The Northern Ireland Marine Taskforce (NIMTF) is a coalition of non-government environmental organisations – it includes RSPB, Ulster Wildlife, Wildfowl and Wetlands Trust, WWF Northern Ireland, National Trust, Friends of the Earth, Irish Whale and Dolphin Group, and Northern Ireland Environment Link. The NIMTF has the support of approximately 100,000 local people. We are working towards healthy, productive and resilient seas for Northern Ireland.

Northern Ireland Marine Task Force response to: Department for Economy – Offshore Renewable Energy Action Plan SEA and HRA Process Flowchart and Constraints

Submitted: 18th August 2023

The Northern Ireland Marine Task Force (NIMTF) would like to thank the Department for Economy for the opportunity to respond to the Offshore Renewable Energy Action Plan (OREAP) – Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment (HRA) Process Flowchart and Constraints consultation. We are currently facing a twin nature and climate crisis; with much of our biodiversity and environment at risk due to an increased demand on resources. This is highlighted further by our marine environment failing to meet Good Environmental Status[1].

Currently, we do not have a finalised and spatially robust Marine Plan for Northern Ireland. A robust Marine Plan will be key to ensuring planning and future developments in NI waters are sustainable and take a nature based approach. Without such a Plan, there is much work to be done to fill in environmental and spatial data gaps in NI seas and it will be difficult to guarantee renewable energy projects are taking place within sustainable limits. Furthermore, outstanding objectives from DAERA's upcoming MPA Strategy Review and Blue Carbon Action Plan will need to be considered when undertaking developments within NI's marine environment. Finally, the timescale for completion of the final version of the Marine Plan is uncertain due to the uncertainty of Ministerial sign-off. Therefore, it is imperative that we have accurate and robust data sources when rolling out development at sea; to ensure marine-based industries are undertaking activities in a sustainable manner that not only protects but enhances the marine environment for future generations.

NIMTF support the RSPB response and we echo their key asks whilst highlighting some additional considerations needed to safeguard the wider marine environment. We would also ask you to refer to RSPB's Powering Healthy Seas Report[2], NIMTF's response to the Department of Economies OREAP[3] and NIMTF's response to the North Channel Wind Offshore Scoping Report[4]. We continue to support a strategic, ecosystem-based approach and the principles set out in the mitigation hierarchy. Adherence to the mitigation hierarchy, 'avoid, minimise, restore and compensate', is critical. In the first instance any impacts must be avoided, where this is not possible sufficient mitigation measures must be put in place. Only if there are any residual impacts that could not be avoided or mitigated must compensation measures be used. Key processes that must be adopted when approaching future offshore development projects are highlighted below:

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[1] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/921262/marine-strategy-part1-october19.pdf

[2] https://www.rspb.org.uk/globalassets/downloads/pa-documents/powering-healthy-seas-report_rspb_august-2022.pdf

1) Appropriate site selection

Site selection must be made in accordance with areas of least ecological disturbance. Careful consideration, especially when it comes to MPA networks, is important to ensure that avoidance of environmental harm; in particular where our focus should turn to a 'no net loss of biodiversity' approach to combat the twin nature and climate crisis. To do so we need to ensure a robust, strategic evidence base informs any site selection. It is important to ensure that economically viable sites are not prioritised over those which are environmentally sustainable. In doing so, we will be able to promote recovery and connectivity of the marine environment. This is reinforced by the Kunming-Montreal Global Biodiversity Framework which states 'By 2050, biodiversity is valued, conserved, restored and wisely used, maintaining ecosystem services, sustaining a healthy planet and delivering benefits essential for all people'[5]; meaning the renewable industry must not only sustain the health of the marine environment, but also support its restoration. This would require a marine net-gain system[6], whereby offshore renewable developments improve the environment in comparison to before development; promoting sustainable, environmental recovery at the heart of infrastructure planning and delivery.

Methods of avoidance include:

- Underpinning developments of offshore renewables in NI waters through robust marine spatial planning that avoids the most ecologically sensitive areas and only developing projects that are within areas that have been identified as appropriate.
- Abiding by the mitigation hierarchy at the project level, where impacts are avoided in the first instance, minimised where they cannot be avoided, mitigated where they cannot be avoided or minimised and strategic compensation only to be used as a last resort.

NIMTF are advocating for a strategic approach to all offshore renewable energy and infrastructure where damage to marine ecosystems is avoided. In areas such as the North Sea where development has not been sustainable and cumulative pressures were not adequately considered within the mitigation hierarchy.

2) Implement the Mitigation Hierarchy

Once efforts have been made to avoid environmental harm to sensitive areas, if the final site selection still negatively affects the marine environment, stakeholders must mitigate any further impacts within that area. Planners and decision makers must address their overall potential project impacts on the marine environment and implement the 'mitigation hierarchy' where disturbance may take place.

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[3] https://nimtf.files.wordpress.com/2023/03/nimtf-response-to-oreap-2023-.pdf
[4] https://nimtf.files.wordpress.com/2023/06/north-channel-wind-scoping-consultation_final-nimtf.pdf
[5] https://prod.drupal.www.infra.cbd.int/sites/default/files/2022-12/221222-CBD-PressRelease-COP15-Final.pdf
[6] https://consult.defra.gov.uk/defra-net-gain-consultation-team/consultation-on-the-principles-of-marine-net-gain/
[7] https://www.legislation.gov.uk/nia/2022/31/contents/enacted
[8] https://ejni.net/wp-content/uploads/2023/06/Linking-the-Irish-Environment-Final-Report-24-May-2023.pdf
[9] https://www.legislation.gov.uk/nia/2013/10/contents
[10] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31992L0043

Matters to be considered include:

- Mitigating the overall design of the infrastructure being deployed across all types of renewable infrastructure.
- Consider the design of mooring lines, anchor systems and cable design (including cabling) to shore.
- Techniques that minimise underwater noise.
- Planning to limit vessel collision with marine megafauna.
- Addressing potential entanglement with marine species.
- Invasive species control.
- Consideration of sustainable decommissioning.

3) Strategic Compensation

It is vital that only after exhausting avoidance and mitigation measures, may strategic compensation be considered if residual impacts remain. For strategic compensation to be pursued, the design and implementation of any project needs to be carefully considered to achieve real tangible wins for nature. It must not constitute actions that the government or developers already have a legal duty to carry out. Again, avoidance, minimisation and mitigation measures must be exhausted before resorting to strategic compensation. Ideally, projects should not be located or developed in such a way that necessitates strategic compensation in the first place.

4) Long-term and sustained monitoring

To adhere successfully to the mitigation hierarchy and ensure environmental impacts are limited, long-term monitoring programmes at both project and seascape level are key. Environmental monitoring should be in place from project conception through to decommissioning to guarantee that developments are not negatively impacting the marine environment. Findings from these monitoring plans should guide future best practice for offshore renewable developments that work for nature. NIMTF strongly advocate for long-term monitoring which provides greater understanding of the impacts in relation to turbine size and quantity, construction, cabling and underground piping, areas of increased boat traffic, interactions of seabird and elasmobranch populations in proximity to offshore renewable developments, seabird disturbance, wider implications on marine hydrodynamics, and the displacement of wider species' populations.

Following the proposed mitigation hierarchy, will help ensure Northern Ireland meets the targets set out by the Climate Change Act (Northern Ireland) 2022[7] whilst delivering on upcoming government strategies and policies, such as the NI Biodiversity Strategy, MPA Strategy Review, NI Seabird Conservation Strategy, NI Elasmobranch Strategy and NI Blue Carbon Action Plan. Northern Ireland can become a leader in nature positive offshore renewable energy development, setting a precedence for sustainable development at sea. In efforts to tackle the climate crisis, there should be a focus on nature-based solutions, as mentioned within the Climate Act 2022; providing blue-carbon initiatives whilst simultaneously delivering biodiversity goals.

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[11] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009L0147
[12] https://www.legislation.gov.uk/nisi/2002/3153/contents
[13] https://www.ramsar.org/
[14] https://www.nature.com/articles/s41586-020-03173-9

OREAP – SEA HRA Process Flow Chart

NIMTF would like to thank the Department for outlining their process chart which covers multiple aspects including stakeholder engagement, planning process and SEA & HRA plans respectively.

The timeframes set out may need to be amended for the consultation processes to ensure that all stakeholders have sufficient time and capacity to respond. For example the "SEA Scoping Consultation" (5) (September – October 2023)" is set for a 5 week period; NIMTF would propose increasing this to take into account capacity of stakeholders, as we expect several other consultations to be open for response during this period.

It is important to include relevant stakeholders from both Republic of Ireland (RoI) and the UK as these regions are undergoing offshore renewable energy expansion. A joint report by Irish Environment Network (IEN), Northern Ireland Environment Link (NIEL) and the Environmental Justice Network for Ireland (EJNI) highlights the need for transboundary cross-collaboration when it comes to matters affecting NI and RoI[8]. Transboundary collaboration will be of particular importance within the marine environment in areas such as Lough Foyle, Carlingford Lough and offshore regions of the Irish Sea.

NIMTF would propose key workshops in addition to open consultations with key stakeholders to enable face-to-face engagement and roundtable discussions on key processes. Further clarification is needed regarding whether "Stakeholder Review 2 (6) (October 2023)" is part of the SEA Scoping Consultation, or separate and if there will be adequate time in October, as this may coincide with a holiday period for many stakeholders. There have already been issues around sufficient time provided in relation to the current "Stakeholder Review 1 (2) (June – July 2023)" which required an extension from 31st July 2023 to 18th August 2023 due to conflicts in availability. This is something to consider with the following dates: February – April and future dates across the summer holidays (June – August).

Finally, NIMTF would like to ensure that we have been identified as a relevant stakeholder for all Stakeholder Reviews 1 (2), 2 (6), 3 (9), 4 (18) and the Public Consultation (16) to provide additional input at all of these stages. Further clarity needs to be provided on the types of environmental issues under consideration within "Resource Identification (7) (November – December 2023)" and "Resource Quantification (8) (December 2023)" stages of the process. Within these stages it is imperative alongside the upcoming MPA Strategy Review to ensure that both species and habitats within and outside of the NI MPA Network are considered at all stages; as opposed to solely within the "Environmental Assessment (10) (October 2023 – February 2024)" stage, especially given this network is underpinned by legislation.

OREAP Constraints Data

The BRAG definition for categorising ratings of environmental sensitivity is very beneficial in understanding potential impacts associated with varied offshore renewable technology. NIMTF are encouraged to see multiple impacts from different types of offshore renewable infrastructure being considered against sensitive features. It is unclear as to how the initial proposed BRAG sensitivity allocations have been collated. This would be beneficial in understanding any amendments which are being proposed below:

Amendments to existing Constraints

A number of the data sources we propose increasing in all renewable areas by 1 BRAG level:

- Onshore and offshore SACs with sensitive features
- Onshore and offshore SACs without sensitive features
- Onshore and offshore SPAs with sensitive features
- Onshore and offshore SPAs without sensitive features
- NI MCZs with sensitive features
- NI MCZs without sensitive features
- UK Grey Seal – High Density
- UK Harbour Seal – High Density

Marine Conservation Zones (MCZs) were established in NI to protect and conserve species in relation to industry practices under The Marine Act (Northern Ireland)[9] 2013, whilst other designations such as Special Protection Areas (SPAs), Special Areas of Conservation (SACs), Areas of Special Scientific Interest (ASSIs) and RAMSAR have been designated under the Habitats[10] and Birds Directives[11], The Environment (Northern Ireland) Order 2002[12] and the Conservation on Wetlands (RAMSAR)[13] respectively. As such, NIMTF proposes an increase by one BRAG level in relation to the MPA network, ensuring sufficient connectivity between designations in order to achieve ocean recovery amidst a nature and climate crisis.

Pinnipeds such as Harbour and Grey Seals are vulnerable to underwater noise which can result from construction, operation and decommissioning processes. It is important where species are currently in an 'Unfavourable' condition that we implement long-term monitoring to collect further data alongside the mitigation hierarchy; using the Precautionary Principle where there is a data deficit. This will also ensure we maintain and improve those species that are presently in 'Favourable' condition. NIMTF would reiterate the importance of offshore renewable developments and associated infrastructure such as cables not taking place within MPAs.

The following data sources we propose increasing by 1 BRAG level in the specified areas:

- NI Annex 1 Reefs – *Fixed Wind, Wave, Tidal and Cabling*
- NI Annex 1 Sandbanks – *Cabling*
- NI Annex 1 Saltmarsh – *Wave and Tidal*
- UK Fish Spawning Grounds – *Cabling*
- UK Fish Nursery Grounds – *Floating Wind and Cabling*
- UK Important Bird Areas – *Fixed Wind*, *Floating Wind, Wave and Tidal*
- UK RSPB Reserves – *Fixed Wind, Floating Wind and Cabling*
- National Trust Land – *Cabling*
- Shellfish Waters – *Fixed Wind and Floating Wind*

The following data sources we propose increasing in the specifically highlighted renewable areas by 2 BRAG levels:

- Shellfish Waters – *Cabling*

Cabling structure is highly important during the developmental stages of offshore renewable technologies as they can move within the marine environment. Cabling structure is dependent on several factors but has high potential to scour the seabed and remove benthic communities, influence hydrodynamics and reduce our local seas' ability to sustain and recover. Impacts to benthic communities have the potential to impact seabirds, which are already experiencing global declines of around 70%[14], a trend that is reflected in Northern Ireland waters. The removal or reduction of available food source-supporting habitats for many seabird species has contributed significantly to these declines. Therefore, cabling structure is an important issue to highlight in BRAG sensitivities; alongside the impacts to blue-carbon habitats such as seagrass and saltmarsh. These habitats are necessary to prevent further biodiversity declines and are a core component of nature-based solutions with respect to the upcoming Blue Carbon Action Plan.

The constraints data does not provide any specific information in relation to decommissioning of offshore renewable developments, with BRAG levels assigned based on development and/or operation. All HRA/SEA should take a strategic approach accounting for the wider expansion and cumulative impacts on marine biodiversity from several offshore renewable developments across NI; with the inclusion of impact and vulnerability assessments for species and habitats in relation to long-term developments. Planning for offshore renewable developments at both long and short-term should consider the whole process, from conception to decommissioning.

Additional and amended sources of data

NIMTF would like to thank the Department for setting out which data sources they are including to assist with their decision-making process and their request for additions or amendments to the proposed data sources. We are aware that there is a deficit in some available data sources in relation to specific marine fauna and flora, requiring further long-term monitoring. It is vital that the data used is the most up to date scientific evidence for decision makers and planners. NIMTF would like to propose the following recommendations and amendments to available data sources:

- Inclusion of Seagrass locations (if not included in MPA features) - https://moat.cefas.co.uk/biodiversity-food-webs-and-marine-protected-areas/benthic-habitats/intertidal-seagrass/ (2018)
- UK Fish Spawning and Nursery Grounds - https://data.catchmentbasedapproach.org/maps/8af2be1d5b5b4dde86394d5991705392/about (May 2019)
- Inclusion of data on NI Cetaceans – contact Irish Whale & Dolphin Group for March 2021 available data for 'NI Marine Zone'
- UK Cetacean data: https://www.data.gov.uk/dataset/168a83c3-e350-435c-a1b2-07eed365ae57/management-units-for-cetaceans-in-uk-waters-january-2015 (July 2019)
- Mapping data required for the NI Priority Species List to highlight additional sensitivity data - https://www.daera-ni.gov.uk/publications/list-northern-ireland-priority-species-2023 (March 2023)

- Elasmobranch data – further data around important nursery grounds for local species such as Common Skate, Basking Shark and Spurdog to coincide with the upcoming NI Elasmobranch Strategy. Taking into account the Area of Search for Common Skate.

- Inclusion of data around seabird populations that link with Scotland around the Irish Sea - contact RSPB NI for currently available data.

It is important that the above processes, constraints and data sources are robust and contribute to existing statutory environmental protections and other imminent policy developments (MPA Strategy Review, NI Seabird Conservation Strategy, NI Elasmobranch Strategy and the NI Blue Carbon Action Plan). It is important to ensure each SEA/HRA is site-specific, not a 'one size fits all' approach. As part of the mitigation hierarchy, NIMTF proposes an impact-reviewing mechanism which can run over decadal scales, as part of project monitoring plans.

In conclusion, NIMTF proposes higher BRAG levels in the above highlighted areas to coincide with the sensitive nature of an already struggling marine environment to maintain protections for sensitive species. This will contribute to reducing cumulative impacts already facing the marine environment, allowing the opportunity for ocean recovery. NIMTF and other eNGOs are keen to continue to be involved in stakeholder engagement and consultation.

For further information, please contact Robert Walsh (Robert.walsh@nimtf.org), NIMTF Officer.