



Appendix B

SNH Comments & Minutes

SNH comments on November draft

Angus SMP2: SNH Comments on HRA Screening

Comment	Response
<p>The first is that this report seems to read more like EIA than HRA. For instance identifying a 'loss of habitat' from the Natura site and then concluding there are no significant effects (e.g. page 10), is not in keeping with the precautionary approach central to the Habitats Directive. Crucial to understand, is how this test is currently interpreted through case law (the main piece of case law in this regard is the Waddenzee ruling (C-127/02) by the Advocate General). We recommended that the most relevant parts of this judgement are read and understood, e.g. paragraphs 45 and 49.</p>	<p>We will ensure that the precautionary approach is applied throughout the HRA, and that our impact assessment identifies 'significant impacts', if appropriate.</p> <p>We would value any comments from SNH regarding current issues of concerns regarding the European sites, and especially where current policies may conflict with conservation objectives.</p>
<p>Version 2 of the David Tyldesley guidance has a section on the screening process for elements of plans (page 16 - 27), I would particularly draw attention to para 4.3 and the subsequent blue text box to help in this process.</p>	<p>We hold a copy of this David Tyldesley guidance and have used this guidance to divide our HRA report into the 13 stages recommended.</p>
<p>The HRA process is far more precautionary than either EIA or SEA. The screening for LSE stage of HRA is a relatively simple step that rules out those parts of plan where (either alone or in combination) it can clearly be determined that there is no ecological connectivity between the potential effects of a plan, and the qualifying interests of the Natura site. All other parts of the plan must go on to an appropriate assessment for a more thorough assessment process of their potential effects</p>	<p>Agreed. We have tried to identify any potentially significant impacts on a European site that are directly (or indirectly) the result of our Strategy. Where we don't have sufficient information to screen out parts of the plan, we have tried to use the precautionary approach (but not to the extent that screening is by-passed and everything becomes a risk!).</p>
<p>The Draft Report sets out four 'policy scenarios' for management units over time, which appear to be quite generalised in nature; however, there are frequent references to impacts such as "habitat loss" and "disturbance" to qualifying interests of Natura sites which suggest either, there is more information available regarding some of the potential impacts at some areas of coast not explained in the Draft Report, or they are unsupported statements or assumptions. Such gaps in information or inequalities in the presentation of information lead to confusion as to what is being screened, how it is being screened and what it is being screened against.</p>	<p>We will provide further clarity in the presentation of the HRA and the screening process, and try to be more specific in stating what the habitat loss will be and where.</p> <p>Any information that you have on the distribution of the qualifying habitats within the sites may be useful to support this. As this is only the screening stage, we will try and find a suitable balance in terms of the level of detail provided.</p>
<p>Even though the screening stage of an HRA is relatively simple, i.e. it only needs sufficient information to be able to decide if there is likely to be a significant effect or not, the decision re. every element of the plan still needs to be properly justified and reasoned to provide a full and clear audit trail. At present there is little supporting information for the decisions taken, and what supporting information there is; such as relying on project-level mitigation,</p>	<p>We will provide further information on policy decisions and justification.</p> <p>In terms of the 'supporting information' that SNH refer to, please could you confirm what additional information you would expect to see in</p>

Comment	Response
<p>or the relative (un)favourable condition of a qualifying interest, or the reliance on the fact that previous maintenance, pursued through previous policies, has not had an effect on the qualifying interest, is not of the standard required to be able to conclude no LSE (i.e. to be able to exclude a significant effect "<i>on the basis of objective information</i>" - Waddenzee ruling, para 45)</p>	<p>our assessment.</p> <p>We feel that condition status reports are very useful in determining what is happening to a site, and believe that they provide evidence to support our assessment. We would initially consider the current condition of a European site, try and understand the issues that may be affecting its condition and why it is achieving its current favourable or unfavourable status, and then see if our strategy proposals make the condition better or worse i.e. how our strategy policy will affect the condition.</p> <p>We believe that a current 'favourable' condition of an interest feature helps to provide an indication that existing defence maintenance (in the absence of the SMP2) is not affecting a European site, and is important in understanding potential impacts from the SMP2. We will however, provide further clarity on the existing maintenance regime, and describe (and explain) any differences in future maintenance regimes, where appropriate.</p> <p>Where we have identified 'project level' impacts to provide a comprehensive HRA (i.e. disturbance during construction), we have also identified 'project level' mitigation. We would be happy to screen out these 'project level impacts, if you consider it to be appropriate.</p>
<p>Following on from this you may wish to amend the layout so that rather than having the Natura features down the left hand side you have the Management units and preferred options (with any further information (if you have it)). By providing as much information as you can about the units the screening process becomes easier as it is easier to identify and 'pathways'. Comments I have received back from our planning and Natura advisers is that the report seems to be lacking in transparency in relation to conclusions being drawn. For some features you mention there will be no significant effects, but there is no explanation of how you arrived here. Where you have specific information relation to any one management unit, please put it in, as it makes the option much easier to appraise. It is much easier to do this by separating the management units out.</p>	<p>We would be happy to amend the layout of the HRA Screening Report, as advised, and will ensure that our conclusions, together with a clear evidence trail, are provided.</p>
<p>There is no need to refer to Ramsar sites, they are not relevant to a HRA. They are internationally important sites but not under the same legislation.</p>	<p>In accordance with paragraph 1.11 (see below) of the David Tydesley guidance, we believe that the Ramsar interests should be considered as part of the HRA.</p>

Comment	Response
	<p><i>“Paragraph 136 of the consolidated Scottish Planning Policy refers to the fact that all Ramsar sites are also European sites and / or Sites of Special Scientific Interest. Where the interest features of Ramsar sites overlap with those of European sites it is Scottish Government policy to afford them the same protection. The Ramsar interests should be adequately protected by consideration of the effects of plans on the European sites defined above.”</i></p>
<p>Why is Barry Links in brackets in some instances e.g. Firth of Tay and Eden Estuary SPA (and Barry Links)? If it is to do with a connection/pathway this should be explained.</p>	<p>Agreed – more clarification to be provided</p>
<p>Is there a reason for not including Moray Firth SAC and Isle of May SAC? I would guess there will be no Likely Significant Effect but its still important that reference is made to these sites at some point as their natural features tend to 'wander' out of the confines of the designated sites.</p>	<p>These sites were not included due to their distance from the SMP. We will however, incorporate these sites into our HRA Screening Report.</p>
<p>Consultation authorities? I think there is some confusion over the correct terminology. Please delete references to consultation authorities.</p>	<p>Agreed – reference to Consultation Authorities will be removed</p>
<p>Could you split up/assess the hold the line (HTL) scenario into Maintenance and upgrade and assess separately, where you have information, which favours one over the other?</p>	<p>Yes- we will differentiate between maintaining the defences and improving the defences</p>
<p>The questions in the green boxes... They all refer to condition status on bird features. After having a look through them I can tell you the unfavourable nature of all of these features is outside our control. Changes are due to unknown external factors. As per my comments above it is un-necessary to include condition status in the actual screening tables. It is interesting background but not material to this stage of the process.</p>	<p>We feel that it is important to understand what hazards affect the qualifying interests of the designated sites, and what factors currently contribute to their favourable or unfavourable condition status, in order to assess whether the SMP2 has the potential to significantly affect them or to act in-combination with existing hazards.</p> <p>We would welcome your input into the existing problems and condition of the sites.</p> <p>We believe that the current 'favourable' condition of an interest qualifying feature demonstrates that existing defence maintenance (in the absence of the SMP2) is not affecting a European site, and is therefore important in understanding potential impacts of the SMP2. We will provide further clarity on the existing maintenance regime, and describe (and explain) any differences in future maintenance regimes, where appropriate.</p>

Minutes of meeting held to discuss outstanding comments and issues from November draft

Meeting Minutes



Subject	Appropriate Assessment Screening	Date	24 th May 2013
Project	Angus SMP 2	Ref	201719/15

Venue	Scottish Natural Heritage Office, Perth
Date held	23 rd May 2013
Attendees	Dorian Latham (DL), Jackie Young (JY) and Corinna Morgan (CM) - Halcrow Shona Smith (SS), Crispin Hill (CH) – Scottish Natural Heritage Mark Davidson (MD) – Angus Council

Minutes

	Actions
<p>1.0 BACKGROUND TO SMP2</p> <p>Halcrow was appointed in April 2012 to support Angus Council in the preparation of its Shoreline Management Plan (SMP)2. The SMP is supported by a Habitat Regulations Appraisal (HRA) given that the shoreline supports a number of European designated sites.</p> <p>Aim of meeting: to discuss the HRA for the SMP2 that has been progressed, and to agree a way forward that enables the HRA to be finalised. In particular, to focus on any issues or comments that have been received from SNH that are difficult to discuss and address through emails or where there is some uncertainty on the best way to deal with them.</p>	
<p>2.0 REVIEW OF SMP 1</p> <p>CH asked how SMP1 has developed, especially in terms of policy development? What were the implications for the HRA?</p> <p>JY stated that SMP2, which is currently at the draft for consultation stage, is a development of SMP1 and the policies clearly reference the previous policies for the relevant units. However SMP2 is more focused on the future of the coast and the impacts associated with the predicted changes through sea level / climate change. The SMP2 is currently waiting for the HRA to be finalised, so that the SMP2 and HRA can be publicly consulted on together.</p> <p>DL / CM stated that HRA has considered the impact of current policies where data are available, however the main constraints relate to the quality of the information available (i.e. understanding of existing pressures on the European sites) and the existence of a baseline.</p>	
<p>3.0 CONCLUSIONS OF HRA SCREENING: EUROPEAN SITES</p>	
<p>3.1 Barry Links SAC – designated for coastal dune heathland, shifting dunes, dune grassland, humid dune slacks & shifting dunes with marram.</p> <p>It was agreed that there is potential for significant effects on the dune habitats against the fixed sea defences where holding the line but no significant effects on qualifying features where No Active Intervention (NAI) is continued.</p> <p>No further comment</p>	

	Actions
<p>3.2 Firth of Tay and Eden Estuary SAC – designated for estuaries, mudflats and sandflats not covered by seawater at low tide, sandbanks, which are slightly covered by seawater all the time & common seal.</p> <p>CM commented that there is potential for significant effects on mudflats, sandflats & sandbanks where holding the line but no significant effects on qualifying features where NAI is continued. It was agreed that significant impacts on common seals could be avoided through implementing ‘obvious’ and ‘straightforward’ mitigation such as timing the works to avoid the seal breeding season (see Section 4.1 – notes on the application of mitigation’).</p>	
<p>3.3 Firth of Tay and Eden Estuary SPA and Ramsar site – designated for Annex 1 breeding birds, overwintering birds, overwintering migratory species & internationally important bird assemblages.</p> <p>CM commented that there is potential for significant effects on qualifying birds where holding the line results in intertidal habitat loss but no significant effects on qualifying features where NAI is continued.</p> <p>It was agreed that significant impacts on birds could be avoided through implementing ‘obvious’ and ‘straightforward’ mitigation such as timing the works to avoid the bird nesting/overwintering season (see Section 4.1 – notes on the application of mitigation’).</p>	
<p>3.4 Montrose Basin SPA and Ramsar site – designated for non-breeding waterfowl assemblage, overwintering migratory species & internationally important bird assemblages.</p> <p>CM commented that there is potential for significant effects on qualifying birds where holding the line results in intertidal habitat loss but no significant effects on qualifying features where NAI is continued.</p> <p>The impact of the loss of agricultural habitats that may support over-wintering birds as a consequence of managed realignment (MR) should be considered. CH commented that although we can mention the benefits of MR in the HRA, it should not form part of the HRA process.</p>	
<p>3.4 River South Esk SAC – designated for freshwater pearl mussel & Atlantic salmon</p> <p>Discussion regarding the temporary impact on salmon and consequential impact on freshwater mussels since salmon form a critical part of the mussel’s life cycle at the parasitic stage.</p> <p>It was agreed that appropriate timing of the works to avoid the salmon run/migratory season should manage any significant impact on the salmon and therefore avoid significant impacts on the freshwater mussels. It is the relationship between the salmon and freshwater mussel that should be considered in the HRA rather than the impact on habitat <i>per se</i>.</p>	
<p>3.5 Moray Firth SAC – designated for sandbanks, which are slightly covered by seawater all the time and bottlenose dolphin</p> <p>CH stated that further information may be necessary to conclude no significant effects on dolphins (especially in terms of potential loss of prey species, pollution and noise/vibration</p>	SS - data

	Actions
<p>disturbance), which are likely to be present in the SMP2 area. In-combination effects should be revisited.</p> <p>SNH to check with their marine ecologists as to what information may be available to support this assessment.</p>	
<p>3.6 Isle of May SAC – designated for reefs and grey seal</p> <p>CH stated that further information may be necessary to conclude no significant effects on seals (especially in terms of potential loss of prey species, pollution and disturbance), similar to the dolphins for the Moray Firth. Significant impacts on grey seals can likely be avoided through implementing ‘obvious’ and ‘straightforward’ mitigation such as timing the works to avoid the seal breeding season (see Section 4.1 – notes on the application of mitigation’).</p> <p>In-combination effects should be revisited.</p> <p>SNH to check with marine ecologists as to what information may be available to support this assessment and to try and find out whether there are any haul out sites for seals in the SMP2 area.</p>	SS - data
<p>4.0 COMMENTS ON DRAFT HRA</p> <p>It was agreed that no further European Sites need to be considered in the HRA.</p> <p>Detailed comments have been provided by SNH. These have been addressed by Halcrow and a comments log provided.</p> <p>Halcrow to review other sources of data.</p>	<p>Halcrow</p> <p>Halcrow</p>
<p>4.1 Application of mitigation</p> <p>CH referenced the guidance document regarding the definition and application of mitigation in the screening / Appropriate Assessment process. Mitigation to avoid ‘likely significant effects’ during screening comprises that which could be applied through a simple change in timing or operation of the activity i.e. mitigation that is ‘very obvious’ or ‘direct’ to implement, where no uncertainty exists. More complex mitigation for example requiring compensation or that requiring application through a condition, etc needs to be carried forward and applied in an Appropriate Assessment.</p>	
<p>4.2 Level of detail on SMP options & linkages to SMP1</p> <p>Following comments from previous reviewed generic descriptions of the SMP2 preferred policies have been identified (i.e. Hold the Line, N Active Intervention). Halcrow has attempted to provide as much detail on the generic descriptions as possible at this high level stage but cannot provide scheme level detail along individual policy units.</p> <p>It was agreed that further justification and clarity on the causes and consequences of impacts would be provided to support the HRA Screening conclusions, enabling as many European sites to be appropriately filtered out at the screening stage as possible.</p>	
<p>4.3 Cumulative and in-combination effects</p>	

	Actions
<p>The in-combination assessments have been expanded following comments received from SNH, in particular the Aberdeenshire Local Plan has been revisited and further justification provided. The potential impact of infrastructure associated with future off-shore renewable projects should be considered. SNH would consider what information was available. It was suggested that if the final HRA is submitted to SNH in the next month, before a renewable energy application is likely to be submitted to SNH, then it will avoid further work.</p>	
<p>4.4 Impacts of works already taking place</p> <p>The main constraint to this is the quality of the information available and the existence of a baseline.</p>	
<p>4.5 Lack of information on existing pressures & sensitivities currently affecting sites</p> <p>SNH to review what information is available regarding the pressures currently acting on the site. Halcrow to ensure that existing sources of data have been used e.g. condition tab on SNH's website.</p>	SNH
<p>5.0 PROBLEM AREAS</p> <p>SNH stated the tests for Favourable Conservation Status and Site Integrity should not be confused. It was discussed that although the condition status of a site is a useful indication of the sensitivity of a site to existing pressures, it should not be solely used to guide the HRA</p> <p>Halcrow to check these tests are being consistently applied in line with SNH guidance.</p>	Halcrow
<p>6.0 AOB</p> <p>Programme – it was agreed that Halcrow would submit the revised HRA to SNH for approval by Friday 7 June 2013 – MD confirmed that he was comfortable with this schedule.</p> <p>It was acknowledged that CH is unavailable to review the HRA during the week commencing 10 June 2013.</p>	

Author Halcrow Group Limited

Copy All invitees, File 15