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# 33rd Seaward Licensing Round

## Appropriate Assessment consultation

15th September 2023

*Wildlife and Countryside Link (Link) is the largest environment and wildlife coalition in England, bringing together 78 organisations to use their strong joint voice for the protection of nature. Our members campaign to conserve, enhance and access our landscapes, animals, plants, habitats, rivers and seas. Scottish Environment LINK is the forum for Scotland's voluntary environment community, with over 40 member bodies representing a broad spectrum of environmental interests, with the common goal of contributing to a more environmentally sustainable society. This response is supported by the following Link and ScotLINK member organisations:*

- Blue Marine Foundation
- Marine Conservation Society
- Oceana
- ORCA
- Seal Research Trust
- Surfers Against Sewage
- Whale and Dolphin Conservation
- Zoological Society of London

### Context

- **The UK's seas are facing unprecedented pressures, requiring urgent action to safeguard fragile marine life.** Recent record UK sea temperatures of 4-5°C above average have placed extreme pressure on sealife, mass die offs of crustaceans in the North East of England reveal a highly degraded ecosystem, and Government assessments continue to show that the UK's seas are in a poor environmental state, failing on 11 out of 15 key indicators.
- Globally, the International Panel on Climate Change (IPCC) has stated that **"It is virtually certain that the global ocean has warmed unabated since 1970** and has taken up more than 90% of the excess heat in the climate system." The Synthesis Report of the Sixth Assessment Report by the IPCC concluded that to avoid global warming in excess of 1.5°C there is a need for immediate cuts in greenhouse gas emissions across all sectors.
- The Chair of the **Climate Change Committee (CCC)**, has said that the Government's current stance in favour of expanding production of fossil fuels in the North Sea meant the U.K. had "perfectly properly been called hypocrites." The CCC



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has concluded that new exploration and exploitation of fossil fuels in the U.K. was **“not only unnecessary, but sets a bad example to the world.”**<sup>1</sup>

- **Oil and gas exploitation activities cause significant, direct impacts to marine ecosystems** and species throughout the lifecycle of exploration, production and decommissioning. Impacts on habitats and species arise from the discharge of produced water, oil, chemicals, drilling muds and cuttings, physical impacts from the position and construction of installations and pipelines, noise from seismic surveys and drilling, light, and atmospheric emissions.
- The Greater North Sea has been subject to high levels of oil and gas development since the early 1960s and other offshore developments (such as for offshore renewables) are now proceeding at significant pace. These waters support a diverse range of marine species, including cetaceans, and are an important migratory pathway for many high latitude breeding species, support globally important populations of breeding seabirds and commercially important fishing grounds, as well as a range of unique and sensitive benthic ecosystems and habitats.

### **Climate change (accelerated by the exploitation of fossil fuels) directly harms the marine environment:**

The consultation documents note that the “SEA Environmental Report includes detailed consideration of the status of the natural environment and potential effects of the range of activities which could follow licensing, including potential effects on conservation sites.” However, there has been no assessment of how these licences will contribute to increased greenhouse gas emissions and the impact this will have on the MPAs and their designated features mentioned.

Indeed, we consider that the Government’s stated commitment to the Kunming-Montreal Global Biodiversity Framework (KMGBF) within their 2030 Strategic Framework for International Climate and Nature Action (2030) is essential to avoid climate change impacts to marine ecosystems, the services these provide and the network of Marine Protected Areas (MPAs) that include European Marine Sites. The Government commitment should mitigate and install resilience to climate change impacts on ecosystem services that otherwise would have negative consequences to local communities dependent on fisheries. Failure to meet these commitments would challenge the ability of the Government to ensure food security through fisheries, maintain livelihoods and provide tourism and recreation opportunities.

We therefore cannot reconcile the Government’s stated commitment to the KMGBF and its aim of “Building a research and evidence base of what works in managing the natural environment to adapt to a changing climate” whilst basing an energy strategy on unsustainable oil and gas exploration and production using yet to be successfully proven carbon capture and storage at scale.

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<sup>1</sup> <https://www.politico.eu/article/john-gummer-uk-climate-adviser-government-hypocrites-north-sea-oil-gas/>



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Link considers that the Government's proposal to develop new fossil fuel reserves on the assumption that unproven CCUS/ CCS will be available to mitigate emissions is reckless. It is a major failing that this Appropriate Assessment does not fully consider this issue, particularly if CCUS/ CCS or other abatement methods prove to be unviable or ineffective at the scale needed. We note that when determining a Likely Significant Effect (LSE) on European Marine Sites, it is not acceptable for competent authorities to take into account any mitigation measures (i.e. carbon capture and storage) when determining whether or not a plan or project will have a LSE on a European site.

The British Energy Security Strategy, Powering Up Britain, Energy Bill and OESEA4 make it clear that future marine energy production in the UK is part of an overall plan which, due to greenhouse gas emissions and associated climate change, potentially impacts marine ecosystems and so poses implications to the entire UK MPA network of European Marine Sites (SPAs and SACs). As such, a comprehensive Habitats Regulation Assessment is required to examine the direct, cumulative and in-combination impacts from Oil and Gas Exploration and Production, Carbon Capture and Storage, Blue (natural gas derived) hydrogen and renewable energy (offshore wind). Attention should be paid to the contribution by proposals to greenhouse gas emissions that contribute to climate change impacts on the Global, UKOT and UK MPA network. The current Appropriate Assessment fails to do this.

We believe that marine ecosystems should be supported by protection, restoration and precautionary ecosystem-based management (whole site approach) based on renewable resource use and by the reduction of pollution and other stressors. Continued reliance on marine oil and gas extraction undermines the potential for such ecosystem-based adaptation as this will be increasingly ineffective as the climate reaches higher levels of warming.

We affirm and supports the call by signatories to the Cambridge Zero<sub>2</sub> letter<sup>2</sup> (28th March 2023) that the Government's Net Zero Strategy should be revised to contain a commitment not to approve any new development of onshore or offshore oil and gas fields.

### **New oil and gas development will directly impact the Marine Protected Area network:**

- **Species/habitats which will be particularly impacted:**
  - **Reef habitat, sandbank habitat and other benthic habitat:** For a number of the Special Areas of Conservation assessed, the site includes examples of rich benthic habitats supporting biodiverse communities, fish spawning grounds, feeding grounds for marine mammals, seabirds and other species. These habitats are usually part of the designated feature of Sandbank or Reef habitat and are subject to conservation objectives for maintaining or restoring the extent and distribution of the qualifying habitat in the site; the structure and function of the qualifying habitat in the site; and the supporting processes on which the qualifying habitat relies. Despite some of these MPAs facing multiple new offshore rigs being installed and operated within their

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<sup>2</sup> <https://www.zero.cam.ac.uk/who-we-are/blog/news/hundreds-uk-scientists-and-academics-urge-prime-minister-rishi-sunak-prevent>



boundaries, the overall risk to the integrity of these ecosystems is not considered a barrier to the developments in these draft Appropriate Assessments.

- **Harbour porpoise:** The sites assessed in this exercise include some which are particularly important for harbour porpoise. The Southern North Sea SAC is a large MPA designated to protect harbour porpoise. The conservation objectives include ensuring the integrity of the site is maintained and that the site contributes to maintaining Favourable Conservation Status for harbour porpoise, ensuring no significant disturbance of the species and maintaining the condition of habitats and processes and the availability of prey. The Southern North Sea SAC has been assessed as having harbour porpoise populations in favourable condition<sup>3</sup> and is already heavily industrialised, but the proposed new licences would add up to 87 new oil and gas wells. Each of these wells would cause a wide range of impacts on harbour porpoise and the ecosystems which sustain them. These impacts are not adequately considered as part of the Appropriate Assessment for the SAC.
- **Other cetaceans:** Other European protected species (EPS) of cetacean are rarely mentioned in the assessments; cetaceans are covered by a system of strict protection from injury, killing and disturbance. The lack of consideration of the species which are present in UK waters (more than 20 species are known, with 7 species regularly reported) is a serious oversight in terms of wider conservation objectives of sites. Further, the Appropriate Assessment consultation does not adequately reflect that all cetaceans are subject to protection and are listed species under a range of other UK, European and International legislation and agreements (including ASCOBANS, OSPAR and the Bern Convention). There is wide-ranging evidence for the impact of all stages of offshore oil and gas on marine mammals, including toxic effects of oil and the release of other polluting substances, habitat loss, prey disturbance and noise pollution, and these impacts are generally not adequately mitigated through the existing advice /guidance for Marine Mammal Observers and related measures commonly implemented.
- **Seabirds:** Many of the Special Protection Areas assessed are internationally important for birds, with 14 of the sites assessed including seabirds as designating features. There is no mention in the assessments of the devastating impact that avian influenza is currently having on many of these populations, yet that information seems directly relevant to the conservation status of those species, the consideration of in-combination impacts, and for decision-making about management of their most important sites.
  - At present, the designation of an MPA is not a barrier to development. This is despite Government commitments to 30x30 (protecting 30% of land and sea for nature by 2030) and Ministers stating that they are working “to ensure our network of MPAs are effectively protected.”<sup>4</sup>
  - In 2022, the UK Government agreed at COP15 the Kunming-Montreal Global Biodiversity Framework (KMGBF). The Framework contains commitments to “ensure

<sup>3</sup> JNCC, 2019. Southern North Sea MPA – Relevant Documentation & Conservation Advice 2019.

<sup>4</sup> <https://www.gov.uk/government/speeches/minister-pow-keynote-speech-coastal-futures-2022>



that the integrity, connectivity and resilience of all ecosystems are maintained, enhanced, or restored, substantially increasing the area of natural ecosystems by 2050” alongside the need “to bring the loss of areas of high biodiversity importance, including ecosystems of high ecological integrity, close to zero by 2030” through actions to “ensure that by 2030 at least 30 per cent of ...marine and coastal ecosystems are under effective restoration, in order to enhance biodiversity and ecosystem functions and services, ecological integrity and connectivity; and to “minimize the impact of climate change and ocean acidification on biodiversity.”

- There are numerous examples of the omission of relevant evidence in the assessment, including recent research reports relevant to both the condition of the MPAs assessed and also evidence about the impacts of offshore oil and gas on protected species and habitats, including information contributed as part of the OESEA4 consultation process.
- The Government recently restricted trawling and dredging in the Dogger Bank SAC, which the then Secretary of State said was “to protect wildlife and habitats”. However, within the boundary of that SAC, analysis by Oceana & Uplift has shown there are 176 fossil fuel wells, 13 platforms and a network of 633 km of associated pipelines.<sup>5</sup> The estimated physical footprint of the platform and well infrastructure is 0.188km<sup>2</sup>. The estimated area impacted by the associated drill cuttings for these wells and platforms is 71 km<sup>2</sup>. It is particularly jarring that in this site, where the Government has taken positive action to protect benthic habitats from bottom-towed gear, new harms are now being introduced including “physical disturbance and drilling: rig siting, (and) drilling discharges”.
- To safeguard MPAs, including European Marine Sites (SAC and SPA), and to achieve 30x30 at sea, we believe the Government should commit to:
  - **Strictly prohibiting new offshore oil and gas exploration or extraction at sea.** As priorities are determined for the marine environment, one clear red line is that no new development of offshore oil and gas should be permitted anywhere in the UK’s EEZ. This will reduce harm to marine life from noise and pollution, and ensure that the UK shows international leadership on addressing the climate crisis and biodiversity decline.

### **New oil and gas developments will directly impact highly mobile species:**

- Feature-based, site-based assessments are inadequate and the consultation does not provide a comprehensive ‘Appropriate Assessment’ (as defined in UK Government Guidance for Habitats Regulations Assessment) or thorough evaluation of impacts on highly mobile marine protected species which are present in the areas under consideration. These species range widely using multiple sites and the proposed developments will put vulnerable/endangered species at further risk. In many cases the conservation objective to maintain or restore site integrity is not compatible with the levels of extra development that each licence application represents.

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<sup>5</sup> <https://uk.oceana.org/wp-content/uploads/sites/14/2023/04/InDeepWater-Report-Edited-LowRes.pdf>



- Highly mobile protected species such as whales and dolphins (with the exception of harbour porpoise which is often a conservation feature within designated SACs, basking sharks and other protected elasmobranchs are hardly mentioned in the assessments and the impact on important forage/prey species, for example herring and sandeel, is discussed in general terms but is not fully considered in the assessments of site integrity. Given the number of licence blocks and potential extraction sites and wells being considered in this assessment, the additional impact on migratory species should also be considered as part of the impact on delivery of conservation objectives to maintain or restore the integrity of the site. Many species of cetacean have been recorded in the sites assessed but are not properly considered in this Assessment.
- Annex IV listed cetaceans: The planned oil and gas activities (including seismic surveys) will have a significant effect on a range of cetacean species, all of which are listed on Annex IV of the Habitats Regulations as in need of strict protection.
- Regulation 10 of The Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 makes it an offence to deliberately disturb these animals or cause deterioration or destruction of breeding sites or resting places of any such creature. Under the Habitats Regulations, the competent authority must not grant a licence for development unless they are satisfied that this is not the case.

### **Marine spatial planning**

We are concerned that competition for seabed access, particularly in the Central and Southern North Sea by the oil and gas industry, could be to the detriment of renewables generation capacity; whilst also risking adverse impacts to the MPA network through competition for available seabed for development. Recognising the incompatibility of further oil and gas development when faced with a Climate Change Emergency, we recommend that action is taken to facilitate marine planning based on the sustainable use of natural resources:

- As unprecedented development ramps up at sea, including significant UK commitments to offshore wind power, a failing planning system risks an excess of overall activity which further degrades our already depleted seas, pushing the marine environment beyond its carrying capacity.
- Action must be taken to facilitate marine planning based on the sustainable use of natural resources. We are entering a period of industrialisation of our seaspace through large scale development of offshore oil and gas, and wind. Marine plans are essential for managing conflicts emerging from the growing number of activities in our seas, yet the current plans are obsolete;<sup>6</sup> they will not enable the construction of 50GW of offshore wind capacity by 2030 in a manner that is compatible with legally-

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<sup>6</sup> The Government's recent assessment of the East Marine Plans found that "wider legislative and policy changes since the adoption of the plans means that their intended outcomes are no longer aligned to the UK's national priorities [...] Based on this conclusion, the MMO recommends that the plans be replaced  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1146463/East\\_Report\\_2023.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1146463/East_Report_2023.pdf)



binding targets for nature's recovery. Further, they do not contain a spatial element which guides where development should most sustainably be located.

- In England, Marine Plans must be urgently revised to reflect the climate and nature crises. Marine Plans should ensure that climate and nature recovery is at the heart of policy and spatial planning, following an ecosystem based approach. They must ensure that areas for nature are effectively protected, and that the cumulative environmental impacts of our increasing demands on the sea are addressed to enable nature to recover while helping to tackle climate change.
- In Scotland, the National Marine Plan currently includes a contradiction between sectoral policies and objectives to maximise oil and gas exploration and extraction and General Policy 5 Climate change: "Marine planners and decision makers must act in the way best calculated to mitigate, and adapt to, climate change". The sectoral oil and gas objectives are therefore at odds with the need for a Just Transition to a low carbon economy through the sustainable development of marine renewable energy. Scottish Environment LINK members have long-stated concerns about the incompatibility of these sectoral objectives with the need for transformative change underlined by the scientific evidence on climate change and the globally acknowledged climate emergency.<sup>7</sup> Scotland's second National Marine Plan is currently under revision, and General Policy 5 or an equivalent must be reinforced therein, and all General and sectoral policies must better reflect the climate emergency and nature crisis. This is crucial to provide greater direction on reducing the impact of damaging activities on the marine environment, encouraging appropriate active nature restoration and ensuring Scotland is on course for nature at sea to be on a trajectory of recovery by 2030 and to be net zero by 2045.

## Annex 1: Supporting Information.

1. We fully support the findings of the briefing produced by Dr Fiona Gell, independent marine conservation and climate policy consultant, which has been submitted separately by Oceana to the consultation.
2. The *Synthesis Report of the Sixth Assessment Report* by the Intergovernmental Panel on Climate Change (IPCC) concluded that to avoid global warming in excess of 1.5°C there is a need for immediate cuts in greenhouse gas emissions across all sectors. The licensing terms of the 33<sup>rd</sup> Round envisage development and production activities for 33 years, *but may be extended if production continues beyond this period* (Section 2.1 of all three Appropriate Assessments). Such terms would take greenhouse gas emitting activities beyond the 2050 Net Zero Goal.
2. To avoid exceeding emissions budgets that would limit warming to 1.5°C the UK will need to either leave oil and gas reserves unused or put in place viable emission abatement technologies. The UK Government *British Energy Security Strategy*, *Powering Up Britain* policy and *UK Offshore Energy Strategic Environmental Assessment (OESEA4)* are centred on the use of abatement technologies within

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<sup>7</sup> [https://www.scotlink.org/files/documents/ScotLINK\\_NMP\\_Survey\\_Response\\_20102017.pdf](https://www.scotlink.org/files/documents/ScotLINK_NMP_Survey_Response_20102017.pdf)



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industry derived scenarios (Daylight, Sunset and Clear Blue Sky), demonstrating that any further hydrocarbon production on the UK Continental Shelf (UKCS) will be dependent on some form of technically and commercially viable abatement.

3. The *British Energy Security Strategy* indicates net zero hydrocarbon production, associated hydrogen generation and carbon capture and storage (CCS) is dependent on diverting part of the UKCS offshore renewables resources to the oil and gas industry. We are further concerned that *competition for seabed coverage*, particularly in the Central and Southern North Sea by the oil and gas industry could be to the detriment of renewables generation capacity; whilst also risking adverse impacts to the MPA network through competition for available seabed for development.
4. We note that the International Panel on Climate Change has stated that “*It is virtually certain that the global ocean has warmed unabated since 1970 and has taken up more than 90% of the excess heat in the climate system.*” Since the early 1990s the rate of ocean warming has doubled, with marine heatwaves increasing in frequency since the early 1980s. Warming has been accompanied by increasing surface acidification and a loss of oxygen to depths of 1000m.
5. In response, since the latter half of the 20<sup>th</sup> Century marine species have undergone shifts in geographical range and seasonal activities due to changes to their habitats, with “*cascading impacts on ecosystem structure and functioning*”. These changes have caused changes in species range and distribution, whilst leading to altered ecosystem structures in the North Atlantic, including UK waters. The North Sea, part of the Appropriate Assessment area, has been observed to have warmed the fastest in the entire Atlantic between 1980 and 2020, and is likely to continue to do so due to past and current greenhouse gas emissions. Sea Surface Temperatures (SST) show a warming trend of 0.3°C per decade, with an increase in heat events to between four and six per year between 1982 and 2016. Increases in average annual mean SST are predicted to continue around the UK, with the greatest expected in the North Sea. North Sea waters have also recently shown oxygen deficiency in the late summer associated with ocean warming, with evidence to suggest that this process is also impacting the Irish Sea area of the Appropriate Assessment. Warming of the North Sea has been accompanied by decreases in zooplankton species which form the basis to benthic and pelagic ecosystems exemplified by the MPAs for the assessment area.
6. In 2022, the UK Government agreed at COP15 the Kunming-Montreal Global Biodiversity Framework (KMGBF). The Framework contains commitments to “*ensure that the integrity, connectivity and resilience of all ecosystems are maintained, enhanced, or restored, substantially increasing the area of natural ecosystems by 2050*” alongside the need “*to bring the loss of areas of high biodiversity importance, including ecosystems of high ecological integrity, close to zero by 2030*” through actions to “*ensure that by 2030 at least 30 per cent of ...marine and coastal ecosystems are under effective restoration, in order to enhance biodiversity and*





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*ecosystem functions and services, ecological integrity and connectivity; and to*  
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7. In the North Atlantic the continuance of climate change may affect key species within benthic ecosystems, with impacts on food webs that include pelagic (fish) communities. Key to, and not discussed within, the Appropriate Assessment is the mitigation of climate change impact on ecosystems and MPAs such as those within the Appropriate Assessment areas. Continuation of climate change is likely to cause the loss of key benthic species within North Sea MPAs during the 21<sup>st</sup> Century, particularly if impacts continue after 2050.