



SCOTTISHPOWER
RENEWABLES

East Anglia ONE North and East Anglia TWO Offshore Windfarms

Draft Statement of Common Ground

National Federation of Fishermen's
Organisations and National Association of
Producer Organisations in Dutch Demersal
Fisheries (VisNed)

Applicants: East Anglia ONE North Limited and East Anglia TWO Limited
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Applicable to **East Anglia ONE North** and **East Anglia TWO**



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Glossary of Acronyms

APP	Application Document
BEIS	Department for Business, Energy & Industrial Strategy
CIA	Cumulative Impact Assessment
CFWG	Commercial Fisheries Working Group
DCO	Development Consent Order
DML	Deemed Marine Licence
EIA	Environmental Impact Assessment
ES	Environmental Statement
ExA	Examining Authority
FLCP	Fisheries Liaison and Coexistence Plan
FLOWW	Fishing Liaison with Offshore Wind and Wet Renewables Group
MCA	Maritime and Coastguard Agency
MCZ	Marine Conservation Zone
MMO	Marine Management Organisation
MPA	Marine Protected Area
MSFD	Marine Strategy Framework Directive
NFFO	National Federation of Fishermen's Organisations
NtM	Notice to Mariners
OFTO	Offshore Transmission Owner
OREI	Offshore Renewable Energy Installation
PD	Procedural Decision
PINS	Planning Inspectorate
SoCG	Statement of Common Ground
SOV	Service Operation Vehicles
TCE	The Crown Estate
VisNed	National Association of Producer Organisations in Dutch Demersal Fisheries
VMS	Vessel Monitoring Systems



Glossary of Terminology

Applicant	East Anglia TWO Limited / East Anglia ONE North Limited
Construction, operation and maintenance platform	A fixed offshore structure required for construction, operation, and maintenance personnel and activities.
East Anglia TWO project	The proposed project consisting of up to 75 wind turbines, up to four offshore electrical platforms, up to one construction operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
East Anglia ONE North project	The proposed project consisting of up to 67 wind turbines, up to four offshore electrical platforms, up to one construction operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
East Anglia TWO / East Anglia ONE North windfarm site	The offshore area within which wind turbines and offshore platforms will be located.
Evidence Plan Process	A voluntary consultation process with specialist stakeholders to agree the approach to the EIA and the information required to support HRA.
Generation Deemed Marine Licence (DML)	The deemed marine licence in respect of the generation assets set out within Schedule 13 of the draft DCO.
Horizontal directional drilling (HDD)	A method of cable installation where the cable is drilled beneath a feature without the need for trenching.
Inter-array cables	Offshore cables which link the wind turbines to each other and the offshore electrical platforms, these cables will include fibre optic cables.
Landfall	The area (from Mean Low Water Springs) where the offshore export cables would make contact with land and connect to the onshore cables.
Offshore cable corridor	This is the area which will contain the offshore export cables between offshore electrical platforms and landfall.
Offshore development area	The East Anglia TWO / East Anglia ONE North windfarm site and offshore cable corridor (up to Mean High Water Springs).
Offshore electrical platform	A fixed structure located within the windfarm area, containing electrical equipment to aggregate the power from the wind turbine generators and convert it into a more suitable form for export to shore.
Offshore export cables	The cables which would bring electricity from the offshore electrical platforms to the landfall. These cables will include fibre optic cables.
Offshore platform	A collective term for the construction, operation and maintenance platform and the offshore electrical platforms.
Platform link cable	Electrical cable which links one or more offshore platforms, these cables will include fibre optic cables.
Safety zone	A marine area declared for the purposes of safety around a renewable energy installation or works / construction area under the Energy Act 2004.
Scour protection	Protective materials to avoid sediment being eroded away from the base of the foundations as a result of the flow of water.



Transmission DML	The deemed marine licence in respect of the transmission assets set out within Schedule 14 of the draft DCO.
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1 Introduction

1.1 Background

1. This document is applicable to both the East Anglia ONE North and East Anglia TWO applications, and therefore is endorsed with the yellow and blue icon used to identify materially identical documentation in accordance with the Examining Authority's (ExA) procedural decisions on document management of 23rd December 2019. Whilst for completeness of the record this document has been submitted to both Examinations, if it is read for one project submission there is no need to read it again for the other project.
2. This Statement of Common Ground (SoCG) has been prepared between East Anglia TWO Limited, East Anglia ONE North Limited (hereafter the Applicants) and the National Federation of Fishermen's Organisations (NFFO) and the National Association of Producer Organisations in Dutch Demersal Fisheries (VisNed) in relation to the East Anglia TWO project and the East Anglia ONE North project (the Projects). It identifies areas of the Projects' Development Consent Order (DCO) applications (the Applications) where matters are agreed or not agreed between the parties.
3. The Applicants have had regard to the guidance for the examination of applications for development consent (Department for Communities and Local Government, 2015) when compiling this SoCG.
4. This SoCG has been structured to reflect topics which are of interest to NFFO and VisNed with regards to the Applications. Topic specific matters agreed, not agreed and actions to resolve between the Applicants and the NFFO and VisNed are included within this SoCG.
5. Throughout the SoCG the phrase "Agreed" identifies any point of agreement between the Applicants and the NFFO and VisNed.
6. The phrase "Not Agreed" identifies any point that is not yet agreed between the Applicants and the NFFO and VisNed. Points that are not yet agreed will be the subject of ongoing discussion between the Applicants and the NFFO and VisNed to reach agreement on the point wherever possible or to refine the extent of disagreement between the parties. The SoCG table provides commentary on these matters.
7. The table(s) in **section 2** are based upon discussions and information exchanged between the Applicants and the NFFO and VisNed during the pre-application and post-application phases of the Applications regarding **Commercial Fisheries**.



1.2 The Development

8. The key offshore components of each Project will comprise:
- Offshore wind turbines and their associated foundations;
 - Offshore platforms - up to four offshore electrical platforms and their associated foundations supporting some of the windfarm's electrical equipment, and up to one construction, operation and maintenance platform and associated foundations that may cater for personnel and activities required during the construction phase and operation and maintenance of the windfarm;
 - Sub-sea cables between the wind turbines and between wind turbines and offshore electrical platforms (inter-array), between separate offshore platforms (platform link cables) and between offshore electrical platforms and the landfall (export cables);
 - Scour protection around foundations and on inter-array, platform link and export sub-sea cables as required; and
 - Potential for one meteorological mast (met mast) and its associated foundations for monitoring wind speeds during the operational phase of the windfarm.

1.3 Consultation

9. **Table 1.1** and **Table 1.2** provide an overview of meetings and correspondence undertaken between the Applicants and the NFFO and VisNed regarding commercial fisheries.
10. Further details on the stakeholder engagement process for commercial fisheries can be found in the Consultation Report (APP-029).

Table 1.1 Summary of Consultation with the NFFO

Date	Contact Type	Topic
Pre-Application		
13/11/2017	Meeting	Project update meeting
01/11/2018	Meeting	Project update meeting
Post-Application		
09/04/2020	Meeting	SoCG meeting 1
04/08/2020	Meeting	SoCG meeting 2
08/10/2020	Meeting	SoCG Meeting 3



Date	Contact Type	Topic
06/01/2020	Meeting	SoCG Meeting 4

Table 1.2 Summary of Consultation with VisNed

Date	Contact Type	Topic
Pre-Application		
19/10/2017	Meeting	Project update meeting
Post-Application		
09/04/2020	Meeting	SoCG meeting 1
04/08/2020	Meeting	SoCG meeting 2
06/01/2020	Meeting	SoCG Meeting 3

1.4 Summary of Agreed Not Agreed, and Outstanding Issues

11. **Table 1.3** provides a summary of the matters agreed, Not Agreed and those which are outstanding between the Applicants and the NFFO and VisNed. For further information on agreements that are outstanding / under discussion and for which the Applicants and the NFFO and VisNed are working to address during the examination period, see the detailed agreement table, **Table 2.1**

Table 1.3 Summary of Areas of Agreed, Not Agreed or those which are Outstanding for Receptor Topic Areas Raised by the NFFO and VisNed

Topic	Agreed, Not Agreed or Outstanding
Commercial Fisheries	<p>The parties are Agreed on aspects of assessment methodology, access to fishing grounds and mitigation and monitoring.</p> <p>The parties are Not Agreed on aspects of assessment methodology, access to fishing grounds and conclusions of the cumulative impact assessment.</p>



2 Statement of Common Ground

2.1 Introduction

12. The SoCG presented in this section is focused on specific issues relating to commercial fishing which have been raised during consultation undertaken in respect of each Project by NFFO and VisNed.
13. In line with the information provided by NFFO and VisNed in their **Relevant Representation** (PINS Reference RR-055), key areas of outstanding concern and therefore taken forward for consideration in the SoCG, include:
 - Assessment methodology;
 - Access to fishing grounds;
 - Cumulative impact assessment; and
 - Mitigation and monitoring.
14. **Table 2.1** provides areas that are agreed, not agreed and outstanding with the NFFO and VisNed regarding commercial fisheries.



2.2 SoCG Record of Engagement and Final Positions

Table 2.1 Commercial Fisheries

Agreement Area	ID	Engagement history and final Position	Position
Assessment Methodology	1.1	NFFO's / VisNed's Position	<p>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.</p> <p>To support a more quantitative assessment we suggest that the magnitude criteria should be based on a percentage loss of access to grounds.</p>
		The Applicants Position	<p>The assessment of commercial fisheries follows an impact significance matrix approach taking account of receptor sensitivity and impact magnitude. This is in line with standard Environmental Impact Assessment (EIA) methodologies (as outlined in Chapter 5 Environmental Impact Assessment Methodology (APP -053) and the methodology used for assessment of commercial fisheries for other projects.</p> <p>The identification of sensitivity is based on parameters such as operational range, versatility (ability to deploy / target various species) and availability of grounds. In defining magnitude, consideration is given to the area affected by the potential impact and the duration of the impact. In addition, the level of fishing activity that the offshore development area sustains is considered in the context of its relative importance to the overall grounds and the level of fishing which these grounds support. Furthermore, in the case of impacts during the operational phase, consideration is given to the potential for fishing to continue within the operational site.</p> <p>The Applicants note that whilst the assessments undertaken in Chapter 13 Commercial Fisheries (APP-061) in respect of the Projects, are qualitative in nature, they are supported by an extensive quantitative analysis of fisheries data and information. The outcomes of this analysis are illustrated within the numerous figures presented as part of Chapter 13 Commercial Fisheries which are referenced throughout the impact assessments.</p>
		Final position between the Applicants	<p>Through discussion over this issue, it became apparent that the NFFO and VisNed's key concern relates to the standard methodology followed by the Applicants. The NFFO and VisNed acknowledged that the Applicants have followed the industry standard approach. It is the NFFO's and VisNed's opinion that the industry standard methodology is not suitably quantitative. However, the NFFO and VisNed recognise that the Applicants have</p>



Agreement Area	ID	Engagement history and final Position	Position
		and the NFFO and VisNed	described ‘magnitude of effect’ and receptor sensitivity using current industry standard methodology. Both NFFO, VisNed and the Applicants agree that while the assessment includes the preparation and quantification of fisheries data, the assessment of magnitude is a qualitative judgement based on the prior assembly of fisheries data. Future development of methodology could include GIS tools that could better define and apply the quantification of magnitude classes. The final position is therefore that the methodology followed to identify magnitude of effect is Not Agreed between the Applicants and NFFO and VisNed, but that the NFFO and VisNed acknowledge that the Applicants have followed the industry standard methodology. Furthermore, it is the position of the NFFO and VisNed that the industry standard methodology requires review and improvement ahead of future rounds of offshore wind which the NFFO and VisNed will raise through the Fishing Liaison with Offshore Wind and Wet Renewables Group (FLOWW) Industry / Government liaison group.
	1.2	NFFO’s / VisNed’s Position	<p>The Cumulative Impact Assessment (CIA) should examine past losses (taking account of completed plans and projects) as well as predicted future losses in percentage terms.</p> <p>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.</p>
		The Applicants Position	The Applicants do not consider it appropriate to factor in potential past losses of fishing grounds associated with operational projects / existing activities within impact magnitudes for the assessment of cumulative impacts, as suggested by NFFO / VisNed. The current distribution and level of fishing activity already takes account of the presence of existing projects / activities. As such, including existing projects / activities in the cumulative assessment would represent double counting of their effect.
		Final position between the	When discussing this issue, the Applicants explained the rationale for exclusion of operational projects/existing activities from the cumulative assessment, in line with PINS Advice Note 17 and noted that the assessment takes



Agreement Area	ID	Engagement history and final Position	Position
		Applicants and the NFFO and VisNed	<p>account of the existing baseline environment, which already reflects past impacts. For instance, if there has been a decrease in fishing activity as a result of a project/activity in a given area, the baseline characterisation would reflect low levels of fishing activity in that area. In addition, the Applicants made the point that the degree to which the impacts on fishermen from past projects had been mitigated in many cases cannot be ascertained due to the confidential nature of cooperation agreements between fishermen and developers.</p> <p>The final position is therefore that the methodology to examine past losses (taking account of completed plans and projects) is Not Agreed between the Applicants, NFFO and VisNed, but that the NFFO and VisNed acknowledge that the Applicants have followed the current industry standard methodology. It is NFFO's and VisNed's view that the standard methodology needs revision to better examine past losses (taking account of completed plans and projects).</p>
	1.3	NFFO's / VisNed's Position	<p>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).</p>
		The Applicants Position	<p>The potential impacts of the Projects with regards to navigational issues are assessed in Chapter 14 Shipping and Navigation (APP-062), including consideration of potential risks to fishing vessels (as well as other vessels) and are supported by a Navigational Risk Assessment (NRA) which complies with the MCA's requirements in Marine Guidance Note 543.</p> <p>Further to the assessment presented in Chapter 14 Shipping and Navigation (APP-062) and recognising that vessels engaged in fishing may be subject to additional safety issues other than those strictly related to navigation (i.e. snagging risks), an additional assessment covering this was presented in Chapter 13 Commercial Fisheries (APP-061). The standard EIA receptor sensitivity/impact magnitude methodology is not considered appropriate for this assessment. Instead, the assessment, identifies the potential risks and highlights the measures proposed by the</p>



Agreement Area	ID	Engagement history and final Position	Position
			<p>Applicants to minimise them. On that basis, the assessment then evaluates whether or not risks are within acceptable limits. This uses terminology aligned with that used for the assessment of navigational issues in Chapter 14 Shipping and Navigation (APP-062).</p> <p>Measures to minimise safety issues are listed in section 13.3.3 of Chapter 13 Commercial Fisheries (APP-061), including embedded mitigation measures, such as cable burial, the undertaking of appropriate liaison and information sharing and the production of a Fisheries Liaison and Co-existence Plan (FLCP), (as secured in condition 17 of the generation DML and condition 13 of the transmission DML) and in accordance with the outline FLCP, post-consent.</p> <p>Taking account of the proposed measures to minimise impacts, and through on-going liaison with fishermen and information distribution, and with the required compliance from fishermen, the assessment concluded that safety issues for fishing vessels would remain within acceptable limits.</p> <p>It is the Applicants view that the information provided within Chapter 13 Commercial Fisheries is robust and supports appropriately the conclusions reached in the chapter with regards to safety issues.</p>
		<p>Final position between the Applicants and the NFFO and VisNed</p>	<p>Additional clarity was provided by the Applicants to NFFO and VisNed with regard to the approach taken for assessment of safety issues in Chapter 13 Commercial Fisheries.</p> <p>The Applicants highlighted that the standard EIA methodology based on receptor sensitivity/impact magnitude was not used for assessment of safety issues. The assessment was instead presented in terms of risks. Whilst the terminology used is aligned with that of Chapter 14 Shipping and Navigation (i.e. conclusions made in terms or risks being within or outside acceptable limits), the probabilistic risk assessment presented in Chapter 14: Shipping and Navigation cannot be mirrored with regards to the assessment of snagging risk. The potential location, extent and nature of seabed hazards which may result in snagging risks is currently unknown, therefore frequency and probability of interaction with fishing gear cannot be estimated in a meaningful way at this stage. The parties are Agreed that for the purposes of the EIA, the approach taken by which risks are identified and measures to minimise and manage risks outlined, provides an appropriate framework for assessment of safety issues for fishing vessels in respect of snagging risk.</p>



Agreement Area	ID	Engagement history and final Position	Position
Access to fishing grounds	2.1	NFFO's / VisNed's Position	<p>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 Projects 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.</p> <p>The assessment assumes that seine netting activity will not resume within the operational windfarm 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?</p> <p>VisNed considers that at least a 1km clearance is needed to attempt beam trawling among a windfarm 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.</p> <p>For inshore vessels the assessment notes (ES Ch13, para 180, p45) that <i>“It is anticipated that for the most part, these vessels would be able to resume fishing within the operational site, although it is recognised that some changes to their mode of operation may be required in the case of vessels operating longlines and nets. Whilst the long term nature of the operational phase is recognised, considering the above, the magnitude of the effect on the local vessels that operate in areas relevant to the East Anglia ONE North windfarm site is considered to be low.”</i></p> <p>NFFO considers that the viability of operating long lines economically within the vicinity of the windfarm is currently unknown and this will be better informed following proposed trials to take place once East Anglia ONE has been commissioned. As such should it be demonstrated that fishing is not economically viable, then the magnitude of impact on lining vessels will be greater than low.</p>
		The Applicants Position	<p>As outlined in Chapter 13 Commercial Fisheries (APP-061), existing legislation in the UK does not prevent fishing from occurring in operational windfarms.</p> <p>The exact level of fishing activity which may resume within the operational sites will therefore largely depend on the perception of individual skippers with regard to operating fishing gear in offshore windfarm projects.</p>



Agreement Area	ID	Engagement history and final Position	Position
			<p>In the particular case of beam trawling, it is the Applicants view that at the current minimum spacing, fishing will be viable within the operational sites. The Applicants note that in the SoCG for other projects in the region such as East Anglia ONE and East Anglia THREE, NFFO and VisNed confirmed in principle based on feedback from Dutch fishermen at meetings on 11/05/13 and 30/03/16 that beam trawling by Anglo-Dutch and Dutch vessels would be able to resume during operation in safe conditions. However, VisNed expressed concerns that if one incident occurred within one windfarm, this would lead to closure of fishing within all offshore windfarms. NFFO expressed reservations regarding whether vessels would return to fish within operational windfarms and the viability of doing so. The minimum spacing proposed at East Anglia ONE and East Anglia THREE was smaller than that proposed at the Projects.</p> <p>In addition, it should be noted that in the absence of detailed geophysical and geotechnical information, minimum separation distances are provided based on the likely requirements of wind turbine suppliers. The nominal separation distances are anticipated to be greater.</p> <p>With regard to the NFFO concern over the viability of operating long lines economically within the windfarm site, the Applicants make the following commitment; Should long lining trials due to be undertaken at the East Anglia ONE project demonstrate that long lining is not feasible within the windfarm without unreasonable modification of the fishing practice, the CFWG forum will be used to discuss and implement potential mitigation options. This commitment has been agreed with the CFWG and secured in the updated Outline Fisheries Liaison and Co-existence Plan (REP3-050) submitted at Deadline 3.</p>
		<p>Final position between the Applicants and the NFFO and VisNed</p>	<p>With regard to the level of beam trawling that could occur within the Projects' windfarm sites post-construction, the Applicants clarified during SoCG meeting 2 that, as described in Chapter 13 Commercial Fisheries (section 13.6.2.1), in view of the worst case parameters with regard to minimum spacing (800m in-row and 1,200m inter-row) the assessment considered that vessels deploying beam trawls would be able to operate within the windfarm sites. An exception to this being seine netting, due to the large dimensions of the gear used.</p> <p>The Applicants note, however, that, that the decision as to whether or not beam trawling activity resumes will ultimately be made by individual vessel skippers.</p>



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			<p>With regard to the spacing of wind turbines, the Applicants highlighted that as described in Chapter 6 Project Description (APP-054) the minimum spacing provided is based on the likely requirements of wind turbine suppliers, but that the nominal spacing is likely to be greater. The Applicants pointed out that the spacing of the 7MW (c.189m tip height) wind turbines at the operational East Anglia ONE windfarm is 2060m between rows and 750m within rows and that given the envelope for wind turbines proposed for the Projects is 250m to 282m max tip height, the spacing is likely to be greater than the spacings at East Anglia ONE and the minimum spacings described in the assessment. This is to account for the greater turbine rotor diameters.</p> <p>With regard to the assumption that beam trawling can resume, the Applicants and NFFO and VisNed are Not Agreed on the basis of the worst case scenario of minimum spacing of wind turbines. NFFO and VisNed acknowledge that if the nominal spacing of wind turbines is likely to be much greater than the worst case minimum spacing, the likelihood that significant levels of beam trawling can resume is greater, but this remains unproven and ultimately, it is the decision of individual vessel skippers as to whether they resume fishing within the windfarms.</p> <p>The parties are Agreed that the commitments made to the CFWG and as described above, addresses the longlining concern.</p>
	2.2	NFFO's / VisNed's Position	<p>Safety Zones and use of Service Operation Vehicles: In recent years, offshore windfarm 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 windfarm structures, they fall under the definition of "major maintenance works" under the 2007 regulations*, which provides for standard safety zones with a radius of 500m around installations. These regulations were drafted before such vessel operations were envisaged.</p> <p>It appears that by virtue of the definition of major maintenance works under the regulations that SOVs may now operate on any windfarm 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</p>

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



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			<p>will therefore take place when the impacts of such a regime had not been assessed as part of their original planning applications.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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 Projects. However, in order to account for the views of offshore windfarm owners we would agree to the application of 150m safety zones for such purposes.</p>
		The Applicants Position	<p>The safety zone statement (see the draft DCO (APP-023)) states the Applicants intention to apply for the following safety zones post-consent:</p> <ul style="list-style-type: none"> Standard rolling safety zones of 500m around each offshore renewable energy installation (OREI) for the period of construction of that OREI and during major maintenance activities; and



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			<ul style="list-style-type: none"> The Safety Zone Application may also request a 50m safety zone around each of the OREI within the Projects' areas during the construction phase where no construction works are taking place on that OREI (i.e. where an OREI is incomplete or is in the process of being tested before commissioning). <p>There will be rolling advisory safety zones of up to 500m around vessels installing export cables, platform link cables and inter-array cables in the interests of the safety of all users of the sea, and to provide clearance of 500m from laid cables until burial is confirmed in case of interaction with anchors or fishing gear.</p> <p>Furthermore, the safety zone statement notes that the Applicants do not intend to apply for safety zones during the operational phase of the Projects (except for major maintenance activities as discussed above).</p> <p>At this stage, pre-consent and prior to supply chain market surveys and the tendering process for operation and maintenance services, the Applicants have not made any decisions on the nature of the vessels that would be used to service the Projects beyond establishing envelope parameters for assessment and cannot comment on the use of the type of vessel referred to by the NFFO and VisNed. However, it is worth noting that the Safety Zone application under Section 95 of the Energy Act 2004 requires consultation on the application with relevant stakeholders including the fishing industry. The Applicants therefore recommend that this matter would be better addressed through that consultation when details of the nature and functioning of vessels proposed to service the Projects are known.</p>
		Final position between the Applicants and the NFFO and VisNed	The Applicants, NFFO and VisNed are Agreed that at this stage, in the absence of full details of operation and maintenance activities, the safety zone application process and consultation undertaken by BEIS provides an opportunity for fishing stakeholders to determine the potential for impacts on fishing activities. A pragmatic solution would be for robust communications to be routinely issued to fishing stakeholders during the O&M phase on planned O&M activities to allow for the planning of fishing activities.
	2.3	NFFO's / VisNed's Position	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 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



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			<p>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.</p> <p>The Applicants Position</p> <p>As described in Chapter 13 Commercial Fisheries (APP-061), existing legislation in the UK does not prevent fishing from occurring within operational windfarm sites and the Applicants are committed to working closely with the fishing industry and developing co-existence strategies. With regards to cable burial Chapter 13 Commercial Fisheries states that:</p> <p>“Offshore cables (inter-array, platform link and export cables) will be buried where possible to at least 1m. Where burial is not possible (i.e. due to hard ground or at cable crossings) cables would be protected. In line with standard practice in the North Sea oil and gas industry, measures would be undertaken to ensure that where cable protection is required, the protection methods used are compatible with fishing activities where practically possible”</p> <p>Additionally, Condition 10(12) of the Generation DML and 6(12) of the transmission DML require notification to mariners and kingfisher on the location and extent of any cable exposure whilst the fisheries liaison and coexistence plan (FLCP), secured under Condition 17(1) of the generation DML and 13(1) of the transmission DML and to be prepared in accordance with an outline FLCP (which will be submitted into the Examination at Deadline 1) will include 'loss of gear' and 'gear snagging' protocols.</p> <p>The Applicants do not currently have a position regarding the circumstances in which 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, but considers that given the above practices, secured through the DCO, such a position would not be required.</p> <p>Final position between the Applicants and the NFFO and VisNed</p> <p>On the basis that the Applicants assume fishing will return to the windfarm site post construction, measures are in place to ensure cables are buried to at least 1m or protected where they cannot be buried, monitored for exposure during the lifetime of the Projects with notification processes in place should exposures occur, it is Agreed between the Applicants, NFFO and VisNed that a position with regard to legal redress against wilful intent and negligence is not necessary.</p>



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<p>Cumulative Impact Assessment</p>	<p>3.1</p>	<p>NFFO's / VisNed's Position</p>	<p>Reflecting our view that there is no evidence that we are aware of that towed gear fishing activities have significantly returned to operational offshore windfarms, the CIA should on a precautionary basis adopt a worst-case assumption that no towed gear fishing activities will resume within operational offshore windfarms.</p> <p>As noted under section 2.1, the NFFO considers that fishing using long lines is not yet proven to be economically viable. Should it prove that fishing using long lines is not economically viable, which proposed trials associated with East Anglia ONE should inform then the magnitude of the cumulative impact on the inshore line fishery is likely to be higher than low than is currently stated for inshore vessels (ES Ch 13, para 298, 301, p67).</p>
		<p>The Applicants Position</p>	<p>There is currently no legislation in the UK preventing fishing from taking place within operational windfarms.</p> <p>Static and towed gear fishing is known anecdotally to have resumed in various operational windfarms around the UK. In addition, the ability of vessels to operate fishing gear within operational sites is further supported by evidence from numerous fish monitoring surveys carried out to date within operational windfarms in the UK using commercial fishing vessels and gears for sampling.</p> <p>In general terms, the cumulative assessment notes that fishing would be able to resume with the exception of projects in countries where fishing within windfarms is prohibited (i.e. the Netherlands, Belgium). In the case of seine netting, the assumption is made that given the dimensions of the gear used, it would be highly unlikely for this method to resume in operational sites, regardless of whether or not fishing is permitted within windfarm arrays.</p> <p>With regard to the viability of long lining during operation of the windfarm, see the commitment made by the Applicant under section 2.1 above.</p>
		<p>Final position between the Applicants and the NFFO and VisNed</p>	<p>The Applicants clarified their position with regard to the cumulative assessment and the assumption that fishing will be able to continue within operational windfarms, except in countries where fishing is not permitted.</p> <p>The Applicants highlighted that the majority of offshore windfarms operational in the UK (i.e. from Round 1, Round 2 and Round 2.5) were sited in areas which supported limited levels of fishing activity by towed gear methods. The limitations in the amount of evidence of towed gear fishing resuming in operational windfarms in the UK is therefore primarily a result of this. In addition, no formal monitoring of fishing activities within operational sites has been</p>



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			<p>undertaken to date. As the majority of vessels active in existing UK operational windfarms are under 12 m in length, their activity is not tracked by Vessel Monitoring Systems (VMS). The Applicants also noted that the current trend in the industry is towards the use of larger turbines which require increasingly larger minimum spacings (see section 2.1) and that this is expected to further facilitate co-existence with towed gear fisheries.</p> <p>The Applicants, NFFO and VisNed are Not Agreed that the worst case scenario assumed in the CIA is appropriate. It is the view of NFFO and VisNed that towed fishing returning to operational windfarms cannot be assumed in countries where towed-gear fishing can legally resume given current levels of evidence. Additionally, it is the view of NFFO and VisNed that a strategic study is required to better understand the extent of resumption of towed-gear fishing activity within windfarms at a UK wide scale. The Applicants consider that such a study is best led through programmes such as The Crown Estate (TCE) Offshore Wind Evidence and Change programme.</p> <p>The parties are Agreed that the commitments made to the CFWG and as described above, addresses the longlining concern.</p>
	3.2	NFFO's / VisNed's Position	<p>We have provided consultants Brown and May with information on proposed fisheries measures associated with designated Marine Protected Areas (MPA) 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 (MCZ) 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 areas have been assessed and what fishing restrictions, if any, have been assumed. There are also other plans for MPAs, for instance in Danish waters, that have not been factored into the assessment as well as further windfarm projects – Horns Rev 3, Vesterhav North and Vesterhav South and Thor.</p>
		The Applicants Position	<p>Consideration was given in the CIA to the proposals for closed areas to fishing associated with MPAs and closures associated with measures implemented under the Marine Strategy Framework Directive (MSFD) raised as of concern by NFFO / VisNed during Section 42 consultation.</p> <p>The Applicants acknowledge that the designation of MPAs, and the potential for additional proposals for closed areas to fishing and proposals for new offshore windfarm projects is a continuous and evolving process. The inclusion of</p>



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			<p>any additional MPAs, closures and or projects which may have been recently designated / proposed would add to the magnitude of effect identified in the assessment. It should be noted, however, that with regard to beam trawling (Dutch and Anglo-Dutch vessels) and Dutch seine netting, taking account of the proposed closures to fishing, the cumulative assessment identified impact magnitude as high (the highest potential magnitude score). As such, the inclusion of additional MPAs / proposed closures would not materially affect the conclusions of the cumulative assessment.</p>
		<p>Final position between the Applicants and the NFFO and VisNed</p>	<p>NFFO and VisNed acknowledge that the inclusion of additional projects and / or proposals for closures to beam trawling (Dutch and Anglo-Dutch vessels) and Dutch seine netting would have no material implications on the conclusions of the cumulative assessment on the basis that magnitude of impact is already assessed to be high.</p>
<p>Mitigation and Monitoring</p>	<p>4.1</p>	<p>NFFO's / VisNed's Position</p>	<p>The Applicants have stated that they will develop a Fisheries Liaison and Co-existence Plan post consent which will be in accordance with the outline FLCP to be submitted at Deadline 1. We consider the plan should, among other things, cover all commitments to all Fisheries mitigation.</p> <p>In addition to the matters related to commercial fisheries listed in schedule of mitigation we wish to see the following commitments:</p> <ul style="list-style-type: none"> • 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 post installation survey includes both trawls to demonstrate that fishing activity may resume, and trials undertaken using lines to demonstrate this method of fishing can be conducted viably. Should trials prove lining is unviable then appropriate mitigation should be in place; • The results of post cable burial inspections should be communicated to the regulator and the fishing industry;



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			<ul style="list-style-type: none"> 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 Projects; 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; and Post remediation works surveys should be undertaken and communicated to the fishing industry to provide assurance that no residual snagging risks remain.
		The Applicants Position	<p>The Fisheries Liaison and Co-existence Plan (FLCP), (as secured in condition 17 of the generation DML and condition 13 of the transmission DML) which will be produced post-consent (in accordance with the outline FLCP submitted into the Examination at Deadline 1) and submitted to the MMO for review and approval, will describe the Applicants approach to facilitating co-existence and to minimising disruption to the fishing industry.</p> <p>Due consideration will be given in the FLCP to key aspects identified by NFFO / VisNed such as liaison with the fishing industry and information sharing as well as measures to minimise potential for snagging risk and the monitoring of cables.</p> <p>With specific reference to the points made by the NFFO and VisNed;</p> <ul style="list-style-type: none"> The Applicants will prepare a fisheries liaison and coexistence plan (FLCP), as secured under Condition 17(1)(e)(v) of the generation DML and Condition 13(1)(e)(v) of the transmission DML, and in accordance with the outline FLCP (which was submitted at Deadline 1 and updated at Deadline 3 (REP3-050)) which will require to be approved by the MMO; The Applicants will ensure that relevant Project package managers / engineers and, or contractor representatives are available to discuss pre-construction plans with fisheries stakeholders if requested. This is to ensure that relevant information such as site conditions and proposed cable installation plans are shared (this will be secured in the outline FLCP which will be submitted at Deadline 1);



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			<ul style="list-style-type: none"> • Cables shall be installed with the objective of minimising as far as reasonably practicable effects on longer term fishing operations, principally through cable burial. A detailed cable laying plan will be prepared and issued to the MMO for approval, which incorporates a burial risk assessment to ascertain suitable burial depths and cable laying techniques in accordance with Condition 17(1)(d)(ii)(bb) of the generation DML and Condition 13(1)(d)(ii)(bb) of the transmission DML with the objective of achieving the appropriate level of cable burial; • Proposals for monitoring offshore cables and the status of cable protection during the operational lifetime of the authorised scheme, which include a risk based approach to the management of unburied or shallow buried cables, will be agreed with the MMO in accordance with Condition 17(1)(d)(ii)(cc) of the Generation DML and Condition 13(1)(d)(ii)(cc) of the Transmission DML; • In case of exposure of cables on or above the seabed, the Applicants will notify mariners by issuing a notice to mariners and by informing Kingfisher Information Service of the location and extent of exposure in accordance with Condition 10(12) of the Generation DML and Condition 6(12) of the Transmission DML; • The ‘loss of gear’ protocol and ‘gear snagging’ protocol developed by ScottishPower Renewables (The Applicants parent company) for their East Anglia offshore windfarms will be adopted by the Projects and incorporated into the FLCP in accordance with the outline FLCP (which will be submitted at Deadline 1); • Post export cable installation fishing surveys, which will be secured in the FLCP in accordance with the outline FLCP, will be undertaken to assess any seabed obstructions resulting from the burial of export cables. Should the post-lay survey identify the presence of construction related debris or seabed obstacles that could have the potential to interfere with fishing activities, appropriate rectification will be undertaken by the Applicants. Potential obstacles will not include cable plough and furrow mounds created during cable installation; • The Applicants will consider the VisNed/NFFO preference for intra-array cable alignment within pre-construction plans (NFFO and VisNed preference is for cables predominantly laid along wind turbine rows running NNW-SSE); and • Should long lining trials due to be undertaken at the East Anglia ONE project demonstrate that long lining is not feasible within the windfarm without unreasonable modification of the fishing practice, the CFWG forum will be used to discuss potential mitigation options. This commitment has been agreed with the CFWG and



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			<p>secured in the updated Outline Fisheries Liaison and Co-existence Plan (REP3-050) submitted at Deadline 3.</p>
		Final position between the Applicants and the NFFO and VisNed	Subject to review of the outline FLCP by the NFFO and VisNed once submitted into the Examination at Deadline 1, the inclusion of the additional mitigation items is Agreed .
	4.2	NFFO's / VisNed's Position	<p>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):</p> <p><i>(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.</i></p>
		The Applicants Position	<p>The Applicants consider that the wording proposed in the draft DCO (APP-023) is appropriate:</p> <p><i>(12) In case of 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.</i></p> <p>The above is in line with the wording agreed with the Maritime and Coastguard Agency (MCA), but note that the Applicants have agreed with the MCA that cable exposures are to be communicated within 'three days' rather than 'three working days' and that this amendment to the condition will be made for the next submission of the Draft DCO into the Examination at Deadline 3 (15 December 2020).</p> <p>The Applicants note that the draft Guidance referred to by NFFO / VisNed (Fishing Liaison with Offshore Wind and Wet Renewables (FLOWW) - draft Recommendations for Fisheries-Cable Interactions, Planning and Mitigation, and</p>

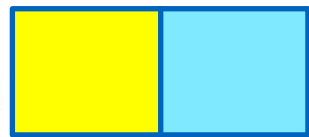


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			<p>Guidance on The Offshore Transmission Owners (OFTOs) Regime) is currently a working draft for consultation within the FLOWW Group and yet to be finalised and published.</p> <p>Notifications on shallow burial is not required because of the requirements for the cable laying plan, secured under Condition 17(1)(d)(ii) of the Generation DML and Condition 13(1)(d)(ii) of the Transmission DML and the post-construction surveys to assess any changes in bedform topography to ensure that cables have been buried or protected, which is secured under Condition 22(2)(b) of the Generation DML and Condition 18(2)(b) of the Transmission DML.</p>
		Final position between the Applicants and the NFFO and VisNed	<p>The parties are Agreed that the inclusion of reference to “shallow burial” in the wording of the Draft DCO conditions with regard to the notification of cable exposures is not necessary.</p> <p>The wording proposed in the draft DCO (noting that it will be updated to state a notification period of ‘within three days’) is therefore considered appropriate.</p>
	4.3	NFFO’s / VisNed’s Position	<p>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 Projects and minimise the likelihood of incidents occurring in an area where there exist high levels of fishing activity.</p> <p>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 Projects and provisioning of work opportunities (e.g. guard vessels or surveys for example) available to affected fisheries stakeholders as far as practically possible.</p>
		The Applicants Position	<p>A range of measures of relevance to ensuring safety during construction and operation will be implemented by the Projects. For instance, timely and efficient Notices to Mariners (NtM), Kingfisher and other navigational warnings will be issued to the fishing industry prior to all survey and construction works through a project specific marine co-</p>



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			<p>ordination system as secured in conditions 10 (notifications) and 11 (aids to navigation) of the generation DML and conditions 6 (notifications) and 7 (aids to navigation) of the transmission DML.</p> <p>In addition, measures such as adherence to FLOWW guidance, cable burial, appropriate liaison and information sharing and the production of a FLCP in accordance with the outline FLCP (as secured in conditions 17 of the generation DML and 13 of the transmission DML), will also be undertaken.</p> <ul style="list-style-type: none"> Regarding the use of funding arrangements, The Applicants consider the measures currently proposed are appropriate.
		Final position between the Applicants and the NFFO and VisNed	The NFFO and VisNed acknowledge the Applicants response.





3 Signatures

15. The above Statement of Common Ground is agreed between the Applicants and the NFFO / VisNed on the day specified below.

Signed: _____ Print Name: _____ Job Title: _____ Date: _____ Duly authorised for and on behalf of the NFFO
Signed: _____ Print Name: _____ Job Title: _____ Date: _____ Duly authorised for and on behalf of VisNed
Signed: _____ Print Name: _____ Job Title: _____ Date: _____ Duly authorised for and on behalf of EAST ANGLIA TWO LIMITED
Signed: _____ Print Name: _____ Job Title: _____ Date: _____ Duly authorised for and on behalf of EAST ANGLIA ONE NORTH LIMITED