

Date: 11 February 2025  
Our ref: Case: 27347 Consultation: 486676  
Your ref: EN010115



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**BY EMAIL ONLY**

Dear Sir/Madam,

**Five Estuaries Offshore Wind Farm**

The following constitutes Natural England's formal statutory response for Examination Deadline 6.

**1. Natural England's Deadline 6 Submissions**

Natural England has reviewed the documents submitted by the Applicant at Deadline 5. An update of Natural England's advice regarding documents relevant to our remit is provided in Annex 1, including anticipated timing of responses. Natural England is also submitting the following detailed responses, signposted from Annex 1:

- EN010115 486676 Five Estuaries Appendix B6 – NE Comments on Marine Processes – Deadline 6.pdf
- EN010115 486676 Five Estuaries Appendix E6 – NE Comments on Benthic Ecology – Deadline 6.pdf
- EN010115 486676 Five Estuaries Appendix I6 – NE Comments on 10.29 Applicant's Comments on Deadline 3 Submissions [REP4-040].pdf
- EN010115 486676 Five Estuaries Appendix L6 – Natural England's Risk and Issues Log DL6.xls

**2. Updated Draft Development Consent Order (DCO)**

Natural England has reviewed the Schedule of Changes Revision F submitted at Deadline 5. The comments raised on our Deadline 5 cover letter [REP5-094] and within our relevant

representations Appendix A [RR-081] remain as per our updated Risks and Issues log Appendix L6.

With regard to document 10.38 Without Prejudice HRA DCO Schedules, Natural England has reviewed and noted the wording and conditions used within match those used within the draft DCO Schedule XX for the compensation of Lesser Black Backed Gulls. Therefore, we advise that issues A18-A22 of the Risks and Issues log Appendix L6 should also be considered to apply to these in-principle schedules, with exception to issue A21 and the Margate and Long sands compensation schedule. This schedule does not secure a requirement for the compensation to be undertaken prior to works, as the Marine Recovery Fund will address any time lags in the delivery. Please see Point 5 below on this matter and we refer the ExA to issue A19 of Appendix A of our Relevant Representations [RR-081] and highlight that the draft provisions at Annex A within the document provides a draft compensation schedule for benthic including provisions for strategic compensation and advise that this wording be considered for inclusion.

Through discussions with the Marine Management Organisation on standard approaches to DCOs a new issue has been brought to our attention. We have agreed with the MMO that the relevant statutory nature conservation body should be named as consultee on relevant deemed marine licence conditions to reduce potential misunderstandings in the post consent phase. Natural England will provide a list of these conditions at Deadline 6A.

### **3. Onshore Ecology Surveys for the Proposed Compensation Site (PCS) for Lesser Black Backed Gull (LBBG) at Orford Ness**

Natural England has recently discussed the requirement and timing of further onshore ecology surveys with the Applicant to complete their baseline characterisation. We have advised the Applicant that the need remains to complete this baseline characterisation to close the evidence gap and inform mitigation measures, and also that surveys should be undertaken at the optimum times of year. Whilst we appreciate the Applicant's consideration and efforts to close this evidence gap before the end of Examination, we do not feel that their proposal to carry out further surveys at sub-optimal times would sufficiently address the evidence gaps and address the concerns we have highlighted in our advice to the Examining Authority [REP5-094] and in our Risk and Issues Log (see Appendix L6 to this Deadline 6 submission).

However, we note that determination for this project is not due until September 2025, and therefore it may still be beneficial for the Applicant to undertake surveys in summer 2025 to provide the necessary comfort to the Secretary of State that suitable mitigation measures can be adopted to ensure that an AEoI of the Orfordness-Shingle Street SAC is unlikely to occur from the proposed compensation activities.

Alternatively, our advice is that the Secretary of State could potentially adopt a risk-based decision-making approach based on the surveys provided thus far, and secure a requirement within the DCO to carry out pre-construction surveys to validate the predictions and inferences made regarding the Orford Ness LBBG PCS HRA, EIA, and EcIA. If the pre-construction survey data indicates the need for further mitigation, then this could be agreed with the relevant SNCB and regulator prior to the commencement of any works by the Applicant. The

requirement to confirm adequacy of the mitigation should also be secured within the DCO. If the Applicant agrees to this approach, commits to carrying out the necessary onshore ecology pre-construction surveys at the appropriate time/season, and present updated mitigation proposals for the SAC/SSSI/Ramsar Site then we would be able to support a conclusion of no adverse effect on site integrity.

#### **4. Margate and Long Sands Special Area of Conservation (MLS SAC) Updated Condition Assessment**

Further to Natural England's response (10 January 2025) to the Examining Authority's Rule 17 Letter (issued on 23 December 2025) [PD-023], requesting an update on the MLS SAC condition assessment, we wish to inform the Examining Authority that the condition assessment has now been updated (31 January 2025). The condition assessment of the marine feature (H1110 Sandbanks which are slightly covered by sea water all the time) of the site shows it is now in unfavourable declining condition. The updated condition assessment can be viewed at: [Designated Sites View](#).

#### **5. Strategic Compensation Measures for Offshore Wind Farm Activities**

Natural England draws the attention of the ExA and the Applicant to the Ministerial Statement issued on 29th January 2025 which confirmed Defra's support for delivery of strategic benthic compensation, making wider compensation measures available and delivery of compensation through the Marine Recovery Fund.

[Written statements - Written questions, answers and statements - UK Parliament](#)

DESNZ also issued interim guidance on the Marine Recovery Fund. The guidance will provide developers a means to access MPA designation as a compensation measure, prior to the launch of the MRF. The interim guidance also provides advice to developers in planning who are developing their own avian compensation packages on how to ensure that their consent documents include the option to switch to sourcing their avian compensation through the Marine Recovery Fund when it is in place.

[Strategic compensation measures for offshore wind activities: Marine Recovery Fund interim guidance - GOV.UK](#)

Natural England will provide further, more detailed advice, on an ongoing basis for this project during Examination.

#### **6. Defra Marine Noise Package**

Further to Natural England's response (03 December 2024) to the recent Examining Authority's Written Question 2 (ME. 2.15) [PD-014], we wish to provide an update to the ExA on the Defra Marine Noise Policy paper.

Defra have recently published their Marine Noise package, which provides a suite of new and updated policy and guidance relating to the reduction and mitigation of underwater noise. This package includes the following documents;

- Marine Noise Policy paper, which can be found here - [Reducing marine noise - GOV.UK](#).
- An updated Unexploded Ordnance (UXO) Joint Position Statement, which can be found here - [Marine environment: unexploded ordnance clearance Joint Position Statement - GOV.UK](#)
- UXO clearance supporting guidance providing more detail for [Supporting minimising environmental impacts from unexploded ordnance clearance - GOV.UK](#)

Alongside these documents, JNCC have also published new mitigation guidelines for UXO clearance, which can be found here - [JNCC guidelines for minimising the risk of injury to marine mammals from unexploded ordnance \(UXO\) clearance in the marine environment | JNCC Resource Hub](#), and a joint statement from science and nature conservation advisors (Cefas, JNCC and NE) on the use of noise reduction methods when piling, which can be found here - [JNCC, Natural England and Cefas position on the use of quieter piling methods and noise abatement systems when installing offshore wind turbine foundations | JNCC Resource Hub](#). The statement is supported by a CEFAS evidence review of noise reduction methods, which can be viewed here - [Evidence on the efficacy of underwater noise abatement](#).

Together, these documents set out the expectation that from January 2025., ‘***all offshore wind pile driving activity across all English waters will be required to demonstrate that they have utilised best endeavours to deliver noise reductions through the use of primary and/or secondary noise reduction methods in the first instance***’ and that low-order UXO clearance should now be the default clearance method, with high-order detonations restricted to extraordinary circumstances. They also provide updated advice regarding mitigation of UXO clearance activities. Natural England advises that the Applicant should review the content of these documents and ensure their assessment and mitigation measures are aligned. Natural England will provide further, more detailed advice as required.

## 7. Levelling Up and Regeneration Act 2023 (LURA)

As highlighted in Natural England’s Relevant Representations [PD2-011], Section 245 (Protected Landscapes) of the Levelling Up and Regeneration Act 2023 places a duty on relevant authorities in exercising or performing any functions in relation to, or so as to affect, land in a National Park, the Broads or an Area of Outstanding Natural Beauty (“National Landscape”) in England, to seek to further the statutory purposes of the area. The duty applies to local planning authorities and other decision makers in preparing development plans, making planning decisions on development and infrastructure proposals, as well as to other public bodies and statutory undertakers in undertaking their functions.

We highlight that Defra have released ‘*Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes*’ (December 2024) and, in accordance with that guidance, we advise that the Applicant needs to demonstrate how the project proposes to enable the decision-maker to further the purposes of the Suffolk Coast and Heaths National Landscape (SCHNL). Any opportunities for enhancement in line with the Protected Landscapes Management Plan should also be explored and secured as part of the Development Consent Order.

## 8. Examining Authority Rule 8(3) Letter – Variation of Examination timetable (dated

**29 January 2025)**

Natural England notes the Examining Authority's Rule 8(3) Letter and decision to add two new deadlines (and make other minor changes) to the Five Estuaries Examination Timetable. With regards to Deadline 6A, added to enable the Applicant and other Interested Parties to respond to any submissions made at Deadline 6 further to Issue Specific Hearing 6's (ISH 6) Action Point 9 (discharging the duty under Section 85 of the Countryside and Rights of Way Act 2000, as amended by the Section 245(6) of the Levelling Up and Regeneration Act 2023 etc), Natural England is unlikely to have any comments to submissions made regarding ISH 6 Action Point 9. However, we may take the opportunity to use Deadline 6A to make other submissions.

With regards to new Deadline 8A, Natural England wishes to inform the Examining Authority that owing to the short timeframe between Deadlines 8 and 8A (i.e. four days), that we are unlikely to be able to review and respond to any new information submitted at Deadline 8, nor any subsequent Rule 17 letter that seeks advice on that new information.

For any queries relating to the content of this letter please contact me using the details provided below.

Yours faithfully,

Yolanda Foote

Marine Senior Officer – Offshore Wind

██████████@naturalengland.org.uk

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## Annex 1: Natural England's Response to the Applicant's Documents Submitted at Deadlines 4 and 5 Relevant to our Remit

PINS Document Reference	Document Name	Natural England's Response/Position Summary
<b>Deadline 4</b>		
REP4-009	6.1.3.1 Cumulative Effects Assessment Methodology – Revision B	Natural England has no comments to make on this document.
REP4-011	6.5.6.4 Herring Seasonal Restriction Note – Revision C (Tracked)	Natural England has no comments to make on this document.
REP4-018	9.8 Dredge Disposal Site Characterisation Report – Revision B (Tracked)	Natural England's responses to this document are provided in Appendices B6 and E6.
REP4-020	9.12 Outline Cable Specification and Installation Plan – Revision B (Tracked)	Natural England has provided a response to this document in Appendix B6.
REP4-022	9.13 Margate and Long Sands Special Area of Conservation Benthic Mitigation Plan – Revision C (Tracked)	Natural England's responses to this document are provided in Appendices B6 and E6.
REP4-024	9.14.1 Outline Marine Mammal Mitigation Protocol – Piling – Revision C (Tracked)	Natural England has no comments to make on this document.
REP4-033	10.15 Revised International Herring Larval Survey Heat Map Figures – Revision B (Tracked)	Natural England has no comments to make on this document.
REP4-035	10.20.1 Technical Note – Methodology for Determining MDS (Offshore) - Revision B (Tracked)	Natural England's responses to this document are provided in Appendices B6 and E6.
REP4-038	10.20.8 Technical Note – Screen Planting Options for Land Plot 17-024	Natural England has no comments to make on this document.
REP4-039	10.28 Applicant's Response to ExQ2	Natural England has no comments to make on this document.
REP4-040	10.29 Applicant's Comments on Deadline 3 Submissions	Natural England has provided a response to this

<b>PINS Document Reference</b>	<b>Document Name</b>	<b>Natural England's Response/Position Summary</b>
		document in Appendix I6.
REP4-041	10.30 Outline Sediment Disposal Management Plan	Natural England's responses to this document are provided in Appendices B6 and E6.
<b>Deadline 5</b>		
REP5-001	Five Estuaries Cover Letter	Natural England has no comments to make on this document.
REP5-002	Five Estuaries Schedule of Changes to the Draft Development Consent Order (To Revision F, Deadline 5)	Natural England will provide a response on this document at Deadline 7.
REP5-004	Five Estuaries 1.3 Applicant's Updated Guide to the Applicant Documents – Revision I (Tracked)	Natural England has no comments to make on this document.
REP5-005	Five Estuaries 2.8 Street Works and Access Plans - Revision C	Natural England will provide a response on this document at Deadline 7.
REP5-008	Five Estuaries 3.1 Draft Development Consent Order - Revision F (Tracked)	Natural England will provide a response on this document at Deadline 7.
REP5-012	Five Estuaries 5.4.3 HRA Screening Matrices – Revision B (Tracked)	Natural England will provide a response on this document at Deadline 7.
REP5-014	Five Estuaries 5.5.2 Outline Benthic Implementation and Monitoring Plan - Revision B (Tracked)	Natural England will provide a response on this document at Deadline 7.
REP5-016	Five Estuaries 5.5.3 Lesser Black Backed Gull Compensation – Evidence, Site Selection and Roadmap – Revision C (Tracked)	Natural England will provide a response on this document at Deadline 7.
REP5-018	Five Estuaries 5.5.4 Kittiwake – Evidence, Site Selection and Roadmap – Revision C (Tracked)	Natural England will provide a response on this document at Deadline 7.
REP5-020	Five Estuaries 5.5.5 Guillemot and Razorbill – Evidence, Site Selection and Roadmap – Revision C (Tracked)	Natural England will provide a response on this document at Deadline 7.
REP5-022	Five Estuaries 5.5.6 Lesser Black Backed Gull Implementation and Monitoring Plans – Revision C (Tracked)	Natural England will provide a response on this document at Deadline 7.
REP5-024	Five Estuaries 5.5.7 Kittiwake Implementation and Monitoring Plans –	Natural England will provide a response on this

<b>PINS Document Reference</b>	<b>Document Name</b>	<b>Natural England's Response/Position Summary</b>
	Revision C (Tracked)	document at Deadline 7.
REP5-026	Five Estuaries 5.5.8 Guillemot and Razorbill Implementation and Monitoring Plans – Revision C (Tracked)	Natural England will provide a response on this document at Deadline 7.
REP5-028	Five Estuaries 9.13 Margate and Long Sands Special Area of Conservation Benthic Mitigation Plan - Revision D (Tracked)	Natural England will provide a response on this document at Deadline 7.
REP5-034	Five Estuaries 9.21 Code of Construction Practice – Revision C (Tracked)	Natural England will provide a response on this document at Deadline 7.
REP5-038	Five Estuaries 9.25 Outline Public Access Management Plan - Revision B (Tracked)	Natural England will provide a response on this document at Deadline 7.
REP5-042	Five Estuaries 9.31 Schedule of Mitigation – Routemap – Revision B (Tracked)	Natural England will provide a response on this document at Deadline 7.
REP5-044	Five Estuaries 9.32 Offshore In-Principle Monitoring Plan – Revision C (Tracked)	Natural England will provide a response on this document at Deadline 7.
REP5-071	Five Estuaries 10.13 Marine Mammal iPCoD Modelling for Project Alone – Revision B (Tracked)	Natural England will provide a response on this document at Deadline 7.
REP5-073	Five Estuaries 10.34 Applicant's Comments on Deadline 4 Submissions- Revision A	Natural England reserves the right to provide comments on this document at Deadline 7, following our review.
REP5-074	Five Estuaries 10.34.1 Applicant's Comments on Natural England's Deadline 4 Submissions - Revision A	Natural England reserves the right to provide comments on this document at Deadline 7, following our review.
REP5-075 to REP5-086	Five Estuaries LVIA Viewpoints	Natural England will provide a response on this document at Deadline 7.
REP5-087	Five Estuaries 10.35 Change Request Consultation Report	Natural England will provide a response on this document at Deadline 7.
REP5-090	Five Estuaries 10.38 Without Prejudice HRA DCO Schedules	Natural England will provide a response on this



PINS Document Reference	Document Name	Natural England's Response/Position Summary
		document at Deadline 7.
REP5-091	Five Estuaries 10.39 Applicant's Response to Rule 17 Requests for Information for Deadline 5 - Revision A	Natural England reserves the right to provide comments on this document at Deadline 7. following our review.