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To whom it may concern,

Application by Scottish Power Renewables for an Order Granting Development Consent for the East Anglia ONE North Offshore Wind Farm Project: Relevant Representation

We offer the following relevant representation prepared following examination of application documents. We previously responded to the pre-application consultation. While a number of issues raised have been addressed, a number remain outstanding. The following is a summary of these issues, followed by detailed commentary.

Summary of Outstanding Concerns

1. The worst-case scenario is not sufficiently defined with respect to the application of advisory safety zones around installations and commercial fisheries clearance. Given that there exists no tangible evidence of towed gear fisheries significantly occurring among constructed wind farms, a precautionary approach for the purposes of a worst-case impact assessment should apply that assumes that no-towed gear fishing activities will resume.
2. The potential use of Service Operation Vehicles, and the application of safety zones to them should be clarified and associated impacts assessed.

3. To better inform the potential for fisheries access, SPR should provide clarification over what circumstances it would regard damage to cables resulting from fishing activity to be the result of wilful intent or negligence on the part of a fishing vessel operator.
4. A number of proposals have not been factored into the Cumulative Impact Assessment including Marine Conservation Zone designations in English waters designated in 2019, as well as other marine protected areas and offshore wind farms in Danish waters.
5. Existing plans and projects are not factored into the cumulative impact assessment and are assumed to form part of the baseline. We consider this will mask impacts already being endured by impacted fishing businesses.
6. We identify a range of additional measures, principally to minimise safety risk associated with seabed hazards, including taking account of predominant fishing tows when designing inter-array cabling and consulting and communicating with fishing interests over cable plans, risk information from post-lay and monitoring surveys, factoring in fishing activities into cable burial risk assessments, protection of exposed cables until remediation works are completed and advancing warning systems communicating seabed hazards to the fishing industry.
7. We suggest an amendment to DCO/DML notification requirements for cables to include shallow buried as well as exposed cables.

Worst-case Scenario and Access to Fishing During the Project Operational Phase

As the worst-case scenario Table 13.3 in Chapter 13 Commercial Fisheries of the ES identifies that the minimum spacing between wind turbines proposed for the East Anglia ONE North project is 800m in-row and 1,200m inter-row. However, as it would not be safe to fish up to the foundation bottom and acknowledging the application of advisory safety zones of 50m radius, then the theoretical maximum fishable space falls to 700m in-row and 1,100m inter-row.

The assessment assumes that seine netting will not resume activity within the operational wind farm but that beam trawling activity will be able to resume to some extent. It is not clear to what extent partial access is factored into the assessment – i.e. 50% of former levels, less or more?

VisNed considers that at least a 1km clearance is needed to attempt beam trawling among a wind farm array, but this has yet to be proven in practice. To date, there is no significant evidence that fishing activities using towed gears have returned to fishing among wind farm arrays. In light of this, we therefore consider that on a precautionary basis a worst-case assumption should be that no towed gear fishing activities will resume within operational offshore wind farms.

Safety Zones and use of Service Operation Vehicles: In recent years, offshore wind farm projects have started to use Service Operation Vehicles (SOV) which attach themselves to windfarm installations via a “walk to work” gangway to enable personnel to transfer for maintenance activities. While in practice SOVs are used for regular maintenance activities, moving from structure to structure several times a day, because they attach themselves to offshore wind farm structures, they fall under the definition of “major maintenance works” under the 2007 regulations¹, which provides for standard safety zone with a radius of 500m around installations. These regulations were drafted before such vessel operations were envisaged.

It appears that by virtue of the definition of major maintenance works under the regulations that SOVs may now operate on any wind farm granted a safety zone for major maintenance and by default a 500m safety zone will apply around these activities. Such an application of safety zones in windfarms already granted safety zone authorisations will therefore take place when the impacts of such a regime had not been assessed as part of their original planning applications.

In relation to an application for the Race Bank Offshore Wind Farm, where a variation to its safety zone authorisation was sought in order to apply a 150m safety zone to such activities, the MCA advised that the use of SOV which can detach itself relatively quickly from a structure should fit internationally recognised law of the sea; through maintaining safe distances, and a sufficient look out via visual observations, radio watches and radar etc. and therefore there was no benefit of applying for such a safety zone. We share that view.

The application of a 500m statutory safety zone that comes into operation in different locations several times a day will present a serious disruption to any fishing activities and risks vessel operators inadvertently being found to be illegally operating in an area as a consequence of short notice decision-making taken in the deployment of an SOV from place to place. Such a regime risks causing conflict and confusion. A 150m safety zone is preferable to 500m in this regard as it would at least mitigate some of the potential disruptive effects.

SPR should therefore clarify whether it plans to use SOVs as part of its maintenance regime, whether it would seek to apply default provisions for a 500m statutory safety zone to such activities or indicate what alternative regime it would intend to operate. Any related disruption effects need to be assessed.

For the avoidance of doubt, we consider the application of a 500m safety zone around SOV activities to be unnecessary from a safety point of view, or proportionate and practical when set against an objective to promote coexistence with fishing activities in the vicinity of the project. However, in order to account for the views of offshore wind farm owners we would agree to the application of 150m safety zones for such purposes.

¹ The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) Regulations 2007

Cable damage attributable to wilful intent or negligence: Legal protection is afforded to cables against damage caused by wilful intent or negligence under the Continental Shelf Act (1964), and actions on behalf of the cables industry representative body, the European Sub-sea Cables Association, of which we understand Scottish Power Renewables (SPR) is a member, have warned of an increasing interest among the cables industry to seek prosecution in the event of damages occurring. We consider this matter is therefore relevant to considering the level of access to fishing activities in the vicinity of cable infrastructure and SPR should therefore clarify under what circumstances it would regard damage resulting from fishing activity to be the result of wilful intent or negligence on the part of a fishing vessel operator.

Assessment Methodology

The Commercial Fisheries Assessment (Ch 13) criteria need to be defined in a more quantitative way. This is particularly the case for the definitions used under sensitivity criteria which lack specificity over what constitutes limited, moderate and extensive operational range and dependence upon the number of fishing grounds.

To support a more quantitative assessment we suggest that the magnitude criteria should be based on a percentage loss of access to grounds. The Cumulative Impact Assessment should examine past losses (taking account of completed plans and projects as well as predicted future losses in percentage terms).

With respect to the assessment of Impact 6 - safety issues for fishing vessels (Ch 13 section 13.6.1.6) and 7: Obstacles on the Sea Bed (Ch 13 section 13.7.2.6) - there is no probabilistic assessment similar to that completed for other navigation related impact risks (Ch 14). It is not clear whether and how "frequency of occurrence" and "severity of consequence" criteria used in the navigational impact assessment have been applied, and what data, if any, have been used. The assessment appears to conclude that safety issues are within acceptable limits based solely on listing inbuilt mitigation (safety zones, advisory safety zones, communications with the fishing industry, appropriate deployment of guard vessels and offshore fisheries liaison officers).

Cumulative Impact Assessment

Reflecting our view that there is no evidence that we are aware of that towed gear fishing activities have significantly returned to operational offshore wind farms, the Cumulative Impact Assessment (CIA) should on a precautionary basis adopt a worst-case assumption that no towed gear fishing activities will resume within operational offshore wind farms.

We have provided consultants Brown and May with information on proposed fisheries measures associated with designated MPAs during the Norfolk Vanguard examination process early in 2019, which we understand to have been used in the East Anglia 1N and 2 CIAs. However, in May 2019 further

Marine Conservation Zones were designated in English waters (e.g. Markham's Triangle, Holderness Offshore) and therefore it is not clear whether and to what extent potential measures associated with new designations or possible proposals in other North Sea have been assessed and what fishing restrictions, if any, have been assumed. There are also other plans for marine protected areas, for instance in Danish waters, that have not been factored into the assessment as well as further wind farm projects – Horns Rev 3, Vesterhav north and south and Thor.

Existing plans and projects are not factored into the assessment and are assumed to form part of the baseline. We consider under the current methodology this will mask impacts already being carried by impacted parts of the fleet as the current assessment is not informed by the extent of fishing grounds needed to sustain particular fleet segments. This approach results in a "shifting baseline syndrome", similar to that which is attributed to environmental change, as reference points change from one project application to the next with incremental impacts not being fully accounted for under a highly qualitative and potentially subjective assessment methodology.

Mitigation and Monitoring

SPR has stated that it will develop a Fisheries Liaison and Co-existence Plan post consent. We consider the plan should, among other things, cover all commitments to all Fisheries mitigation.

In addition to the matters related to commercial fisheries listed in schedule of mitigation we wish to see the following commitments:

- Preference for inter-array cable planning to minimise crossing predominant fishing tows, hence reducing potential for cable-fisheries interactions, including snagging risks.
- The cable burial plan should be consulted on with the fishing industry.
- The results of post cable burial inspections should be communicated to the regulator and the fishing industry.
- The cable burial risk assessment should comprise an assessment of cable exposure risk as well as risk to other marine users. It should be reappraised at appropriate intervals during the operational phase of the project.
- The cable burial risk assessment should be linked to an appropriate cables survey/monitoring regime.
- Burial status results from monitoring should be communicated to the fishing industry.
- Exposed cables should be protected by guard vessel or other equivalent at-site measures until appropriate remedial measures can be completed.
- Post remediation works surveys should be undertaken and communicated to the fishing industry to provide assurance that no residual snagging risks remain.

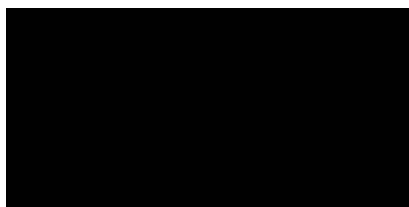
Amendment to notification of cable exposure risks: In order to achieve consistency with draft best practice guidance of the Fisheries Liaison with Offshore Wind and Wet Renewable Group we suggest the following amendment (in red) to Schedule 13 Part 2, Section 10 (12) Notifications and inspections and Schedule 14, Part 2, Section 6 (12):

*(12) In case of **a state of shallow burial or exposure of cables on or above the seabed**, the undertaker must, within three working days following identification of a cable exposure, notify mariners by issuing a notice to mariners and by informing Kingfisher Information Service of the location and extent of exposure.*

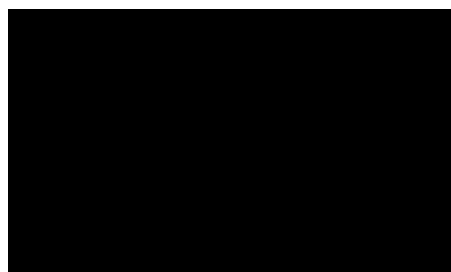
We encourage support with the adoption of the Fish Safe or equivalent device by fishing vessels operating in the area – see <http://www.fishsafe.eu/en/fishsafe-unit.aspx>. This technology, which combined with other safety elements above, provides automated means of integrating safety information into the navigational systems on fishing vessels that in turn provide a real-time warning of safety hazards in the wheel-house. This will greatly promote safe working regime around the vicinity of the project and minimise the likelihood of incidents occurring in an area where there exist high levels of fishing activity.

We encourage the use of funding arrangements like the West of Morecombe Fisheries Fund as a mechanism to support fishing industry stakeholders affected by the project and provisioning of work opportunities (e.g. guard vessels or surveys for example) available to affected fisheries stakeholders as far as practically possible.

Yours faithfully,



Dale Rodmell
Assistant Chief Executive (NFFO)



W. (Pim) Visser MBA
Chief Executive (VisNed)

cc: Helen Croxson, Marine and Coastguard Agency; Natalie Morton, Marine Management Organisation