

# FIVE ESTUARIES OFFSHORE WIND FARM

# 10.63 APPLICANT'S COMMENTS ON DEADLINE 7 SUBMISSIONS

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#### **DEFINITION OF ACRONYMS**

TERM	DEFINITION	
AFW	Affinity Water	
AMS	Archaeological Mitigation Strategy	
BEIS	Department for Business, Energy and Industrial Strategy	
BNG	Biodiversity Net Gain	
CAH	Compulsory Acquisition Hearing	
CIRIA	Construction Industry Research and Information Association	
CNP	Critical National Priority	
CoCP	Code of Construction Practice	
CRA	Chemical Risk Assessment	
CRTN	Calculation of Road Traffic Noise	
CSIP	Cable Specification and Installation Plan	
CTMP	Construction Traffic Management Plan	
DCO	Development Consent Order	
dML	Deemed Marine License	
DWR	Deep Water Routes	
EACN	East Anglia Connection Node	
ECC	Essex County Council	
ERP	Emergency Response Plan	
ES	Environmental Statement	
ExA	Examining Authority	
FRA	Flood Risk Assessment	
GBS	Gravity Base System	
GCZ	Geoarchaeological Characterisation Zones	
GI	Green Infrastructure	
HE	Historic England	
ISH	Issue Specific Hearing	
JNCC	Joint Nature Conservation Committee	
LEMP	Landscape and Ecological Management Plan	
LGPL	London Gateway Port Ltd.	
LIR	Local Impact Report	
LLFA	Lead Local Flood Authority	
LNRS	Local Nature Recovery Strategy	
LVIA	Landscape and Visual Impact Assessment	
MCA	Maritime and Coastguard Agency	
MHWS	Mean High Water Spring	
MLWS	Mean Low Water Spring	



MMMP	Marine Mammal Monitoring Plan		
MMO	Marine Management Organisation		
MNR	Marine Noise Registry		
NAS	Noise Abatement System		
NF	North Falls		
NH	National Highways		
NIP	Navigation and Installation Plan		
NPS	National Planning Statement		
NR	Network Rail		
NT	National Trust		
OCNS	Offshore Chemical Notification Scheme		
OCSIP	Outline Cable Specification and Installation Plan		
OCTMP	Outline Construction Traffic Management Plan		
OEUK	Offshore Energies UK		
OLEMP	Outline Landscape and Ecological Management Plan		
ONIP	Outline Navigation and Installation Plan		
OnSS	Onshore Substation		
OSPAR	Convention for the Protection of the Marine Environment of the		
	North-East Atlantic		
OWF	Offshore Windfarm		
OWSI	Outline Written Scheme of Investigation		
PAMP	Public Access Management Plan		
PLA	Port of London Authority		
PLONOR	OSPAR List of		
	Substances Used and Discharged Offshore which Are		
	Considered to Pose Little		
	or No Risk to the Environment		
PPE	Personal Protective Equipment		
SAC	Special Area of Conservation		
SCC	Suffolk County Council		
SEPDEP	Sheringham Shoal and Dudgeon Offshore Wind Farm		
	extensions		
SHA	Statutory Harbour Authority		
SIP	Site Integrity Plan		
SNCB	Statutory Nature Conservation Body		
SINCE	Statutory Nature Conservation Body		
SNS	Statutory Nature Conservation Body Southern North Sea		
SNS	Southern North Sea		
SNS SPP	Southern North Sea Special Parliamentary Procedure		



UXO	Unexploded Ordnance	
VE	Five Estuaries	
VTS	Vessel Traffic Services	
WSI	Written Scheme of Investigation	



#### 1. INTRODUCTION

- 1.1.1 As per the Rule 8 Letter [PD-009] published by the Examining Authority on 25 September 2024, comments on any submissions received at Deadline 7 are to be included with submissions for Deadline 8.
- 1.1.2 This document has been prepared to set out the response of Five Estuaries Offshore Wind Farm Limited ('the Applicant') to submissions made at Deadline 7 with regards to the Five Estuaries Offshore Wind Farm Project ('the Project'), application reference: EN010115.
- 1.1.3 The Applicant has responded to the Deadline 7 submissions Natural England and East Anglia TWO Limited in separate documents:
  - > 10.63.1 Applicant's Comments on Natural England's Deadline 7 Submissions
  - > 10.64.1 Response to East Anglia Two's Deadline 7 submissions and the ExA's Rule 17 Request to the Applicant.
- 1.1.4 The Applicant has only responded to points where it believes it would be helpful to the ExA. Rather than copying across whole documents, the Applicant has presented the relevant text or a summary of the points made in the Deadline 7 submissions and then responded to them (while being mindful of the context of those excerpts and being careful not to lose context in summaries).
- 1.1.5 The absence of commentary on a submission should not be taken as implication that the Applicant supports its content.



### 2. ESSEX COUNTY COUNCIL

## 2.1 EXQ3 RESPONSES [REP7-092]

Ref	Question	ECC Response	Applicant's response
Develop	ment Consent Order		
ECC-01	Onshore collaboration with the Undertaker for the proposed North Falls Offshore Wind Farm  a) Is there a need for a requirement, along the lines of Requirement 33 of the made DCO for Sheringham Shoal and Dudgeon Offshore Wind Farm extensions [section 8 (e-page1,885) in REP4-044] obliging the undertakers for the Proposed Development and the proposed North Falls Offshore Wind Farm to have collaborated with one another prior to their plans or documents being submitted to the relevant local planning authority for approval pursuant to relevant requirements?	The Councils fully support the inclusion of a Requirement in the DCO that obliges the adjacent undertakers of the Proposed Developments (FE, NFOW and National Grid EACN) to have collaborated with each other prior to the submission of documentation to the relevant planning authority for approval.	The Applicant opposes such a requirement as set out in [REP7-090], The SEPDEP DCO is not a direct comparison on this element as that has 2 projects in a single DCO and the requirement applied to both, whereas in this case each project is seeking its own DCO. Therefore each will be submitted and be liable for compliance with its own plans under its DCO. Such a requirement would impose an obligation to collaborate on the Applicant but not North Falls, which the Applicant cannot comply with without the cooperation of North Falls: it is not reasonable to impose a requirement on the Applicant which makes them beholden to the actions of a third party.
ECC-02	Protective Provisions With respect to negotiating Protective Provisions, advise on what the current position is with respect to agreeing a set of Protective Provisions in your favour with the Applicant. Where there is disagreement with the Applicant explain why that is the case and where any disagreement relates to matters of detailed drafting submit the version of your preferred text.	Highways Protective Provisions  ECC have recently shared both the PPs and the Framework Highways Agreement that we are seeking with the Applicant. Discussions are ongoing on both these documents.  Drainage Protective Provisions Ongoing discussions which are nearing completion, we are positive that the outstanding matters could be resolved.	Discussions on the protective provisions are ongoing and any updates agreed will be included in the dDCO submitted at Deadline D8a.  The Applicant does not agree that Framework Highways Agreement is necessary and submits that it is contrary to the ethos of the DCO regime to seek to require agreements which cut across the DCO powers and thereby undermine the 'one-stop' consenting approach the DCO regime is intended to facilitate. The Applicant also notes the very late provision of this by ECC has left no meaningful time to negotiate terms or remove the considerable duplication with the proposed PPs.
Ecology	Onshore		110.
	Essex Green Infrastructure (GI) Strategy and Essex GI Standards Have the proposals as set out in the outline Landscape and Ecological Management Plan (OLEMP) [REP2-022] sufficiently demonstrated that the guiding principles set out in the Green Infrastructure Delivery Plan have been applied?	In principle, the Outline Landscape and Ecological Management Plan (OLEMP) does align with the Essex Green Infrastructure (GI) Strategy objectives and Essex GI standards in several ways: 1.Protect: Improve: Integration of GI: The OLEMP includes measures to integrate GI into the Five Estuaries wind farm infrastructure, mitigating environmental impacts and enhancing biodiversity.  2.Evidence – led The OLEMP incorporates baseline ecological surveys, stakeholder consultations, and adherence to national and local policies. It follows established planting and species guidelines and standards, includes provisions for long-term monitoring and management. The OLEMP states that as the mitigation proposals are further developed post consent, the process will be informed by the nine GI Standards. It is recommended as the OLEMP develops to consult the Essex LNRS.	This is noted and welcomed by the Applicant.



Ref	Question	ECC Response	Applicant's response
		3.Improve, Create, connectivity: Multifunctionality The plan proposes extensive planting of trees, hedgerows, and understorey shrubs to create effective visual screens and green corridors, connecting existing habitats and enhancing the landscape character.  It outlines the creation and enhancement of S41 priority habitats, including lowland meadow, species – rich grasslands, ponds, and broadleaved woodlands, contributing to biodiversity net gains and ecosystem resilience.  The plan also includes the use of SuDS to manage surface water, with proposals to retain temporary SuDS features for biodiversity benefits, aligning with the Essex GI Standards for sustainable water management.  4.Early and ongoing stakeholder engagement, Managing Different Expectations The plan emphasises stakeholder engagement in the development and implementation of the LEMP, ensuring alignment with local needs and priorities.  5. Health and Wellbeing and Social Equity The OLEMP aims to enhance the PRoW by providing visual screening and planting adjacent to roads, PRoWs, and properties to improve aesthetics, and the creation of green corridors to connect existing habitats, promoting a pleasant walking experience.  6. Strong wording and commitment The commitment to requirement 12 LANDSCAPE AND ECOLOGY MANAGEMENT PLAN that "(1) No stage of the onshore works may commence until for that stage a written landscape and ecological management plan in accordance with the outline landscape and ecology management plan as appropriate for the relevant stage, has been submitted to and approved by the relevant planning authority."  7. Sustainability: Stewardship The OLEMP commits to long-term monitoring and management of created habitats to ensure they meet biodiversity and green infrastructure objectives.	
Seascap	e, Landscape and Visual	•	
ECC-04	Detailed design within the onshore substation zone The ExA notes that under sub-paragraph 5(b) of Requirement 10 of the made DCO for the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm the detailed design for the onshore substations for that project must be subject to a design review to be undertaken by an independent design review panel prior to seeking detailed design approval from the relevant planning authority's approval [e-page 1,876 in REP4-044]. Having regard to the Applicant's, NFOWL's and NGET's intention that there would be three onshore substations in close proximity with one another:	The Councils support an independent review of the detailed designs for all substations within the substation zone. Scrutiny of the collective projects is required in order to ensure that the landscape and visual vision for the three projects is coherent and appropriate and fulfils the requirements of the respective LVIAs. The current proposals in 9.4 onshore Substation Design Principles Document – Revision B (REP6-018) require clarity on who, how and where the Design Champion / s and the members of the Design Review Panel will be appointed. As such, we propose the Essex Quality Review Panel or similar independent body which would be agreed by the relevant Planning Authority, are approached for their input.	The Applicant has revised 9.4 Onshore Substation Design Principles document to Revision C, and submitted at Deadline 8, to include a commitment to an independent review of the Design Guide by the Essex Quality Review Panel or similar independent body.  This change has been discussed and agreed with ECC.



Ref	Question	ECC Response	Applicant's response
Kei	a)Should the detailed design for the substations within the onshore substation zone be subject to review by an independent design review panel? In answering this question if you consider there should not be an independent design review process explain why that is the case. b)For the Applicant – submit wording for an independent design review mechanism, for incorporation into Requirement 5 (Onshore substation works etc) of the dDCO (on a without prejudice basis should you not be agreeable to there being a design review by an independent panel).	It is noted in REP6-018 para 2.2.1 reference is made to a collaborative design approach including National Grid Electricity Transmission's East Anglian Connection Node (EACN). This is not reflected in the current dDCO (REP6-007) where Work No. 16 refers to the National Grid substation, for clarity the Councils propose 'the new National Grid substation' as stated in Work No.16 (a) or reference to the 'proposed National Grid Electricity Transmission's East Anglian Connection Node (EACN)'.	Applicant's response
ECC-05	Visual mitigation within the substation zone With respect to the visual mitigation within the substation zone, most particularly the northern elevations of the proposed substations for the Proposed Development and the North Falls Offshore Wind Farm. How effective do you consider orchard planting combined with hedgerows and hedgerows with trees (shown on Drawings 2 and 3 in the OLEMP [REP2-022]) would be, having regard to the likely height of the proposed substations and their proximity to Grange Road? Would planting other than orchard planting be more effective?	We do not consider that orchard planting would successfully deliver visual impact mitigation along the northern border, although acknowledge potential ecological and social benefits could accrue. We have previously suggested that similar benefits could be obtained by planting hazel coppice that would be easier to manage. However, we judge that a hybrid of orchard trees or coppice hazel with the addition of woodland buffers that reinforce the existing field boundary system, and where this is deliverable in operational terms, would provide the optimum solution.	The OLEMP plan has been updated in Revision E of the OLEMP (submitted at this Deadline) in response to comments regarding the orchard planting on the northern side of the onshore substations. The updated version includes patches of locally native broadleaved woodland in areas where the restrictions relating to the existing overhead power lines and proposed underground cables occur. These patches of taller woodland will add to the screening effect of the orchard, especially experienced from Grange Road where the majority of the visual receptors will be roadusers and will increase similarities with the North Falls proposals for this northern area.
Terrestri	al Transport and Traffic		
ECC-06	Outline Public Access Management Plan The Applicant has submitted a revised Outline Public Access Management Plan (Revision B) [REP5-037] at Deadline 5. Does this address any concerns you might have regarding the interaction with Public Rights of Way during the construction of the onshore cable corridor, or are there any outstanding matters of concern? If there are any outstanding concerns, how might they be addressed by the Applicant?	The Council have made comments that the naming of the PRoW should align with the actual names, ensuring clarity on the location and affected PRoW. The Public Access Management Plan (PAMP) has been updated at [REP5-037] and includes specific reference to the affected parish at Table 3.1. Whilst this is helpful, it still relies on reviewers moving between different documents and as a result makes interrogation and understanding more difficult for a complex project. The aim of a DCO should be for it to be as accessible and transparent as reasonably possible.  The Council note that the OLEMP has been updated at [REP6-026] and includes the commitment to "Ensure there is a minimum of 3m distance between screening planting an any PRoWs. This ensures that planting will not obstruct the use of the PRoW, even if it is not properly maintained by the landowner/site operator". On this basis, this issue is considered resolved.  The Council requested that a final version of the management plan be included on the Applicant's website. It is noted that there is now a commitment at Section 2.3 [REP5-037] which commits to engagement by the Applicant. On this basis, this issue is considered resolved.	The Applicant notes this comment



Ref	Question	ECC Response	Applicant's response
		Paragraph 3.1.12 sets out the approval process for the final PAMP. This is acceptable; however, it is requested that an amendment is made so that any changes to the plan, also require approval by the highway authority, so it is clear that this process will be followed. Subject to this change the matter can be considered to be resolved.  The Council had raised concerns regarding management of heavy vehicles at PRoW crossing points. It is noted that additional text has been added at 3.2.13 and 3.2.14 of [REP5-037], which includes provision of suitable visibility at crossing points and depending on the use of the ProW, the use of banksmen.	
ECC-07	Projects considered within cumulative assessment of traffic effects As agreed during ISH3, please confirm that the projects set out in Section 8.12 of the Traffic and Transport Chapter of the Environmental Statement (ES) (current draft version of which is found at Appendix 3 of the Applicant's response to ISH3 Action Points [REP3-023]) can be treated as a finalised list of projects scoped in or out of assessment at the close of this Examination. If there are any new projects not currently captured in the above, please provide sufficient detail of the project(s) such that the Applicant can consider whether or not they should be added into a finalised version of the cumulative assessment of traffic effects.	From a transport and traffic perspective the Councils are content with the projects included in the scope of the cumulative assessment.  The above being said, the Councils have undertaken an up-to-date review, as it was considered helpful to identify any further developments that are in the local area that may have been appropriate to consider. In all cases, it was considered reasonable to either scope them out of the assessment, due to how developed the proposals are, or the timeframe for delivery of the schemes, or that they are on the fringes of the assessed network, or that their impacts would be picked up in background growth.	The Applicant notes this comment.
Onshore	Water, Hydrology and Flood Risk		
ECC-08	Flood Evacuation Plan Would the provisions within Section 4.8 of the Code of Construction Practice (CoCP) [REP5-033] accord with the provisions of Policy PPL 1 (Development and Flood Risk) of Section 2 of the Tendring District Local Plan 2013-2033 (adopted January 2022)? If you consider there would be conflict with Policy PPL 1, how might the CoCP be amended to achieve accordance with Policy PPL 1?	Having regard to the provisions of Section 4.8 of the CoCP, TDC's Emergency Planning Team's view is that the document has failed to demonstrate compliance with Policy PPL1 because the section appears generic and not specific to the District and area concerned. Section 4 and (also relevant) Section 6 of the CoCP fail to provide any meaningful information on Flood Management and Response and Emergency Response Procedures and Contacts.  In particular, Section 4 (Flood Management and Response): There is no reference to the coastal flood warning area that some of this operation is happening in. There is no reference in respect of what action would be taken on receipt of 'flood alert, flood warning, severe flood warning, in the event of a breach', and receipt of 'no longer in force'. There is also no information on what action will be taken on receipt of a severe weather warning for 'rain/thunderstorm/snow', all of which could lead to flooding (surface water). There is reference to a contractors Emergency Response Plan (ERP), where it is anticipated that some of our previous comments may be answered, but it is unclear when TDC will have sight of this plan including any opportunity to provide feedback. There is also a reference to a contractors flood warning	The Applicant proactively discussed this point with ECC and made updates to the Code of Construction Practice – Revision D [REP7-050] section 4 and 6 to address the points raised here.



Ref	Question	ECC Response	Applicant's response
		and evacuation plan, however it is unclear when TDC will have an opportunity to review this document.  Section 6 Emergency Response Procedures (ERP) and Contacts: Again the ERP is mentioned, but no clarity of position on when TDC will be able to review and provide feedback on this plan. The principal contractor should also liaise with the District Council Emergency Planning team, not just the "blue light" services. It is unclear as to whether the Emergency Response Procedures and Contacts includes HM Coastguard as one of their blue light services. There is reference to an UXO plan, but no clarity of position on when TDC will be able to review and provide feedback on this plan.  The Councils have conveyed the above to the applicant and expect that the CoCP will be updated to address the above concerns.	

# 2.2 DEADLINE 7 COMMENTS [REP7-091]

Ref	Summary of Deadli	ine 6 submission C	OR Excerpt of Dead	dline 6 submission	Applicant's response
ECC-09	ECC would like the I	ExA to note that with	regard to proposed	d phasing requirements for Five Estuaries, nty Council submitted at D6A REP6A- 009.	The Applicant remains strongly opposed to a phasing requirement as set out in previous submissions including REP6-045 (10.41 Applicant's Summaries of Oral Submissions - ISH6, CAH3 and ISH7) and 10.46 Opinion of King's Counsel [REP6-050]. The requirement sought is not necessary or reasonable and is contrary to the NPS as has been set out.
Outline Landscape and Ecological Management Plan (OLEMP) We note the inclusion of cross sections to illustrate the scale and per and decommissioning requirements. However, further clarity is need regarding whether Five Estuaries (VE) cannot commit to the habitat will be removed. Given that the purpose of this planting and enhance (BNG) and is secured for 30 years, it should clearly state that the harden removed, as it aligns with BNG requirements. Regardless of the time for decommissioning, the habitats and planting not be removed.  Biodiversity Net Gain Design Stage Report (REP6-016) The VE BNG Design Stage Report provide two options for Option 1 lost) and: Option 2 (Unmanaged habitats counts as lost and created potential net gains for both options 1 and 2, which will result in:		e and perspective of the proposed planting y is needed on paragraph 2.6.29 (page 32) e habitat/planting not being removed or if it enhancement is for Biodiversity Net Gain at the habitat and planting will not be	Revision E of the OLEMP, submitted at Deadline 8, has been updated to provide greater clarity on the intended meaning, now reflected in paragraph 2.6.31 of the OLEMP:  "VE cannot commit to the removal of habitats and planting around the substation at the time of decommissioning, as they will hold ecological value. Their removal may not be acceptable and must be managed in accordance with the current purposes of Biodiversity Net Gain (BNG) (30-year management period), applicable legislation, and best practices at the time of decommissioning."		
		n Stage Report prov Unmanaged habitate or both options 1 and	ide two options for C s counts as lost and d 2, which will result	created). The BNG Report summaries the	The VE BNG assessment presents the scenario requested by TDC, i.e. it is a realistic worst case scenario, assuming combined project footprints (i.e. the full export corridor width for 4 sets of ducts and the footprint for NF ONSS has been included).
	Habitat	-13.35%	8.55%		Note that the VE BNG "options" and NF "options" are not comparable. The
	Hedgerow	105.38%	138%		Applicant will be applying its "Option 2" assumptions to the post consen
	Watercourses	0%	0%		assessment i.e. habitats along the ECC will not be counted as permanently lost but will be included as retained or lost/created as appropriate.
	This does not meet the 10% requirement for habitats. Additional off-site biodiversity units will be needed to satisfy the trading rules. However, both Five Estuaries and North Falls have stated that				



where feasible to consider a joint approach in relation to the adjacent substations landscaping and Green Infrastructure (GI). The North Falls BNG Strategy on the onshore project description outlines three options. Option 3 is potentially scoped out and decision regarding whether option 1 (project alone) and option 2 (joint) goes ahead depends on whether both North Falls and Five Estuaries are given consent. Obviously, option 2 would be the preferred option, coordinating works with North Falls Offshore Windfarm to proceed as a single program to minimise potential environmental impacts, given the scale of the works required. It is recommended that Five Estuaries BNG Design Stage Report to consider also including the joint option.

The BNG assessment will be updated post-DCO, once final design is known. It will include full details of offsite requirements, if these are needed. The Applicant is aware of/ in discussion with several third party suppliers of BNG units within Essex. In the event offsite biodiversity units or statutory credits are required then the relevant spatial risk multipliers will be used.

#### Option 2 (Joint)

Habitat	+33.91% (22.79units)
Hedgerow	+337.23% (22.79 units)
Watercourses	-29.19% (-0,26 units)

It is acknowledged that on-site delivery might not always be feasible, and off-site delivery could offer additional benefits, including the protection of areas with local natural and wildlife value. It is recommended to discuss off-site and unit purchases, with Tendring District Council. With no registered off-site habitat banks within Essex, it would be useful to know where these units are to be sourced, and if a spatial risk modifier needs to be added. The BNG Assessment should be updated once the landscape provisions for both on-site and off-site are determined and finalised. Additionally, the DCO page 45 paragraph i in connection with such Work Nos. 4 to 18B recommend other ecological enhancements not captured by the metric, such as bird and bat boxes and hibernacula. These enhancement and mitigation measure identified are instrumental in producing quality GI, therefore all these GI threads should be carried through to detail stages of the application and secured through suitably worded Requirement.

This is noted by the Applicant.

#### ECC-11 Onshore Substation Design Principles Document (REP6-019)

The Councils welcome that the Essex GI Strategy will be considered when developing detailed design and that the landscape, ecological mitigation and biodiversity enhancements will be incorporated in the design principles. It is recommended to consider the Essex GI standards, and another useful guidance is the National GI Framework Design Guide to promote sustainable design practices that ensure the long-term viability and maintenance of GI. (GI Design Guide). We also welcome the reference to the collaboration with National Grid Norwich to Tilbury and North Falls Offshore Wind Farm, which have adjacent proposed substations.

#### ECC-12 **ECC SUDS**

Section 3.3 of the submitted Onshore Substation Flood Risk Assessment (FRA) (APP-039) states that there will be requirements on:

- Temporary surface water drainage strategy for construction activities
- A Drainage Strategy to manage surface water runoff during the operational phase These 2 documents are currently not included in any of the proposed requirements in the dDCO. These will need to be submitted to and approved by the Lead Local Flood Authority (LLFA).

The Applicant notes the temporary surface water drainage strategy is covered through the Code of Construction Practice – Revision D [REP7-050] section 4.9 secured by Requirement 6 in the DCO. The Applicant notes the importance of temporary drainage within the construction site. It has committed to following the relevant guidance and needs the flexibility to work landowners to deliver appropriate temporary drainage during construction in line with the key principles in the CoCP section 4.9. The Applicant is not clear what benefit an additional approval would add, other than adding additional steps and potential delays when flexibility is required. The LLFA has controls over volumes and location of potential discharges to the existing drainage network through Drainage Protective Provisions.

The Applicant notes that the drainage strategy, and an outline of which is included in Appendix B Onshore Substation Flood Risk Assessment (FRA) [APP-039] is secured through Requirement 5(i) in the DCO.



ECC-13	Para 6.7.45 of the ES (APP-088) also highlighted that "The low-lying land at Holland Haven Marshes is shown to potentially be at risk of surface water flooding, with some potential for an overland flow pathway into the marshes from the B1032 Main Road to the south." As requirement 5 of the dDCO only covers the onshore substation design, how will this be addressed to the satisfaction of the LLFA?	Under the Section 5.3: Surface Water Drainage of the ECC FRA it acknowledges that there is a risk of surface water flooding from <i>smaller agricultural drains and watercourses and/or the flow routes into them.</i> Implementation of temporary surface water drainage during the construction phase <i>to minimise water within the working areas, ensure ongoing drainage of surrounding land and that there is no increase in surface water flood risk.</i> The Applicant notes the temporary surface water drainage strategy is secured through the Code of Construction Practice (CoCP) – Revision D [REP7-050] section 4.9 secured by Requirement 6 in the DCO. The CoCP also requires that flood response awareness and procedures will be included in the Principal Contractor's emergency response planning. This planning will include planning for severe weather events.
ECC-14	The LLFA requests that the following wording is included in Requirement 5 of the DCO:  No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the discharging authority. The scheme should include but not be limited to:  Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.  Limiting discharge rates to the 1 in 1 greenfield rate for all storm events up to and including the 1 in 100 year rate plus 45% allowance for climate change subject to agreement with the relevant third party/ All relevant permissions to discharge from the site into any outfall should be demonstrated.  The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.  Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 45% climate change event.  Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 45% climate change critical storm event.	The Applicant does not consider it is necessary to include this level of detail within a DCO Requirement. 9.4 Onshore Design Principles Document – Revision C, submitted, at this deadline includes information on the operational drainage design, this has been updated to include additional detail on drainage and a reference to the 5.3.2 Flood Risk Assessment Onshore Substation [APP-039] which includes an outline operational drainage strategy at Appendix B which establishes some key drainage principles, references all the relevant standards and guidance which address a number of the points raised here.
ECC-15	ECC Landscape Submission received at Deadline 5 and 5a (REP6-058) We wish to clarify our comment in this document in relation to REP5-054 Statement of Common Ground Rev A Jan 2025 under the heading Cumulative Impact. Where we state that 'Whilst we agree that the project by itself is likely not to generate significant visual impact' this refers to the impact on the National Landscape discussed in the previous paragraph not on receptors close by where we judge some residual visual impacts remain.	This is noted by the Applicant. Local visual amenity has been assessed within the LVIA [APP-084] and the OLEMP design takes this into account. The Applicant has met with stakeholders, including local landowners and, through an iterative and collaborative approach, has achieved a final indicative design that balances the requirements of local landowners as well as the landscape screening requirements of legislation, applicable guidance and ECC.
ECC-16	Outline Landscape and Ecological Management Plan (OLEMP) – Rev D (REP6-026) We welcome the updated OLEMP (REP6-026) submitted at Deadline 6, in relation to numbering, inconsistencies in wording on restoration and decommissioning, identified in the above document regarding Issue Specific Hearing 6 (ISH6) at Item 16. Also, with respect to 'Issue Specific Hearing 7	This is noted by the Applicant.



	(ISH7) – DRAFT DCO' Item 3 we welcome the clarification in relation to preparatory works undertaken in advance of approval of the final LEMP as facilitated by Requirement 10(3) of the dDCO.	
ECC-17	Para 1.2.6 Landscape: We do not consider that orchard planting would successfully deliver visual impact mitigation along the northern border, although acknowledge ecological and social benefits could accrue. We have previously suggested that similar benefits could be obtained by planting hazel coppice that would be easier to manage. However, we judge that a hybrid of orchard trees or coppice hazel with the addition of woodland buffers that reinforce the existing field boundary system, where this is deliverable in operational terms, would provide the optimum solution.	The OLEMP plan has been updated in Revision E of the OLEMP [submitted at Deadline 8] in response to comments regarding the orchard planting on the northern side of the onshore substations. This includes patches of taller trees integrated into the layout of the orchard to bolster the screening effect. This plan is indicative and will be refined in terms of layout and species selection post-consent and in consultation with ECC.
ECC-18	Para 1.2.7 Visual Impact: We dispute that the development will be screened from visual receptors within 5 years and judge that residual significant impacts are likely on nearby receptors, and particularly in relation to cumulative effects with North Falls and the Norwich to Tilbury project. Characteristic open views will be lost.	The LVIA [APP-084] states that significant landscape and visual effects will be mitigated within a period of up to 15 years, noting that in instances where mitigation planting is adjacent or close to visual receptors, this period could potentially be reduced to 5 years. The predicted growth of trees within the first 5 years is between approximately 2.3 and 3.3m. The average human height in the UK is 1.68m. If standing adjacent or close to the 5 year planting, it will form an effective screen to the views of people. The mitigation of significant effects within the first 5 to 15 years will also lead to the mitigation of significant cumulative effects – if the Five Estuaries onshore substation is not readily visible then it cannot be part of a cumulative interaction. In respect of the loss of characteristic open views, these are largely a by-product of the removal of between 30 and 50% of hedgerows in the UK between 1940 and 1990, and the implementation of the proposed planting would mark the return to a more enclosed and biodiverse rural landscape.
ECC-19	Para 1.2.8 Local Landscape: The framework of planting connects into the wider landscape network to the east of Norman's Farm but is still within the redline boundary.	This is noted by the Applicant.
ECC-20	Para 2.6.7: We welcome the inclusion of the 20m width buffer planting as a parameter.	This is noted by the Applicant.
ECC-21	Para 2.6.13: Whilst we agree this is the most effective way to generate screening for visual receptors and support this approach, the consequence is a loss of the characteristic open views. We wish to understand how this landscape character loss has been compensated for.	The proposed planting is largely contained along field boundaries to fulfil the intention of the open fields being retained primarily for agricultural production, but also to retain the openness of the agricultural landscape. Furthermore, the openness of the landscape is a by-product of the widespread removal of hedgerows which took place between 1940 and 1990. The proposed planting, along roadsides and field boundaries, would be restoring the historic character of field enclosure in this rural area.
ECC-22	Paras 2.6.26 – 2.6.27: We welcome the inclusion of the opportunity for advanced planting.	This is noted by the Applicant.
ECC-23	Paras 2.6.28 – 2.6.29: We welcome the paragraphs on decommissioning.	This is noted by the Applicant.
ECC-24	Figure 1.2: Visual Mitigation: We still dispute the value of the orchard planting in visual mitigation terms (see comments on Para 1.2.6 above). We assert the Figure 1.6 Indicative cross-section 2 demonstrates this.	The OLEMP plan has been updated in Revision E of the OLEMP [submitted at Deadline 8] in response to comments regarding the orchard planting on the northern side of the onshore substations. The predicted growth of the orchard trees within the first 5 years is between approximately 2.3 and 3.3m. The average adult human height in the UK is 1.68m. If walking, cycling or driving adjacent or close to the 5 year planting, it will form an effective screen to the views of walkers, cyclists and motorists. Notwithstanding the effectiveness of the proposed orchard, the updated plan includes patches of taller trees integrated into the layout of the orchard to bolster the screening effect.
ECC-25	Figure 1.7 Indicative cross section 3 – demonstrates the importance of the shelterbelt along the Ardleigh Road for screening purposes although the tallest elements are likely to result in a residual impact.	The predicted growth of trees within the first 5 years is between approximately 2.3 and 3.3m, as illustrated on Section 3. The average adult human height in the UK is 1.68m. If driving, cycling or walking on Ardleigh



		Road, the roadside planting will form an effective screen of the onshore substation within 5 years. The effect at 5 years would be similar to a high hedgerow lining a country road, albeit with substantially greater depth.
ECC-26	Table A1: Design Commitments included in the OLEMP (up to Revision D): Items Paras 1.2.6, 1.2.7, 1.2.8, 2.6.25, 2.6.6, 2.6.7, 2.6.12: It is important that the woodland planting is not just referred to as screen planting for visual mitigation under the 'Design Area' column in this table. This planting is substantially also providing landscape mitigation, and the word 'landscape' should be included in the design area descriptions to ensure delivery of connected green infrastructure networks whether there are visual receptors or not. Add a line in Table A1 to reference the 20m minimum width parameter for buffer planting belts.	Table A1 of the OLEMP has been updated to ensure reference is made to the enhancement of landscape character that the proposed planting will deliver, in addition to its function as a screen for the onshore substations. Reference with regard to the 20m width of the shelter-belts, with the note that this width will include access tracks and drainage ditches where required.
ECC-27	Onshore Substation Design Principles Document (REP6-018) We welcome inclusion of Section 2.4 Independent Advice in relation to the work of the Design Council Design Review Panel. Also, the inclusion of para 4.6.2 in relation to an Environmental Colour Assessment.	This is noted by the Applicant.
ECC-28	In relation to Para 4.6.4, Security Fencing, every opportunity should be taken for security fencing to hug the operational working area as tightly as possible allowing the use of native buffer planting to screen this effectively. Lower timber post and wire fencing, native hedgerows or similar can then be used to mark ownership boundaries if required.	This is noted by the Applicant. The operational fencing needs to comply with the relevant security standards.
ECC-29	Section 4.7: Para 4.7.1 should read 'landscape and ecological mitigation strategy' to emphasise that the landscape planting is not just there for decoration but as an integral part of the LVIA mitigation strategy.	This has been updated in the Revision C of 9.4 Onshore Substation Design Principles Document submitted at Deadline 8.
ECC-30	Para 4.7.3 should read 'written landscape and ecology mitigation scheme and plans' A written scheme without plans at an appropriate scale is not acceptable.	This has been updated in the Revision C of 9.4 Onshore Substation Design Principles Document submitted at Deadline 8.
ECC-31	Design Commitments: DC3: Add 'Additional mitigation planting is proposed to screen the OnSS from visual receptors and strengthen local landscape character.' The planting is not just there for screening purposes.	This has been updated in the Revision C of 9.4 Onshore Substation Design Principles Document submitted at Deadline 8.
ECC-32	Draft Development Consent Order (REP6-007): For Landscape and Ecology mitigation measures, Requirement 7 and 12, must include reference to plans and their appropriate scale e.g. 1:2500 -1:500, as well as a written scheme. The proposals cannot be scrutinised and approved without appropriate scaled plans.  Onshore substation works, design and landscaping: 5.— (1) Construction of Work No. 15B  Item (5) Work No. 15B should also reference 'plans' at an appropriate scale, alongside the 'written landscaping scheme'  Item (6) Ditto in relation to 'details of all proposed hard and soft landscaping works'	As the Applicant has previously advise, it is happy to add this detail to the outline plan which will be a certified document but does not consider it necessary or appropriate to add this to the requirement. The Applicant considers that setting out details of plans to be submitted is best done in the outline where context and the ability to agree changes can be provided for and not in a requirement which is then inflexible if it is agreed for example that a more detailed plan of a particular area would actually be preferable.  The Applicant has added this detail on scale of plans to Revision C of 9.4 Onshore Substation Design Principles and Revision E of 9.22 Outline Landscape and Ecological Mitigation Strategy, both submitted at Deadline 8.
ECC-33	CAH Action Point 3 (REP6A-005) Regarding alternative plans for a scenario under which the Proposed Development proceeds without collaboration with North Falls. In relation to landscape and visual issues we support the argument by the applicant that should Five Estuaries proceed in isolation from North Falls, then the proposed landscape framework would need to be implemented for the reasons set out in their response.	This is noted by the Applicant.
ECC-34	Response to Rule 17 Request - 17 February 2025 (REP6A-003) Landscape Mitigation We agree with the Design Council that the vision for the landscape remains restricted. However we recognise that hedgerow restoration is only part of the applicant's proposals which also includes substantial woodland buffers and would support the applicant in hedgerow restoration or enhancement	The Order Limits encompass a substantial area around the onshore substations with the intention that this area will be used to create a landscape setting that will mitigate visual effects and enhance local landscape character. As the planting proposed within the Order Limits will



	forming part of the vision where this does not prevent or conflict with the need to screen the development in a way appropriate to landscape character. We would wish to see landscape enhancement or compensation spread beyond the red-line boundary however.	effectively screen the onshore substations in the first 5 to 15 years, planting outwith the Order Limits is not necessary.
ECC-35	We agree with the Design Council that mounding needs careful consideration in terms of effect on topography and landscape character. Steep slopes (> 1:5) should not be created close to visual receptors.	This is noted by the Applicant.
ECC-36	We agree that the planting proposals could be more ambitious considering the size of the site but recognize a balance between conservation of agricultural land and creation of a variety of habitats area required. The applicant has now set down a minimum of 20m width for buffer planting in the OLEMP which reassures us that these areas can provide significant screening and landscape benefits at the delivery stage whilst being in keeping with character.	It should be noted that the 20m width for buffer planting will in some instances also need to include access tracks and drainage ditches.
ECC-37	ECC Highways and Transportation 9.22 Outline Landscape and Ecological Management Plan - Revision D (Clean) [REP6-026] Table A1 includes the following text relating to the substation access visibility splay.  "The final planting design will consider the visibility splays for the operational access and seek to minimise ongoing maintenance requirements to maintain these."  It is requested that the text is amended to the following:  "The final planting design will not compromise the required visibility splays for the operational access and will seek to minimise ongoing maintenance requirements to guarantee the ongoing achievement of the splays."	The Applicant has updated this in the latest OLEMP Revision E, submitted at Deadline 8.
ECC-38	ECC requests specific reference to traffic noise and vibration complaints within the outline CTMP. Which would require the Applicant to undertake investigation and any necessary mitigation to address the matter in a timely manner.  For completeness ECC requests the outline CTMP makes direct reference to BS 5228 - Part 1: Noise and Part 2: Vibration.  ECC requests that the proposed Bentley Road Monitoring and Mitigation Plan (REP5-035 para 5.2) is included within the final CTMP by the Applicant under the scenario that Five Estuaries comes forward as an individual development, as well as the current proposal which addresses the cumulative impacts of other proposed developments.	The Applicant is committed to implementing the Bentley Road Monitoring and Mitigation Plan (REP5-035), which may be required should there be an overlap between the North Falls Offshore Wind Farm and / or National Grid Electricity Transmission's EACN construction programmes. The need for this mitigation is only identified in the ES where there is an overlap in the construction programmes of the developments.  The Applicant does not believe BS5228 is appropriate, although it includes a method to calculate noise from heavy construction vehicles on a haul route, it is not that appropriate for a public highway that will still have a majority of cars as it's vehicle type. Any traffic noise should be measured using the Calculation of Road Traffic Noise (CRTN). The appropriate monitoring regime will be included in the final CTMP for this stage of the works, which will be subject to sign off by the Discharging Authority. The Applicant does not think it is necessary to update the outline CTMP to specify this at this stage.
ECC-39	As per our response to [REP6-046], the Council have reviewed a copy of the swept path assessment referred to as part of ISH6, and can confirm that we have no further comments.	This is noted by the Applicant.
ECC-40	Noted. Given the relatively limited impact of the cable drums, and the relevant process embedded within the CTMP as well as ESDAL. Whilst the delivery of AILs would have an impact on driver delay, it is considered to be short term and not significant.	This is noted by the Applicant.
ECC-41	It is understood that the parties have reached an agreed position, which can be covered in our statement of common ground. That is to say that the peak impact has been assessed based on the relevant guidance, however, the Council remains concerned about residents experiencing repeated impacts, that as a network user, they might consider to be greater in combination (i.e. result in additional delay) over an extended period of time, but would not exceed the assessed peak impact. It is recognised that the proposals have looked to reduce these impacts by coordinating with North Falls.	This is noted by the Applicant.
ECC-42	10.42 Applicant's Responses to Action Points - ISH6, CAH3 and ISH7 [REP6-046]	This is noted by the Applicant.



ECC-43	The Council have received a copy of the swept path assessment referred to at Action 3 from ISH 6, and can confirm that we have no further comments.  The Council can confirm that the position relating to a Port Traffic Management Plan outlined at Item 5 is accurate. We have no further comments.  A120 / Bentley Road – Road Safety Audit Separately the Applicant has provided the Council with a copy of the Stage 1 Road Safety Audit for the A120 / Bentley Road junction improvement works. Following a review of the document, the Council do not have any significant concerns and subject to seeing the modelling results, can consider the matter	This is noted by the Applicant.
ECC-44	Closed.  Historic Environment and Archaeology ECC Place Services (Archaeology) comments on submissions received at Deadline 6. There have been ongoing discussions with the Applicant on these matters, the Councils understand the draft DCO will be updated to tie in to the phases of archaeological investigation as defined in the AMS so that conditions could be released at the end of the completion of each phase:  •Production of WSI •Completion of evaluation work •Completion of Mitigation (open area excavation, strip map and sample etc) •Post excavation and publication	The Applicant has been in discussion with ECC Place Services (Archaeology) and updated the DCO Requirement 9 in Revision H of the Draft DCO [REP7-008] and 10.47 Archaeological Mitigation Strategy (AMS) – Revision B submitted at Deadline 8 to address these points.
ECC-45	Draft Development Control Order (DCO) (REP6-007). Item 9 (1) has been added to reflect the recent submission (Deadline 6) of an Archaeological Mitigation Strategy (AMS).  Further amendments to the DCO wording are required to ensure compliance with the AMS and to ensure the archaeological and geoarchaeological resource is appropriately managed.  Due to the lack of intrusive archaeological investigation carried out so far for the scheme a programme of archaeological and geoarchaeological evaluation is proposed as the first phase of intrusive fieldwork investigation. This would be followed, where required, by a programme of mitigation which could include preservation in situ or by record. The draft DCO wording fails to take into account the proposed two-phase investigations that will be required post-consent. The applicant has stated that no further intrusive archaeological or geoarchaeological evaluation will be carried out prior to the determination of the application and so it is imperative that the DCO wording accurately reflects the need for a further phase of archaeological and geoarchaeological evaluation to be followed by, where required, a programme of mitigation. The amendments proposed below to the DCO wording will more accurately reflect the two-phase fieldwork investigations proposed by the Applicant, identified as Phase 2 and 3 in the Archaeological Mitigation Strategy (AMS), and ensure that archaeological and geoarchaeological fieldwork can be monitored and conditions discharged as appropriate by the Local Authority archaeological advisors.	The Applicant has been in discussion with ECC Place Services (Archaeology) and updated the DCO Requirement 9 in Revision H of the Draft DCO [REP7-008] and 10.47 Archaeological Mitigation Strategy (AMS) – Revision B submitted at Deadline 8 to address these points.
ECC-46	There are on-going discussions with the Applicant regarding the DCO wording and the need for a further condition to be included which would ensure that the post-excavation process can be monitored and discharged accordingly. This stage of works is identified in the AMS as Phase 4. To ensure compliance between the DCO wording and the AMS this phase of works needs to be clearly identified as a separate condition. As the fieldwork and post-excavation process will last over a number of years this is essential to ensure the accurate and timely discharge of conditions to allow the development to proceed in areas where the archaeological requirements have been satisfied.	The Applicant has been in discussion with ECC Place Services (Archaeology) and updated the DCO Requirement 9 in Revision H of the Draft DCO [REP7-008] and 10.47 Archaeological Mitigation Strategy (AMS) – Revision B submitted at Deadline 8 to address these points.
ECC-47	The following wording is proposed (in bold): Onshore archaeology 9.— (1) Geoarchaeological and archaeological evaluation and mitigation surveys must be carried out in accordance with the archaeological mitigation strategy.  (2) No stage of the onshore works may commence until a geoarchaeological and archaeological evaluation Written Scheme of Investigation, in accordance with the Outline Onshore Written	The Applicant has been in discussions with Essex County Council and Historic England on the drafting for Requirement 9 and is content the version included in the dDCO – Revision H [REP7-008] addresses the concerns of all parties.



Scheme of Investigation as appropriate has been submitted to and approved by the relevant planning authority and undertaken.

- (3) No stage of the onshore works may commence until, for that stage, if required, a geoarchaeological and Archaeological Mitigation Strategy in accordance with the Overall Archaeological Mitigation Strategy, has been submitted to and approved by the relevant planning authority and undertaken.
- (4) Intrusive onshore site preparation works, including those necessary to allow production of any scheme required under sub-paragraph (2), must only take place in accordance the applicable details set out in an approved Written Scheme of Investigation or Archaeological Mitigation Strategy for such works.
- (5) No later than one year following the approval of the final site-specific Post Excavation Assessment, as defined in the approved Written Scheme of Investigations or Archaeological Mitigation Strategies, an archaeological updated project design for all applicable sites, must be submitted to the local planning authority for approval. Post-excavation analysis and publication must be carried out in accordance with the approved archaeological updated project design and provision made for the full archive to be submitted to the appropriate museum within 3 years of the completion of fieldwork.

ECC-48 Archaeological Mitigation Strategy (AMS) (REP6-051)

The AMS is designed to set out the scope and mitigation principles for further archaeological and geoarchaeological investigations. The AMS acknowledges that lack of intrusive fieldwork presents a risk that the archaeological resource may not have been sufficiently assessed through non-intrusive methods and the level of intrusive fieldwork completed. For the AMS to provide assurances that the proposed mitigation can effectively manage the potential impact on the archaeological resource further detail and clarification is required, specifically regarding the level of intrusive fieldwork proposed and publication.

The AMS includes the first phase of works which is trial trench evaluation and geoarchaeological investigation, which in itself is not mitigation and is designed to provide information on the nature, extent and significance of the archaeological resource, both known and as yet unknown and should inform an appropriate mitigation strategy. The AMS proposes coverage of 2% sample size of areas that can be evaluated (Section 3.3.3). The standard level of trenching used in the south-east is 4% with a 1% contingency. The plans need to be reconsidered in light of this and to provide full coverage of the corridor and associated works. At a 4% coverage the Local Authority archaeological advisors have confidence in signing off areas as containing little or no archaeological remains where no further work would be required. This would negate the requirement for monitoring during construction in these areas. This information should be supplied or at least agreed prior to the determination of the application.

The following specific comments on the AMS are provided:

- 2.3.8 Potential cremation burial, currently undated. The potential for C14 dating should be explored if cremation bone was present.
- 3.2.3 and 3.2.4 There is concern that the GCZ zones have yet to be ground truthed across much of the scheme and the location and limited number of interventions to date are not sufficient for a deposit model along the whole scheme. Initially the GI monitoring should be used to improve the deposit model to help refine the GCZ's and identify areas of high potential.
- 4.2.2 Remains of high and very high significance will be those for which consideration will be given to preservation *in situ*. This statement differs from the discussions with the Applicants archaeological representatives and will lead to a vast majority of archaeological sites requiring excavation in advance of construction. The mitigation of all sites identified following trial trench evaluation will need to be discussed and agreed with the Councils' archaeological advisors. Preservation in situ may be required for sites of lesser significance should they, for example, be extensive or exceptionally well preserved.

The Applicant has been in discussions with Essex County Council and Historic England on the drafting of the AMS and is content revision B of the AMS, submitted at Deadline 8, addresses the comments raised here and is agreed by all parties.



	Pg 11 Mitigation through preservation by record (Phase 3) This section should include the full range of archaeological and geoarchaeological methodologies beginning with Open Area Excavation.	
	4.3.16 Open Area excavation would be undertaken well in advance of construction as they are likely to extend over the full width of land take area and may need to be expanded. This would be considered inappropriate to be carried out during construction.	
	4.4.1 No mitigation areas will only be achievable if trenching is completed to the recommendations of the archaeological curators (4% plus 1% contingency)	
	6.1.2 should make specific reference to the production of phased/dated trench plans.  Pg 15 Publication	
	This section needs more detail. The archaeological mitigation is likely to result in a significant publication considering the length and width of the proposed scheme. There may be requirement for synthesis of specific sites to enable a landscape wide assessment in addition to publication of any significant sites.	
ECC-49	Code of Construction Practice  The submission of the AMS, once approved, needs to be reflected in the Code of Construction Practice (COCP) wording. Comments were provided by ECC on the COCP wording (REP6-058). There is no submission at Deadline 6 which indicates any recognition of the requested changes to this document. An additional point was requested to ensure the Local Authority Archaeological Advisors would be afforded access to monitor both evaluation and mitigation works and provide sign off of the completed works. The wording is provided below for information:  4.7.5 Local Authority Archaeological Advisors will be afforded access to the archaeological mitigation sites to monitor the evaluation and mitigation works and sign-off completed work in accordance with the OWSI and AMS. The site specific WSIs shall set out the arrangements and responsibilities for implementing, monitoring and sign off of the archaeological mitigation measures.	This wording has been included in the 9.21 Code of Construction Practice – Revision D [REP7-050] submitted at Deadline 7 alongside other details related to archaeology requested by ECC.
ECC-50	TDC Emergency Planning Section 6 of the CoCP (REP5-033) will need to be updated to include liaison with the "blue light services" and Tendring District Council Emergency Planning Team on both the Emergency Response Procedures (ERP), as well as the Operational UXO ERP.  HM Coastguard is an emergency service and should be included the "blue lights" consultation. With regards to the onshore operations, there is a cross over here. Coastal operations, onshore, personnel working on or near the sea-defence what are the arrangements should someone enter the sea accidentally along with additional PPE requirements such as lifejacket. If indeed there is a specific emergency response plan and a co-operation plan for marine based activities, TDC, as the local Emergency Planning Manager, would be interested to see what is covered, as casualties afloat end up being brought ashore and pollution at sea, can become pollution on the foreshore, which TDC would be responsible to co-ordinate the response to.	The Applicant proactively discussed this point with ECC and made updates to the Code of Construction Practice – Revision D [REP7-050] section 6 to address the points raised here on liaison with Tendring District Council Emergency Planning Team.  In terms of the coastguard – the CoCP only relates to the onshore works. HM coastguard are a branch of the Maritime and Coastguard Agency (MCA), The MCA have been involved in this examination and have been content with the controls put forward. The Applicant has to provide an emergency response and co-operation plan (ERCoP) to the MCA under the deemed Marine Licence, and the definition of this is: "emergency response co-operation plan" means the plan approved by the MCA the arrangements for liaison between the undertaker and HM Coastguard in the event of an emergency response. The Applicant is content this would cover any necessary liaison.
ECC-51	7. Comments on Draft DCO The Councils understand that the applicant is updating the dDCO in response to the above comments, ECC will respond further at Deadline 8. The Protective Provisions are in the process of being agreed between ECC and Five Estuaries. The version as set out in the draft DCO, whilst well-developed, is still the subject of agreement between ECC and VE and may be subject to change.	Discussions on the protective provisions are ongoing and any updates agreed will be included in the dDCO submitted at D8a.
ECC-52	Update on REP5-088 Noise Complaints Protocol (ISH6 Action Point 12)  ECC are working with the Applicant to finalise an updated tripartite noise complaints protocol with two other developers, North Falls and National Grid.	An updated version of 10.36 Onshore Substations Operational Noise and the Outline Noise Complaints Protocol – Revision B [REP7-080] was provided in draft to ECC prior to being submitted at Deadline 7.



# 3. MARINE MANAGEMENT ORGANISATION – COMMENTS ON DEADLINE 7 SUBMISSIONS [REP7-097]

Ref	Summary of Deadline 6 submission OR Excerpt of Deadline 6 submission	Applicant's response
MMO-01	Any reference to Schedule 10 also refers to any similar condition within Schedule 11 unless otherwise stated.	This is noted by the Applicant.
MMO-02	Marine Mammal Monitoring  The MMO notes the amendment made to Schedule 10, Part 2, Condition 19 (1) and (2) where clarification is made to state 'four of the first 12' and 'the first of the four of the first 12 piled foundations of each piled foundation type piled foundations monitored in accordance with sub-paragraph (1)'. The MMO welcomes the clarification.  The MMO notes the amendment made to Schedule 11, Part 2, Condition 20 (1) and (2), clarifying 'four of the first 12' and 'of the first piled foundation monitored in accordance with sub-paragraph (1)'.  The MMO would highlight that other windfarms in reviewing the monitoring plans have agreed to monitoring the worst-case scenario piles post consent, so this is possible. However, noting the Applicant's comments the MMO would welcome a commitment within the monitoring plan to ensure the piles monitored are of those that represent the maximum hammer energy.	The Applicant agrees that there are locations where the expected ground conditions may be harder and hence such locations can be pre identified as "worst case". However, in practice if there is a hammer breakdown at a location that is not one of these "worst cases" then the hammer energy needed at that location may be higher than the location that is pre identified as "worst case" but doesn't have a hammer breakdown.  The Applicant expects that the variation in the hammering profiles at the site will likely be very low; this will be confirmed in detailed design once the location specific site investigation is conducted. Once this information is available the Applicant proposes to agree with the MMO the locations that will be monitored prior to construction.
MMO-03	Navigable Depth  The MMO notes the amendment to Schedule 11, Part 2, Condition 4 (3) to include 'other than in areas shown shaded yellow on the Deep water Route Cable Installation Area (Future Dredging depths) plan where navigable depth may not be reduced to any extent'.  The MMO notes that no other changes to conditions in the deemed Marine Licences (DMLs) have been made.  The MMO has been in discussions with the Port of London Authority in relation to the ongoing areas of disagreement and has requested updates to the DML to align with the DCO.  The MMO requests the following definitions are added to Schedule 11, Part 1, 1(1): "Area of Interest" means the areas shown shaded in yellow on the Deep Water Routes Cable Installation Areas (Future Dredging Areas) plan, encompassing the cable corridor crossings of the Deep Water Routes "The Deep Water Routes Cable Installation Areas (Future Dredging Areas) plan" means the document certified such by the Secretary of State for the purposes of this Order under article 44 (certification of plans etc.);	The area of interest (AoI) does not need to be defined. The AoI was a placeholder definition in the PLA draft PPs which has been superseded by areas shown shaded yellow on the 10.51 Deep water Route Cable Installation Area (Future Dredging depths) plan [REP6-055]. It would only add an unnecessary definition to define the AoI to mean the areas on a certified plan rather than just refer to that plan.
MMO-04	The MMO requests that the Port of London Authority is added to the list of organisations for Schedule 11, Part 1, 1(4).	The PLA will be added to the list of organisations at Deadline 8a.



Ref	Summary of Deadline 6 submission OR Excerpt of Deadline 6 submission	Applicant's response
MMO-05	The MMO requests that the following is added to Condition 3 (3):  (3) That any part of Work No.2(c), any associated development or ancillary works located within the Sunk and Trinity Deep Water Routes, as shown shaded yellow on the Deep Water Route Cable Installation Area (Future Dredging depths) plan must be installed or placed and thereafter maintained, operated and decommissioned to a level which would not impede the dredging of those parts of the Sunk and Trinity Deep Water Routes:  (i) shown shaded in yellow and outlined in a bold black line (and labelled Sunk Area A (22m CD)) to a level of 22 metres below Chart Datum;  (ii) shown shaded in yellow and outlined in a blue dotted line (and labelled Trinity (22m CD)) to a level of 22 metres below Chart Datum; and  (iii) shown shaded in yellow and cross hatched in orange (and labelled Sunk Area B (19m CD)) to a level of 19 metres below Chart Datum.];  (iv) and in all cases (i) to (iii) makes allowance for an 'over-dredge' in addition to the stated depths attributable to standard dredging methodology	The Applicant does not consider the additional wording necessary, as it is implicit in the primary commitment and is too imprecise to be conditioned. The need to consider over-dredge is set out in the CSIP [REP7-040] and it is in the detailed management plans that this reference best sits.
MMO-06	The MMO requests that Condition 4(3) is updated to the following:  (3) In undertaking activities under condition 4(2) (f), ), other than within the areas shown shaded yellow on the Deep Water Route Cable Installation Area (Future Dredging depths) plan where navigable depth may not be reduced to any extent, the undertaker must not reduce water depth by more than 5% unless agreed with the MMO in writing following consultation with the MCA.	The Applicant included this in Schedule 11 of the dDCO at Deadline 7 [REP7-008]. It does not apply to Schedule 10 (Generation Assets) as the Deep Water Routes are only within ECC.
MMO-07	The MMO requests that the PLA is added as a consultee to the following conditions in Schedule 11, Condition 4 (4), 7 (9-15), 8 (2) and Condition 16.	The Applicant's position is that where a party is only relevant or interested in a part of an approval, it is imprecise and inappropriate for them to be a named consultee for the whole condition. This is particularly the case where there may be other, non-named, consultees who have equal or greater interest in a particular condition, and could therefore be seen to be disadvantaged or in 'lesser' in terms of their responses or engagement. The PLA have a stated interest in the Deep Water Route areas, however these occupy a small portion of the whole Export Cable Corridor, with many other relevant stakeholders with whom the Applicant will engage with during the development of plans in the discharge of conditions who are not (and do not need to be) expressly listed in the dML. It is unclear why the PLA, who have no statutory responsibilities or jurisdiction over these areas, should be named when other consultees with greater or equal interest, are not.  Condition 4(4) — Operations and Maintenance Plan. This plan will primarily consider the activities associated with the operation of the wind farm, with maintenance activities in the ECC being limited to unplanned maintenance activities such as cable repair.  The Applicant is content to add the PLA to those parties notified under Conditions 7(11-15) with the exception of Condition 7(13) - To include the PLA in the condition would be duplicating already agreed notifications within the protective provisions.
		deployment of aids to navigation which pertains solely to Trinity



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		Condition 16 relates to specifically to the following MCA guidance and producing an emergency response co-operation plan (ERCoP). The ERCoP relates to the emergency response within the turbine array. The Applicant queries whether the MCA have agreed to the inclusion of the third party in this condition and at this time does not consider it appropriate to add a consultee to this condition when it relates specifically to compliance with the MCA's own guidance.
MMO-08	The MMO requests that Schedule 11, 13 (1), (1)(a) and (g) is updated to include the following text:  13.—(1) The licensed activities for each stage of construction of the authorised development must not commence until the following (insofar as relevant to that activity or stage of activity) has been submitted to and approved in writing by the MMO, in consultation with, where relevant, Trinity House, the MCA, and UK Hydrographic Office and relevant SNCB and in the case of Work No 2(c) or works within the Area of Interest the PLA —  (a) A design plan, prepared in accordance with the offshore project design principles document at a scale of between 1:25,000 and 1:50,000, or in such other format as may be appropriate, including detailed representation on the most suitably scaled chart, which shows for the relevant stage—  (i) the proposed location, including grid co-ordinates of the centre point of the proposed location for each offshore substation platform, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions discovered post approval under this condition and choice of foundation types for all offshore electrical installations;  (ii) the dimensions of all offshore electrical installations to be installed, including any antennae;  (iii) the length, depth and arrangement of cables comprised in Work Nos. 2, 2A and 3 including cable crossings;  (g) a cable specification and installation plan, to include—  (i) technical specification of offshore cables (including fibre optic cable) below MHWS within that stage, including a desk-based assessment of cables burial depth in accordance with good industry practice;  (ii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment demonstrating compliance with condition 3(3) above in the case of cable protection within the Area of Interest and otherwise encompassing the identification of any cable protection exceeding 5% of navigable depth referenced	<ul> <li>The Applicant does not agree with this amendment for the following reasons:</li> <li>13(1)(iii) Depth relates to burial under the seabed not the installation level and is therefore imprecise, will not be known with certainty at this stage, and is already considered in the CSIP condition. The installation level is also only of relevance for compliance to the deep water route areas, not the vast majority of the ECC to which this condition relates, and is already covered by Condition 13(1)(g)(ii).</li> <li>13(1)(iii)The design plan is to determine compliance with the design parameters and works descriptions. Location of cable crossings is not a design parameter, and therefore there is no 'compliance' to be discharged through the design plan.</li> <li>13(g) It is not clear why the Applicant's wording of 'which accords with' is insufficient, however the proposed wording does not make any practical difference.</li> <li>13(g)(ii) A burial risk assessment will not demonstrate compliance with condition 3(3) as it does not determine the installation level of the cables. The Applicant has explained in previous submissions that a burial risk assessment is an assessment of risk to the cable and provides an input into the target burial depth (not installation level) along the ECC. It is one consideration amongst many informing the cable installation. Further, it</li> </ul>



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MMO-09	The MMO notes that the PLA requested an update and addition to Condition 13 (1)(g) and understands as the	is unnecessary and confusing to duplicate the clear commitment of installation levels in Requirement 2(3) in this way. It is unnecessary to include PLA as a consultee in this instance that cable protection may exceed 5% of navigable depth because the Applicant has already committed to not reducing navigable depth in this area, so this circumstance does not arise.  • 13(g)(iii) There is no 'depth' of cable protection therefore this wording does not make sense in this context.  This is noted by the Applicant.
WING 03	definition is now included that only one cable laying plan is required. The MMO is content either way as long as it is clear the cable laying plans would be different and not cover the same areas, to reduce the duplication.	This is noted by the Applicant.
MMO-10	In accordance  The MMO would also ask that Condition 13 (1) is consistent – sometimes the wording states, 'in accordance with the outline plan' and sometimes states 'which accords with the principles set out in the outline plan'. The MMO believes that this should always be 'in accordance with' and requests Condition 13 (i, j, k and l) are updated accordingly.	The differences in drafting are deliberate. For example the O&M plan is required to comply with the relevant principles in the OCSIP to address IP concerns about the deep water route cable crossing areas. The O&M plan cannot be in accordance with the oCSIP as that outline is for a different plan.
MMO-11	Decommissioning  The MMO notes that decommissioning activities have not been fully considered the MMO requests an outline decommissioning plan to be part of the consenting process. The recently published guidelines by Offshore Energies UK (OEUK, 2024) for 'Designing for Decommissioning of Offshore Wind' states that: "Assets should be designed to be decommissioned with a technology available at the time of commissioning".  The MMO notes Examining Authority for Five Estuaries Offshore Wind Farm Limited (project EN010115) has requested from the Applicant that: "Decommissioning is required to be assessed in order that the Examining Authority (ExA) and Secretary of State can have regard to the likely significant effects of the whole project over its lifecycle in making a recommendation and determination."  This can be achieved by following the OEUK 'Designing for Decommissioning of Offshore Wind' guidelines and assessing decommissioning based on available technologies now and not in the future.  The MMO understands that there is a requirement for a decommissioning programme to be submitted to the Secretary of State (SoS) in Schedule 2, Requirement 19 (now 21), however believes that this information should be provided at this stage.  However, in noting the stage in Examination the MMO would welcome a commitment within the commitment register to review the initial decommissioning programme and all updated programmes prior to the submission to the SoS. The MMO notes the SoS does consults on the initial programme but would welcome earlier engagement to ensure all comments can be actioned prior to the approval by the SoS.	The 'guidelines' referred to by the MMO is a report produced by Offshore Energies UK (formally Oil and Gas UK), only available behind a paywall. The Applicant is not aware that this has been endorsed by government and as it is a non-publicly available document produced by a private organisation it is not a reasonable basis on which to inform the process for considering offshore decommissioning in the statutory context. The government has its own guidelines which the Applicant will follow in producing a decommissioning plan in line with the Energy Act 2004. As noted in REP6-045 at section 1.2, government Guidance, Decommissioning of Offshore Renewable Energy Installations under the Energy Act 2004 Guidance notes for industry (England and Wales) is very clear that "the intention is, for BEIS to provide a "one stop shop" in relation to decommissioning of [offshore renewable energy infrastructure]" and the Applicant does not consider it appropriate to interfere with that process.  Furthermore, the Applicant would need to seek a separate marine licence to complete decommissioning, which will be applied to via the MMO and, therefore, they will be consulted at this time.
MMO-12	Condition 6 Notifications and Inspections  The MMO requests that for Schedule 10, Part 2, Condition 6(7) the notification is updated to 14 days. This is to	The Applicant will accept the changes requested.
	allow coastal officers to have enough time to prepare and arrange coastal compliance inspections. This has been	



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	requested to be updated on all Marine Licences and all DMLs going forward and the MMO would note that the Applicant's programme of works will allow enough time for these notifications to be issued within the updated timescales. To assist with planning and resources this earlier notification would be welcomed even if any changes should occur to the activity start date.	
	The MMO has recently had a meeting with Kingfisher and requests that Schedule 10, Part 2, Condition 6 (8), has a minor update and is updated to (8) The Kingfisher Information Service of Seafish must be informed of details of the vessel routes, timings and locations relating to the construction of the authorised scheme or part thereof by include the information in a notice via their portal (https://kingfisherbulletin.org/submit-notice) and sent to kingfisher@seafish.co.uk—  (a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and (b) as soon as reasonably practicable and no later than 24 hours after completion of the authorised scheme and confirmation of notification must be provided to the MMO within five days.	
MMO-13	Condition 22 Marine Noise Registry (MNR)	The Applicant has reviewed the application of this condition and considers that its drafting is entirely consistent with other projects
	The MMO notes that in REP6-043, the Applicant does not agree with the updated condition.	including Hornsea 4 DCO, Norfolk Vanguard DCO, East Anglia Two DCO.
	The MMO would highlight that the MNR has been and is continuously being updated to enable access to noisy activities with the view to assist with the management of noisy activities, especially within the Southern North Sea Special Area of Conservation (SNS SAC).	For the reasons set out in 10.43 Applicant's Comments on Deadline 5 Submissions [REP6-043], the Applicant maintains its position.
	The MMO has liaised with the Joint Nature Conservation Committee (JNCC) and requests that Condition 22(1) is updated to the condition set out in REP4-052.	position
	Part (a) ensures that there is a lead in time to enable all parties to understand what activities could be taking place in the following year, part (b) allows these activities to be updated when the programme has been refined to make sure any one utilising the information has the most up to date information. The MMO would highlight the information would be known as part of the submission of the SNS SAC SIP and therefore does not believe it is burdensome.	
	Part (c) allows for the recording of the activities and understands that this information has been provided earlier than the 12 weeks by many developers to date. This information is essential to enable review and reporting of the information as soon as possible. The MMO would note that 12 weeks may still be an option dependant on when the activities are completed.	
	The MMO would also highlight that reporting may change further to live or daily reporting. This is still in development as part of the MNR upgrades and at this stage the MMO believes that the updated timeframes in the requested condition are appropriate at this time.	
	The requested condition is the standard condition across all developments not just offshore windfarms and this should be included in the DMLs.	
MMO-14	Condition 11 Force Majeure	The Applicant concurs that the position is unlikely to agreed. The Applicant maintains its position as set out in 10.43 Applicant's
	The MMO notes that in REP6-043, the Applicant comments that they disagree with our position on Force Majeure.	Comments on Deadline 5 Submissions [REP6-043].
	The MMO still maintains its position. Currently the condition does not meet the five tests as set out in the National Planning Policy Framework, which the MMO explained the reasons in REP5-100. For Marine Licences, if a condition does not meet the five tests, then that condition cannot be included. Therefore, the MMO disagrees and requests the condition be removed from the DMLs.	



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	The Applicant's response still does not refute that the use of 'any other cause' is a very broad statement. Conditions must be precise, which currently using this term, it is not precise and could cover anything.  As previously stated, the MMO has consistently challenged provisions of this nature in draft DCOs as the existing statutory procedure is to be preferred to mitigate risk on all parties by using established mechanisms. For instance, the MMO has contested this in the recent Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm (OWF) DCO, Rampion 2 OWF DCO, Immingham Green Energy Terminal DCO and the Immingham Eastern Ro-Ro Terminal. The MMO is also contesting these provisions in draft DCOs that are currently undergoing examination such as Morgan Generation DCO and Outer Dowsing DCO. Therefore, precedence should not be a reason the Secretary of State allows the provision.  The MMO highlights that this issue is not agreed and will not be resolved during examination.	
MMO-15	Article 5 Transfer of Benefit of the Order  The MMO notes the Applicant's position as stated in REP6-043. The MMO still disagrees and maintains our position that this provision should not be included.  The MMO has pushed back on the inclusion of this provision for many of the DCOs and has continued to do so during the recent DCOs undergoing examination.  With regards to Transfer of Benefit being included in other DCOs and setting a precedent, the MMO considers that this does not mean the provisions that are in other orders should be repeated here, especially if there is good reason why they should not be included. The MMO had model provisions, however we have moved away from them now as our stance has changed, and we have provided our reasoning why we are against this provision in REP1-0 and REP5-100.  The MMO also notes that it is not clearly explained within the Sheringham and Dudgeon Extension Recommendation report or Decision document on the inclusion of the Transfer of Benefit, Since this Examination the MMO has provided further representation and counsel comments.  The MMO does not believe precedent and consistency is reason alone to keep including the DML within Article 5.  The MMO highlights that further comments have been provided in Section 5 of this document. This issue is not agreed and will not be resolved during examination.	The Applicant concurs that the position is unlikely to be agreed. The Applicant maintains its position as set out in 10.4 Applicant's response to Relevant Representations [REP1-049] and 10.20.10 Technical Note - Onshore Cable Burial Depth [REP4-039].  The Applicant notes that the MMO's representations on this point are the same in substance to that made on other OWFs and which have been repeatedly considered by the Secretary of State and not supported in determination. The ability to transfer the benefit of the deemed marine licence was considered in detail in relation to the application for the Hornsea Four project where the MMO adopted a position similar to that set out in respect of this Application. The Secretary of State's decision accepted inclusion of wording which permitted the transfer of the deemed marine licence. The same provision as sought in this case is included in Article 5 of the granted Hornsea 4 DCO.  The Planning Act 2008 is clear that marine licences may be deemed in a DCO in appropriate areas (s149A) and that a DCO may include such further provisions ancillary to the operation of that deemed marine licence (s120(3)), including transfer along with the benefit of the other parts of the Order. It is inarguable from the wording of section 120(5)(a) and (c) that a DCO may "apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the order" or "include any provision that appears to the Secretary of State to be necessary or expedient for giving full effect to any other provision of the order". Deemed marine licences are clearly matter for which provision may be made in a DCO, section 72 MCAA 2009 is a provision relating to that deemed marine licence and the transfer power is accordingly authorised by \$120 of the Planning Act.



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		The ability to transfer the deemed marine licence is related to the deeming and is submitted to be a sensible, expedient part of the wider power to transfer the benefit of the order.
MMO-16	Condition 10(1) Chemicals, drilling, debris  The MMO requested for Condition 10(1) to be updated in REP5-100 to:  'Unless otherwise agreed in writing by the MMO, all chemicals and substances, including paints and coatings, used below MHWS for the undertaking of the licensed activities must be approved in writing by the MMO prior to use. Submission for approval to the MMO must take place no later than ten weeks prior to use, unless otherwise agreed by the MMO in writing.'  The MMO notes the Applicant's comments in REP6-043 (MMO-13), where the Applicant believes the offshore chemical regulations 2002(a) should be a point of reference for offshore wind and does not agree with the change of wording.  The MMO, after further review and comments in relation to the feasibility of the condition, requests for the condition to instead be removed and for Condition 12(1)(d) to be updated to the following:  (ii) a chemical risk assessment, including information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance and standards; (X) a chemical risk assessment for all chemicals that have a pathway to the marine environment used for the marine licensed activities, outside the course of normal navigation, and are not present on the OSPAR List of Substances Used and Discharged Offshore which Are Considered to Pose Little or No Risk to the Environment (PLONOR) including;  (ii) the function of the chemical,  (iii) the physical, chemical, and ecotoxicological properties.  Submissions for approval must take place no later than ten weeks prior to use.  This would also include adding the following definitions to the 'interpretation' section of the DML:  "pathway to the marine environment" open systems or closed systems that require top up.  "chemicals" comprise both substances and preparations.  "preparation" means a mixture or solution composed of two or more substances  "substance" means a chemical element and its compounds in the natural state or obtained by any	deeming and is submitted to be a sensible, expedient part of the
	Based on the best available evidence to date, the MMO aims to create a revised, consistent and thorough approach to chemical consenting for OWF. This should proactively avoid last minute delays and provide robust evidence regarding environmental impacts.	
	The current approach for consented OWF projects requires chemical information to be submitted in an inconsistent manner across different projects. This results in many chargeable hours from both the MMO and Centre for Environment Fisheries and Aquaculture Science (Cefas) for reviewing, assessing and requesting information from applicants.	



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Past DML's have referenced the Offshore Chemical Notification Scheme (OCNS) definitive ranked list of registered products (or otherwise incorrectly termed "approved list of chemicals") for offshore petroleum activities, stating that chemicals for use should be chosen from this list or consent sought where unable. However, the use of this list for offshore petroleum activities does not remove the need for approval and reporting, as such, the use of this list for OWF should also not remove the need for approval and reporting. Noting that the list contains chemicals considered to be a threat to the marine environment (Chemicals of Priority Action) (as reported by OSPAR), the list should not be relied upon for assumption of safe use. The MMO has reviewed this past way of working, alongside new available evidence and is proposing an improved process. The approach being sought through this new condition is explained below.

For all chemicals, written approval from the MMO must be obtained before their use, regardless of the risk of entering the marine environment. This is already standard practice and is conditioned by the requirement for a chemical risk

assessment to be submitted to and approved by the MMO before the licensed activities or any phase of those activities may commence (usually held within the pre-construction plans and documentation of the DML conditions, e.g. the Project Environmental Management Plan). The condition generally reads as follows "chemical risk assessment including information regarding how and when all chemicals are to be used, stored and transported in accordance with recognised best practice guidance and standards". For completeness, the MMO outlines that this should include information on chemical use including function (meaning what the chemical will be used for, e.g., use within engines, paint, degreaser), methodology, quantity, and frequency of use.

The MMO is proposing a change for chemicals with a pathway to the marine environment, where more information beyond the standard chemical risk assessment (above) is required.

A more detailed chemical risk assessment (CRA) should be provided for any chemical with a "pathway to the marine environment", this includes chemicals used in both open systems, and closed systems where "top-up" is required (i.e..

repeated use or maintenance). The CRA should include information on the physical, chemical, and ecotoxicological (bioaccumulation, biodegradability and aquatic toxicity) properties, and function of the chemical, alongside the quantities and frequency of use. This should be submitted to the MMO no later than 10 weeks prior to use. The review of this information and/or in consultation with Cefas, will allow the MMO to make a determination on an approval for chemicals use by a project.

The MMO is aware that concerns may be raised around the 10-week submission timescale proposed within the condition and provide the following justification. Based on the information intended to be assessed by Cefas obtained through this condition, the MMO has accounted for an 8-week-period for their review. The MMO further anticipates a 2-week period within which to review the submission, regard Cefas advice, and make a determination. This is deemed to be acceptable considering the current timeframes for which projects currently receive postconsent chemical discharges.

The definitions to be included within the consents pertaining to the new condition wording, come from the definition for 'chemicals', 'preparation' and 'substance' given within OSPAR Decision 2002/2 on a Harmonised Mandatory Control System for the Use and Reduction of the Discharge of Offshore Chemicals.

The MMO further includes clarity on where other regulations/ agreements exempt chemicals from this process.



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	This approach should exempt fluids used within gears and machinery (closed systems) from requiring a more detailed CRA, and disregards chemicals used on vessels and accommodation type chemicals (bleaches/toilet cleaners/grey water etc.), which are covered by alternative regulations.	
	As the OSPAR Commission considers that the substances on the "OSPAR List of Substances Used and Discharged Offshore which Are Considered to Pose Little or No Risk to the Environment (PLONOR)" pose little or no risk to the environment and that they do not normally need to be strongly regulated they have been exempted from the need for approval.	
	The MMO notes that the same CRA can be used for submission across both conditions, as long as they contain the necessary information and presented in a format allowing for clear distinction between the two requirements.	
	The MMO is committed to supporting all of the UK government's environmental goals, this includes both net zero targets and nature and biodiversity targets by promoting sustainable practices to protect and enhance the marine environment. This new condition enables both, by ensuring the proactive collection, assessment and management of evidence regarding chemical use post-consent.	
	This is the MMO's position and this has been set out in all current Examinations.	
MMO-17	Condition 10 (10) – Dropped Objects	The Applicant notes that this change has only been sought at a
MIMIO-17	The MMO previously noted that the MCA requested for Condition 10 (10) to be reworded to the following: 'All dropped objects must be reported to the MMO, UKHO and HMCG using the Dropped Object Procedure Form as soon as reasonably practicable and no later than 6 hours of the undertaker becoming aware of an incident. Immediate notification should be made to HM Coastguard via telephone where there is a perceived danger or hazard to navigation. On receipt of the Dropped Object Procedure Form, the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.'	very late stage of Examination The change sought is agreed by the Applicant is uncomfortable with the reasonableness of the MMO seeking substantive drafting changes at Deadline 7 with meaningful opportunity given to the Applicant or the ExA to que or challenge those.
	The MMO stated that we were reviewing this condition. The MMO proposes the following condition which is agreed with the Maritime and Coastguard Agency (MCA):	
	10 (10) (a) Debris or dropped objects which are considered a danger or hazard to navigation must be reported as soon as reasonably practicable but no later than six hours from the undertaker becoming aware of an incident, to the relevant HM Coastguard Maritime Rescue Co-ordination Centre by telephone (add number), and the UK Hydrographic Office email: navwarnings@btconnect.com.  (b) All dropped objects including those in (a), must be reported to the MMO using the Dropped Object Procedure Form (including any updated form as provided by the MMO) as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident, unless otherwise agreed in writing with the MMO.  (c) On receipt of notification or the Dropped Object Procedure Form the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the marine environment at the undertaker's expense if reasonable to do so.  The MMO is currently reviewing the Dropped Object Procedure and there is a potential of a change of wording to align with Marine Directorate - https://www.gov.scot/publications/offshore-renewables-accidental-deposit-of-anobject-at-sea-form-and-guidance/ (The MMO can PDF this webpage if requested by the ExA). This change	
	should not alter the requirement by the Applicant or any changes to the DML as (b) identifies what should be submitted, it would just be a change in wording.	



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	The aim of this update is to ensure that reports must be made no later than 6 hours after the incident has been discovered for more major 'deposits' i.e. those that may be hazardous to shipping and within 24 hours of the incident being discovered in all other cases. A defined list of major deposits cannot be provided due to the nature of the activity. If the Project is in doubt whether an object is a danger/hazard to navigation, then we would encourage them to assume it is and report it within 6 hours as per the condition.  The MMO notes that the current condition wording states 96 hours, this has not been the appropriate timeframe for a number of years as 24 hours is the standard. The MMO believes this change does not increase the reporting requirements as for major incidents/deposits the undertakers usually do contact the coastguard in less time than the 24 hours. All this updated condition is doing is ensuring it is clear for all parties on the expectations should an incident occur and does not believe this is burdensome.	
MMO-18	Materiality and Maintain	This is noted by the Applicant.
MMO-19	The MMO notes the Applicant's response to our comments on Materiality (REP5-100) in REP6-043. The MMO still disagrees with the Applicant however on this occasion has no further comments and considers this matter closed. The MMO still does not agree with Part 1 Paragraph 7 and the reference to Transfer of Benefit as per the	The Applicant maintains its position as above,
IVIIVIO-19	comments in Section 1.6 of this document.	The Applicant maintains its position as above,
MMO-20	Part 1, Paragraph 2a and Part 2, Condition 10 (5)— Disposal sites  The MMO is still reviewing updated information in relation to sediment and disposals. It is for the MMO to designate	The Applicant understands that the MMO has all the information they require to issue those.
	disposal sites and until the MMO is content the reference number cannot be provided to be included in the DML.  It is standard to have the disposal site reference number on the DML. The MMO is hoping the information provided by the Applicant satisfies the disposal site designation however proposes two options, one if the reference can be provided prior to the end of examination and one if not.	
	Should the disposal site reference be provided Paragraph 2a and Condition 10(5) should be updated to the following:	
	(a) the deposit at sea within the Order limits seaward of MHWS of the substances and articles specified in paragraph 4 below and within Work No. 1 when combined with the disposal authorised within the cable corridor disposal site by the deemed marine licence granted under Schedule 11 of the Order, of up to 24,556,610 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable installation preparation works within the array area disposal site reference XX;10(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation or seabed preparation for foundations, vessels or cables, and drilling mud is disposed of within disposal site reference XX within the Order limits seaward of MHWS.	
	Should the disposal site reference not be agreed prior to the end of Examination Paragraph 2a and Condition 10(5) should be updated to the following:(a) the deposit at sea within the Order limits seaward of MHWS of the substances and articles specified in paragraph 4 below and within Work No. 1 when combined with the disposal authorised within the cable corridor disposal site by the deemed marine licence granted under Schedule 11 of the Order, of up to 24,556,610 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable installation preparation works within the array area disposal site as approved in writing by the MMO;10(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation or seabed preparation for foundations, vessels or cables, and drilling mud is disposed of within the Order limits seaward of MHWS as approved in writing by the MMO.	



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MMO-21	Condition 13(3) – Determination dates	It is entirely reasonable and normal for discharging authorities to
	The MMO does not agree with the inclusion of a determination date for the MMO.	have time period within which they must determine a decision and notify the Applicant (subject to requests for further information or extension as agreed in writing). The proposed
	The MMO strongly considers that it is inappropriate to put timeframes on complex technical decisions of this nature. The time it takes the MMO to make such determinations depends on the quality of the application made, the complexity of the issues, and the amount of consultation the MMO is required to undertake with other organisations to seek resolutions. The MMO's position remains that it is inappropriate to apply a strict timeframe to the approvals the MMO is required to give under the conditions of the DML given this would create disparity between licences issued under the DCO process and those issued directly by the MMO, as marine licences issued by the MMO are not subject to set determination periods.	project is Critical National Priority infrastructure and therefore there is a clear policy need to progress in a reasonable timeframe. In providing 6 months for determination the Applicant would consider this to already be at the extreme of what should be considered reasonable in the context of CNP infrastructure, noting also that four months has typically been allowed for in determining offshore wind conditions.
	Whilst the MMO acknowledges that the Applicant may wish to create some certainty around when it can expect the MMO to determine any applications for an approval required under the conditions of a licence, and whilst the MMO acknowledges that delays can be problematic for developers and that they can have financial implications, the MMO stresses that it does not delay determining whether to grant or refuse such approvals unnecessarily. The MMO makes these determinations in a timely manner as it is able to do so. The MMO's view is that it is for the developer to ensure that it applies for any such approval in sufficient time as to allow the MMO to properly determine whether to grant or refuse the approval application.	
	The MMO would also question on what would happen should the MMO not make the approval within the six months approval period?	
MMO-22	Schedule 2 Requirement 1 – Time limits/Lifespan	The Applicant has previously addressed the issue of the lifetime
	The MMO has noted that on some offshore windfarms that the ES has not assessed a number of years during the Operation and Maintenance (O&M) phase.	of the project, whilst it is clear that the dML does not grant the power to repower or decommission the project, and therefore a further marine licence (and in all likelihood further environmental assessment) would be required for those activities.
	This is not the case for the Project. However, the MMO wanted to highlight to the ExA and SoS that there may be a benefit to including an end date of the O&M phase within the DCO and DML in relation to the lifespan of the project to ensure that it is clear that any repowering etc. would be subject to a new consent or variation. The MMO notes that Marine Licences have end dates for all construction and maintenance activities and there is a clear line when a new consent is required.	
	The MMO is still discussing a position internally and understands that it is too late to raise it with the Applicant but wanted to highlight to the ExA and SoS for consideration.	
MMO-23	REP6-020/021 – 9.12 Outline Cable Specification and Installation Plan - Revision C (Clean/Tracked)	This is noted by the Applicant.
	The MMO notes the updates have been made in relation to the outstanding concerns by the PLA and is content with the updates.	
MMO-24	REP6-022/023 – 9.15 Outline Southern North Sea Special Area of Conservation Site Integrity Plan - Revision B (Clean/Tracked)	This is noted by the Applicant.
	The MMO notes the changes made to REP6-023. In particular, the MMO welcomes the inclusion of the inclusion of the comments under Department for Environment Food and Rural Affairs (Defra) Noise Policy Paper in Section 4.3.	The Applicant has provided an update to the Outline Marine Mammal Mitigation Protocol – Piling – Revision D [REP7-044] at Deadline 7 in line with the Defra (2025) policy.
	The MMO would advise that although the update is 'VE will demonstrate that they have utilised best endeavours to deliver noise reductions for pile driving activity'. These updates should also be reflected in the outline MMMP.	The primary mitigation measure in the Outline Southern North Sea Special Area of Conservation Site Integrity Plan – Revision B [REP6-022] is the management of in-combination activities.



#### Ref Summary of Deadline 6 submission OR Excerpt of Deadline 6 submission

The MMO would also highlight that the SIP considers in-combination effects with other Projects which may have suffered technical issues and programme changes which may mean that Noise Abatement will be required to be certain that noise thresholds are not breached. Further commitment should be clarified now. The policy is not just for the Marine Protected Areas but is to reduce noise as a whole and this should be taken into account.

In addition to the above the MMO would also advise that 'best endeavours' relates to wildlife licensing for disturbance and injury to protected species. This is a different legal test than following policy and being below the SAC thresholds and the MMO would strongly advise that Noise Abatement Systems (NAS) will likely be required for all piling in the coming years.

The MMO is currently having ongoing discussions on whether to include a NAS condition within DMLs. At this stage the MMO has no condition to provide and no position to provide to the Examining Authority (ExA) but understands that Natural England is requesting this commitment on the face of the DML and would welcome further discussions should a condition be provided.

#### Applicant's response

Additionally, the Applicant will demonstrate that they have utilised best endeavours to deliver noise reductions through the use of primary and/or secondary noise reduction methods, which will reduce the Project's contributions to the SNS SAC thresholds.

The Applicant understands that 'best endeavours' relates to wildlife licencing for disturbance and injury, and this is a separate legal test that will need to be met. The Applicant is aware that the Defra (2025) policy specifically references wildlife licencing. The Applicant will undertake wildlife licencing at the post-consent stage.

Nonetheless, it is critical to understand that Noise Abatement Systems, which typically are assumed to be external measures, are only one form of noise reduction, and that they may not be suitable for all projects in all locations, water depths and metocean conditions. Other noise reduction technologies such as Noise Mitigation Systems must be allowed to be considered where they are likely to provide a safer, more efficient and effective approach to noise reduction. In this regard achieving better outcomes for both project delivery and providing effective mitigation for noise impacts requires more nuanced consideration than a blanket, undefined requirement for NAS. The Applicant has committed to demonstrating those considerations in both the MMMP and the SIP.

#### MMO-25

REP6-028/029 – 9.32 Offshore In Principle Monitoring Plan - Revision C (Clean/Tracked)

The MMO welcomes the updates and notes there were changes to multiple sections.

The MMO defers to Natural England in relation to Ornithology and Bats.

The MMO defers to MCA and TH in relation to shipping and navigation monitoring.

The MMO welcomes the updates to clarify the monitoring that can be used by the commercial fisheries interested parties to review the impacts and will provide our specialist comments to the Applicant on 7 March 2025.

The MMO defers to Historic England in relation to Offshore Archaeology.

The MMO is reviewing the updates in relation to Coastal processes and Benthic matters and will provide our specialist comments to the Applicant on 7 March 2025.

The MMO notes that no update in relation to our comments in Section 2.5 of REP6-063 has been provided and would request that the following sentence is added to the plan, reference to the current standards should also be made.

The project referred to by the MMO is noted, however the Applicant considers it unreasonable to commit to following guidance that it has not had sight of and which is still being developed.



D. C		A college (for consequent)
Ref	Summary of Deadline 6 submission OR Excerpt of Deadline 6 submission	Applicant's response
	'The Applicant will give consideration to the MMO Standardisation of Offshore Wind Post-Consent Monitoring,	
	forthcoming, to ensure that any standards or best practice is adhered to.'	
MMO-26	REP6-035/036 – 10.12 Marine Plan Policy Assessment - Revision D	This is noted by the Applicant.
	(Clean/Tracked)	,
	The MMO notes the update to the Marine Plan Policy Assessment to include a figure of the marine plan	
	boundaries. The MMO welcomes this inclusion.	
MMO-27	REP6-043 – 10.40 Applicant's Comments on Deadline 5 Submissions	The Applicant has received the comments from MMO on Friday 7
IVIIVIO-21	NET 0-045 - 10.40 Applicant's Comments on Deadline 3 Submissions	
	The MMO addresses same of the comments made by the Applicant relating to the DMI a in Caption 1 of this	March 2025 and will respond at Deadline 8a if necessary.
	The MMO addresses some of the comments made by the Applicant relating to the DMLs in Section 1 of this	
	response.	
	The MMO notes the Applicant's comment for MMO-16. The MMO provided further comments on some requested	
	MCA conditions in our Deadline 6 response (REP6-063). The MMO agrees with all the updates requested by MCA	
	and has provided further comments on the main dropped object condition in Section 1.8 of this response.	
	The MMO notes outstanding issues relate to disposal sites and fisheries.	
	The MMO would highlight that these are major concerns and is not confident these issues will be agreed prior to	
	the close of examination. The MMO will provide a response to the Applicant 7 March and closing position to the	
	ExA on 8 March 2025.	
MMO-28	REP6- REP6-045 - 10.41 Applicant's Summaries of Oral Submissions - ISH6, CAH3 and ISH7	This is noted by the Applicant.
IVIIVIO-20	The orter orotor roll applicants outlinances of oral outlinessions - for to, out to and for the	This is noted by the Applicant.
	The MMO notes the Applicant's comments regarding a meeting with the MMO for the DML not being arranged. The	
	MMO would like to highlight that due to resourcing this has not been able to occur and did request meetings were	
	adequately planned in advance of Examination beginning. The MMO provided further comments on the DML in	
	REP5-100 and have clarified the position in Section 1 and 5 of this document. The MMO agrees the concerns	
	regarding Force Majeure and Benefit of the Order are not agreed and will remain that way at the end of	
	Examination.	



# 4. HISTORIC ENGLAND – EXQ3 RESPONSES [REP7-095]

Ref	ExQ3 Question	Historic England Response	Applicant's response	
HE-01	Impacts on Sediments and Geoarchaeological Potential Item HE04 in the 'draft/unsigned' Statement of Common (SoCG) between yourself and the Applicant [REPS-058] indicates that you consider there is potential for significant impacts on preserved poleochonnels and deposits with high geoorchoeologica/ potential?  During Issue Specific Hearing 6 (/SH6) the Applicant advised that the surveys done to dote are engineering investigations and not pre-construction surveys.  With this in mind, what further investigations and evaluation do you consider necessary and proportionate at this stage?	HE Response 03/03/2025 The Environmental Statement (ES) prepared for this proposed project (dated March 2024) Volume 6, Chapter 11: Offshore Archaeology and Cultural Heritage (PINs Examination Ref: APP-080) states that no offshore geotech nical surveys have been undertaken for the project (see paragraph 11.6.8).  We recommend therefore that any such survey should be commissioned post consent (subject to authorisation). We have listened to the response offered by the Applicant at ISH6 (held 22nd January 2025) and that reference is made to the commissioning of geotechnical survey to assist engineering investigations. We acknowledge that that the Applicant contacted us on 3rd September 2024 regarding a geotechnical campaign to be conducted between September and November 2024. We also acknowledge that the Applicant supplied us with an archaeological method statement (Geotechnical Campaign 2024, Document Reference N/ A; Revision 1.0; Date 3rd September 2024), to which we responded on 5th September 2024. It was explained by the Applicant that a maximum of twelve boreholes to a depth of approximately 80m below the seafloor were to be obtained from within the proposed Array Area.  We appreciate that the Applicant has stated that the primary purpose of this survey was to assist engineering design. In response to your question about what further investigation and evaluation we await further correspondence from the Applicant to explain if material produced by the 2024 geotechnical survey has been assessed, as described within the above refenced method statement, and how this analysis could benefit the planning and design of any subsequent survey campaigns. We consider there to be sufficient information presented at this stage i.e. within the DCO application, to demonstrate the importance of archaeological advice informing any post consent and pre-commencement survey campaigns. If geotechnical surveys are to occur post consent, then, in accordance with the (draft) deemed Marine Licences, geoarchaeological assessments shoul	The Applicant acknowledges the importance of including offshore geotechnical surveys with archaeological objectives and intends to include these in the surveys commissioned post-consent and preconstruction, as described in Volume 6, Chapter 11: Offshore Archaeology and Cultural Heritage [APP-080] and secured through the WSI (Volume 9, Report 19: Outline Written Schemes of Investigation) – Revision C [REP4-024].  In line with the mitigation measure for the archaeological assessment of available data the cores collected for engineering purposes will be assessed to determine if they are of archaeological interest, and all available data will be used to inform the positions recommended for archaeologically specific sampling. These positions and the archaeological objectives will be discussed and agreed with Historic England prior to survey commencement.	



		Written Schemes of Investigation. PINs Examination Ref: APP-251).	
HE-02	Item HEOS in the 'draft' unsigned' SoCG [REPS-058] indicates that you consider nine geoarchaeological cores are insufficient in relation to the size and complexity of the project. Similarly, as above the Applicant, in ISH6, indicated that these were engineering surveys rather than wider archaeological surveys.  What further information/ investigation do you consider is required and at what stage?	Response The most important stage for any further geoarchaeological analysis and assessment to occur is post-consent (should permission be obtained) and pre- commencement to inform project design and delivery. The important detail regarding potential impact to the historic environment and any subsequent survey programmes relates to the depth of seabed penetration, for example, for monopiles this could be 68 m (diameter up to 15 m), for suction caisson foundations 25 m penetration and 40 m diameter and for Gravity Base System (GBS) foundations, with base diameter of up to 55 m (as described within ES Volume 6, Chapter 1: Offshore Project Description. PINs Examination Ref: APP-069). From our perspective it is the depth and area of seabed excavation that indicates the greatest possible direct impact to archaeological materials on, within and beneath the contemporary seabed; either within the array areas or ECC. It is our advice that geoarchaeological analysis of marine geotechnical survey material is necessary and we appreciate the previous identification of potential geotechnical survey material is necessary and we appreciate the previous identification of potential geotechnical survey material is necessary and we appreciate the previous identification of potential geotechnical survey material is necessary and we appreciate the previous identification of potential geotechnical survey material is necessary and we appreciate the previous identification of potential geotechnical survey material is necessary and we appreciate the previous identification of potential geotechnical survey programme, that would be used to inform any subsequent phases of project delivery. This is as alluded to in paragraph 4. 11.5 within ES Volume 9, Report 32 Offshore In-Principal Monitoring Plan (PI Ns Examination Ref: APP-265). We accept that any geoarchaeological analysis should follow any Development Consent Order (DCO) decision in accordance with the provisions with in the (draft) deemed Marine Licences contained within the DCO. The	Offshore geotechnical campaigns undertaken preconstruction will be subject to full archaeological review, where relevant in consultation with Historic England. Specialist archaeological input will be incorporated, as a proactive measure, into the survey methodologies and techniques to enhance the potential for quality data that will increase the palaeogeographic understanding of the area.  Areas with geoarchaeological potential will be targeted during the geotechnical campaign and results published to build on the understanding and deposit model of the area.  The locations of archaeologically specific cores will be informed by previously collected data such as geophysical surveys and other records and will be discussed and agreed with Historic England prior to survey commencement.



HE-03	Draft Development Consent Order Items HE02 and HE09 of the 'draft/unsigned' SoCG [REPS-058] indicate ongoing discussions between the	necessary to inform project delivery planning, such as described within paragraph 6.8.7 of the Outline Marin e Written Schemes of Investigation (as referenced above).  Response Significant progress has been made with regards to revisions of the Onshore archaeology (Requirement 9).	The Applicant has been in discussions with Historic England and ECC County Archaeologist on the drafting of the AMS and is content the version of the AMS submitted at Deadline
	Applicant and Historic England in relation to the wording for Condition 13(2) of Part 2 of Schedule 11 and Requirement 9(1) of the draft Development Consent Order.  Advise on whether any progress is being made to agree wording within the dDCO and the likelihood of the matters	The most recent revision was received from the applicant this morning (03/03/2025), and this latest version reflects progress being made on the drafting of Archaeological Mitigation Strategy (AMS) and revised WSI.  It is anticipated agreement will be reached on the final	8 addresses the comments raised here and is agreed by all parties.  The Applicant has not included "and Essex County Council" at the end of condition 13(3). The Applicant notes Essex
	that were unresolved at Deadline 5 being resolved before the Examination's close.	version and this will be communicated with the ExA via the SoCG. The DCO wording at Section 11.2 within Volume 6, Chapter 11 (Offshore Archaeology and Cultural Heritage), acknowledges the curatorial responsibilities for Historic England, as seaward of Mean Low Water Springs (MLWS), and Essex County Council landward of MLWS. However, it is usually the case that local authority	County Council (ECC) is the discharging authority for the onshore works and their interest ends at low water and they have no remit for the considerable majority of the licenced works. Any impact to the intertidal area is already covered by necessary approvals under Requirement 9 and the associated control documents, should there be any intrusive works there. The Applicant does not consider it necessary to add that the MMO can consult the ECC under this DML
		jurisdiction (e.g. Essex County Council as the local curator) will be landward of Mean Low Water (M LW) not MLWS.  We do however consider it a matter for the Applicant to confirm whether any works to deliver this proposed	condition, in the same way that the MMO is not listed as a consultee to the onshore WSI requirement.
		project will occur within any intertidal area within the boundary of Essex County. If this is the case, then the Draft Development Consent Order (P INs Ref: REPS-008 - track changes) in Schedule 11 (Deemed marine licence - Transmission Assets) that Condition 13(2) should be	
		amended to: "Subject to condition 13(3), the licensed activities or any relevant stage of those activities must not commence unless no later than six months prior to the commencement a marine written scheme of	
		archaeological investigation for the stage in construction has been submitted to and approved by the MMO in writing, in accordance with the outline marine written schemes of investigation, and in accordance with industry good practice, in consultation with the statutory historic body and Essex County Council."	



## 5. NETWORK RAIL – RESPONSE TO EXQ3 [REP7-111]

Ref	Summary of Deadline 6 submission OR Excerpt of Deadline 6 submission	Applicant's response
NR-01	DCO.3.09 Protective Provisions  With respect to negotiating Protective Provisions, advise on what the current position is with respect to agreeing a set of Protective Provisions in your favour with the Applicant. Where there is disagreement with the Applicant explain why that is the case and where any disagreement relates to matters of detailed drafting submit the version of your preferred text.	Discussions on the protective provisions are ongoing and any updates agreed will be included in the dDCO submitted at D8a
	NR Response:  NR has commenced discussions with the Applicant with regards to the inclusion of NR's standard protective provisions and copies of such have been provided to the Applicant.  Discussions with the Applicant are ongoing and the parties will confirm the position on the form of Protective Provisions to be placed on the Order in due course.	



# 6. NATIONAL HIGHWAYS – RESPONSE TO EXQ3 [REP7-100]

Ref	Summary of Deadline 6 submission OR Excerpt of Deadline 6 submission	Applicant's response
NH-01	Pursuant to the Examining Authority's third Written Questions (ExQ3) published on 3 February 2025, specifically Question TT3.02, "Projects considered within cumulative assessment of traffic", I can confirm that, from National Highways' perspective, 'the projects set out in Section 8.12 of the Traffic and Transport Chapter of the Environmental Statement (ES) (current draft version of which is found at Appendix 3 of the Applicant's response to ISH3 Action Points [REP3-023]) can be treated as a finalised list of projects scoped in or out of assessment at the close of this Examination.	This is welcomed and noted by the Applicant.
NH-02	In addition, National Highways is able to provide an update to the ExA on Action Point 6, which arose at Issue Specific Hearing 6, relating to the capacity of the A120's junctions east of the B1035 (Horsley Cross). The Applicant has updated the Outline Construction Traffic Management Plan (OCTMP) as follows,  "Should, once appointed, the Principal Contractor(s) identify the requirement for vehicle movements through the A120/ Parkeston Road or A120/ B1352 roundabouts that would result in greater than 30 two-way vehicle movements at either junction, during a highway network peak hour the Principal Contractor(s) will discuss with NH the requirement for any supporting junction capacity assessments and/ or the need for mitigating measures, before greater than 30 twoway vehicle movements can be permitted."  The inclusion of this measure in the oCTMP effectively ensures that the capacity of the junctions is not breached without appropriate mitigation measures being implemented.  Further, the Applicant's transport consultants have provided us with the modelling work they have undertaken on the impact of construction traffic at three junctions on the A120 (A120/ Bentley Road, A120/ B1035 (Horsley Cross Roundabout) and A120/ Harwich Road). We will be able to provide a definitive response at Deadline 8 on those junctions' capacity regarding construction traffic movements.	This is by the Applicant.
NH-03	In respect of the remaining areas of disagreement between National Highways and the Applicant;  1. The Protective Provisions are now resolved with the exception of the clause relating to compulsory purchase, which remains unacceptable to National Highways. We are working with the Applicant to expedite a series of Land Agreements which we hope will enable the clause to be removed.  2. Whilst we believe that the Abnormal Indivisible Loads (AILs) issue is resolvable, we are awaiting the Applicant's proposals for mitigating the risk of damage to the road surface to provide sufficient assurance that this can be managed.  In summary, we have managed to resolve most of the areas of disagreement between ourselves and the Applicant and will continue to work with them to settle the remaining matters where possible before the close of the Examination.	This is welcomed and noted by the Applicant.  The Applicant has set out its position on the not agreed point in REP7-090 (10.62 Note on dDCO Drafting - Applicant's Position on Protective Provisions). The Applicant is also keen to progress the voluntary land agreements with National Highways and work is ongoing on that.  The Applicant has submitted a revised information to National Highways that includes proposed mitigation options.



## 7. PORT OF LONDON AUTHORITY

## 7.1 RESPONSE TO EXQ3 [REP7-113]

#### Ref **EXQ3 Question PLA Response Applicant's response** PLA-01 **Protective Provisions** The PLA, London Gateway Port Limited and the Applicant met The Applicant provided its comments in relation to on the 5 and 24 February 2025 to discuss offshore protective protective provisions in 10.62 Note on dDCO drafting -With respect to negotiating Protective Provisions, advise on what the current position is with respect to provisions for the benefit of the PLA. Unfortunately, it was not Applicant's position on Protective Provisions [REP7-090]. agreeing a set of Protective provisions in your favour possible to reach agreement in full on the protective provisions with the Applicant. Where there is disagreement with but the parties were able to make significant progress in the Applicant explain why this is the case and where narrowing the scope of the areas of disagreement. The PLA any disagreement relates to matters of detailed drafting have attached their preferred protective provisions at appendix 1. The areas of disagreement relate to: submit the version of your preferred text. **Approvals** (1) Approval of the Cable Specification and Installation Plan ("CSIP"), Navigation and Installation Plan ("NiP") and Operations and Maintenance Plan ("O&MP") - The Applicant's preferred drafting would see the Applicant consult the PLA on the CSIP and NiP in so far as the CSIP and NiP relates to any specified work within the Area of Interest. The PLA's preferred wording would see the PLA approve the CSIP and NiP in relation to any specified work within or which may affect the Area of Interest before they are submitted to the MMO for approval for the reasons explained below (Paragraph 3(1)(a) and (b)). Any approvals or consultation referenced in paragraph 3 must be in connection with any specified work not only within the Area of Interest (i.e the areas shown shaded in yellow on the Deep Water Routes Cable Installation Areas (Future Dredging Areas) plan, encompassing the cable corridor crossings of the Deep Water Routes ("DWRs") but also any specified work that may affect the Area of Interest. Adjoining works could also impact the Areas of Interest depending on the nature of those works. - The PLA acknowledges that it has since deadline 6 added in a requirement to approve the O&MP (paragraph 3(c)). This is as a result of the comments of London Gateway Port Limited at deadline 6 (REP6-080) which highlighted that maintenance of the authorised development also falls within the scope of the O&MP and that maintenance works that are covered by that plan include cable remedial burial; cable repairs and replacement and cable protection replenishment. The PLA must have certainty that whatever plan the applicant is working to that the necessary requirements in relation to the DWRs are being met. - Given the potential for significant impact on the Port of London which is the largest Port in the Country; the extensive comments that the PLA have made on the oCSIP and oNiP throughout the examination and the changes that been made to these documents as a result of the PLA's input, it is clear



that the PLA has an important role in ensuring that CSIP, NIP and O&MP are fit for their intended purpose.

- Outline documents have been submitted to the examination and whilst the PLA has no objection to this, given the important matters that the CSIP, NIP and O&MP will deal with, however, it is concerning that as currently drafted the Deemed Marine Licence – Transmission Assets (Schedule 11) of the dDCO [REP6-055] ("DML") only requires the CSIP to accord with the principles of the oCSIP and the NiP to accord with the principles of the NIP (Condition 13(1)(g) and (j) of the DML). There is the potential therefore for the final documents to change and for those changes to detrimentally impact the Port of London either temporarily or permanently. It is of note that the O&MP has to be substantially in accordance with the outline offshore operations and maintenance plan (Condition 4(4) of the DML). We would invite the ExA to include a similar requirement in respect of the CSIP and the NIP within the DML.
- London Gateway have approval of the CSIP incorporated into their protective provisions in the latest dDCO. The Applicant suggests that the PLA should be treated differently as the Order Limits are outside of the PLA's jurisdictional limits. As explained in the submission of the PLA to Action Point 7 of ISH7 [REP6-061] the Order Limits include the northern approaches for deeper draughted vessels into the Port of London (i.e the DWRs through which deeper draughted vessels must pass through to get into the Port of London); whilst outside the jurisdiction of the Port of London Act 1968, the DWRs form part of the seaward approaches within which the PLA have to discharge its general and specific statutory duties. The Order Limits also include the Sunk Pilot Diamond. Pilotage is compulsory for large vessels within the London Pilotage District. The approaches and boarding and landing of pilots takes place in the general vicinity of the Sunk Pilot Diamond rather than at a specific point. This is in addition to the onshore navigational equipment which is currently covered by the agreed onshore protective provisions. To suggest that the PLA have a lesser interest of concern or relevance to that of London Gateway due to the "jurisdictional limits" of the Port of London Act 1968 is disingenuous and open to challenge by way of judicial review were the Secretary of State to follow such an approach.
- The Applicant's approach to agreeing protective provisions seems to be to avoid multiple party approvals. It is not uncommon with DCO's for there to be more than one body that approves a document. In relation to the River Thames this reflects the complex consenting regime that exists. In relation to VE this would reflect the multiple parties that have a common goal to ensure the free passage to and from the various ports and to get the largest possible ships in and out of



their respective ports. - The Applicant's approach to protective provisions also appears to be hampered by the fact that the MMO will require 6 months to approve documents submitted pursuant to the DML. The PLA is not asking for six months to approve the documents. Whilst approval (as with London Gateway) would be prior to their submission to the MMO, the PLA is content to provide its approval within a much shorter timeframe.

- It is clear from the outline documents that they are live documents that will be updated during construction and operation of the proposed development. As such the PLA also seeks approval of revisions to the document as a result of submissions to the MMO.
- Importantly the Applicant appears to have changed its position in relation to the CSIP with the deadline 6 version of the oCSIP [REP6-020] clearly stating that the PLA will approve the CSIP (see para 1.4.4 of the oCSIP which states (emphasis added): Insofar as it relates to the crossing of the Deep Water Route areas (DWRs) defined in Figure 2.1, the CSIP will be submitted for approval by the Port of London Authority under the relevant protective provisions secured in the DCO) (2) Approval of detailed design of the cables
- It is the PLA's understanding that the Applicant is concerned about the PLA approving the design of the cable installation due to issues of timing and the potential for the PLA to comment on matters which it does not have technical expertise in (such as the method for installing the cable). The Applicant wishes to place reliance on the CSIP to provide the 'relevant information' in relation to cable installation.
- The PLA suggested alternative wording to the applicant which was in the Silvertown Tunnel DCO and is also in the draft DCO for Lower Thames Crossing. With tunnels, the PLA does not approve the tunnel design but instead is provided with relevant information and is able to request further information or clarification in order to be comfortable that all relevant issues have been considered. The PLA provided to the Applicant details of the types of information that it has in the past requested which it is understood from the meeting the Applicant (VE) considered was reasonable. The PLA has also discussed with the Applicant it being clear in the relevant condition the scope of the PLA's comments so that as an example it could not request a different installation technique from that which was being proposed if it was being demonstrated that the technique proposed was capable of achieving the required installation depths.
- In the alternative, the PLA has also suggested that it could agree to remove the requirement for approval of detailed design if the Applicant provided the PLA with approval of the CSIP as that would give the PLA a degree of surety that the detailed design was being progressed in such a way that it



was likely that cable burial depths would be met. Whilst there is an agreed remediation clause clearly it is better for everyone if the cable is designed to achieve the required cable burial depths rather than remedial action needing to be taken. Being able to raise issues to the Applicant's attention (in the same way that the PLA does for tunnels or through the CSIP) would appear to only be of benefit to the project.

- If the PLA is not to have approval of the CSIP then the PLA would request that the DCO includes the following text within the PLA's Protective Provisions:
- " Approval of Detailed Design
- [4] (1) The undertaker must, in a timely manner, consult with the PLA when:
- (a) preparing the detailed design and construction methodology in relation to any specified work within or which may affect the Area of Interest; and
- (b) during construction of any specified work within or which may affect the Area of Interest, on such matters regarding those works as the PLA may reasonably request.
- (2) The undertaker must have reasonable regard to any representations made by the PLA under sub-paragraph (1) and provide a written account of how any such representations have been taken into account.
- (3) Where the PLA are not reasonably satisfied in relation to the written account provided in relation to the matters under paragraph (1), the senior representatives from the PLA and the undertaker must seek to resolve the dispute through a meeting between the parties promptly and in any event within 10 business days, and if the PLA is not reasonably satisfied following that meeting it may within 20 business days of the specified day, notify the undertaker that the PLA is in dispute with the undertaker and accordingly refer the matter to arbitration under article [48] (arbitration).
- (4) In the event that a matter is referred to arbitration under sub-paragraph (3), the undertaker must not begin any specified work to which a dispute under subparagraph (3) relates until such arbitration is settled by the arbitrator).
- (5) The undertaker must, no later than three months prior to the expected commencement of any specified work within or which may affect the Area of Interest, provide the PLA with a point of contact for continuing liaison and co-ordination throughout the construction of the relevant specified works and the undertaker must notify the PLA of the date of— (a) the relevant specified works beginning as soon as reasonably practicable and, in any event, 28 days prior to beginning of those works; (b) the completion of the specified works as soon as reasonably practicable after the completion of those works; (6) In this paragraph. "construction methodology" includes
- (6) In this paragraph, "construction methodology" includes construction methods and measures for management of construction risks."



## Surveys

- The Applicant has agreed to consult the PLA on the proposed activities and programme for survey authorised by the Order. Not all surveys are necessarily authorised by the Order and some will be authorised pursuant to Deemed Marine Licences. The PLA would wish to be consulted on the proposed activities and programme for any preconstruction monitoring surveys, construction monitoring, post construction monitoring and related reporting. This wording is used in condition 13(1)(e) of the DML (paragraph 3(2) and (3)).

## **Unexploded Ordinance**

- The Applicant has agreed to consult the PLA on any application for marine licensing for the disposal of unexploded ordinance within the Area of Interest. As noted above this should also relate to unexploded ordinance that may affect the Area of Interest. The PLA would also wish for "disposal" to refer to "clearance" as we are dealing with clearance (see paragraph 3(2) and (3)).

#### **CSIP**

- It should be clear that the CSIP is to be informed by a cable burial risk assessment.
- We understand that the Applicant agrees that the wording in new Requirement 2(3) should be referenced in the CSIP (paragraph 4(a)). The wording should require that the cables are not only installed so as not to impede the referenced dredging depths but must also be placed, maintained, operated and decommissioned to adhere to the referenced dredging depths. The required depths also need to make allowance for an 'over-dredge' tolerance of 0.5 metres in addition to the stated depths attributable to standard dredging methodology (paragraph 4(a)).
- The CSIP should include the programme and methodologies for monitoring and the arrangements for the results of surveys or other construction evidence being made available to the PLA within 10 business days of the undertaker receiving reports of the survey results or evidence to demonstrate compliance with the depths referred to in paragraph 4(a) (as per paragraph 4(f)). Separately the methods and timescales to rectify any issues should be addressed in the CSIP (see paragraph 4(g)).

#### Remediation

- The PLA understand that paragraph 7 regrading remediation is agreed in principle. The disagreement is that the drafting needs to link back to paragraph 4(a) and Requirement 2(3) and not the under keel clearance specified in the Outline CSIP to ensure the Requirement is being met throughout this paragraph.

#### Indemnity

- The PLA would wish to have the same indemnity that has been in the protective provisions for the PLA for Thames



Tideway Tunnel, Silvertown Tunnel, the draft Lower Thames Crossing (TR010032), the draft Cory Decarbonisation Project (EN010128). - The Applicant disagrees and is therefore proposing to provide the PLA with no indemnity at all. - The PLA would note that the Applicant's position on indemnity is at odds with other DCO's that the PLA has been involved in (see bullet (1) above) and with other VE interested parties – the PLA notes that the Applicant has struck through at Deadline 6 the Environment Agency's indemnity. - It cannot be right that the Port of London Authority has to absorb the costs, charges, damages, losses or expenses that it incurs as a result of the Applicant's scheme. The PLA has statutory functions and is subject to health and safety legislation as well as environmental related legislation and has certain duties under the Harbours Act 1964. Should the Applicant undertake the development in a manner which puts the PLA in breach of such legislation or causes a situation which results in the pollution of controlled waters due to a vessel being damaged as a consequence of the Applicant's scheme and insufficient under keel depths, the Applicant should be required to meet the cost not the PLA. - The Applicant has indicated that it is not prepared to be responsible for third party losses. To the extent that such losses are foreseeable then the Applicant should be liable. The PLA note that the Protective Provisions for Network Rail include an indemnity clause almost identical to that which the PLA is seeking save that it includes a further clause regarding third party consequential or indirect loss. - The PLA would expect the Applicant to meet any costs or claims to which the PLA is required to meet as a consequence of the Applicant's scheme. The PLA would, however, be agreeable to adopting a similar clause to exclude third party consequential or indirect loss which is not reasonably foreseeable. - Finally, the PLA would draw the Examining Authorities attention to the burial hierarchy as shown in Figure 4.1 of the in the Margate and Long Sands SAC Benthic Mitigation Plan (REP5-028) and in particular the caveat. This emphasises the need for the PLA to have an appropriate indemnity clause as reburial may not be technically feasible. The reference given relates to approvals where cable condition 4(2)(f), other than within the areas shown shaded yellow on the Deep Water Route Cable Installation Area (Future Dredging depths) plan where navigable depth may not be reduced to any extent, the undertaker must not reduce water depth by more than 5% referenced to Chart Datum

PLA-02

Condition 4 (Maintenance of the authorised development) of Schedule 11 (Deemed marine licence – Transmission Assets) Further to the ExA's request for further information sought in [PD024] and in the event of a minimum dredging depth parameter for the Deep Water Routes (DWRs) being incorporated into any made DCO, comment on any changes for the drafting of Condition 4 of Schedule 11, most particularly in respect of subsection (3), that might be

necessary to ensure there would be no inconsistency

The Applicant proposed the following amendment at Deadline 6 (change shown underlined): " In undertaking activities under unless agreed with the MMO in writing following consultation with the MCA."

protection would cause the reduction in navigable depth to exceed 5%. That is not applicable to DWRs where there can be no reduction. The drafting change sought accordingly does not make sense and is not necessary.



	between the water depths required in the DWRs and the parts of the authorised development that would be outside	The PLA has no issue with this wording but would suggest that there are also other instances in the dML where the 5% is	
	the DWRs.	referenced that would also require the same amendment namely paragraph 13(g)(ii).	
PLA-03	Consultation with the Port of London Authority when discharging conditions of the DML for the Transmission Assets (Schedule 11) The Port of London Authority has submitted (including during the course of Issue Specific Hearing 7 held on 23 January 2025) that it wishes to be a consultee of the MMO when relevant conditions of the DML for the Transmission Assets were being discharged. Would the MMO be agreeable to the Port of London being a consultee when relevant conditions in Schedule 11 were 11 were being discharged? If the MMO is not be agreeable to that, explain why that is the case.	Whilst this Question is directed towards the MMO, it may also assist the Examining Authority if the PLA responds to this question. The MMO and the PLA have met twice to discuss the dML for the transmission assets (Schedule 11) and the PLA have provided the MMO with a marked up copy of Schedule 11 setting out when the PLA would wish to be a consultee of the MMO. This marked up copy is also attached at appendix 2 showing the PLA's changes in red. The PLA understands that the MMO has no objection in principle to the PLA being a consultee when relevant conditions are being discharged and the changes proposed. Other minor amendments have been made to the Schedule 11 dML including a definition of the "area of interest" and "the deep water routes cable installation areas (future dredging areas) plan; the requirements in relation to dredging of the Sunk and Trinity DWR's and; the contents of the CSIP and the PLA would ask that these changes are also incorporated into Schedule 11. The PLA understands that the MMO has no objection to the changes proposed.	This is noted by the Applicant.
PLA-04	Approval of the Navigation and Installation Plan (NIP) as part of the DMLs In paragraph 2.5 of [REP3- 035] you have provided examples of made DCOs for projects on the river Thames where Protective Provisions in favour of the Port of London have been included enabling you, as well as the MMO via DMLs included in those made DCOs, to approve NIPs. a) Is the PLA's relationship with the made DCOs for projects on the river Thames directly comparable with those for the Proposed Development, given: (1) for the river Thames the PLA is the Statutory Harbour Authority (SHA) and the Order Limits for the made DCOs on the river Thames are wholly within the SHA's area of jurisdiction; and (2) the PLA's jurisdiction does not include the Order Limits for the Proposed Development? b) Submit any made DCOs for projects with Order Limits beyond the PLA's area of jurisdiction that have included mechanisms for the PLA to issue approvals.	Naturally the majority of DCO's that the PLA have been involved in relate to projects located within the Port of London Act 1968 limits.  There are also naturally a limited number of exceptions to this, for example, the PLA participated in the Thanet Offshore Windfarm Extension Development Consent Order which was outside the PLA's statutory limits. As the PLA had fundamental concerns about the extension (which ultimately led to the refusal of the application) no discussions took place regarding protective provisions for the PLA.  The PLA acknowledges that there is a significant amount of infrastructure near to the proposed site of VE. This is perhaps best evidenced in the Other Offshore Infrastructure chapter of the ES. However as can be seen from Figure 12.3 VE is the first project to come forward under a Development Consent Order that impacts on the DWR's into the Port of London. The decision made in relation to protective provisions for VE could therefore have implications for future schemes including North Falls, SeaLink which are being brought forward through DCO's. Other projects shown on figure 12.3 have been brought forward outside of the DCO process (e.g. Neuconnect).  The PLA would emphasise the importance of the Port of London and that it is only through protective provisions that the PLA will have certainty that the design and installation of the cables in the ECC will not have a detrimental long term impact on the UK's largest port. As noted above, the PLA has	The Applicant notes that the PLA have not provided examples in response to the ExA's question. Whilst the Thanet Extension Offshore Wind Farm DCO was ultimately refused, the ExA did provide a recommended DCO to the Secretary of State which did not contain any approvals from the PLA.  With any DCO there will be many important stakeholders, including councils, SNCBs, statutory undertakers and other statutory bodies who's interests the project can clearly impact. Nonetheless it is not the case that those stakeholders either request or require approval in the DCO or dML, and to do so would be to undermine the regulator's position and would make the implementation of any DCO unworkable. The PLA has not, in the Applicant's view, provided a convincing argument why it should be treated any differently to the many interested parties related to the project.  In response to the PLA's reasons as to why it should be treated differently:  Vessels going through the DWRs will enter the Port of London, however the project will interact with vessels going to a number of ports. This is analogous to highways works affecting traffic going to a particular location or through another authority's area of jurisdiction – whilst



navigational equipment within the Order limits and the seaward approaches for the Port of London are also situated with the Order Limits. The seaward approaches are of relevance to the Port Marine Safety Code and the Guide to Good Practice on Port Marine Operations - section 2.3.1 stating that "the Organisation Harbour Authority will discharge its general and specific statutory duties in respect of the conservancy of the harbour and its seaward approaches". Moreover, DCOs are just one type of Order which typically include protective provisions. Other orders include Transport and Works Act Orders, Harbour Orders and Hybrid Bills. As previously noted to the ExA at ISH7 the London Gateway Harbour Empowerment Order includes protective provisions for the benefit of the PLA notwithstanding that the Port is outside of the Port of London Act jurisdictional limits. Responding to the specific questions:

Whether the PLA's relationship with the made DCOs for projects on the river Thames are directly comparable with those for the Proposed Development, given:

- (1) for the river Thames the PLA is the Statutory Harbour Authority (SHA) and the Order Limits for the made DCOs on the river Thames are wholly within the SHA's area of jurisdiction; and
- (2) the PLA's jurisdiction does not include the Order Limits for the Proposed Development?

As noted above to suggest that the PLA should be treated differently because the Order Limits are outside of the Port of London Act jurisdictional limits fails to have regard to:

- The Order Limits include the DWRs through which deeper draughted vessels must pass through to get into the Port of London; whilst outside the jurisdiction of the Port of London Act 1968 the DWRs form part of the seaward approaches within which the PLA have to discharge its general and specific statutory duties as noted by the Port Marine Safety Code and the Guide to Good Practice on Port Marine Operations.
- The Order Limits also include the Sunk Pilot Diamond. Pilotage is compulsory for large vessels within the London Pilotage District and the PLA is responsible for the piloting of vessels entering the Port of London, utilising the Sunk Pilot Diamond to discharge this function.
- In addition, the PLA is responsible for the onshore navigational equipment located within the Order Limits and which is currently covered by the agreed onshore protective provisions.

In relation to limb b) we have explained why such DCO's do not exist but would emphasise that the application for the Thanet Offshore Windfarm Extension Development Consent Order failed because of the potential impact on surrounding Ports including the Port of London and the fact that DCOs are

they would be an important IP, it would not be suggested that they should approve those works.

The order limits are in proximity to the pilot boarding station (although they do not overlap with the pilot diamond as stated). The PLA provide pilots that operate in this area, as does Harwich Haven Authority. The area is monitored by Sunk VTS which is part of the MCA, unlike London VTS further into the Thames Estuary, which is run by PLA. This area is therefore used by many parties, and the PLA is not unique in having an interest in the area.

The PLA does have onshore equipment, the access to which is crossed by the Order Limits, however this is not unusual and approvals would not be granted to infrastructure owners who happen to interact with the order limits in some limited way.



	not the only orders including protective provisions and the London Gateway Harbour Empowerment Order governing the London Gateway Port includes protective provisions for the benefit of the PLA notwithstanding that the Port of London's jurisdictional limits do not extend into the area of this order.	
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## 7.2 COMMENTS ON DEADLINE 6 SUBMISSIONS [REP7-112]

Ref	Summary of Deadline 6 submission OR Excerpt of Deadline 6 submission	Applicant's response
PLA2-01	DRAFT DEVELOPMENT CONSENT ORDER ("DDCO") (REP6-008)	This is noted by the Applicant.
	The PLA's comments on the DWR commitments are set out in its Rule 17 response which was submitted at deadline 6 and these comments still stand.	
PLA2-02	The Applicant, PLA and London Gateway Port Limited have had further discussions regarding protective provisions. The PLA's substantive response on this point is set out in the PLA's Response to the Examining Authorities written questions and response for information issued on 3 February 2025 (DCO.3.09).	The Applicant has responded to the MMO's proposed changes in MMO-07.
	The PLA and the MMO have also had further discussions regarding the Schedule 11 Deemed Marine Licence and the PLA has included a substantive response in the PLA's Response to the Examining Authorities written questions and response for information issued on 3 February 2025 (DCO.3.16).	
PLA2-03	OUTLINE CABLE SPECIFICATION AND INSTALLATION PLAN ("oCSIP") (REP6-021) The PLA welcomes the updates that were made to the oCSIP at Deadline 6 and has the following residual comments:	This has been updated in Revision D of the oCSIP submitted at Deadline 7.
	(a) Whilst the update to the definition of DWR areas on page 7 is welcomed, it is questioned why the commitments continue to relate solely to installation and do not extend to maintenance. It is not clear from the document whether, when using the term installation, that this also means maintenance and the commitments in relation to the DWRs are as important during maintenance as they are during installation. It is also of note that there are two specific references to 'installation and maintenance' in the oCSIP: in table 1 and at paragraph 2.2.3 which therefore seems to imply that some commitments relate to installation and others relate to installation and maintenance. The PLA would suggest that the simplest solution would be to make it clear in the definition of DWR areas that the commitments in relation to the DWRs extend to installation and maintenance.	
PLA2-04	(b) The PLA considers that Table 1 could still be made clearer in relation to the DWRs – for example, the updates in relation in navigable depth set out that cable crossings are subject to the commitment on cable installation within the DWRs but the text relating to installation says ensuring use by deep draughted vessels 'is not compromised'. Given that there is now a requirement within the dDCO it may be clearer to simply refer to the need to be compliant with Requirement (2)(3).	Table 1 has been updated to reflect the current dML wording, the commitments relating to the DWRs clarified below.
PLA2-05	(c) The amendment to paragraph 4.3.3 requires further amendment as it still does not ensure that dredging to 22m below CD will be achieved. As drafted it states it will not 'impede dredging' but gives no specific depth of dredging – again it may be clearer to refer to the need to be compliant with Requirement (2)(3).	This has been updated in Revision D of the oCSIP submitted at Deadline 7 [REP7-040].
PLA2-06	(d) When referring to dredging, the oCSIP needs to be clear that potential over dredging must be allowed for.	This has been updated in Revision D of the oCSIP submitted at Deadline 7 [REP7-040].
PLA2-07	(e) Following recent experience elsewhere, the PLA would wish for the document to be clear that no wet storage will occur in the DWRs.	This has been updated in Revision D of the oCSIP submitted at Deadline 7 [REP7-040].
PLA2-08	The PLA has discussed all of these amendments with the Applicant, and it is expected that the document will be updated at deadline (7) to address the above points. The PLA expects that with the above updates, it will be able to confirm to the Examining Authority that it is content with the content of the oCSIP.	The Applicant has received confirmation by the PLA that the oCSIP is now content with the final document submitted.
PLA2-09	OUTLINE SEDIMENT DISPOSAL MANAGEMENT PLAN (REP6-042)	This commitment was covered in the oCSIP and duplication was considered not necessary.



	The PLA welcome the updates to the Sediment Disposal Management Plan in relation to the need to safeguard dredging to 22m below chart datum. Unfortunately, the opportunity has not been taken to make it clear that the document relates to installation and maintenance. This is surprising given the Applicants comments during ISH6 and as set out in their written summary of oral subs (REP6-045) at paragraph 1.4.6 "Responding to the request for the Applicant to commit to restrictions in the Outline Sediment Disposal Management Plan [REP4- 041] during the maintenance period (as well as construction) in the PLA's Deadline 5 response [REP5-107], the Applicant confirmed that the same commitments will be in place for the DWRs during the maintenance period as well."	
PLA2-10	Whilst some clarification has been provided in relation to the pilot boarding area it does not appear to rule out disposal of material in this area – stating at paragraph 3.5.2 that it will avoid, where possible, the disposal of material. This does not provide the certainty required in relation to this very important area for navigation. The reference to not reducing navigable depth within the pilot boarding area has not been amended so it is not clear whether this is from current depths or whether up to 5% of navigable depth could be lost	The wording relates to the current seabed level and reflects a stronger commitment to the standard approach in MGN654, whilst noting that these are not controlled depths, and will naturally vary across the area in question.
PLA2-11	The Applicant sets out in their comments on deadline 5 submissions (REP6-043) that they have considered changes to sediment pathways from construction activities (including disposal) but do not consider this warrants assessment of impact to Shipping and Navigation receptors. Mitigations around preserving existing navigable depths are solely focused on the use of cable protection and so there are no reactive measures to deal with shoaling as a result of disposal immediately adjacent to the DWRs. The use of a an additional 50m buffer either side of the DWRs would provide a proactive mitigation in the absence of reactive measures.	The commitment to not reducing navigable depth in the DWRs is clearly set out in the dML, and this applies to all activities.
PLA2-12	CERTIFIED DEEP WATER ROUTE INSTALLATION AREA (FUTURE DREDGING DEPTHS) PLAN (REP6-055)  For the avoidance of doubt, the PLA has no comments on the certified deep water route installation area (future dredging depths) plan. The areas shown on the plan, accurately reflect the discussions and agreement reached within the area relating to the Sunk and Trinity DWR's and the required future dredging depths.	This is noted by the Applicant.
PLA2-13	TECHNICAL NOTE – FIVE ESTUARIES RELEVANT NAVIGATIONAL FEATURES FOR ACCESSING LOCAL PORTS (REP6-040)  The Applicant has produced an overview of the navigational features for accessing local ports. The technical note relates to current vessel activity and not potential routes for deeper (20m) draught vessels in the future. It is not clear why this technical note was produced, and it would be helpful to understand the purpose of the technical note and why it has been produced. It would have also been helpful to discuss the content of the technical note with the PLA prior to its submission into the Examination. As currently drafted, the technical note appears to be heavily focused towards Harwich. No PLA documentation has been used despite the Sunk and the Trinity DWRs being the approaches to the Port of London. There are also several misunderstandings/misinterpretations of the information. It is recommended that a meeting is held with the PLA before deadline 8 so that an updated technical note can be submitted into the Examination at that time.	REP6-040 was produced in response to ISH6 Action Point 15: Submission of a technical note outlining how vessels manoeuvre in/out of the Deep Water Routes (DWRs) and within the vicinity of the Sunk pilot boarding station. This note to include a plan showing the Order Limits relative to the entry/exit to the DWRs, the Sunk pilot boarding station and the Margate and Long Sands Special Area of Conservation. As such, the Applicant did not need to contact the PLA to in order to provide the overview that was requested.
PLA2-14	OUTLINE NAVIGATION AND INSTALLATION PLAN ("ONIP")  The PLA set out in its deadline 6 response (REP6-058) comments on the deadline 5 version of the oNIP (REP5-031). The Applicant shared a further version of the oNIP with the PLA prior to deadline 7 and the PLA and the Applicant were also able to meet to discuss the document. The PLA understands that the oNIP will be updated in accordance with the agreement reached in the meeting on 25 February 2025 and will be submitted to the examination at deadline 7. It is anticipated that with the agreed updates the PLA will be able to approve the content of the oNIP.	The updates were included in Revision D of the oNIP submitted at Deadline 7 [REP7-048] and the Applicant has received confirmation from the PLA that they are content with the document.



# 8. MARITIME & COASTGUARD AGENCY – RESPONSE TO EXQ3 [REP7-098]

Ref	Question	MCA Response	Applicant's response
DCO.3.14	Condition 4 (Maintenance of the authorised development) of Schedule 11 (Deemed marine licence – Transmission Assets)  'Further to the ExA's request for further information sought in [PD-024] and in the event of a minimum dredging depth parameter for the Deep Water Routes (DWRs) being incorporated into any made DCO, comment on any changes for the drafting of Condition 4 of Schedule 11, most particularly in respect of subsection (3), that might be necessary to ensure there would be no inconsistency between the water depths required in the DWRs and the parts of the authorised development that would be outside the DWRs.'	The wording of the condition requested by the MCA in written representation (REP1-065) is: '4(3) 'the undertaker must not reduce water depth by more than 5% of navigable depth referenced to chart datum unless agreed with the MMO and MCA in writing.'  It was acknowledged that this condition would be amended in order to reflect the need to maintain depth in the DWRs. MCA requested from an early stage in consultations that any changes to depth in the DWRs would have to be discussed with the agency and the MMO.  Following extensive consultation on the part of the applicant with the other IPs listed in the required response column, broad agreement has been reached on the depths to be maintained in the DWRs through the Navigation Installation Plan (NIP) and Cable specification and installation plan (CSIP). We welcome the applicant's commitment to not reduce navigable depth in the DWRs and the commitment of a specified maintained depth (and cable burial depth) as agreed with the relevant stakeholders.  Therefore, we agree and are content with the wording suggested by the applicant regarding Schedule 11, Part 2, Condition 4 Subsection (3) (REP6-008) and that this identifies areas in which navigable depth cannot be reduced by any extent.	This is noted by the Applicant.



## 9. LONDON GATEWAY PORT LIMITED – RESPONSE TO EXQ3 [REP7-096]

Ref	Question	LGPL response	Applicant's response
DCO.3.09	Protective Provisions  With respect to negotiating Protective Provisions, advise on what the current position is with respect to agreeing a set of Protective Provisions in your favour with the Applicant. Where there is disagreement with the Applicant explain why that is the case and where any disagreement relates to matters of detailed drafting submit the version of your preferred text.	LGPL's response to Deadline 6 [REP6-080] sets out the form of the Protective Provisions that it requires. They have been discussed in outline with the Applicant, but there is no present indication that they agreed – the Applicant has suggested certain changes will be made to the DML and elsewhere in the dDCO to deal with certain issues raised but we have not had sight of those proposed changes. It is LGPL's position that its Protective Provisions are required whatever is the position reached with the PLA.	This is noted by the Applicant.
DCO.3.14	Condition 4 (Maintenance of the authorised development) of Schedule 11 (Deemed marine licence – Transmission Assets)  Further to the ExA's request for further information sought in [PD-024] and in the event of a minimum dredging depth parameter for the Deep Water Routes (DWRs) being incorporated into any made DCO, comment on any changes for the drafting of Condition 4 of Schedule 11, most particularly in respect of subsection (3), that might be necessary to ensure there would be no inconsistency between the water depths required in the DWRs and the parts of the authorised development that would be outside the DWRs.	In LGPL's response to Deadline 6 [REP6-080], we set out LGPL's position that the minimum dredging depth parameter must be set out as a Requirement (we proposed a new Requirement 3A) and that having set the matter out in a new Requirement, although it is not strictly necessary for the matters to be repeated in the DML in Schedule 11, it may be convenient to reiterate the provision in the DML so as to ensure those persons implementing the DML are fully aware of the restrictions set out in the Requirements, even if they only consider the DML.  Accordingly, in terms of the specific change to the Conditions to the DML in Schedule 11, if that is deemed necessary in addition to the Requirement, we would propose the following:  • A new condition 3A – "In the design, implementation, operation and maintenance of any marine activities covered by this licence the undertaker must ensure that a dredged depth of the Deep Water Routes to a depth of 22m below CD is not precluded or impeded and that a dredged depth of the Deep Water Routes Buffer to a depth of 19m below CD is not precluded or impeded."  Question DCO.3.14 refers to Condition 4 of Schedule 11 – by reference to the version of the Order in [REP6-008], Condition 4 relates to maintenance of the authorised development. The necessary provision needs to relate not just to the maintenance, hence the suggestion for a new condition 3A as set out above. The reduction in dredge depth by 5% in Condition 4 is acceptable provided always that it is subject to the overall requirement set out in out Requirement 3A / the proposed Condition 3A above – that is any 5% reduction must not reduce the dredgeable depth by the relevant amounts stated in the Deep Water Routes Puter Rout	The Applicant has responded to the LGP drafting in REP7-089 (10.62 Note on DDCO Drafting - Applicant's Position on Protective Provisions).



		LGPL does not have a concern that water depths outside the Deep Water Routes and the Deep Water Routes Buffer might be less than those specified and so does not see the need for any amendment to Condition 4(3) to ensure consistency in that regard as referenced in the question.	
DCO.3.17	Approval of the Navigation and Installation Plan (NIP) as part of the DMLs  In paragraph 2.5 of REP3-035] you have provided examples of made DCOs for projects on the river Thames where Protective Provisions in favour of the Port of London have been included enabling you, as well as the MMO via DMLs included in those made DCOs, to approve NIPs.  a) Is the PLA's relationship with the made DCOs for projects on the river Thames directly comparable with those for the Proposed Development, given: (1) for the river Thames the PLA is the Statutory Harbour Authority (SHA) and the Order Limits for the made DCOs on the river Thames are wholly within the SHA's area of jurisdiction; and (2) the PLA's jurisdiction does not include the Order Limits for the Proposed Development?  b) Submit any made DCOs for projects with Order Limits beyond the PLA's area of jurisdiction that have included mechanisms for the PLA to issue approvals.	LGPL does not comment on the need or not for provisions in favour of the PLA, however, LGPL does need its own protective provisions, the principle of which is already included in the dDCO, with the amendments proposed in its response at Deadline 6 [REP6-080]. This is due to the need to ensure adequate access for large container vessels to London Gateway Port and LGPL's express powers in the London Gateway Port Harbour Empowerment Order to maintain dredged depth along the navigational channel passing through the Deep Water Routes.	This is noted by the Applicant.
NS.3.02	Pre-construction activities within the Deep Water Routes (DWR)  During Issue Specific Hearing 6, you advised that the Outline Navigation and Installation Plan [REP5-031] was not the appropriate mechanism to control preconstruction activities within DWRs, as had been requested previously by the PLA. Please explain how you intend to provide comfort to the Ports and Port Authorities that any pre-construction activities could be carried out safely and without delaying scheduled commercial vessels using the DWRs.	LGPL notes this question and will wish to review and respond to the applicant's explanation.	The Applicant has resolved this matter with the PLA and notes that there may be insufficient time to respond to any further submission on this point from LGPL.



## NATIONAL TRUST – DEADLINE 7 SUBMISSION [REP7-101]

# Ref

## NT-01

## Summary of Deadline 6 submission OR Excerpt of Deadline 6 submission

The National Trust (the Trust) acknowledges that the applicant is proposing to deliver compensatory measures for Lesser Black Backed Gulls on third party land at Orford Ness (land that is not owned by the National Trust). However, the Trust notes that the Book of Reference dated January 2025, submitted at Deadline 5 includes references to compulsory acquire National Trust land or rights over National Trust land. National Trust land is also included in the submitted Land Plans.

As set out in our Relevant Representation, the National Trust's land at Orford Ness has been designated as 'inalienable' pursuant to section 21 of the National Trust Act 1907. This means that the freehold title to the land is to be held in perpetuity for the benefit of the nation and therefore cannot be sold or mortgaged in the conventional sense. Once the land has been designated 'inalienable' this status cannot be undone.

The National Trust wishes to confirm that it objects to the DCO application to the extent that it includes compulsory purchase of Trust inalienable land or rights over Trust inalienable land in the Book of Reference. The Trust cannot remove this objection until commercial terms have been agreed between the developer and the Trust (and been approved by the National Trust's Board of Trustees) or all references to National Trust inalienable land have been removed from the Book of Reference and Land Plans. If this objection is not removed before the Secretary of State confirms the Development Consent Order, the Order would automatically become subject to 'special parliamentary procedure' (SPP).

It is understood that the applicant intends to exclude the National Trust's interests from the Book of Reference and land Plans and confirm this through the submission of an updated Book of Reference at Deadline 7 (3rd March 2025). The National Trust will review this and update our position in a submission to the Examining Authority at Deadline 8 (10th March).

It is unclear at this stage whether the applicant will be seeking an easement or licence for access over Trust land through a voluntary agreement outside of the Development Consent Order process. However, our view is that rights over National Trust land are not required to deliver the compensation measures proposed for Lesser Black Backed Gulls on Orford Ness.

## Applicant's response

The Applicant is satisfied through diligent inquiry that no rights sought over National Trust inalienable land remain in the 4.1 Book of Reference – Revision F [REP7-013] or are shown on the Land Plans - Revision E [REP7-004].



# 11. SUFFOLK COUNTY COUNCIL – RESPONSE TO EXQ3 [REP7-094]

Ref	Question	SCC's Response	Applicant's response
Ref TT.3.02	Projects considered within cumulative assessment of traffic effects  As agreed during ISH3, please confirm that the projects set out in Section 8.12 of the Traffic and Transport Chapter of the Environmental Statement (ES) (current draft version of which is found at Appendix 3 of the Applicant's response to ISH3 Action Points [REP3-023]) can be treated as a finalised list of projects scoped in or out of assessment at the close of this Examination. If there are any new projects not currently captured in the above, please provide sufficient detail of the project(s) such that the Applicant can consider whether or not	SCC has made several representations on its position regarding projects considered within the cumulative assessment of traffic effects. These include SCC's Local Impact Report ("LIR") (paragraphs 8.12, [REP2-046]), its response to the Examining Authority's First Written Questions ("ExQ1") (questions GC.1.01 TT.1.03, [REP2-047]) and comments on deadline 3 submissions (ref. SCC.07 to SCC.08, [REP4-048]). SCC's final submission on this topic was in its comments on deadline 5 submissions (Ref. 5, [REP6-071]) in which SCC stated that it would defer to Essex County Council regarding the scoping out of Bramford to Twinstead from the traffic and	Applicant's response Noted by the Applicant.
	they should be added into a finalised version of the cumulative assessment of traffic effects.	transport assessment given the location of the relevant A12 junctions in Essex. SCC does not propose any other projects not currently included within the finalised list of	
		projects scoped in or out of the assessment to be added.	



## 12. AFFINITY WATER – DEADLINE 7 SUBMISSION [REP7-115]

## Ref Summary of Deadline 6 submission OR Excerpt of Deadline 6 submission

#### AFW-01

Affinity provided submissions to the Examiner on 10 January 2025 setting out the need for Bespoke Protective Provisions which are not provided for in the standard Protective Provisions included at Part 1 Schedule 9 of the draft Order for the protection of electricity, gas, water and sewerage undertakers ("Standard Protective Provisions"), to address Affinity's concerns as raised in its Relevant Representation, as follows:

- > The provision of details of any potential effects on Affinity's assets from electromagnetic or high voltage effects and provides an approval mechanism to allow Affinity to require such modifications to the design for the purpose of protecting its assets.
- > Protection of and access to its assets during construction and operation including the requirement to provide Affinity with detailed plans and to obtain approval prior to any works taking place.
- > Access to Affinity's operational sites during construction to ensure continued and unimpeded access to its assets at all times; and
- > Agreement re. the reimbursement of Affinity's reasonable costs and the scope of those costs.

On 11 February 2025, Affinity provided an update to the Examination with regard to progress in getting the Bespoke Protective Provisions agreed with Five Estuaries, along with a copy of the draft provisions. Affinity also set out that with the appropriate level of engagement from Five Estuaries, that we expected agreement could be reached with regard to these Bespoke Protective Provisions by deadline 7.

Unfortunately, we did not receive a response from Five Estuaries' solicitors regarding the draft provisions until 26 February 2025. Some of these responses provided very minimal explanation or justification. Although Affinity have endeavoured to turn around a response as quickly as possible to Five Estuaries, with our response being provided on 27 February, it is not anticipated that the Bespoke Protective Provisions will be agreed and finalised by deadline 7 as there remain fundamental differences between parties as to the scope of the Bespoke Protective Provisions.

It is noted that the Deadline 6 version of the draft Order only contained the Standard Protective Provisions and no form of protective provisions specifically for the benefit of Affinity were included. As at the date of this submission, it is unclear whether Five Estuaries will include a form of Affinity's Bespoke Protective Provisions in the draft Order submitted at deadline 7 or will insist that the Standard Protective Provisions are sufficient. Five Estuaries has not provided sufficient explanation as to why a form of Affinity's Bespoke Protective Provisions have not been included in the drafts of the Orders submitted in the Examination thus far or adequately justified why they are not considered necessary.

It is Affinity's policy not to accept generic utility protective provisions that are common in first drafts of DCOs as they suffer from a number of shortcomings (in addition to those set out above) and we consider it appropriate therefore to include a further part within the protective provisions schedule specific to Affinity where it is an affected water undertaker.

Notwithstanding the merits of the specific protective provisions, it is important when operating a large network that the legal environment in which operatives are asked to work is largely the same. It is impossible to operate a large network with the efficiency that bill-payers are entitled to expect if operatives are required to check the exact terms of any relationship with third parties each time they carry out an activity. To that end, an efficient operator will always seek to keep the broad terms of such relationships the same. It is for this reason that Affinity Water seeks to achieve (1) consistency of terms and (2) consistency of process.

## AFW-02

## Variation in apparatus and protective areas

The general provisions provide a blanket prohibition on certain activities within 300 millimetres of underground water apparatus. Affinity Water considers this protected strip far too narrow, requiring at least 600 millimetres. The provisions also do not recognise that the diameters of underground pipes vary and therefore the extent of the area around underground pipes in which works would require Affinity Water approval will also vary. For example, where the apparatus is a pipe the diameter of which is less than 150 millimetres, Affinity Water would need to approve works within 2 metres of such a pipe. In contrast, where a pipe has a diameter of between 150 and 450 millimetres, works within 3 metres would require Affinity Water approval. This presents a rational approach to risk management that benefits both parties. The provisions do not acknowledge the different types of apparatus that Affinity Water is responsible for, which includes assets such as mains and reservoirs as well as pipelines.

#### Applicant's response

Discussions on the Protective Provisions are ongoing and any updates agreed will be included in the dDCO submitted at D8a.



AFW-03	Approval process
	The general provisions do not provide a detailed process for the approval of works that affect Affinity Water apparatus and the setting out of requirements to enable development to take place. It is sensible to set out this process at the earliest opportunity to allow parties to build approvals in programmes. It also ensures consistency of approach with other development schemes, as referred to above.
AFW-04	Indemnities, expenses and costs
	The general provisions do not provide an indemnity for the benefit of water undertakers, instead it provides for the making of reasonable compensation. This is not sufficient or appropriate. Given the specific way that the water industry obtains its funds, it has no way to recoup costs beyond passing on to water customers. Affinity Water should therefore have the benefit of a full indemnity to ensure that it is not adversely penalised by a third-party project interacting with its apparatus.
AFW-05	Environmental permitting
	At many points along Affinity Water's network, water is abstracted. This activity requires a permit under the Environmental Permitting (England and Wales) Regulations 2016. If the network is altered using the powers provided by the Development Consent Order in such a way that the location of the abstraction changes, a new permit will be required, otherwise a continuing offence will be committed by Affinity Water. The specific protective provisions ensure that such a permit is in force before any re-routing of abstraction points.
AFW-06	Contingency arrangements
	It is not often possible to seamlessly switch flows from to-be-abandoned apparatus to new apparatus without any loss of service to customers. Over-pumping or by-pass arrangements may be required, and sometimes test flows or wash-out flows are required. The general utility provisions envisage the right to maintain the old apparatus lasting until the new is in operation, but in reality the physical substitution of flows is equally important. The specific provisions therefore make it clear that contingency arrangements like these must be in place before switching of flows is attempted.
AFW-07	Physical access to apparatus
	The general utility provisions ensure that where works are near or affecting apparatus, access arrangements are provided for, but no more than that. However, it is entirely conceivable that the undertaker's works are not near the apparatus and do not in the normal sense of the word affect it. Furthermore, Affinity Water only has private rights (in the form of land ownership or easements) to access a very small percentage of its assets, relying as it does on statutory powers in practically all cases. Access must be maintained at all times to ensure consistency of water supply to customers and to enable Affinity Water to remedy issues in an emergency, particular given that some of Affinity Water's assets are reservoirs containing large amounts of water which could impact on surrounding areas.
AFW-08	Use of existing process
	As stated above, it is considered more efficient if the undertaker would use the existing processes provided to all landowners under section 41 (requisition of new water main), section 98 (requisition of new public sewer or public lateral drain), section 51A (adoption of new water main), section 104 (adoption of new private sewer or water main) or section 185 of the Water Industry Act 1991. The specific protective provisions direct the undertaker to use such processes. Affinity will continue to engage with Five Estuaries to reach agreement by the close of Examination on 17 March 2025 and will provide a further update to the Examination then.
AFW-09	We attach for the Examiner's information, the current draft of these Bespoke Protective Provisions.



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