

Esther Villora  
Repsol Nuevas Energias UK  
40 Level 5 Princes Street  
Edinburgh  
EH2 2BY

10<sup>th</sup> January 2012

**REQUEST FOR SCREENING OPINION UNDER THE MARINE WORKS  
(ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2007 (AMENDED 2011)**

Thank you for your letter dated 31<sup>st</sup> October 2011 relating to your request for a Screening Opinion on the installation of an Offshore Meteorological Mast by Repsol Nuevas Energias UK.

Marine Scotland Licensing Operations Team (MS-LOT) has circulated your request for comment from relevant stakeholders.

The installation of the Offshore Meteorological Mast is not considered to fall under the description of an Annex I or II project as laid down in Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (the 'EIA Directive') and therefore does not require an Environmental Impact Assessment (EIA) to be undertaken.

MS-LOT request that the following information to be submitted by Repsol Nuevas Energias UK in support of any application:

(i) A European Protected Species (EPS) risk assessment is required prior to licence application. The risk assessment will inform the requirement for a Habitats Regulation Appraisal (HRA) in accordance with Council Directive 92/43/EEC on the conservation of natural habitats and of wild flora and fauna. Consideration should be given to installation noise and other possible impacts on cetacean species (as described in Conservation (Natural Habitats, &c.) Regulations 1994) using the area. The undertaking of a EPS risk assessment will help to determine whether or not there is a need for an Appropriate Assessment as it should identify whether there will be a likely 'significant effect'.

Guidance in undertaking such a risk assessment is provided in Section 2 of *'The protection of marine European Protected Species from injury and disturbance - Guidance for the marine area in England and Wales and the UK offshore marine area'*. Be aware that this guidance, for the marine area in England and Wales, may differ slightly to that of Scotland. If any clarification is required, please contact Marine Scotland.

(ii) A mitigation plan for avoiding impacts to seals and other marine mammals if using Dynamic Positioning (DP) vessels.

(iii) MS-LOT recommends that Repsol Nuevas Energias UK refer to the conditions listed in the MCAs response to the request for a screening opinion.

(iv) MS-LOT recommends that Repsol Nuevas Energias UK consult helicopter operators to ensure that safety and lighting criteria are met from an aviation perspective.

(V) MS-LOT recommends that Historic Scotland is made aware of the proposal - as highlighted by Angus Councils response.

Copies of consultee responses are provided in Appendix I of this letter.

Marine Scotland currently charges no fee for the provision of Screening Opinion.

Yours sincerely,

Adrian Tait

# Appendix I

## Consultee response to the request for a Screening Opinion

### Scottish National Heritage (SNH)

Many thanks for the consultation on the Repsol Nuevas Energias UK request for a screening opinion on the installation of an Offshore Meteorological Masts (met masts) within the proposed Inch Cape Offshore Wind Farm lease area.

SNH have considered this requested screening opinion, have reviewed the information provided and detail our comments below in Annex I.

SNH are happy to discuss any of the points raised.

### **Annex 1**

We agree with the view that the installation of the offshore met masts are not an Annex I or II project under the The Marine Works (Environmental Impact Assessment) Regulations 2007 (EIA Regulations) and therefore do not require an EIA to be undertaken. However, we would request the following information to be submitted to Marine Scotland in support of any licence application:

(i) A European Protected Species risk assessment to consider installation noise and other possible impacts on cetacean species using the area.

It is important to note that EPS legislation is different within Scottish Territorial Waters; the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended) only apply outside of 12nm; it is the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended in Scotland) which are appropriate for inside the 12nm limit. For example, the concept of distinguishing between trivial and non-trivial disturbance is not used in Scottish territorial waters.

(ii) Consideration of installation noise and other possible impacts to bottlenose dolphin as a qualifying interest of the Moray Firth Special Area of Conservation (SAC), and to common (harbour) seal as a qualifying interest of the Tay and Eden Estuary SAC, with regard to the requirements of the Habitats Regulation Appraisal (HRA) in accordance with Council Directive 92/43/EEC.

The bottlenose dolphins from the Moray Firth SAC are known to frequent the Tay estuary and adjacent coastal waters; hence there is potential connectivity with the current proposal.

Telemetry data from seals from the Tay and Eden Estuary SAC also indicate transit of seals through the development area. Mitigation likely to be required in association with an EPS licence (e.g. soft-start piling and MMO protocol) would also serve to avoid interaction with these SAC dolphins during construction, and could easily be extended to do the same for SAC seals. Consequently, we advise that these considerations are included in the EPS risk assessment.

Depending on the outcome of EPS licensing and mitigating conditions, SNH can advise further in due course on the need for Appropriate Assessment.

(iii) A mitigation plan for avoiding impacts to seals if using vessels with ducted or other propeller types that may be associated with 'corkscrew' injuries. This would also serve to address further mitigation needs for these SAC qualifying interests, as detailed above, accordingly.

We recommend Marine Scotland seek clarification over whether Repsol Nuevas Energias UK intend to use vessels with dynamic positioning during the installation of the offshore met masts. If Repsol Nuevas Energias UK are intending to use such vessels then, as part of any license application, we would anticipate and welcome seeing a mitigation plan for avoiding impacts on seals and other marine mammals.

## **Angus Council**

Angus Council write with reference to your letter of 01 December regarding the above and have considered the submitted information, taken account of the type and scale of development proposed and its likely environmental effects, and can confirm that Angus Council has no observations to make on the proposal in terms of likely Environmental Impacts.

The proposal is for an offshore meteorological mast measuring 100m above sea level that would be located approximately 15 km from the Angus shore line and as such any environmental effects within Angus are likely to be limited.

Angus Council is currently considering a planning application for a wind farm at Corse Hill which lies in the area between Carnoustie and Arbroath. This application is for seven wind turbines of 126m in height (to blade tip and 80m to hub) and can be viewed remotely via public access on [www.angus.gov.uk](http://www.angus.gov.uk) using reference 11/01093/EIAL. While this information may be of limited relevance in terms of this consultation the developer may wish to take it into account from a cumulative impact point of view in formulating future proposals for the site.

The developer may also wish to take cognisance of the various natural heritage designations on the South and East Angus coastline in considering future proposals. These consist of:

- Monifieth Bay - Special Area of Conservation (SAC), RAMSAR and SSSI
- Barry Links - SAC, Special Protection Area (SPA) and SSSI
- Easthaven - SSSI
- Elliot Links - SSSI
- Whiting Ness to Ethie Haven Coast - SSSI
- Rickle Craig to Scurdie Ness- Rickle Craig to Scurdie Ness - SSSI
- Montrose Basin Nature Reserve - SPA, RAMSAR and SSSI

It is also noted that the site lies close to the Category A Listed Bell Rock Lighthouse on Inchcape Reef and I trust that Historic Scotland has been made aware of the proposal.

Angus Council trust that Marine Scotland will take account of existing maritime interests at Arbroath and Montrose in its consideration of matters relating to offshore wind power generation around the Angus coastline.

## **Chamber of Shipping (CoS)**

While we feel that a full EIA is unnecessary for the met mast, a detailed navigational risk assessment should be carried out prior to the application being submitted. This appears to be the approach proposed by Repsol. Navigational stakeholders should be consulted as soon as possible and further information on issues including anticipated construction traffic levels and the expected lifetime of the met mast should be provided.

## **Civil Aviation Authority (CAA)**

Thank you for your recent letter requesting screening opinion on the above development. The CAA believes that the decision as to whether an Environmental Impact Assessment is required is best left to the appropriate Authority. However, when considering any application the CAA will review it to assess the points below whether they form part of the application or a separate Environmental Statement.

Like any wind related development, the proposed subject development has the potential to impact upon aviation-related operations; the Department for Trade and Industry (DTI – now the Department for Energy and Climate Change)-sponsored document 'Wind Energy and Aviation Interests' and Civil Air Publication 764<sup>1</sup> refer.

It is unlikely that the CAA would wish to make any site-specific observations. That said, any associated Environmental Statement (ES) would be expected to consider the potential impact upon aviation and include the associated positions of NATS (for en route Air Traffic) and the Ministry of Defence (MoD), including confirmation that the consultations led to no objections. Moreover if more generically, it should also be highlighted that:

- Meteorological masts are extremely slender rendering them potentially inconspicuous to aviators flying over the sea, particularly when there are no other structures nearby. This is potentially hazardous, particularly during helicopter operations when it may be necessary to descend in order to avoid icing conditions. Consequently the CAA recommends that all offshore obstacles (regardless of their location within or outside of territorial waters) that are over 60 m above sea level should be fitted with one medium intensity steady red light positioned as close as possible to the top of the obstacle. See Chapter 3 of CAP764<sup>1</sup>
- There is a civil aviation requirement in the UK for all structures over 300 feet high to be charted on aviation maps. To achieve this charting requirement, developers will need to provide details of the development to the UK Hydrographic Office. In particular we would be interested to know the promulgation schedule relating to the erection of the mast.

Whilst none of the above negates the need, where applicable, for planning authorities to consult in accordance with Scottish Circular 2/2003, I trust that this information and guidance is of assistance.

---

<sup>1</sup> These documents are available at <http://www.bwea.com/pdf/Wind-Energy-and-aviation-interim-guidelines.pdf> and <http://www.caa.co.uk/docs/33/Cap764.pdf> respectively.

## **NERL Safeguarding**

The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Limited has no safeguarding objections to this proposal.

Please be aware that this response applies specifically to the above consultation based on the information supplied at the time of this application. If any changes are proposed to the information supplied to NERL in regard to this application (including the installation of wind turbines) which become the basis of a full, revised, amended or further application for approval, then as a statutory consultee NERL requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.

## **Northern Lighthouse Board (NLB)**

Thank you for your correspondence dated 02 December 2011 regarding the request for a response to the screening opinion and the intention of Repsol Nevas Energias UK to construct and deploy a Meteorological Data Gathering Mast within the Inchcape OWF site in the Firth of Forth approaches.

With regard to the consultation, we would only comment on that part relating to Shipping and Navigational Safety.

It is noted that the Meteorological Mast is intended to be installed prior to the main wind farm installations and would therefore require a Navigational Risk Assessment, in line with the requirement of MCA Marine Guidance Notice 371.

On receipt of a Marine Licensing Application, we will issue a marking and lighting recommendation, which will be based on IALA Recommendation O-139 as follows:

- The structure shall be marked at night by one or more white lights so constructed and fixed as to ensure that at least one light is visible upon approaching the structure from any direction.
- The lights shall be placed not less than 6 metres and not more than 30 metres above Mean High Water Springs (MHWS) with a minimum effective intensity of 1400 candelas. The lights shall be operated in unison, with a flashing white Morse letter 'U' character and a period of 15 seconds.
- The mast should be painted yellow all round from the level of Highest Astronomical Tide (HAT) to 15 metres higher.
- The mast shall display identification panels with black letters or numbers 1 metre high on a yellow background visible in all directions. These panels shall be easily visible in daylight as well as at night, by the use of retro-reflecting material.
- The mast should be fitted with a sound signal constructed and fixed as to be audible upon approaching the structure from any direction. The sound signal should be placed not less than 6 metres and not more than 30 metres above MHWS with a range of at least 2 nautical miles. The character shall be rhythmic blasts corresponding to Morse letter 'U' every 30 seconds. The minimum duration of the short blast shall be 0.75 seconds. The sound signal shall be operated when the meteorological visibility is two nautical miles or less.

Northern Lighthouse Board would also maintain continuity with other marking and safety requirements proposed at similar offshore wind developments within its area of jurisdiction requiring that:

- During the construction phase, any vessel engaged in works shall be marked in accordance with the International Rules for the Prevention of Collisions at Sea whilst under way, and in accordance with the Standard Marking Schedule for Offshore structures if secured to the seabed.
- If the site is left without a vessel in attendance during the construction phase and before the navigational lighting is established, the site shall be marked with four lit cardinal buoys positioned at 500 metres distance, one in each quadrant.
- All Aids to Navigation should have an availability of not less than 99.8% (IALA Category 1).

The establishment of the above Aids to Navigation will require the statutory sanction of Northern Lighthouse Board, which will initiate the process of marking the device on the relevant hydrographic charts.

The marine marking as prescribed in this letter may be required to be altered once the wind turbines are constructed to fit with the system of marking for operational windfarms.

### **Maritime and Coastguard Agency (MCA)**

The key issue to MCA is ensuring the NRA data is provided, the title and format of the application is not a primary concern to MCA.

There is reference to shipping and navigation under the Human Environment section, which will be mitigated, by appropriate navigation marking; this alone does not provide adequate Risk Assessment. MCA need to be satisfied that safety of navigation has been properly addressed, this should be presented within the formal application and should supply detail on the possible impact on navigational issues for both Commercial and Recreational craft.

A Navigational Risk Assessment will need to be submitted that follows the principals outlined in MGN 371 (and 372) and the DTI/DfT/MCA Methodology for Assessing tidal arrays and wind farms.

Any reference to IALA recommendations on the marking of tidal array should refer to O-139 Edition 1 December 2008 which replaced all previous versions.

### **Ministry of Defence (MoD)**

The MoD has no objections to the proposal.