1.54 With reference to paragraph 15, the Inspectorate assumes that the onshore cable route lies in part through the Deben Estuary Ramsar site as well as the SPA, which is also designated for its wintering population of dark-bellied brent geese; however, advises that this is clarified. This should also be clarified in the title of section 3.1 and reflected within the remainder of the assessment.
- 1.55 The statement in paragraph 15 that '*no potentially disturbing activities are planned to take place within the site boundary as cables will be inserted into pre-installed ducts including ducting under the River Deben*' appears to be contradicted further down in the same paragraph by the statement that '*the installation of onshore cables into the pre-installed ducts could lead to temporary disturbance and displacement of dark-bellied brent geese*'. The applicant should ensure that the HRA Report is consistent.
- 1.56 The Inspectorate welcomes the proposal to mitigate potential disturbance through a restriction on construction works. Given the statement in paragraph 9 that '*Dark-bellied brent geese begin to arrive in England from their high latitude breeding grounds in late September*', it would be useful if the report explained why a restriction on potentially disturbing construction works will be in place between 1st November and end of February, as detailed in paragraph 15. It would be useful if the HRA Report could confirm whether or not this mitigation has been agreed with NE and the mechanism through which it would be secured.
- 1.57 It would be useful if Volume 5 clarified the area of temporary habitat loss of low-lying farmland of feeding value to brent geese and also the duration of this loss. With reference to paragraph 19 which states there would be a '*very minor proportion of the potential brent goose feeding habitat available on both sides of the Deben Estuary*' which would be temporarily lost, the Inspectorate also advises that both the habitat loss and the area available is quantified.
- 1.58 Paragraph 19 states that the haul road would be located in a relatively less frequented part of the Deben Estuary. The report should clarify whether the location of the haul road has already been determined, and if so identify and justify its location, or whether it would be determined at a later date. If the latter, the applicant should clarify whether there would be any commitment to this being located in '*relatively less frequented parts of the Deben Estuary*'.

- 1.59 With reference to the Landscape and Ecological Mitigation Strategy developed for the East Anglia ONE project (paragraph 29), the applicant may wish to confirm whether consideration has been given to a similar strategy for EA3.
- 1.60 HRA Volume 5 acknowledges that red-throated divers can be displaced from the footprint of offshore wind farms and surrounding sea areas; however, no further consideration has been given to displacement from the presence of the EA3 wind farm, only to the impacts of vessel traffic associated with cable laying. The Inspectorate acknowledges this may be due to the distance of the array from the SPA; however, advises that consideration be given to this in the HRA Report.
- 1.61 It would be useful if the HRA Report explained how vessel traffic associated with wind farm construction work would be required to follow existing shipping routes from port through inshore areas (as proposed in paragraph 44), for example through a vessel routing plan to be secured through the DCO/DML. Likewise, if there is any reliance placed upon restricting the number of cable laying vessels to two (as proposed in paragraph 45), this would need to be secured.
- 1.62 It would be useful if paragraph 60 provided a justification as to why Tier 4 offshore wind projects considered in the EIA do not have the potential to directly affect the site. The HRA Report should also explain, or provide reference to and explanation of, the tiered approach identified in paragraph 81 of HRA Volume 5.
- 1.63 The Inspectorate notes that paragraph 67, referring to the Alde-Ore Estuary SPA designation, presents a mix of both SPA citation and UK SPA Review 2001 qualifying features and population numbers. The HRA Report should make clear the features being considered. As described in paragraph 1.42 above, the production of a screening matrix for this European site would help clarify the features that have been considered and also if the HRA Report/SoCG confirmed the agreement of the SNCBs with regard to the qualifying features of the Alde-Ore Estuary SPA and Ramsar site.
- 1.64 The HRA Report should explain and justify the threshold at which increases in mortality are detectable (paragraph 79).
- 1.65 With reference to paragraphs 109 and 138 of HRA Volume 5, it would be helpful if the HRA Report clarified on what basis breeding adults are estimated to be 55% of the population for gannet and 53% of the population for kittiwake. The Inspectorate would expect to see evidence of agreements/consultation with SNCBs on such matters.

Volume 6 Shadow Marine Mammals Assessment (HRA_Vol_RevB)

- 1.66 Section 1.1 explains that the purpose of Volume 6 is to provide information to inform an HRA on marine mammals for the proposed project; however, the Inspectorate notes that the Volume relates to the dSAC for harbour porpoise only. The applicant may wish to consider amending the title of Volume 6 to more accurately reflect its content. For example, the document could be entitled "Information to Inform HRA: Southern North Sea dSAC". The applicant may also wish to consider amending paragraph 1.1, should the title be amended.
- 1.67 It is noted that Section 3, paragraph 7 states that the conservation objectives for the proposed Southern North Sea dSAC for harbour porpoise have still to be determined. Example objectives have been provided based on those applied to the Moray Firth SAC, which is stated to guide the approach taken in this report. It would be helpful to state in the report whether SNCBs have agreed this approach.
- 1.68 In relation to indirect impacts on prey species for harbour porpoises, paragraph 5.4.2 states that any permanent loss of or change to prey habitat will typically represent a small percentage of the potential habitat in the surrounding area, but this is not quantified. It would be helpful to provide this information where available.
- 1.69 Section 6.1 states that the applicant has committed to the development of a marine mammal mitigation protocol (MMMP) in consultation with NE to mitigate an injury offence to harbour porpoise from pile-driving noise, and that NE and the MMO have agreed with the applicant's approach. In particular, not to propose specific mitigation in relation to disturbance effects at this time. Relevant documentary evidence of this agreement should be provided with the application. The precise method for doing this is for the applicant to determine but this could form part of a SoCG.
- 1.70 An EPS in respect of harbour porpoise is described at paragraph 80. The Inspectorate understands that an EPS licence for this species would need to be sought from MMO. The draft HRA Report currently specifies a licence would be agreed with NE. The document states that a licence application will be completed post consent; however, the applicant may wish to consider what information would be made available to the ExA during the course of the examination and what agreements can be reached with the regulatory body to provide assurances that a licence could be obtained.

Volume 7 Conclusions (HRA_Vol_7_RevB)

1.71 The Inspectorate recommends that this Volume be updated following the consultation on the draft HRA Report to reflect the conclusions of the HRA Report at the point of the DCO application.

28 August 2015