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Re: Proposed Variation to the County Donegal Development Plan 2018-2024 (As Varied) in respect of a Wind Energy Policy Framework (Variation No. 2).

Thank you for your correspondence regarding Proposed Variation to the County Donegal Development Plan 2018-2024 (As Varied) in respect of a Wind Energy Policy Framework (Variation No. 2) SEA Environmental Report & Natura Impact Statement

The Department of Agriculture, Environment and Rural Affairs Northern Ireland (DAERA) and (supported with a service level agreement) DfC Historic Environment Division (HED)), has considered the consultation and associated documents and our opinions are set out below and in the additional attachment from HED.

The layout and content of the Environmental Report is well laid out and easy to follow.

DAERA SEA Team is content that the environmental report and the process of consultation follow the SEA Directive.

A description of the current state of the environment and how this relates to the proposed Framework is included within the environmental report. Appropriate environmental objectives / targets / indicators for each of the likely environmental receptors is addressed including consideration of alternatives, an assessment of significant impact and complemented with mitigation measures and monitoring programme.

Natural Environment Division Comments

NED welcome that transboundary issues for the natural environment / heritage has been given consideration within the SEA and NIS.

NED note that the Ireland's Proposed Variation to the County Donegal Development Plan 2018-2024 (As Varied) in respect of a Wind Energy Policy Framework (Variation No. 2) is limited to within Ireland and welcome the acknowledgement and consideration of transboundary environmental effects within the SEA. We encourage continued engagement and co-ordination with NI.

We note there are a significant 'open to consideration' areas adjacent to NI. Any of these wind energy proposals/projects will require engagement with NI and assessment of transboundary impacts and possibly further Environmental assessment and /or HRA at planning/project level.

We welcome the proposed monitoring and mitigation to prevent, reduce and offset significant environmental impacts and provided it will be applied to transboundary cases and engagement with NI continues we are content.

We welcome that Appropriate Assessment has been carried out and that the NIS has considered NI Sites. We however note that further Appropriate Assessment may be required at project level and advise continued and early engagement with the relevant bodies in NI as appropriate and should there be any potential transboundary effects on NI.

Marine and Fisheries Division Response.

Marine Conservation Advice:

Environmental Report

Marine and Fisheries Division (M&FD) notes that this proposed variation refers to terrestrial wind energy developments only, stated in *Section 4.22* of the Natural Impact Report (NIR) and highlighted by the fact *Amendment item no.20 Map 8.2.1 Wind energy* does not include any marine environments. However, land based wind farms located in close proximity to the coast around Lough Foyle still have the potential to adversely impact the marine environment through potential



impacts such as pollution from sedimentation and hydrocarbon spillages (highlighted in *Section 7.3.4 and NIR 6.38*) as well as noise disturbance from activities such as piling during construction (*NIR 4.20*). In addition, *Section 7.3.7* states ‘*that wind energy developments, like other developments, have the potential to increase the risk of flooding in the long term and such potential risks may include: increased surface water runoff from access roads, hardstanding areas turbine bases etc. relative to predevelopment conditions and changes in hydrological flow regimes*’, which in close proximity to the marine environment could potentially lead to marine pollution.

Furthermore, M&FD notes that the City of Derry Airport authorities have identified a land buffer of 15NM around the airport that is offered protection via policy T-P-19 of the CDP. If this buffer was extended to the marine environment and ensured no wind energy development occurred within the buffer, M&FD would not have any comments due to the fact proposed wind energy developments would not come in close proximity with Northern Ireland’s marine environment. However, if this is not the case M&FD response is outlined below for consideration.

M&FD welcomes the statement ‘*windfarm applications will require an EIA report and an AA at the development consent stage*’ and that buffer areas around Natura 2000 sites are being utilised as well as considering cumulative effects. In addition, M&FD welcomes the fact that coastal sites are being considered as part of the assessment despite being highly unlikely to be attractive to developers for wind energy projects (*Section 3.1*).

M&FD welcomes the consideration of the following Marine Protected Areas listed in *Table 3 of the NIR* and the consideration of their buffers in *Reference 12*.

- Bann Estuary SAC
- Magilligan SAC
- River Faughan and Tributaries SAC
- River Roe and Tributaries SAC

- Skerries and Causeway SAC
- River Foyle and Tributaries SAC
- Lough Foyle SPA

However, M&FD enquires what buffer was used for the creation of *Reference 10*? As it does not seem to display the same as *Reference 12*. In addition, M&FD recommends the following Marine Protected Areas to also be considered:

- North Antrim Coast SAC, which is designated under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended);
- Ramore Head and The Skerries ASSI, Giant's Causeway and Dunseverick ASSI, Portrush West Strand ASSI, White Rocks ASSI, Portballintrae ASSI, Runkerry ASSI, Bann Estuary ASSI, Magilligan ASSI and Lough Foyle ASSI, which are declared under the Environment Order (Northern Ireland) 2002, and
- Lough Foyle Ramsar site, which is designated under the Ramsar Convention.

Furthermore, recent advice, relating to MPAs which have marine mammals as a site selection feature, recommends the following ranges should be used when screening for either Common (*Phoca vitulina*) or Grey (*Halichoerus grypus*) seals and Harbour porpoise (*Phocoena phocoena*):

- all SACs within 100km of the project should be screened for Grey seals (*Halichoerus grypus*)
- all SACs within 50km of the project should be screened for Common seals (*Phoca vitulina*)
- all SACs within 100km of the project should be screened for Harbour porpoise (*Phocoena phocoena*)

Therefore the Maidens SAC for Grey seals, the Strangford Lough SAC for Common seals and the North Channel SAC for Harbour porpoise should be considered.

See DAERA's [Marine Map Viewer](#)



Recommendations

Within the Environmental Report:

- Fig. 3.1 and 3.2 do not show Northern Ireland's SACs and SPAs as suggested in the main text.
- In section 3.9 also considering the potential impacts on the Lough Foyle Regional Seascape Character Area and the North Coast Strands and Dunes Regional Seascape Character Area.

Where wind farms are in close proximity to Lough Foyle the following UK and Northern Ireland policies and legislation need to be considered in Section 6:

The Marine and Coastal Access Act 2009

The Marine and Coastal Access Act 2009 introduced a revised system of Marine Management and Licensing, including marine planning. The eight key elements are:

- *Establishment of the Marine Management Organisation (MMO)*
- *Creation of a strategic marine planning system*
- *A streamlined marine licensing system*
- *Marine nature conservation*
- *Fisheries management and marine enforcement*
- *Migratory and freshwater fisheries*
- *Coastal access*
- *Coastal and estuarine management*

[The Marine and Coastal Act 2009](#)

The Marine Strategy Regulations 2010

The UK Marine Strategy Regulations 2010 require the UK to take the necessary measures to achieve or maintain Good Environmental Status (GES) through the development of a UK Marine Strategy. The UK Marine Strategy, made up of Parts One, Two and Three, sets out a comprehensive framework for assessing,

monitoring and taking action across our seas to achieve the UK's shared vision for 'clean, healthy, safe, productive and biologically diverse ocean and seas'. In October 2019, the updated UK Marine Strategy Part One: UK updated assessment and Good Environmental Status was published. In March 2021 the updated UK Marine Strategy Part Two: UK updated monitoring programmes was published and the UK Marine Strategy Part 3: Programme for Measures is being reviewed after being out for consultation (6/09/21- 29/11/21).

[UK Marine Strategy Part 1](#)

[UK Marine Strategy Part 2](#)

[Overview of UK Marine Strategy Part 3](#)

Marine Policy Statement 2011

This Marine Policy Statement (MPS) is the framework for preparing Marine Plans and taking decisions affecting the marine environment. It will contribute to the achievement of sustainable development in the United Kingdom marine area. It has been prepared and adopted for the purposes of section 44 of the Marine and Coastal Access Act 2009.

The MPS will facilitate and support the formulation of Marine Plans, ensuring that marine resources are used in a sustainable way in line with the high level marine objectives and thereby:

- *Promote sustainable economic development;*
- *Enable the UK's move towards a low-carbon economy, in order to mitigate the causes of climate change and ocean acidification and adapt to their effects;*
- *Ensure a sustainable marine environment which promotes healthy, functioning marine ecosystems and protects marine habitats, species and our heritage assets; and*
- *Contribute to the societal benefits of the marine area, including the sustainable use of marine resources to address local social and economic issues.*



The draft Marine Plan for Northern Ireland (consultation 2018)

*A marine plan becomes a consideration in all relevant planning decisions once it is published for public consultation. The **NI Marine Plan** was published for public consultation on 18 April 2018. The Plan must be used for all planning decisions for the sea, coast, estuaries and tidal waters, as well as developments that impact, or might impact, these areas, such as infrastructure. **All public authorities are responsible for implementing the Plan through existing regulatory and decision-making processes.** As well as public authorities, all applicants, third parties and advisors should also consider the Plan. Proposals should conform with all relevant policies, taking account of economic, environmental and social considerations.*

Wildlife (Northern Ireland) Order 1985

*Attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly disturb, capture, injure a Common seal (*Phoca vitulina*), Grey seal (*Halichoerus grypus*) or Basking shark (*Cetorhinus maximus*). In addition it is an offence to intentionally or recklessly, injure or kill a wild animal included in Schedule 5 of this Order. This includes Angel shark (*Squatina squatina*), Common skate (*Dipturus batis*), Short snouted seahorse (*Hippocampus hippocampus*), Spiny seahorse (*Hippocampus guttulatus*), Spiny lobster (*Palinurus elaphus*) and Fan mussel (*Atrina fragilis*).*

It is also an offence to intentionally or recklessly;

- *disturb any such animal while it is occupying a structure or place which it uses for shelter or protection,*
- *damage or destroy, or obstruct access to, any structure or place which any such animal uses for shelter or protection,*
- *damages or destroys anything which conceals or protects any such structure; or*

- *to have in possession or control any live or dead wild animal included in Schedule 5 or any part of, or anything derived from, such an animal.*

[The Wildlife \(Northern Ireland\) Order 1985](#)

M&FD recommends that the marine species listed on the [Northern Ireland Priority Species](#) list should also be considered for potential impacts within Lough Foyle where relevant.

Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995

Attention is drawn to regulation 34 of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), which states that it is an offence to deliberately disturb, capture, injure or kill a wild animal of a European Protected Species included in Schedule 2 to these Regulations. This includes all species of dolphins, porpoises and whales and the marine turtle species.

It is also an offence to;

- (a) deliberately obstruct access to a breeding site or resting place of such an animal,*
- (b) damage or destroy a breeding site or resting place of such an animal,*
- (c) keep, transport, sell or exchange, or offer for sale or exchange, any live or dead wild animal of a European protected species, or any part of, or anything derived from, such an animal.*

[Conservation \(Natural Habitats, etc.\) Regulations \(Northern Ireland\) 1995](#)

Marine Act (Northern Ireland) 2013

The Marine Act (Northern Ireland) 2013 requires DAERA to establish a network of MPAs in the Northern Ireland inshore region that, together with MPAs designated by the other UK administrations, contributes to the conservation and improvement of the marine environment in the UK marine area.

Strategic Planning Policy Statement for Northern Ireland 2015

[Strategic Planning Policy Statement](#)

An Integrated Coastal Zone Management Strategy for Northern Ireland 2006-2026

This strategy is intended to set out long-term objectives for achieving sustainable coastal management, through improvements to existing management systems, the development of new management systems and identifying and dealing with potential areas of conflict. The strategy is based around 4 broad themes, consistent with the principles of sustainable development. Most relevant to this work is Priority 2: Safeguarding and improving the environment within the coastal zone and Priority 4: integration of planning and effort. Each theme has a set of aims for delivery.

Northern Ireland Regional Seascape Character Assessment 2014

The aim of this study is to provide a strategic understanding of different areas of regional seascape character along the entire Northern Ireland coast, complementing similar assessments undertaken elsewhere in the UK. This will contribute to the aims of the European Landscape Convention through promoting the protection, management and planning of the seascape, and to support European cooperation on landscape issues.

[Northern Ireland Regional Seascape Character Assessment](#)

Marine Plan Team Advice:

The Marine Plan Team (MPT) DAERA – Marine & Fisheries Division welcome the opportunity to comment on the 'Proposed Variation to the County Donegal

Development Plan 2018-2024 (As Varied) in respect of a Wind Energy Policy Framework’.

The MPT understand the required variation arose as a result of a High Court Order made on the 5th day of November, 2018 that removed certain critical provisions of the Plan relating to Wind Energy from that adopted in May, 2018. This created a policy lacuna in the CDP in relation to wind energy and now, this variation seeks to fill this gap.

The MPT further notes that, in addition to relatively minor changes to the wording of existing policies, the Proposed Variation inserts a new policy that allows for wind energy developments and an accompanying map that designates areas regarding their suitability to wind energy proposals. This introduces a new set of impact pathways that were not assessed in the previous Environmental Report (ER) or Natura Impact Report (NIR). It is understood that these reports do not reassess unchanged policies in the CDDP and is a not a wholesale reappraisal of the adopted CDDP. DAERA input in to the original County Donegal Development Plan 2018-2024, along with the relevant Marine consideration still applies.

The MPT is aware that the Proposed Variation does not allocate individual sites for development and that the issue of adverse effects, especially on the integrity of European sites, will still need to be assessed at the project level for individual proposals for wind energy development.

Having reviewed the supplied relevant documents, the MPT would comment as follows:

ER – SEA

The MPT would be in agreement with the findings of the ER and the concluded finding that overall the Proposed Variation will have an insignificant effect overall on Biodiversity, Flora and Fauna. In relation to specific Amendment No. 20 (Map 8.2.1) & No. 10 (E-P-12), which effectively provide for the inclusion of Natura 2000 sites, other peatlands habitats, Nature Reserves and Ramsar Sites within

the 'Not Normally Permissible' wind energy zoning, the MPT would agree that these would have a positive effect on biodiversity flora and fauna.

NIR - AA

Similarly, the MPT would be in agreement that while the NIR concludes a finding of no adverse effects on the integrity of European sites, this will need to be assessed at the project level for individual proposals for wind energy development.

The MPT are supportive of the recommended protective policy wording (particularly Water Quality) to be included in the Proposed Variation as a precautionary measure, primarily to ensure that it facilitates legally sound wind energy development. This is considered prudent as the NIR demonstrates that wind energy proposals are likely to be associated with a range of risks regarding European sites hydrologically connected to the marine environment.

Should you have any queries in regard to the content of our response we can be contacted at the above address.

Yours sincerely

Donna Whelan

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Date: 26/05/2022

DFC: HISTORIC ENVIRONMENT DIVISION COMMENTS RE: Environmental Report of the Proposed Variation to the County Donegal Development Plan 2018-2024 (As Varied) in respect of a Wind Energy Policy Framework (Variation No. 2)

DfC Historic Environment Division (HED) operate via a Service Level Agreement with colleagues in DAERA in relation to SEA, whereby we provide authoritative comment and advice in relation to matters of Cultural Heritage including archaeological and architectural heritage. We make the following comments in respect of the documentation received by our office on 05/05/2022.

HED would have welcomed articulation of the potential for transboundary impacts in relation to the setting of cultural heritage in section 7.3.8 of the environmental report. Given the intertwined nature of the historic environment with landscape and the natural environment, consideration of the potential for transboundary impacts in this topic area would be relevant. A large number of heritage assets predate the border itself and correlate to other assets in either jurisdiction, with interweaving views and settings. HED advise that in our view the current focus on setting in this section, as a visual aspect in relation to a heritage asset, is narrow, and should be broadened to consider the contextual setting - how assets are experienced, understood in their context and enjoyed. We think consideration of transboundary issues in relation to this and other topic areas is particularly merited given the distribution of areas open to consideration for wind energy development alongside the border on map 8.2.1.

In terms of consideration of potential measures and mitigation of such transboundary effects we advise that Northern Ireland's historic environment digital datasets, might be utilized during future assessments or at project specific level to further understand potential for impacts, including those on setting of key coastal and marine assets. [Historic Environment Digital Datasets | Department for Communities \(communities-ni.gov.uk\)](#) We also attach a link to our historic environment map viewer [Historic Environment Map Viewer | Department for Communities \(communities-ni.gov.uk\)](#)

Datasets specific to Northern Ireland's marine historic environment, including around wrecks and reported losses can be obtained through contacting cormac.duffy@daera-ni.gov.uk or

colin.dunlop@daera-ni.gov.uk

In order to more effectively consider potential impacts on historic environment assets in Northern Ireland we advise that it would also be useful to refer to the Strategic Planning Policy Statement for Northern Ireland, (https://www.planningni.gov.uk/index/policy/spps_28_september_2015-3.pdf) which provides information that may aid interpretation of our various GIS datasets, in terms of the level of protection afforded to each category of asset, and how these are considered through the planning process here.

Should you wish to contact us to discuss any of the content of our response we can be reached via the email address above.

Yours sincerely

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HERITAGE RECORDS AND DESIGNATIONS BRANCH