



# FIVE ESTUARIES OFFSHORE WIND FARM

## 10.50 LETTER FROM THE CROWN ESTATE REGARDING OUTER TRIAL BANK

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27<sup>th</sup> January 2025

By Email Only

**RE: Five Estuaries Offshore Wind Farm Ltd Habitats Regulations Assessment  
Compensation Measures: Outer Trial Bank**

**SUBJECT TO CONTRACT**

Dear Daniel

The Crown Estate Commissioners (referred to in this letter as “we” or “us”) have been approached by Five Estuaries Offshore Wind Farm Ltd (referred to in this letter as the “Applicant” or “you”) to seek confirmation that, for specific areas of seabed and foreshore, those areas (i) fall within our ownership or (ii) are areas over which we can grant rights, in order to deliver compensation measures identified in the Development Consent Order (“DCO”) application for the Five Estuaries Offshore Wind Farm. This is sought by the Applicant as they must provide sufficient confidence to the Secretary of State that the compensation measures required by the Project are available, securable and deliverable. We are responding on the matter of whether rights are currently available from us. It is for the Applicant, and not The Crown Estate, to demonstrate that they are securable and deliverable.

**About The Crown Estate**

*The Crown Estate’s management powers on the foreshore and within 12 nautical miles*

The territorial seabed (which extends to **12 nautical miles** as measured from the baselines established by Order in Council), and around half of the foreshore of, England, Wales and Northern Ireland belong to the Crown. Such territorial seabed and foreshore falls under the management of The Crown Estate by virtue of the Crown Estate Act 1961. As a result, subject to certain exclusions, The Crown Estate manages the grant of interests within the same, in much the same way as TCE manages on-shore assets, where such land/interests vest in The Crown Estate on behalf of the Crown.

*The Crown Estate’s management powers outside 12 nautical miles up to the outer limit of the “Renewable Energy Zone”*

**Beyond the territorial waters**, by virtue of the Energy Act 2004 and secondary legislation, **within the area known as the “Renewable Energy Zone” (or the “REZ”)**, the right to exploit the Renewable Energy Zone for the production of energy from water or winds or for other purposes connected with such exploitation belongs to the Crown. These rights are for TCE to manage on

behalf of the Crown (pursuant to the Crown Estate Act 1961 (as supported by other sources)) in relation to the REZ adjacent to England, Wales and Northern Ireland.

### **About Five Estuaries Offshore Wind Farm Project**

We understand that Five Estuaries is an offshore wind farm to generate in excess of 300MW. The project will be comprised of (but not limited to):

- an offshore wind farm, including wind turbine generators and associated foundations and array cables;
- transmission infrastructure, including offshore substations and associated foundations, offshore and onshore export cables (underground), including associated transition bays and jointing bays, an onshore substation, and connection infrastructure into the National Grid.

Should compensation be required in relation to certain effects of its development, we understand that the Applicant is considering several measures. Of specific relevance to this letter is without prejudice compensation measures at Outer Trial Bank in The Wash.

### **Five Estuaries Offshore Wind Farm Project Habitats Regulations Assessment**

The Crown Estate understands that the Applicant has provided a 'without prejudice' derogation case for Lesser Black-backed Gulls in relation to the Alde Ore Estuary Special Protection Area (SPA). The precise location and extent of the site, management measures and nature of required agreements will be defined at a later date with further details as follows:

- (a) Section 1.2, the Report to Inform Appropriate Assessment Part 4 (Document Reference: 7.1.4) concludes that an adverse effect on integrity cannot be ruled out for Lesser Black-backed Gull from the Alde Ore Estuary SPA because of predicted mortality due to collision risk, when considered in-combination with other offshore wind farms.
- (b) Volume 5, Report 5.3 Lesser Black-backed Gull Compensation – Evidence, Site Selection & Roadmap – Revision C (Clean) sets out the sites that have been identified for Lesser Black-backed Gull compensation via the site-selection process (Section 4) and to provide the key evidence supporting predator control (Section 2) as a compensation measure.
- (c) Section 4.1.12 of the above report considers additional sites including Outer Trial Bank in The Wash SPA which was suggested by Natural England. Outer Trial Bank has direct connectivity with the Alde Ore Estuary SPA (126 km) which is within mean-maximum foraging range of Lesser Black-backed Gull from Alde Ore Estuary SPA (126 km).
- (d) Further details of the site are included in paragraphs 4.1.17 to 4.1.24. Table 4.1 states that it has been "*Recommended by Natural England, presence of rats at the [Outer Trial] bank is known and there is evidence of predation on the island. Gulls already breeding on the bank should make the success of the compensation measure quicker to establish. Site taken forward*".

The Crown Estate confirms that, as at the date of this letter, we have the ability to grant the rights which we would anticipate being required in respect of the construction and/or delivery of the compensatory measures identified above **on the foreshore and/or within territorial waters**, where:

- (a) the Outer Trial Bank is within The Crown Estate's ownership;
- (b) the grant of such rights would not be inconsistent with existing third-party interests and/or rights;
- (c) the Applicant has provided details to The Crown Estate about the precise nature of the proposed activities; and
- (d) such activities do not interfere with public rights e.g. rights to fish and navigate and rights to recreation, save to the extent permitted by law (which, where applicable, may be by the grant of relevant consents and/or permissions from, and/or the adoption of measures by, the relevant authorities),

and such grant would be subject to:

- (f) securing appropriate proximity checks results as regards the rights of others;
- (g) The Crown Estate having approved the details about the precise nature and location of the proposed activities;
- (h) the Applicant having obtained all necessary consents and/or permissions from the relevant authorities (and compliance with all relevant legislation); and
- (i) contract and commercial agreement.

### **The Crown Estate Summary Position Statement**

It is understood that the Applicant would secure the necessary consents to deliver the compensation measures, and that the implementation of the compensation measures would be conducted in accordance with the relevant compensation plan and post-consent Compensation Implementation and Monitoring Plan (CIMP) document. Furthermore, the compensation measures would follow established standards and best practice guidelines and would be conducted in close collaboration with stakeholders and restoration experts.

The position of The Crown Estate, as to the availability of the relevant interests and/or rights from us, is as set out above. For the avoidance of doubt:

1. we are not yet in a position to enter into any legal documentation with the Applicant, but the Applicant has requested this letter of comfort as an interim measure to assist with the DCO process;
2. subject to the above-mentioned matters and subject to contract, we can confirm that it is our current intention to continue to work with the Applicant in good faith to assist them in finding appropriate areas in which compensations measures can be facilitated within the necessary timescales;
3. this letter is intended to be a statement of The Crown Estate's present intention only and accordingly shall not be construed as constituting a promise or warranty as to future conduct; and

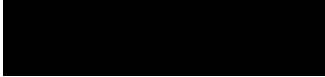
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4. nothing expressed or implied in this letter is intended to create legal relations between The Crown Estate, the Applicant and/or any third party. In addition, this letter does not constitute any variation to the terms of any of the Project's documents nor shall it be treated as the provision of consent.

**Yours sincerely**



**Caroline Price**  
**Head of Nature & Environment (Marine)**



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