SHEPHERD+WEDDERBURN

WRITTEN REPRESENTATION ON BEHALF OF

BURBO EXTENSION LTD (REF: 20049590)

IN CONNECTION WITH THE Application by Morgan Offshore Wind Limited for an Order Granting Development Consent for the Morgan Offshore Wind Farm

1. Introduction

1.1 This written representation is provided in accordance with Deadline 1 of the examination timetable for the application by Morgan Offshore Wind Farm Limited (the "**Applicant**") for an Order under the Planning Act 2008 (the "**Act**") granting Development Consent for the Morgan Offshore Wind Farm (the **"Project**").

1.2 We represent six owners of operational offshore windfarms in the East Irish Sea (as set out relevant representations RR-005, RR-007, RR-023, RR-032, RR-043, RR-044), who we refer to together as the "**Ørsted IPs**". This written representation is made on behalf of Burbo Extension Limited ("**Burbo Extension**") (RR-007), one of the Ørsted IPs.

1.3 The Ørsted IPs' developments can be seen on Figure 9.4, in Volume 2, Chapter 9 (Other sea users) of the Environmental Statement (APP-027).

1.4 The Ørsted IPs, including Burbo Extension, have been engaged in a consultation process with the Applicant in respect of the potential impacts of the Project on the Ørsted IPs' developments. The Ørsted IPs, including Burbo Extension, filed relevant representations in respect of the Project and were represented at Issue Specific Hearing 1 ("**ISH1**") on 10 September.

1.5 As outlined in the relevant representations and at ISH1, the Ørsted IPs, including Burbo Extension, do not oppose the Project in principle. However, they have concerns regarding the interactions between the Project and their developments which are yet to be resolved. Primarily, Burbo Extension's concerns relate to the effects of the Project on wake loss, wildlife and radar. These are addressed in turn below. The Ørsted IPs' (including Burbo Extension's) concerns regarding these matters were briefly presented during ISH1.

2. Wildlife Impacts/Environmental assessment

2.1 Given the increasingly complex nature of the existing and proposed development environment in the East Irish Sea, Burbo Extension has an interest in ensuring the EIA for the Project accurately assesses the potential effects of the Project on wildlife and identifies appropriate mitigation.

2.2 As discussed during ISH1, the Ørsted IPs, including Burbo Extension, consider the Applicant's proposed approach to assessing the in-combination/cumulative effects of the Project (a 'sensitivity' analysis), is flawed. The information contained in EIA and Habitats Regulations Assessment must be complete and current in order for the examining authority and Secretary of State to properly undertake their assessments. If additional information is identified which is relevant to these assessments, it must be properly considered and the assessments must be updated by the Applicant.

2.3 The Ørsted IPs, including Burbo Extension, have raised concerns regarding the robustness of the Applicant's ornithology and cumulative impact assessment. We understand that Natural England has raised similar concerns regarding the Applicant's approach to these assessments and, in an effort to avoid duplication, we acknowledge that Natural England will be best placed to further address these concerns in the examination process. Issues identified in the Applicant's assessment include, for example, that limited information on how collision risk modelling estimates for other projects have been adjusted for avoidance rate. Additionally, the Applicant's ornithology assessment does not contain annual displacement totals for the project-alone.

3. Energy Yield

3.1 Due to the proximity of the Project to the Ørsted IPs' developments (including Burbo Extension's), the Ørsted IPs are concerned the Project will interfere with the wind speed and/or direction at their developments and therefore adversely affect energy yields.

3.2 As canvassed during ISH1, the Ørsted IPs, including Burbo Extension, consider this effect must be properly assessed and addressed by the Applicant.

3.3 The NPS EN-3 requires that, where a potential offshore wind farm is proposed close to existing operational offshore infrastructure, or has the potential to affect activities for which a licence has been issued by government, the applicant should undertake an assessment of the potential

effects of the proposed development on such existing or permitted infrastructure or activities. The Burbo Extension is not satisfied that such assessment has been properly undertaken here.

3.4 As recorded in its response to the Burbo Extension's relevant representation on this issue (PD1-017), the Applicant relies on compliance with the boundary requirements in TCE's Round 4 Leasing Information Memorandum to justify not carrying out this detailed assessment. The Ørsted IPs, including Burbo Extension, do not consider this approach is sufficient – the TCE memorandum relied on was not prepared for the purposes of providing guidance on this matter, or for generally regulating effects between sea users in the consenting process.

3.5 Additionally, the impacts of the Project on loss of energy generation at the Ørsted IPs' developments is relevant to evaluating the benefits of the Project in terms of emissions reductions and climate change benefits. We consider this assessment must calculate the 'net' benefit – i.e. accounting for renewable energy generation losses arising from impacts to other offshore developers, as well as potential new generation from the Project. It is also a matter of good design.

3.6 As outlined during ISH1, the necessary data and modelling tools to undertake such an analysis is available to the Applicant. Therefore, there are no impediments to the Applicant undertaking this required step. At the current stage of the development of the Project, the Applicant is best placed to understand the realistic scenarios for the Project, which can then be tested against the known positions of the existing assets.

3.7 In response to action point 26 of the action points arising from ISH1 (EV2-005), the Ørsted IPs reiterate there are a number of industry-recognised wake models which could be used to undertake this assessment.

4. Radar

4.1 As recorded in its relevant representations, Burbo Extension (along with another of the Ørsted IPs, Walney Extension Limited) is implementing appropriate mitigation in relation to potential impacts on the Warton Airfield Primary Surveillance Radar, and is concerned that the Project has the potential to adversely affect or increase the cost of this mitigation. It is noted that the Ministry of Defence ("**MoD"**) has objected to the Project on the grounds of unacceptable impacts on the radar system at BAE Warton (PD1-019).

4.2 Discussions are ongoing between the parties on this matter, however, a resolution is yet to be reached. It is noted that, in the absence of an agreement between the parties, it is likely that a DCO requirement addressing effects of the Project on the radar system would be necessary. However, it will also be necessary for the ExA and the Secretary of State to be provided with information regarding the deliverability of necessary mitigation.

Shepherd & Wedderburn LLP

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