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Your ref: **20012643**

Our ref: Thanet Extension Offshore
Windfarm Project (EN010084)

5 February 2019

Dear Sir/Madam

Thanet Extension Offshore Windfarm Project (EN010084)

The MCA's remit for offshore renewable energy development is to ensure that safety of navigation is preserved, and our search and rescue capability is maintained, whilst progress is made towards government targets for renewable energy. This includes our obligations under The United Nations Convention on the Law of the Sea (UNCLOS).

The MCA wish to provide further responses (for deadline 2) to the information provided at deadline 1 as follows:

- 1) The applicant's response to the Maritime and Coastguard Agency's Relevant Representation
- 2) The applicant's Responses to the Examining Authority's First Written Questions
- 3) The applicant's Responses to the Examining Authority's Actions from the ISH 2
- 4) The draft DCO
- 5) Provide the outstanding response from the first ExA questions.

The applicant's response to the Maritime and Coastguard Agency's Relevant Representation

MCA -2. [Vattenfall are implying that as MCA have approved their approach and the methodology used, we should therefore accept the results and accept the risk. The MCA would like to make it clear that our approval of their approach in line with MGN 543 is specifically with regards to the process they followed to undertake their NRA, i.e. they have demonstrated that they have followed the guidance. This does not provide a reason for accepting that risk. The results show an increase in risk and the applicant deems this increase as tolerable with the proposed mitigation. We disagree that this increase in risk should be tolerable at this location given the complexity of navigation which already exists, and considering the feedback provided at a variety of](#)



HM Coastguard

stakeholder forums, including the SUNK VTS User Group (local stakeholders), VTS Policy Steering Group (national Vessel Traffic Services (VTS) stakeholders) and the UK Safety of Navigation (UKSON) Committee (national Safety of Navigation stakeholders). The MCA has discussed the proposals with key navigation stakeholders for their qualitative assessment – experts in their field - and on this occasion all agree that the increase in risk based on the current red line boundary is not acceptable at this location.

MCA -3. We note that applicant states ‘no detailed substantiation of the concerns identified have been provided and concerns will be addressed when evidence is provided’. The MCA’s comment is regarding the reliability of the study and that it is likely to be unrepresentative of real-life scenarios that may include overseas Masters, or Masters of Foreign flag vessels, who are unfamiliar with the area, in poor conditions. This is based on the fact that the simulation exercises utilised experienced pilots familiar with the area and therefore is not a true representation of the situation.

See further information in response to the ExA question 1.12.12 below.

MCA – 4. The applicant focuses on the agreement of the NRA and that we therefore should accept the results unless we can evidence otherwise. We note the applicant wants detailed justification and evidence for this view; however, it is very difficult to quantify and predict, as there have not yet been many major incidents. We have a duty not to push risks to the limit; we might not have the evidence through statistics to show the number of incidents in the area – it is currently well managed - but to introduce the extension which significantly constricts the available sea room, cannot and should not be acceptable at this location.

The MCA has discussed the justification for these views with the SUNK VTS User Group, which can be seen in the SUNK VTS User Group response to the applicant’s comments on their Relevant Representation. This includes:

- 1) The extension of the windfarm will constrict the number of vessels and constrain their available sea room considerably. Vessels embarking pilots need to steer a particular course or maintain a certain heading appropriate to the prevailing weather conditions (to create lee for the pilot boat) albeit for only a short time, and maintain a minimum speed (usually of 6-8 knots) for effective steerage. Given the proximity of the navigational hazards at present, with the available sea room this is possible and deemed safe, but will not be possible after the extension.
- 2) Medway has seen an increase in the number of LNG vessels (from one a month to one a week) of a minimum 280 metres LOA and 10 metre draft, boarding pilots in the area. LNG due to its inherent hazards, poses a much greater risk in terms of navigation to pilots, crew and surrounding vessels, and the extension will significantly encroach on the pilot’s safety parameters.
- 3) There are concerns that simulation exercises and discussions had only taken place with experienced pilots with local knowledge. A Master and/or navigation

officer of a vessel who have never been to the NE spit (large or small vessel), will be much more concerned and as a result more wary of transiting the area.

It is MCA's view that the list of concerns raised in the variety of Representations made by key navigation stakeholders are justification for the applicant to make changes to the current redline boundary on the western extent, in line with MCA's response to the Sectoral Plan submitted for deadline 1. The onus should remain on the applicant to listen to significant concerns/feedback provided by key stakeholders and work to address those concerns. It is our opinion that further mitigation is likely to be highly reliant on third parties, and that the consideration of further reducing the redline boundary on the western extent has not yet been demonstrated by applicant.

The applicant's Responses to the Examining Authority's First Written Questions

Question 1.12.12. Although this question is directed to the applicant, MCA would like to comment as follows:

The applicant's response to this question implies the MCA were specifically consulted before and during the preparation of the Bridge Simulation Study. As far as the current staff at MCA are aware, this is incorrect. However, there were staff changes in October 2018, and this may have been undertaken by the previous OREI Advisor at MCA. We have also been unable to find [Annex K](#) in the online documents to confirm whether the MCA were consulted prior to the changes in staff. The MCA has no records on any specific consultation on the Bridge Simulation Study other than that recorded in the minutes of meetings with MCA.

The MCA were aware that a pilotage study was being undertaken by the applicant in consultation with the PLA and ESL, as it was mentioned as a high-level acknowledgement of the study during meetings. At the meeting on 10 January 2018 MCA stated that they had not seen the report and questioned how the simulation was conducted and planned. Concerns were raised at that meeting; how the simulation was perhaps limited in scope, somewhat arbitrary, and the limitations of using trained and experienced pilots rather than actual masters.

Further concerns were again raised at the meeting on the 23rd August 2018 (see minutes) that in the bridge navigation simulation, no allowance had been made for masters, and navigators, who do not know the area or who are inexperienced and therefore the results of the simulation could not be used to support the NRA. This has been confirmed by Pilots from Medway area whilst attending the recent SUNK VTS User Group meeting.

Question 1.12.29 Navigation Risk Workshop

Although this question was directed at the Applicant MCA wish to comment as follows:

At least one representative from MCA has attended every meeting that the applicant has requested throughout 2017 and 2018 up until October 2018 when it

was clear discussions were not moving forward, and MCA felt it was best to progress through the Planning Inspectorate process. The Hazard Workshop was raised at the December 2017 meeting, after which the MCA hosted applicant led meetings on 10th Jan 2018 and again on 15th Feb 2018. David Turner (as referenced in applicants' response) attended the meeting on the 10th Jan and made his views clear at that meeting that the increase in risk was unacceptable in this area. David Turner has since left the MCA so we are unable to comment further on the telephone call.

1.12.31 Safety Zones

The MCA remains concerned regarding the proposed 500m Safety Zone during construction, major maintenance and decommissioning of the development. This will result in a 450m restriction outside of the redline boundary which will impact traffic between the extension and the Kent Coastline.

Comment of the Draft Development Consent Order

Article 16 Public rights of navigation

The MCA has concerns regarding paragraph 2 of Article 16 of the DCO. The MCA would expect the buoyage marking to be in place prior to construction and usually extinguishing and public rights of navigation would not take place until the area has been appropriately marked in accordance with the requirements of Trinity House. The MCA therefore supports Trinity House's view with regards to Public Rights of Navigation.

Part 3 Details of licensed marine activities

We note that the DCO refers to a gross electrical output capacity of up to 340MW. However, we understand that the Crown Estate's acceptance of this application is based on 300MW.

Article 36 Arbitration

The MCA supports the Arbitration concerns raised by the Marine Management Organisation for the reasons set out in their submission to The Planning Inspectorate dated 12 September 2018.

Navigation Conditions

The MCA would like to provide further comments on the draft DCO when the next version is made available after deadline 2.

Response MCA were unable to send at deadline 1 regarding ExA question 1.12.10 – Acceptability of Pollution, loss of vessel, operational downtime.

1.12.10.	Maritime and Coastguard Agency and Marine Management Organisation	<p>Acceptability of pollution, loss of vessel, operational downtime:</p> <p>Please advise what considerations in regard to acceptability of risk should be taken into account when the assessed risk has major or catastrophic consequences that are not necessarily loss of life (including Pollution, Loss of Vessel, Major Operational Downtime); and</p> <p>a) at what level of assessed frequency can hazards with major or catastrophic consequences be assessed to be acceptable risks?</p> <p>b) to what extent it is reasonable for acceptability of major risks in confined sea room to be assessed by separate analysis of component hazards as opposed to assessment of combination and interactive effects?</p>
<p>a) MCA notes and agree with the Applicant’s approach, as they allude to their detailed quantitative assessments, such as the FSA-based (formal safety assessment) risk matrices highlighted to ascertain ‘acceptable risk’.</p> <p>Further, the visiting vessels, both UK and foreign, are required extensive set of survey and certification to cover for, among others, catastrophic consequences such as Pollution etc. E.g. International Convention on Civil Liability for Bunker Oil Pollution Damage 2001, mandates that the vessel carry “Certificate of insurance or other financial security in respect of civil liability for bunker oil pollution damage“.</p> <p>Ref. http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Civil-Liability-for-Bunker-Oil-Pollution-Damage-(BUNKER).aspx</p> <p>b) MCA would tend to agree with Applicant’s response to this part. Further, the response to such an event, should one ever occur, would naturally be handled individually. E.g. whilst MCA’s Counter Pollution branch handles the pollution related matter, the SAR (search and rescue) coordination would account for response to human casualties, all under the top-level direction of the SoS Rep (Department of Transport, Sec of State representative on maritime incidents).</p>		

We hope you find this information useful as part of your Examination of the Thanet Extension.

Yours faithfully,

Helen Croxson
OREI Advisor
Maritime and Coastguard Agency