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Dear Rachael,

East Anglia One North Offshore Wind Farm Order 2022

East Anglia Two Offshore Wind Farm Order 2022

Red-Throated Diver Implementation and Monitoring Plan under Paragraph 3, Part 3 of Schedule 18 to the Orders

Introduction

1.1. The East Anglia One North (“EA1N”) and the East Anglia Two (“EA2”) Offshore Wind Farm Orders 2022 (“the Orders”) contain requirements that the undertaker must comply with before certain works within the authorised developments as defined in the Orders can commence. These include requirements in relation to red-throated divers (“RTD”).

1.2. Paragraph 3 of Part 3 of Schedule 18 to the Orders states that:

“Following consultation with the RTD Compensation Steering Group (RTDCSG), the RTD Implementation and Monitoring Plan (RTDIMP) must be submitted to the Secretary of State for approval (in consultation with the Marine Management Organisation and the relevant statutory nature conservation body). The RTDCSG must be consulted further as required during the approval process. The RTDIMP must be based on the strategy for red-throated diver compensation set out in the red-throated diver compensation plan and include—

- (a) details of the location where compensation measures will be deployed, why the location is appropriate ecologically and likely to support successful compensation, and details of agreements demonstrating how the vessel route diversions and/or exclusions will or have been secured to deliver the ecology objectives of the RTDIMP;*
- (b) an implementation timetable for delivery of the vessel route diversion and/or exclusion compensation measures which ensures that the measures are in place prior to the*

installation of any tower comprised within a wind turbine generator forming part of the authorised development;

- (c) details in relation to the monitoring of red-throated diver abundance and distribution using aerial digital surveys in the Outer Thames Estuary SPA and a 10km buffer over two winters. Three surveys should take place each winter (between 1st November and 31st March) with one batch to take place before the installation of the turbines forming part of the authorised development and the other batch to take place after;*
- (d) details of the proposed ongoing monitoring of the measures including: survey methods; survey programmes; success criteria; recording of RTDCSG consultations and project reviews; details of the factors used to trigger alternative compensation measures and/or adaptive management measures;*
- (e) details in relation to the convening of a partnership with relevant authorities and user representation to—
 - (i) improve understanding of disturbance and displacement effects on red-throated diver within the Outer Thames Estuary SPA;*
 - (ii) identify and implement opportunities to reduce these effects; and*
 - (iii) ensure stakeholder engagement and liaison to raise awareness and communicate any proposed changes in usage; and**
- (f) details of the work in respect of ornithological by-catch measures as set out in Appendix 7 of the Offshore Ornithology Without Prejudice Compensation Measures, that could support practical management measures to reduce ornithological by-catch, and which would be taken alongside or in place of predator control fencing.”*

- 1.3. On 9 April 2025, ScottishPower Renewables (“the Applicant”) submitted a request for the approval of the Red-Throated Diver Implementation and Monitoring Plan (“RTDIMP”), inclusive of ornithological by-catch measures, for the Outer Thames Estuary Special Protection Area (“OTE SPA”), as required by paragraph 3 of Part 3 of Schedule 18 to the Orders. The documents provided included the full RTDIMP and the Red-Throated Diver Compensation Steering Group (“RTDCSG”) Agreement Log for EA1N and EA2.

Consultation

- 2.1. On 23 April 2025, the Secretary of State invited comments from Natural England, the Marine Management Organisation (“the MMO”), the Joint Nature Conservation Committee (“JNCC”), and the Royal Society for the Protection of Birds (“the RSPB”). The deadline for response was 23.59 on 9 May 2025.
- 2.2. Natural England responded on 8 May 2025 and stated that Natural England are largely in agreement with the RTDIMP. However, Natural England advised that the RTDIMP should contain the commitment made by the Applicant to use the highest resolution datasets in the model-based analyses of red-throated diver distribution and densities in the OTE SPA, rather than only being agreed within the RTDCSG Agreement Log.
- 2.3. The MMO responded on 6 May 2025 and stated that the MMO wished to defer to Natural England and the JNCC to advise on matters relating to the RTDIMP.
- 2.4. The JNCC responded on 9 May 2025 and stated that JNCC consider that the RTDIMP fulfils the requirements under paragraph 3 of Part 3 of Schedule 18 to the Orders. However, while the JNCC did not object to the proposals within the RTDIMP, the JNCC expressed concerns around the compensatory measure itself. The JNCC noted that while compliance monitoring

may provide sufficient confidence that the measure will be effective, this approach does not provide a direct guarantee that the measure will be effective in providing the required compensation. Additionally, the JNCC disagreed with the temporary nature of re-routing of vessels being used as like-for-like compensation for the long-term presence of offshore windfarms, as well as the limited benefit due to residual disturbance from other vessels potentially negating the impact of the vessel re-routing.

- 2.5. The RSPB did not respond to the request for comment from the Secretary of State.

The Secretary of State's consideration

- 3.1. On 12 June 2025, the Secretary of State issued a letter ("the information request letter") to the Applicant requesting four revisions to be made to the RTDIMP. On 10 July 2025, the Applicant provided a revised RTDIMP and a number of responses to the Secretary of State's letter.
- 3.2. The Secretary of State has considered the revised RTDIMP and RTDCSG Agreement Log provided by the Applicant, as well as the representations received from consultees.
- 3.3. Paragraph 3 of Part 3 of Schedule 18 to the Orders states that the RTDIMP must be based on the strategy for compensation set out in the red-throated diver compensation plan. The red-throated diver compensation plan is set out in Appendices 6 and 7 of the Offshore Ornithology Without Prejudice Compensation Measures Revision 5, dated 31 January 2022.
- 3.4. The red-throated diver compensation plan confirmed that vessel navigation management and by-catch reduction would be the most appropriate measures to deliver compensation for EA1N and EA2.
- 3.5. In relation to vessel navigation management, the Secretary of State notes that the Applicant has entered East Anglia One North and East Anglia Two into legal agreements with East Anglia One and East Anglia Three to deliver vessel navigation management measures to meet the red-throated diver compensation requirements.
- 3.6. The RTDIMP proposes vessel navigation management through the re-routing of vessels for East Anglia One and East Anglia Three to avoid the Outer Thames Estuary SPA during the core winter period of 1 November to 31 March (inclusive) to reduce disturbance to red-throated diver from vessel activity, and thereby compensate for the disturbance effect to red-throated divers from East Anglia One North and East Anglia Two.
- 3.7. It is proposed that vessels will be tracked, monitored, and reported on by a Vessel Traffic Management System and that an active georeferenced zone ("geofence") of a 2km buffer from the OTE SPA boundary (except where this is not possible in the channel between the two parts of the OTE SPA) will be maintained. The geofence will be monitored by the Marine Coordination Centre to ensure vessels comply with the vessel navigation management transit routes.
- 3.8. The Secretary of State notes that there may be reasonable extenuating circumstances by which vessels would temporarily deviate from the vessel navigation transit routes such as compliance with the Convention of International Regulations for Preventing Collisions at Sea, weather and sea state conditions, as well as navigational hazards.

- 3.9. The Applicant deemed the monitoring of the compensation through digital aerial surveys to estimate the changes in red-throated diver abundance to be unfeasible due to the small spatial area of effect, the high variability in red-throated diver abundance, and interactions between red-throated divers and other vessel traffic. Rather, the Applicant has proposed monitoring of the compensation through measuring compliance with the vessel navigation management transit routes to validate the magnitude of reduced vessel disturbance achieved. This would inform the regular reporting to the RTDCSG and Secretary of State on the effectiveness of the vessel navigation management compensation measures. The Secretary of State notes that this was agreed by the core members of the RTDCSG.
- 3.10. The Applicant also proposes adaptive management measures, such as further optimisation of vessel routes, reduction of vessel speeds, and consolidating vessel transiting times, should the compensation measures implemented be found to be ineffective.
- 3.11. In the information request letter, the Secretary of State requested that the Applicant provide further detail within Section 4.1.1 of the thresholds above which the 'reasonable extenuating circumstances' would trigger vessel deviation and the protocol that would be followed to return vessels to the vessel navigation management transit routes once such circumstances pass. In response, the Applicant stated that following consultation with marine vessel advisors, the threshold above which a vessel is required to deviate from a planned route is dependent on specific circumstances of any given scenario and therefore cannot be stated in a standardised form. The Applicant also revised Section 4.1.4.3 to provide detail as to the protocol that will be enacted to manage deviations. The Secretary of State is satisfied with the Applicant's reasoning as to why specific thresholds cannot be detailed in a standardised form and with the revisions made by the Applicant to Section 4.1.4.3. The Secretary of State therefore considers this matter to be resolved.
- 3.12. The Secretary of State also requested that the Applicant provide an analysis, where possible, of how often deviations from the vessel navigation management transit routes due to 'reasonable extenuating circumstances' may occur. In response, the Applicant reviewed the existing Crew Transfer Vessel ("CTV") movements to the East Anglia One array as the best available predictor of frequency for vessel deviations. The Applicant presented this analysis in Section 4.1.1. The Applicant stated that experience of existing CTVs operating between Lowestoft and East Anglia One array indicated that deviations from the route plan are rare events. The Applicant stated that between 1 November 2024 and 31 March 2025 a total of 18 deviations from planned routes were recorded. Based on this, the Applicant presented a reasonable worst-case scenario of 3-4% of CTV traffic deviating from the vessel navigation management routes. The Applicant considered that a 4% pro-rata reduction in the compensation ratio (a decrease from 6.2:1 to 6:1) would not significantly affect the compensation ratio. The Secretary of State is satisfied with the analysis and worst-case scenario presented by the Applicant and agrees that, based on the information before him, deviations from the vessel navigation management routes are unlikely to significantly affect the effectiveness of the compensation measures. The Secretary of State therefore considers this matter to be resolved.
- 3.13. Noting that for the purposes of The Conservation of Habitats and Species Regulations 2017 it is the Secretary of State who is the appropriate authority which determines whether compensation measures can be varied or whether they are no longer required, the Secretary of State also requested that the Applicant replace wording (as underlined) in Section 4.1.1: *"Once implemented for each project the vessel transit routes will be in effect for each subsequent core winter period (as previously defined) for all Projects and would continue*

until decommissioning was complete, unless evidence is collected that confirms these measures are no longer required” with “unless otherwise agreed by the Secretary of State.” In response, the Applicant revised Section 4.1.1 to replace the wording as requested. The Secretary of State considers this matter to be resolved.

- 3.14. On the advice of Natural England, the Secretary of State also requested that the Applicant provide an explicit commitment in Section 5.4 to use the highest resolution datasets available in the model-based analyses of red-throated diver distribution and densities in the OTE SPA, as agreed in the RTDCSG Agreement Log. In response, the Applicant revised Section 5.4 to explicitly state this commitment. The Secretary of State considers that this fulfils the request from Natural England and therefore considers this matter to be resolved.
- 3.15. The Secretary of State acknowledges the concern raised by the JNCC regarding vessel re-routing as a method of compensation but considers the proposals within the RTDIMP to be appropriate measures to meet the red-throated diver compensation requirements as set out in the Development Consent Orders. The decision of the Secretary of State in this letter pertains to whether the requirements in the Development Consent Orders have been met, and not a re-examination of the original consent determinations.
- 3.16. In relation to the reduction in accidental ornithological by-catch in fisheries, the RTDIMP provides for the following actions:
- **Action 1: Convene an ornithological by-catch reduction working group** – To convene an ‘Ornithological By-Catch Reduction Technical Working Group’ comprised of representatives from Natural England, the MMO, and other advisory bodies to inform the delivery of the proposed ornithological by-catch reduction compensation measures.
 - **Action 2: By-catching monitoring** – To undertake a year of monitoring, in collaboration with the fishing industry in East Anglia, to record ornithological by-catch, current equipment and techniques employed, and the level of by-catch risk.
 - **Action 3: Investigate new by-catch reduction measures** – To investigate alternative fishing gear and new fishing methods, with the aim of identifying alternatives to current gear types and methods which have the potential to reduce ornithological by-catch.
 - **Action 4: By-catch reduction technology trials** – To undertake a year of controlled at sea-trials of the alternative fishing gear and new fishing methods identified in Action 3 to quantify changes in ornithological by-catch events.
 - **Action 5: By-catch reduction fund** – To establish a fund with a total value of £500,000 to support fishers improve current fishing gear and methods to reduce ornithological by-catch. The gear eligible for funding would be informed by the findings that emerge from Actions 3 and 4.
- 3.17. The Applicant also proposes to monitor the progress and findings from the above actions, to inform the regular reporting to the RTDCSG and the Secretary of State on the effectiveness of the by-catch reduction compensation measures.
- 3.18. Having considered all the information before him, the Secretary of State is satisfied that the revised RTDIMP and RTDCSG Agreement Log provides the necessary information and complies with the requirements of paragraph 3 of Part 3 of Schedule 18 to the Orders.
- 3.19. The Secretary of State **approves** the RTDIMP, as submitted to the Secretary of State on the 10 July 2025, in accordance with paragraph 3 of Part 3 of Schedule 18 to the Orders.

Yours sincerely,



Nicola Parker

Joint Head of Environment Delivery

Department for Energy Security & Net Zero