

The North Sea Regional Advisory Council



DRAFT NSRAC FRAMEWORK PROTOCOL FOR INTERACTIONS BETWEEN FISHERIES AND WINDFARMS

This protocol has been developed on the basis of the findings of a focus group convened on 28 June 2007, following the recommendation made by the Spatial Planning Working Group at the meeting of 5 February 2007 on 'Interactions between Fisheries and Windfarms'.

The focus group comprised Euan Dunn (BirdLife International) - Chair, Doug Beveridge (NFFO) - Rapporteur, Jane Sandell (SFF), Phil MacMullen (Seafish Industry Authority), Adrian Judd (CEFAS), Peter Crone (Farm Energy).

1. Terms of Reference and constraints

1.1 The focus group's remit was to develop a protocol of best practice guidelines for assessing the impact of windfarms on fisheries, and to determine how the two sectors should interact and liaise to their mutual benefit, over the lifetime of any windfarm.

1.2 The focus group considered that different protocols for inshore and offshore will be required, but, pending further work, this document presents an aggregated protocol for all of the North Sea. The deliberations of the focus group also reflect their UK origins and the need is recognised to develop the international (North Sea-wide) applicability of this protocol.

1.3 Trying to develop a protocol for the whole of the North Sea has to recognise the different approaches by different Member States to exclusion zones and access. Even within any one jurisdiction, it is difficult to define the best approach to managing fisheries except on a site by site basis.

2. Political setting

2.1 In 2007, the EU committed to reduce greenhouse gas emissions by 20% by 2020 and to source 20% of energy from renewable sources by 2020. In January 2008, the European Commission proposed % emission reduction targets for each Member State. A major expansion of offshore renewable energy development is therefore inevitable. Initial attention will concentrate on windfarms (wave- and tidal technology being relatively less developed), with future large-scale development forecast to move further offshore.

2.2 This offshore expansion has profound implications for North Sea commercial fisheries, potentially disrupting and displacing fishing activity. Whereas previous experience of the developers has hitherto been largely with coastal/inshore fisheries, offshore expansion heralds unprecedented interaction with multi-national nomadic fleets, posing new and different challenges from those inshore.

3. Consultation: liaison and communication

3.1 Given that there is now an EU-wide climate and energy package, the need is clear for intensified coordination at EU level to address how offshore windfarm development will impact on shared fish resources. Henceforward, an entirely different approach is required by the EU, Member States and developers towards strategy, licensing, and consultation with fisheries interests.

3.2 The fishing industry should be consulted at the earliest opportunity and be centrally involved in developing EU and national policies. Likewise, consultation between the fishing sector and the developer is needed throughout the lifetime of a windfarm, and will vary according to each stage.

3.3 The NSRAC could engage in, and facilitate dialogue with, EU and national regulatory institutions, renewable energy trade associations and ensure that European and national fishermen's federations and associations are centrally involved in the formulation of policy.

3.4 The NSRAC urges, and should participate in, the development of trans-national guidelines (which are currently inadequate or lacking) applicable to the operational lifetime of a windfarm, through to decommissioning; consideration of a 5-10 year cycle is important.

3.5 Based on experience in the UK, the use of Fishery Liaison Representatives (FLRs) and Fishery Liaison Officers (FLOs) should be encouraged, with an understanding of what they can deliver.

- A *FLR* is an individual, funded by the developer, with broad fishing industry support, charged with providing a focal point for communication and the dissemination of information to vessel operators, either on shore or at sea. The developer's experience has been that using a FLR is helpful for mechanistic issues but less so for overall advice.
- A *FLO* is a fulltime employee of the developer (i.e. not a consultant) and is beneficial in facilitating direct fishing industry communication.

4. Consultation: site identification

4.1 There should be enough flexibility to accommodate the timescale of site identification to submission of any consents application, e.g. 2 years minimum until application and another 2 years until acceptance; this would allow the fishing sector a minimum of 4 years to find areas less disruptive to their activities.

4.2 The Strategic Environmental Assessment (SEA) review period needs to take into account that fishing patterns change over time. It was noted that in the UK, the 'shelf life' of any SEA is quite short (4 years); every new licensing round triggering a new SEA.

4.3 Selection of potential sites will be determined by:

- Wind resource
- Water depth
- Distance from shore
- Connections to power transmission grids.
- Marine nature conservation (notably Habitats and Birds Directives)
- Military activity
- Historic sites / wrecks
- Navigation / recreational uses
- Fisheries

4.4 Given that the developer tends to choose the most favourable sites (based on size of areas/grid capacity, minimum distance from coast, etc) before consulting, and only then addresses potential obstacles to proceeding, it is essential that the fishing sector liaises in the period when site selection is still fluid and before site boundaries crystallise.

4.5 While some issues such as wildlife protected by the Habitats and Birds Directives are perceived by the developers as potential 'show stoppers', fishermen are not necessarily seen as a comparable obstacle, so it is up to the fishing sector to pose a stronger challenge. In this regard, the further offshore the potential development, the greater the case that fishing becomes a key activity to be taken into account as there may be relatively fewer other marine activities/features to conflict with windfarm development far offshore.

5. Strategic Environmental Assessment (SEA) and spatial planning

5.1 The principal research needs are collection and collation of existing data at an appropriate scale and resolution, and dedicated research (e.g. physical and ecological). Data collection/collation would benefit from a coherent approach to the marine environment by regulators.

5.2 SEAs¹ could clarify issues of marine planning, cumulative effects, status of the CFP and specific issues regarding site identification, selection and designation.

5.3 A fundamental first step in SEA should be a comparison of the potential competing and complementary uses of any potential site. SEA should identify and take account of areas of productive fishing grounds, taking account of the fleet activity of all relevant Member States operating in the region. The ACFM report on the North Sea eco-region would be a good starting point for assessing the value and distribution of fisheries.

5.4 In recognition that fishing is a spatially dynamic activity, a degree of flexibility in site selection and pattern could reduce the potential impact on fishing, nursery or

¹ The European Directive 2001/42/EC (the SEA Directive) on the assessment of the effects of certain plans and programmes on the environment requires a formal environmental assessment of certain plans and programmes which are likely to have significant effects on the environment. Authorities which prepare and/or adopt such a plan or programme must prepare a report on its likely significant environmental effects, consult environmental authorities and the public, and take the report and the results of the consultation into account during the preparation process and before the plan or programme is adopted. They must also make information available on the plan or programme as adopted and how the environmental assessment was taken into account.

spawning grounds. The NSRAC's presumption is that site selection should have minimum impact on fisheries and will therefore lead to least possible displacement.

5.5 SEA may be more easily applied to offshore than to inshore fisheries where, due to a fragmented data collection regime complicated by a dispersed and diverse fleet, standardised data are not always available.

5.6 However, not all Member States use SEA (e.g. Denmark selects sites without applying SEA) and the NSRAC should challenge all Member States to apply the SEA Directive, not least to ensure that cumulative and in-combination impacts are captured.

5.7 Where Member States do apply SEA, the NSRAC should provide them with recommendations on best practice SEA from a fisheries perspective. This advice needs to include not just the relevant elements but also how to identify and quantify benefits (e.g. at one level of discussion, the benefits of renewable energy are likely to outweigh costs to the fishing sector).

5.8 The absence of robust, high resolution information on fisheries activity compared with the structured and detailed advice for other uses of the marine environment could result in fisheries being disadvantaged. The fisheries mapping project initiated by the NSRAC could also help address this concern.

5.9 A standard protocol for site investigations should be developed, including:

- evidence of fisheries costs and earnings pre-development, at an appropriate resolution (e.g. spatial and temporal patterns, qualifying / reference periods)
- ground rules for surveying sites for fisheries resources
- post-construction monitoring of sites
- the use of reference fleets to validate scientific information on the site.

6. Dedicated Research

6.1 Commissioning research is largely outside the remit of the NSRAC, but support for relevant studies could be provided in terms of expertise and appropriate professional contacts.

6.2 Noting suggestions for development of offshore aquaculture and potential links with habitat creation, marine nature conservation and fish stock recovery programmes, the NSRAC should act as a "clearing-house" for information exchange.

6.3 With the objective of integrating supra-national policy, the NSRAC could develop a relationship with the relevant OSPAR Working Group

7. Access / Displacement / Mitigation

7.1 The issue of access and displacement is a priority for the NSRAC. The current economic status of fishing fleets is fragile and the potential loss of fishing grounds from offshore windfarm development threatens the viability of vessels.

7.2 A standardised, trans-national approach to recommending where different gear types could fish in relation to wind farm zones is precluded by the fact that individual offshore windfarm developments vary in, e.g., their turbine array patterns, distances between turbines, wave and tidal effects, seabed cable connection, licence

conditions, fishing gears and metiers operating in the area. Nevertheless, “transit routes” which could partly mitigate the impact of displacement (i.e. increased steaming distance and costs exacerbated by lost fishing time) should be incorporated into in all windfarm arrays.

7.3 A UK-commissioned report into possible fishing activities, within and in the vicinity of an offshore windfarm, has concluded that advice could only be sought on a site-specific basis and that fishing could be prohibited as a default position, until the practicality of specific fishing operations was ascertained. Access of gears/metiers in developments should therefore be considered on a site by site basis and – from the developer’s perspective – the safety of the fishing sector should be paramount.²

7.4 There is a lack of definitive advice regarding the issues surrounding compensation (“transitional aid”) and mitigation, with different approaches between individual developers and Member States being reported.

7.5 While inshore it is possible for the developers to negotiate compensation with individual skippers or a group of them, offshore where the fishery is trans-national it is a major challenge to identify the ‘community of fishermen’ using a particular area. This community is, in effect, whoever has a track record for fishing there. It is a challenge to work out who in particular is disadvantaged by a development, given that analysis (under UK SEA) is on a 30x30km grid basis and that fishing activity data are aggregated so that individual skippers are not identified. In addition to the fishing sector’s own assessment, developers should therefore be encouraged to conduct surveys which capture representative fishing activity.

8. Key Recommendations:

- **To develop a programme to collect and collate high resolution spatial and temporal data regarding North Sea fishing activity / value to help identify essential fishing grounds. The NSRAC could assist in collecting and collating such trans-national data.**
- **To seek advice regarding formal and informal requirements for the EU and Member States to conduct SEA’s.**
- **To source advice on compensation and access / exclusion procedures and mechanisms applied by NSRAC Member States.**
- **To require the EU, Member States and developers to consult at the earliest opportunity with the fishing industry on potential zones and specific sites, and certainly before site boundaries are agreed and fixed.**
- **To require regulatory / consenting authorities to provide flexibility in site selection and turbine array pattern, at all stages prior to construction.**
- **To consider development of a uniform “disturbance payment and distribution scheme” for the fishing industry.**

² The focus group heard that in the UK it had been proposed that individual turbines would attract a 50m exclusion zone during operation (NB: total exclusion was anticipated during construction) with any proposal for extension to be submitted to the UK Government by the developer.

- **To urge the production - by an institution / authority to be explored - of an outline protocol to assess the value of existing fisheries, to provide advice on the distribution of compensation and to mitigate the impact of temporary (e.g. during construction) and permanent displacement.**
- **To draw from the experiences of, and make all findings available to, the other relevant RACs.**