

Szczecin, 5th July 2018

Maritime Office in Gdynia
ul. Chrzanowskiego 10
81-338 Gdynia

Preliminary PWEA Position Paper on the 1:200,000 scale draft spatial development plan for Polish maritime areas (PMASDP)

Dear Sirs,

The Polish Wind Energy Association (PWEA) wishes to present the preliminary Position Paper on the 1:200,000 scale draft spatial development plan for Polish maritime areas (PMASDP). This Position Paper refers to the arguments presented in the notice dated 18 June 2018, addressed by PWEA to the Maritime Office in Gdynia, and further comments on certain issues. At the same time we would like to emphasize that PWEA will present a full version of remarks to the draft within the prescribed deadline.

First we would like to stress that the future PMASDP is very important to our industry due to the decisive impact on the possibility to use Polish maritime areas for commercial purposes, in particular wind energy.

Therefore, we regret that the latest PMASDP draft decreased the areas dedicated to “production of renewable energy” compared to the initial draft dated September 2017 (v0). Furthermore, the Designers did not take into account the PWEA proposals laid down in the said notice dated 18 June 2018 concerning the purpose of areas P-10, P-11 and P-15 as well as part of area P-2, allocated in the preliminary draft of the plan as potential offshore wind development areas. Additionally, the remarks indicate that the location of an application (Neptune) has been taken into account, whereas the attached map demonstrates otherwise. We would like to remind that the need to develop the offshore industry has been emphasized in the 2030 National Spatial Development Concept, which constitutes the most important strategic document pertaining to spatial development and part of a new system for the management of Poland’s growth. The 2030 NSDC, along with the long- and mid-term National Development Strategy and nine integrated strategies present, in accordance with the Ministry’s for Investments and Development intentions, a coherent vision of Poland’s growth. In accordance with the 2030 NSDC, the development of offshore wind energy is to constitute an element of diversification of fuels for the production of electricity (p. 21) and of counteracting the energy security loss threat, including improvement of the security of supply of large cities and the northern Poland (p. 142 and 151).

Furthermore, the designation of a transport corridor for vessels above 50 m, with no limits on the vessel’s length, in areas 45E and 46E (production of renewable energy) entails a theoretical possibility of very large vessels entering offshore wind farm areas (for instance in low visibility) and

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causing substantial damage do investors. The provision concerning a 100 m safety zone around wind turbines located in areas 44E, 45E, 46E and 60E of the plan is also ambiguous, for it does not specify whether it applies to the entire wind farm or particular turbines. It seems that the designers tend to open more areas to fishermen at the expense of offshore wind energy safety.

Moreover, we would like to emphasize that certain routes conflict with areas subject to already issued permissions to build artificial islands (among others, the minimum setback has been moved further away from the boundary laid down in the decision no. MFW/2a/13 of 29 April 2013 to the designated T line (area 46E) to ensure navigation safety, which, if completely or partially precludes the construction of a wind farm, would violate the constitutional principle of protection of accrued rights and constitute the basis for the pursuit of compensation from the State Treasury). In accordance with Article 27b(3) of the Act on Maritime Areas, the permission to build artificial islands lays down the terms and conditions for the use of the area subject to the permission by the entity specified therein and grants the entities the right to use the area in accordance with the terms and conditions laid down therein. The value of the fees the investor is obliged to incur upon payment for the permission to build artificial islands also confirm the substantial nature thereof for the entire investment. Furthermore, the incapacity to build offshore wind farms stemming from the constraint mentioned above will entail losses for the state treasury. For example, pursuant to Article 27b(1) of the Act on Maritime Areas of the Republic of Poland, permissions to build artificial islands issued for the exclusive economic zone entail a fee in the amount of 1% of the value of the planned project. Because the value of all offshore wind farm projects currently in the pipeline in the Baltic Sea amounts to several dozen billion PLN, the budget may lose several hundred million only due to non-exercise of the permissions to build artificial islands and non-payment of the said fee (except for the fraction thereof already paid); additional State Treasury revenues from offshore wind farms and the entire supply chain as well as the future impact of the investments on the economy shall be added thereto.

The investors also noted many new provisions that potentially may substantially hinder or block the investment process:

- For investments in areas 14E, 43E, 44E, 45E, 46E and 60E the Designers introduce an obligation to develop, before a building permit is issued, in agreement with the public, the fishing rules on the area of offshore wind farms. The rules are to be developed in a team coordinated by minister competent for the matters of fishing. In consequence, negotiation issues may preclude the acquisition of a building permit. Instead of establishing precise requirements that guarantee investment certainty the draft Authors avoid responsibility, shifting the burden of the decision and negotiations with the public to entrepreneurs;
- The investors will have to include the resources of fish important for fishing on a given area in the investment impact reports (areas 14E, 43E, 45E, 46E, the so-called “industrial fish” issue) in connection with the potential good conditions for fish breeding on that area. At the same time the Designers fail to provide guidelines to be applied to the verification of such resources;



- Where geological studies demonstrate the presence of minerals, the investor must implement the investment in a way enabling future extraction. This entails possible substantial increase in the future investment expenditures, in particular when it will be necessary to build, for instance, floating wind farms;
- 4-km wide corridor(s) free from development between wind farms have been specified as a prerequisite for the use of the area. The direction of the corridor's axis may be modified by a statement;
- Implementation works will be substantially hindered by the need to suspend construction during spawn of all fish as well as bird wintering (which leaves a window of only a few months during the year to implement the investments).


Furthermore, we would like to note that establishment of sub-areas for technical infrastructure used to connect offshore wind farms to the National Power System (for instance, cable routes) *de facto* limits future offshore wind farm power extraction options, for today the investors are incapable of specifying the exact course of connection infrastructure used to transmit electricity produced from offshore wind farms on shore. The route of the cables is dependant upon connection conditions issued by PSE and the onshore points of connection specified therein.

Finally, the decision on the need to establish a development-free corridor due to bird migrations, its width and axis shall be made after the environmental impact assessment procedure for a given offshore wind farm is carried out.

To conclude, we want to emphasize the need to specify numerous general statements contained in the draft, in particular to specify what documents, for instance covering the international law, should be referred to by an investor when construing such "soft" provisions applicable to the investment process.

We kindly request you to take account of these proposals in further works on the PMASDP. We hope that further procedure concerning the PMASDP will be equally open to consultations. PWEA will be glad to participate in such a procedure and offer its aid and the aid of its members. In our opinion the very legitimate open consultation procedure for this key document will eventually contribute to its high value and result in the development of the least controversial, commonly accepted solutions that would translate into well-conceived and orderly management of maritime areas performed on the basis of the final PMASDP.

With kind regards,


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