

8th January 2025

Scottish Power Renewables

320 St Vincent Street

Glasgow, G2 5AB

SPRplanningpolicy@scottishpower.com

Dear Sir/Madam,

RE: CAP 3063 Economic Regulation of NERL: Illustrative proposals for modifying the Licence to support the implementation of a UK Airspace Design Service.

We welcome the opportunity to respond to the above consultation and are pleased to highlight key points from our response below. For the avoidance of doubt, this letter provides an executive summary but does not set out additional information.

ScottishPower Renewables (SPR) is a leading developer of wind and other renewable energy generation, with over 3.1GW of operational capacity across over 40 sites utilising onshore wind, offshore wind, solar and battery technologies. We are the renewables business of ScottishPower, a major UK energy company with network, retail and renewable generation businesses which is the UK's first major integrated energy utility to be generating 100% renewable electricity. ScottishPower operates as part of the Iberdrola group, an international utility and the leading renewable energy developer worldwide. Iberdrola is a global leader in tackling climate change with a commitment to reaching global carbon neutrality by 2050.

We have set out our responses to the specific questions in the consultation document in the attached Annex, however SPR view that the central focus of any license modification should reflect a clean division of interest between NATS Services Limited and NERL. The success of the Airspace Design Service will rest considerably on the value for money it delivers and the opportunity to hold the service to account. We propose that this ethos is central to the decision-making process in license modification.

SPR welcomes the opportunity to respond to this consultation and we trust our comments are helpful. We would be pleased to discuss any aspect of our response and would welcome further dialogue on the identified issues.

Yours faithfully,



Grant Douglas MRTPI

Head of Planning & Environmental Policy & Aviation

ScottishPower Renewables

Annex: Responses to Consultation Questions

(a) our overall approach to establishing licence modifications for NERL that will enable it to successfully provide the Airspace Design Service;

It is understandable that there would be a desire to utilise existing legislation and services for the swift implementation of UKADSI. However, SPR would point to the need to ensure transparency in the process. As an electricity generator and owner of Transmission and Distribution Licences, as regulated by OFGEM, ScottishPower have a great deal of experience managing the separation of regulated and liberalised interests. It is essential that all stakeholders can understand, define, and trust the differing roles of these organisations, particularly where they sit under the same umbrella. Properly defined rules and procedure concerning business separation should be easily understood and accessible. The renewables sector currently experience a degree of confusion around the advice or consultation given by NATS Services Ltd and/or NERL. The commercial drivers within NSL mean that the UKADSI function, quite rightly, must sit with NERL. However, there has to date been a lack of clarity as to how the division of the two entities is managed or perceived within the broader definition of NATS.

(b) the views set out in chapter 1 (The design of licence modifications to implement the Airspace Design Service) that this approach is consistent with our statutory duties, including in relation to safety, furthering the interests of customers and consumers, economy and efficiency, and NERL's financeability;

As there is provision for the license to have UK wide geographical scope without amendment, it is important that the consumer and their needs are appropriately recognised. In the case of airspace design, and aligned with the current proposal, the consumer can be considered both the airspace user and the stakeholders impacted by a change in design. It is therefore important that the consumer is both recognised, protected and offered value for money in the service being delivered. The license amendment should reflect the protection of the consumer by ensuring appropriate mechanism for demonstrable and transparent ring-fenced costs, efficiency of delivery, and a clear mechanism for accountability.

Equally it is important of the government to recognise the real challenges that come with delivering the airspace design service and the expectations of NERL with a license modification. As identified, there are very real constraints in skills, resource and provision to meet the timelines set in the proposal. At present, there are very few skilled airspace designers who will be further stretched as demand increases. The government must identify and support opportunities to grow this sector and address the skills gap in order to meet the goals of airspace modernisation.

(c) the prospective obligation on NERL to perform the Airspace Design Service and the approach to setting the geographic scope of these activities;

Any delay in the delivery of UKADS2 could be greatly detrimental to the successful roll out of airspace modernisation in the UK. Whilst it can be understood that there is a need to address the UK's most complex airspace in the short-term, there would be merit in a swift roll out of UKADS1 in less complex airspace. UKADS1 should be treated as a proof of concept only, and by utilising simpler airspace modernisation proposals, such as Scottish TMA, there can be a more efficient transition to the UKADS2.

(d) the prospective obligations on NERL's with respect to its relations with third parties, including through the Advisory Board and working arrangements with partner organisations;

It is important that NERL is held to account and the Advisory Board is a sensible approach to help achieve this. The aims and objectives of the board must be clearly defined with a strong governance structure. It is important that the governance and activities of the board are accessible to all and clearly communicated to ensure transparency.

For the board to function well, it is vital that it is an accurate reflection of the diversity of stakeholders impacted by modernisation. Diversity of airspace users, interests and vested industries will help to ensure the board functions as it should.

There should be opportunity for stakeholders not represented to raise matters of concern to the Board. If the board is to hold NERL to account, there must be clear structures for it to do so, with defined escalation in the event of no resolution.

It is important that ACOG and UKADS1 are sharing in lessons learned and opportunities for the streamlining and improvement of services. It is currently unclear how this would be achieved.

(e) the approach to distinguishing between NERL's new obligations and those relating to the Airspace Change Organising Group ("ACOG");

Given the limited capabilities of ACOG, it is sensible for the UKADS1 to take over the coordination of a cluster within the scope of phase one. The success of UKADS1 is

determined by the ability to deliver a coordinated airspace design proposal, reflective of the enduring solution in UKADS2. The London TMZ is already the most complex in the UK, therefore removing constraints and competing interest is undoubtedly required.

In the medium term, it would be beneficial for ACOG to more closely align itself with the UKADS. As part of the steering committee, there should be collaboration between ACOG and the UKADS. Lessons learned from ACOG should be fundamental in the formation and aims of UKADS. As evident in Scotland's TMA, the restricted abilities of ACOG have caused considerable delay to the roll out of modernisation. This serves as a detriment to both the airports and the wider community impacted by a change in airspace. Therefore, ACOG should be working closely with the UKADS¹ so that when the scope of the UKADS extends beyond the remit of London TMA, there is swift resolution to the challenges currently facing clusters in the masterplan. The ACP's most constrained by the limited role of ACOG should receive the greatest priority in the medium term.

(f) any views on the consequential changes to NERL's licence discussed in chapter 3 (Consequential modifications to the Licence);

ScottishPower Renewables agree that it is vital that regulated revenues from the Airspace Design Service (ADS) are ringfenced and held to account. Given the magnitude of associated costs and charges, the finances would likely fall far beyond the *de minimis* cap, so it is therefore sensible for an amendment to be made for ADS.

It would be beneficial to have had further clarity on who the "appropriate accounting information is provided to the CAA and other stakeholders" is in relation to. The Airspace Design Service is a considerable upgrade in critical national infrastructure and should therefore be held to account on a larger platform than the regular provision of NERL. It is vital for the success of the ADS that the consumer is receiving a quality service delivering value for money. Requirement for accounts to be held to scrutiny by a diverse ADS board and external bodies would help to facilitate this.

Whilst it is understood that the license and proposed amendments propose that:

(h) prohibit the Licensee from entering into any agreement or arrangement with any affiliate or related undertaking except on an arm's length basis and on normal commercial terms unless otherwise permitted.

ScottishPower Renewables would express some concern over the relationship between NERL and NATS Limited (NSL), and whether an appropriate degree of business separation exists.

The renewables sector, and in particular onshore wind, has in the past noted significant challenges around the advice or consultation given by NSL and/or NERL, together with the origination of such advice. The commercial drivers within NSL mean that the UKADS¹ function, quite rightly, must sit with NERL. However, given historic experience, it is apparent that this license requirement in isolation is not functioning to provide the clarity

of separation that is required. Given that currently the commercial arm of NATS, NATS Services Limited, provide airspace design support services as part of a wide array of aviation consultancy offerings, it is vitally important to ensure there is no competitive advantage in this relationship with NERL. A monopolisation of service would be detrimental to the value delivered to consumers. We therefore recommend that further guidance clearly outlining the division of services and mechanisms for agreements is issued to ensure both NSL and NERL can be held to account.

(g) the estimates of the costs of providing the Airspace Design Service and the Airspace Design Support Fund discussed in chapter 4 (Costs of new airspace design services);

Due to the acknowledged current uncertainty, it is difficult to comment on the costs required to provide the Airspace Design Service.

Impact: The cost modelling does not account for anything beyond the scope of London. There is an overreliance on the support fund to make the shortfall. Clearer parameters are required. The costs should be ringfenced to ensure division of assets. Where NATS are required to share assets with the Airspace Design Service, there is opportunity for monopoly and exploitation. Governance and clear boundaries are required.

(h) any other information stakeholders have on costs or the assumptions it is reasonable to make in projecting costs for the period 2025 to 2035;

(i) whether the cost pass through approach for recovering costs related to the Airspace Design Service and the Airspace Design Support Fund is appropriate;

Whilst it can be understood that a cost pass through mechanism is sensible, there is a lack of clarity as to how this would function in reality.

A cost pass through model greatly disincentivises efficiency of delivery from NERL as there is no motivator to ensure that costs are kept low. Equally, without adequate accountability and mechanisms for challenge, the cost through model can quickly become exploitative of the monopoly that NERL will hold.

Given the scale of modernisation required in the London area alone, and the already considerable sunken costs for existing ACPS, it is important that value for money is delivered.

Argument can be made that this scale of airspace modernisation has far wider benefits than that of the airport alone. Our airspace should be considered and treated as critical national infrastructure. The lasting impact of airspace modernisation stretches to environmental, emerging technology, commercial and general aviation users as well as

the wider public. It should therefore be questioned and clarified as to exactly who the 'user' is in a 'user pays' pass-through model. To burden these costs purely on the proposer of the ACP or the airspace user seems reductive.

(j) whether these costs should be recovered from users in the year that they are incurred;

The airspace design service should not be considered as a 'for-profit' enterprise, therefore should a cost pass through process be adopted, then the recovery model should align. However, it is vital that cost recovery models are fair, transparent and served with adequate notice. It is important that NERL work alongside those being charged to ensure costs are both achievable and equitable. To achieve this, it may not always be viable for the recovery of funds in the year they incurred.

(k) whether the duration of the initial charge control for the Airspace Design Service and Airspace Design Support Fund should be 2½ years and then be aligned with NERL's main price control reviews;

A short initial control period is necessary due to the level of uncertainty in the roll out and operation of the service. It is understood that by allowing NERL to utilise the flexibility of the current NR23 regime, there will be opportunities for an adaptive approach in the immediate term. It is however appropriate that the NR28 period fully considers and recognises the conflicts of interest in the cohabitation of NERL and the Airspace Design Service in the control review. There is merit in the control periods for the Airspace Design Service being independent of the rest of NERL to ensure distinction of funds and service. This will also allow flexibility amongst the current uncertainty that the new service would present. However, it is understood that whilst optimal, this could cause an unnecessary strain on services.

(l) the illustrative charges set out in table 5.1 in chapter 5 (Form of control, other regulatory mechanisms, and illustrative charges); and

(m) any comments on illustrative drafting of the licence modifications set out in Appendix B and Appendix C.

Please refer to answer F.