

By email only

Emma Corbett, Niras Ltd. EMC@niras.com

Cc Rosie Kelly, The Crown Estate. rosie.kelly@thecrownestate.co.uk

27th March 2015

Dear Emma,

Habitats Regulations Assessment of the Marine Minerals licensing Round Plan: Report to Inform Appropriate Assessment.

Thank you for consulting Natural Resources Wales (NRW) on the Report to Inform Appropriate Assessment (RIAA) of The Crown Estate's Marine Minerals Licensing Round (Minerals Plan). Our purpose is to ensure that the environment and natural resources of Wales are sustainably maintained, used and enhanced, now and in the future.

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, and 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.

The following comments are made by NRW as an advisory body only and are without prejudice to advice we might provide during implementation of the Minerals Plan, including any lower tier assessments of individual minerals projects, or any decisions NRW may make as a Licensing Authority under the Marine & Coastal Access Act 2009 as amended.

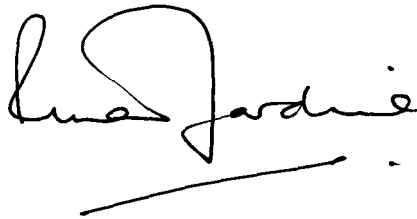
General comments on 'Report to Inform Appropriate Assessment'

1. We have already provided comments on the principles that the HRA should follow and on the screening assessment report. The comments we have made on the RIAA should be read in conjunction with these comments that were submitted to you on 20th October 2014 and 9th January 2015 respectively.
2. We consider that, in general, a robust and precautionary approach to the HRA and AA has been taken to identify those features of Welsh European and international sites which have the potential to be affected by the plan. Subject to satisfactorily addressing the issues described in our comments below NRW is content with the findings of the RIAA.
3. Any conclusion of no adverse effect of the plan will be strongly reliant on mitigations that must be applied at the project level to avoid sensitive species and habitats. It will be important that the information about assessment undertaken by the plan level HRA and the mitigation measures that have been identified are effectively communicated to developers alongside a caveat that more detailed assessment will be needed at the project level and that this will require information that is additional to that presented in the HRA. NRW therefore welcomes the commitment to produce Site Summary Reports that would allow the findings of the plan level HRA to be communicated to operators effectively.

4. Below we have highlighted a number of issues that we raised about the draft HRA principles and screening assessment that have not been addressed in the RIAA and we have made a number of other comments which are aimed at improving the overall robustness of the AA. In summary these relate to the overlap between the boundaries of Tender Site 8 and the Severn Estuary SAC and the potential for direct effects of aggregate dredging on habitat features of the SAC and the need to more fully explain the rationale behind the assessment of effects on migratory fish and other in-combination effects.

Should you have any queries regarding these comments, please do not hesitate to contact our Marine Industries Advice Manager, Andy Hill, in the first instance, at andrew.hill@naturalresourceswales.gov.uk, 0300 0653808. Please note that future formal consultation on any plan, including any post-adoption reports, should be sent to the Strategic Assessment Team in NRW at strategic.assessment@cyfoethnaturiolcymru.gov.uk.

Yn gywir / Yours faithfully

A handwritten signature in black ink, appearing to read 'Andy Hill', with a horizontal line underneath.

Head of Sustainable Communities

Pennaeth Cymunedau Cynaliadwy

Annex 1. Detailed comments on the AAIR

Potential for Adverse Effects on Annex 1 Habitats

1. The boundary of Tender Site 8 overlaps with the boundary of the Severn Estuary SAC. It is therefore possible that parts of the Severn Estuary SAC would be included within the Primary Impact Zone and therefore have the potential to be directly affected by the operation of the draghead at the seabed.
2. NRW nevertheless agrees with the overall conclusion that there will be no primary effect of exploration or production on Annex 1 habitat features of the Severn Estuary SAC. However, the conclusions about the effects of the plan are based on the adoption of mitigations set out in Section 9.4. As far as benthic habitats in the Severn Estuary are concerned, the conclusions are strongly dependent on activities specifically avoiding primary (direct physical) effects on Annex 1 habitats (e.g. reef forming *Sabellaria species*) by ensuring that both exploration and production do not take place where reef features are located. This requirement should be made clearer as one of the mitigation measures that must be applied at the project level for both exploration and production. Currently the need to apply such measures is only identified for production (section 9.5).
3. On a related point, it should be made clear that because of the particular conditions encountered in the Severn Estuary *Sabellaria alveolata* forms reefs in the subtidal parts of the Severn Estuary and beyond. Currently the report only describes *S. spinulosa* as reef forming in the subtidal parts of the Severn (Section 5.4.13). To our knowledge *S. spinulosa* reefs do not occur in the Severn Estuary SAC although reefs of this species have been recorded further out in the Bristol Channel.

Potential for Adverse Effects on Fish

4. We do not agree that effects on the Wye and Usk SAC's should be scoped out from the Appropriate Assessment (AA). The migration routes taken by the fish species that are features of these sites are uncertain but have the potential to cross Tender Site 8. However, subject to our comments below about the rationale for the 4 km impact halo, it would be appropriate for the AA to discount possible effects.
5. In our comments on the HRA Screening Report we requested sight of additional evidence to support the rationale for applying the 1 km Secondary Impact Halo. We are pleased to see that the impact halo applied has been extended to 4 km but it will nevertheless be important to present the rationale for the 4 km extent so that, in finalising the AA, The Crown Estate can be sure that the screening and subsequent Appropriate Assessment is based on robust evidence.
6. Other fisheries have been scoped out from further assessment within the AA. However, as highlighted in our response to consultation HRA principles in October 2014, a number of fisheries in Wales have been subject to assessment as plans or projects and the effects of these in-combination with the Minerals Plan should be considered.
7. There appears to be no consideration of the effects of the Minerals Plan on fish in-combination with other aggregates and non-aggregates dredging programmes in the Severn/Bristol Channel.
8. The in-combination effects assessment should also consider the Bristol Container Port proposal.