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Five Estuaries Offshore Wind Farm Case
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Planning Inspectorate
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(By Email only)

MMO Reference: DCO/2019/00008
Planning Inspectorate Reference: EN010115
Identification Number: 20049306

11 February 2025

Dear Sir or Madam,

Planning Act 2008, Five Estuaries Offshore Wind Farm Ltd, Proposed Five Estuaries Offshore Wind Farm Order

Deadline 6 Submission

On 23 April 2024, the Marine Management Organisation (the “MMO”) received notice under section 56 of the Planning Act 2008 (the “PA 2008”) that the Planning Inspectorate (“PINS”) had accepted an application made by Five Estuaries Offshore Wind Farm Ltd (the “Applicant”) for determination of a development consent order for the construction, maintenance and operation of the proposed Five Estuaries Offshore Wind Farm (the “DCO Application”) (MMO ref: DCO/2019/00008; PINS ref: EN010115).

The Applicant seeks authorisation for the construction, operation and maintenance of the DCO Application, comprising of up to 79 wind turbine generators together with associated onshore and offshore infrastructure and all associated development (“the “Project”).

As a marine licence has been deemed within the draft DCO, the MMO is the delivery body responsible for post-consent monitoring, variation, enforcement, and revocation of provisions relating to the marine environment. As such, the MMO has an interest in ensuring that provisions drafted in a deemed marine licence enable the MMO to fulfil these obligations.

This document comprises the MMO comments in respect of the DCO Application submitted in response to Deadline 6. This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

Yours sincerely,



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1. MMO Comments on Draft Development Consent Order (DCO) – Revision D – REP5-007/REP5-008

1.1. Schedule 10/Schedule 11 Comments

- 1.1.1. The MMO welcomes the inclusion of *'following consultation with the MCA'* in Schedule 10, Part 2, Condition 3(3).
- 1.1.2. The MMO welcomes the addition of *'and the MCA'* in Schedule 10, Part 2, Condition 3(4) and Schedule 11, Part 2, Condition 4(4).
- 1.1.3. The MMO welcomes the Applicant including *'referenced to Chart Datum'* and *'following consultation with MCA'* in Schedule 11, Part 2, Condition 4 (3). The MMO requests that this change is also made for Schedule 10, Part 2, Condition 3 (3).

2. MMO Comments on Applicant's Deadline 5 Submissions

2.1. General Comments

- 2.2.1. The MMO notes the Applicant submitted the following documents in Deadline 5:
 - a. REP5-013 – 5.5.2 Outline Benthic Implementation and Monitoring Plan - Revision B (Clean)
 - b. REP5-014 – 5.5.2 Outline Benthic Implementation and Monitoring Plan - Revision B (Tracked)
 - c. REP5-027 – 9.13 Margate and Long Sands Special Area of Conservation Benthic Mitigation Plan - Revision D (Clean)
 - d. REP5-028 – 9.13 Margate and Long Sands Special Area of Conservation Benthic Mitigation Plan - Revision D (Tracked)
 - e. REP5-029 – 9.16 Outline Fisheries Liaison and Co-existence Plan - Revision C (Clean)
 - f. REP5-030 – 9.16 Outline Fisheries Liaison and Co-existence Plan - Revision C (Tracked)
 - g. REP5-031 – 9.20 Outline Navigation and Installation Plan - Revision C (Clean)
 - h. REP5-032 – 9.20 Outline Navigation and Installation Plan - Revision C (Tracked)
 - i. REP5-043 – 9.32 Offshore In-Principle Monitoring Plan - Revision C (Clean)
 - j. REP5-044 – 9.32 Offshore In-Principle Monitoring Plan - Revision C (Tracked)
 - k. REP5-068 – 10.12 Marine Plan Policy Assessment - Revision C (Clean)
 - l. REP5-069 – 10.12 Marine Plan Policy Assessment - Revision C (Tracked)
 - m. REP5-073 – 10.34 Applicant's Comments on Deadline 4 Submissions- Revision A
 - n. REP5-074 – 10.34.1 Applicant's Comments on Natural England's Deadline 4 Submissions - Revision A



- o. REP5-090 – 10.38 Without Prejudice HRA DCO Schedules
- p. REP5-091 – 10.39 Applicant's Response to Rule 17 Requests for Information for Deadline 5 - Revision A

2.1.1. The MMO is currently reviewing a-j and will provide our comments in due course.

2.2. REP5-069 – 10.12 Marine Plan Policy Assessment – Revision C (Tracked)

- 2.2.1. The MMO acknowledges the revised Marine Plan Policy Assessment and thanks the Applicant for responding to our requested changes from our Deadline 4 response (REP4-052).
- 2.2.2. The MMO welcomes the further information provided for SE-AIR-1, SE-ACC-1 and SE-CE-1.
- 2.2.3. The MMO welcomes the further information relating to examples of the risks and mitigation measures provided to SE-PS-1, SE-PS-2 and SE-PS-3.
- 2.2.4. The MMO welcomes the inclusion of examples of mitigation measures for policies ECO1 and BIO1.
- 2.2.5. The MMO welcomes the inclusion of a summary of the results of the commercial fisheries assessment within FISH2.
- 2.2.6. The MMO welcomes the clarification made to AQ1.
- 2.2.7. The MMO welcomes the amendment made to TR2 to include further information on the assessment of recreational craft and including examples of mitigation measures. The MMO notes the use of 'CSIP' and highlights that this should be included in either the Definition of Acronyms or Glossary of Terms.

2.3. REP5-073 – 10.34 Applicant's Comments on Deadline 4 Submissions – Revision A

- 2.3.1. The MMO thanks the Applicant for providing clarification on why a value of 50% was used for the amount of material dispersed from trenching. The MMO may provide further comments in due course.
- 2.3.2. The MMO notes the Applicant has requested the MCA or MMO to provide a definition of 'regional fisheries contact'. The MMO is in discussion with MCA on this point and other suggested conditions and aims to provide further comments in due course.
- 2.3.3. With regards to the request of changes to Schedule 10, Part 2, 8(1), the MMO notes the Applicant's disagreement. The MMO would like to highlight that this has been used in previous DCOs and is a standard condition.
- 2.3.4. The MMO is still considering the wording of conditions for Schedule 10, Part 2, 10(10) and Schedule 11, Part 2, 11(10).
- 2.3.5. The MMO notes the Applicant objects to the requested changes to Schedule 10, Part 2, 16(3) (now condition 17) and Schedule 11, Part 2, 17(3) (now condition 18).



2.3.6. The MMO notes the Applicant's response with regards to requested changes to Schedule 10, Part 2, 24(c) (now condition 26).

2.3.7. With regards to Article 7 (Benefit of the Order), the MMO notes the Applicant has stated that they maintain their position. The MMO still disagrees and provided further comments in our Deadline 5 response (REP5-100), and we will respond to these further comments at Deadline 7.

2.4. REP5-032 – 9.20 Outline Navigation and Installation Plan – Revision C (Tracked)

2.4.1. The MMO notes the Applicant has made amendments to the Initial Approval section in 2.6 of REP5-032. This involves stating that Interested Parties will have 28 days to provide comments regarding the final Navigation and Installation Plan, prior to submission to the MMO. The MMO notes the amendment that if agreement is not reached, these comments will be provided to the MMO as well.

2.5. REP5-044 – 9.32 Offshore In-Principle Monitoring Plan – Revision C (Tracked)

2.5.1. The MMO notes the Applicant has submitted an updated version of the Offshore In-Principle Monitoring Plan (IPMP) at Deadline 5. The MMO aims to provide further comments in due course on the updates.

2.5.2. The MMO would like further information included within the IPMP.

2.5.3. The MMO is currently undertaking a project on the standardisation of offshore wind post-consent monitoring data. This project aims to standardise the collecting and reporting of offshore wind environmental monitoring data in English waters, for receptors/monitoring techniques where a widely recognised standard for monitoring already exists, and to implement this approach in post-consent monitoring for wind farms in English waters.

2.5.4. The MMO has engaged a range of stakeholders, including SNCB's, industry, and Renewable UK to identify standards, and are currently finalising a list of agreed standards across six receptors: marine mammals, underwater noise, ornithology, fish and shellfish, benthic and geophysical monitoring.

2.5.5. This will make it easier to compare and collate monitoring data from different projects, and ensure we get the most value out of monitoring. It will also ensure that developers know what is expected of them in terms of monitoring and add weight to previously agreed standards (e.g. Natural England's Best Practice Guidance). Standardisation will only be applied where an agreed standard already exists, and standardisation will deliver benefits.

2.5.6. The final list of standards is expected to be agreed in 2025. These will then become the default approach to post-consent monitoring of these receptors. We request that the IPMP be updated to reference this project, where any of these 6 receptors are applicable. The project can be referenced as (MMO Standardisation of Offshore Wind Post-Consent Monitoring, forthcoming). The MMO also requests that the IPMP



include a general commitment to ensuring that any standards or best practice adhered to during monitoring, is outlined clearly within the relevant monitoring reports.

- 2.5.7. The MMO aims to engage with the Applicant to ensure that this reference is included, and agreement can be made prior to Deadline 7.

3. MMO Comments on Interested Parties' (IP) Deadline 5 Submissions

3.1. Natural England (NE)

- 3.1.1. The MMO noted NE submitted the following documents in Deadline 5:

- a. REP5-094 – Cover Letter
- b. REP5-095 – Appendix G1 - Natural England's Advice on Seabird Compensation Calculations
- c. REP5-096 – Appendix L5 - Natural England's Risk and Issues Log DL5
- d. REP5-097 – Response to Rule 17 letter dated 23 December 2024 - Benthic Ecology
- e. REP5-098 – Response to Rule 17 letter dated 16 December 2024 - Migrating Bats
- f. REP5-099 – Response to Rule 17 letter dated 23 December 2024 - Ornithology

- 3.1.2. The MMO notes in REP5-094 that NE has concerns regarding the timing of the submission for Condition 19 within Schedule 10. NE states that six weeks would be more appropriate than nine weeks and asks for the wording to be clearer when the time period starts. The MMO requested clarification regarding this condition in our Deadline 5 Response (REP5-100). The MMO also notes that other DCO projects have used six weeks for this condition.

- 3.1.3. The MMO notes that NE questions the wording in condition 19(2) of Schedule 10. The MMO also highlights that in previous DCOs, the condition states 'or' instead of 'and' so that works stop in either event.

- 3.1.4. The MMO notes that in REP5-097, NE advises that further information is required for confidence in the Maximum Design Scenario (MDS) for cable protection within Margate and Long Sands Special Area of Conservation (MLS SAC). The MMO will maintain a watching brief for any further amendments made to the document.

3.2. London Gateway Port Limited (LGPL) – REP5-106 – Comments on any submissions received at Deadline 4

- 3.2.1. The MMO notes that LGPL provided their comment regarding the mitigation presented within the Applicant's Outline Cable Specification and Installation Plan (CSIP) (REP4-020). They state that navigable depths shall not be reduced within the Deep Water Routes (DWR). The MMO maintains a watching brief on these comments and any further updates to the CSIP.



3.3. Port of London Authority (PLA) – REP5-107 – Comments on any submissions received at Deadline 4

- 3.3.1. The MMO notes the concerns raised by the PLA regarding not being able to approve documents, such as the Navigation and Installation Plan (NIP).
- 3.3.2. The MMO notes the PLA received an updated version of the offshore protective provision from the Applicant on 9 January 2025. The MMO is still in discussions with the PLA regarding their navigational concerns.
- 3.3.3. The MMO notes the PLA welcomes the updates made to the outline Cable Specification and Installation Plan at Deadline 4, but requests clarifications from the Applicant in relation to cable burial depths. The MMO made comments in response to REP4-020 in our Deadline 5 Additional Submission (AS-074).

4. MMO Comments on PD-024 - Request for Further Information - Rule 17 - 27 January 2025

4.1. General comments

- 4.1.1. The MMO notes the Examining Authority (ExA) has proposed the following wording for a condition regarding installation depth for the export cable within the Deep Water Routes (DWRs):

‘The construction, operation or decommissioning of the authorised development within the Deep Water Routes, as shown on drawing/plan ?????, must at no time preclude the dredging of the Deep Water Routes to a depth of 22 metres below Chart Datum’.

- 4.1.2. The MMO has been asked to consider the following:

- a) Consider the abovementioned wording for a DWRs parameter and advise on whether they consider the suggested wording would be suitable as drafted or would require amendment, suggesting any amendments considered to be necessary.
- b) Advise on how the abovementioned wording of a DWRs parameter could be incorporated into the provisions of a made DCO, ie as an additional parameter incorporated into Table 1 of Requirement 2 in Schedule 2, a new standalone requirement in Schedule 2 or as an additional condition with the DML for the Transmission Assets (Schedule 11) or a combination of changes to both Schedules 2 and 11.

- 4.1.3. The MMO is currently still in discussions with the PLA regarding their navigational concerns within the DWRs.
- 4.1.4. The MMO welcomes the potential wording provided by the ExA and is reviewing the wording alongside the comments raised by all relevant IPs to ensure correct understanding in the need for the condition.



4.1.5. The MMO understands the ExA would like a response quickly however we would like to review the comments that will be submitted at Deadline 6. The MMO will provide comments at Deadline 7 on the wording.

4.1.6. In relation to question b, any maximum parameters should be in both the DCO and DML. Therefore Table 1 Schedule 2 seems appropriate. In relation to matters under the MMO's jurisdiction it is best placed for any condition to be on the DML. And therefore, a combination of both would be welcomed. The MMO will provide any further comments at Deadline 7.

4.2. AS-073 – Harwich Haven Authority (HHA) – Proposed Wording for a DWRs Parameter

4.2.1. The MMO notes that Harwich Haven Authority has submitted an additional submission in response to the Rule 17 letter dated 27 January 2025 (PD-024).

4.2.2. The MMO notes Harwich Haven Authority has provided the following wording in relation to the suggested condition for a DWR Parameter:

"The construction, operation or decommissioning of the authorised development, including any covering material (e.g., rock armour), within the Deep Water Routes, as shown on [specific drawing/plan], must at no time prevent or impede the dredging of the Deep Water Routes to a depth of 22 metres below Chart Datum."

4.2.3. The MMO notes that HHA also provided mechanisms for how the parameter could be incorporated into the DCO.

4.2.4. The MMO will maintain a watching brief on comments from other IPs and will review the suggested condition further, with the aim to provide a response in due course.

Yours sincerely,

[Redacted Signature]

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