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National Infrastructure Planning  
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10<sup>th</sup> December 2019

Dear Frances Fernandes,

**Application by Norfolk Boreas Limited for an Order Granting Development Consent for the Norfolk Boreas Offshore Wind Farm Project: Written Representation**

We offer the following written representation prepared following discussions with Vatenfall to develop a statement of common ground reflecting our outstanding areas of disagreement up to this point.

The following is a summary of these issues, followed by detailed commentary.

**Summary of Outstanding Concerns**

1. Assessment criteria with respect to sensitivity and magnitude criteria applied to assess fisheries impacts should be more quantitatively defined.
2. Impact 6 - safety issues for fishing vessels lacks evidence that a standard risk-based assessment using "frequency of occurrence" and "severity of consequence" criteria has been conducted in order to draw its conclusions.

3. Worst case scenarios have not been defined with respect to the application of safety buffers to determine the maximum theoretical fishable space between turbines.
4. The use of Service Operation Vehicles and application of what appears to be a proposed 500m statutory safety zones, when they are attached to turbines, appears not to be factored into the worst-case scenario. We consider the use of such large safety zones for such purposes to be disruptive and unnecessary.
5. To better inform the potential for fisheries access, Vattenfall should clarify under 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.
6. Given a lack of evidence exists that towed gear fishing activities have returned to operational wind farms, we consider that on a precautionary basis the worst-case scenario for the cumulative impact assessment (CIA) should include an assumption that no towed gears will operate within windfarms post-construction.
7. It is not clear to what extent all relevant MPAs and likely fisheries management measures have been factored into the CIA.
8. 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 disguise impacts already being endured by impacted parts of the fleet.
9. A range of additional measures are identified 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.
10. An amendment to DCO/DML notification requirements for cables is suggested to include shallow buried as well as exposed cables.

### **Assessment Methodology**

The Commercial Fisheries Assessment (Ch 14) 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) and well as predicted future losses in percentage terms.

With respect to the assessment of Impact 6 - safety issues for fishing vessels (Ch 14 section 14.7.4.6) - there is no probabilistic assessment similar to that completed for other navigation related impact risks (Ch 15). It is not clear whether and how "frequency of occurrence" and "severity of consequence" criteria used in the navigational impact assessment (Ch 15) have been applied, and what data, if any, has 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). Such an approach does not constitute a methodical assessment.

### **Worst Case Scenario and Access to Fishing**

The worst-case scenario for the purposes of the assessment has not been adequately defined in the following two ways with respect to the operational phase of the project:

- Based on the information presented in the Environmental Statement, the worst-case scenario should account for 10MW turbines spaced 720m apart with TetraBase foundations radially extending 35m from the centre point of the turbine so actual theoretical maximum fishable spacing is 650m between turbines. 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 620m if measured from turbine centre or 550m if measured from edge of TetraBase structure.
- The Safety Zone statement refers to the use of 500m safety zones around Service Operation Vehicles (SOV) for maintenance activities (3.5, p6). The use of SOVs has not been described so that the potential impacts of 500m safety zones can be understood. Our understanding of their use in other wind farms is for routine maintenance works, with SOVs triggering safety zones potentially several times a day in different locations when coupling to turbines. This could be highly disruptive to any fishing activities occurring in the site. To our knowledge, to date a 500m safety zone for such purposes has been granted for the Hornsea 1 offshore wind farm and a 150m safety zone has been granted for the Race Bank offshore wind farm.

We do not consider the application of a 500m safety zone around SOV activities to be necessary 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.

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 Vattenfall 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 that may take place and request that Vattenfall 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.

### **Cumulative Impact Assessment**

With the exception of projects where fishing in windfarms is prohibited, the assessment assumes that fishing activities will return to offshore wind farms. To date, however, 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 applied to the CIA that no towed gear fishing activities will resume within operational offshore wind farms.

We have provided the applicant with information on proposed fisheries measures associated with designated MPAs during the Norfolk Vanguard examination process. However, since then further Marine Conservation Zones have been designated in English waters 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.

Existing plans and projects are not factored into the assessment and are assumed to form part of the baseline. We consider this will disguise impacts already being carried by impacted parts of the fleet. This 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 with respect to assessing the cumulative affected extent of available fishing grounds.

### **Mitigation and Monitoring**

We wish to see that commercial fisheries mitigation commitments are strengthened to principally improve safety management in the following ways:

- 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 plan should be consulted on with 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 surveys should be undertaken and communicated to the fishing industry to provide assurance that no residual snagging risks remain.

We suggest that commitments to these matters should be reflected in the outline Fisheries Liaison and Co-existence plan.

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 9 Part 4, Section 9 (12) Notifications and inspections and Schedule 10, Part 4, Section 9 (12):

*(12) In case of **a state of shallow burial** or exposure of cables on or above the seabed, the undertaker must within five days following the receipt by the undertaker of the final survey report from the periodic burial survey, notify mariners by issuing a notice to mariners and by informing Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the Marine Management Organisation (MMO and Maritime and Coastguard Agency (MCA) within five days.*

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.

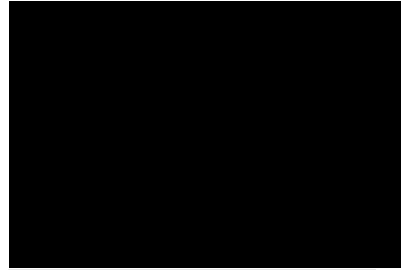
We encourage the use of funding arrangements like the West of Morecombe Fisheries Fund as a mechanism to support fishing industry stakeholders affected by the project and provisioning of work opportunities (e.g. guard

vessels or surveys for example) available to affected fisheries stakeholders as far as practically possible.

Yours sincerely,



Dale Rodmell  
**Assistant Chief Executive (NFFO)**



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

cc: Helen Croxson, Marine and Coastguard Agency; Rebecca Reed, Marine Management Organisation