

# FIVE ESTUARIES OFFSHORE WIND FARM

# 10.69 APPLICANT'S COMMENTS ON DEADLINE 8 SUBMISSIONS

Application Reference: EN010115
Document Number: 10.69
Revision: A

Pursuant to: Deadline 8a
Eco-Doc Number: 005765413-01
Date: March 2025



#### **COPYRIGHT © Five Estuaries Wind Farm Ltd**

All pre-existing rights reserved.

In preparation of this document Five Estuaries Wind Farm Ltd has made reasonable efforts to ensure that the content is accurate, up to date and complete for purpose.

Revision	Date	Status/Reason for Issue	Originator	Checked	Approved
Α	Mar 25	Deadline 8a	VEOWF	VEOWF	VEOWF



#### CONTENTS

1.	Introduction	7
2.	Marine Management Organisation [REP8-046]	8
3.	Natural England	.18
3.1	Covering Letter [REP8-050]	.18
3.2 Me	Appendix D8 - Advice on the Applicant's Proposed Seabird Compensation easures – Deadline 8 [REP8-051]	.18
3.3 [RE	77	
3.4 Pro	Appendix J8 – Advice on the Applicant's Deadline 7 Documents Related to the sposed Lesser Black Backed Gull Compensation Site at Orford Ness [REP8-053]	.26
3.5 [RE	Appendix N8 – Comments on the Offshore In Principle Monitoring Plan - REP6-0	
3.6	Appendix P7 - Natural England's comments on the REIS [REP7-110]	.29
4.	Port of London Authority	.31
4.1 Pro	Comments on 10.62 Note on the DDCO Draft – Applicant's Position on Protective ovisions [REP8-056]	
4.2	Comments on Deadline 7 Submissions [REP8-055]	.31
5.	National Trust – Deadline 8 Submission [REP8-049]	.34
6. 045]	London Gateway Port Limited – Comments 10.62 Note on DDCO Drafting [REP8-36	
7.	Affinity Water – Deadline 8 Submission [REP8-043]	.36
8.	Ministry of Defence – Deadline 8 Submission [REP8-042]	.38
9. [REP	National Grid Electricity Transmission – Comments on Deadline 7 Submissions 28-048]	.40
10	Fast Anglia TWO Limited – Comments on Deadline 7 Submissions [RFP8-044]	40



#### **DEFINITION OF ACRONYMS**

TERM	DEFINITION	
AD	Air Defence	
AEOI	Adverse Effect on Integrity	
AIS	Air Insulated Switchgear	
ANS	Artificial Nesting Structure	
AOE	Alde-Ore Estuary	
BIMP	Benthic Implementation and Monitoring Plan	
ВТО	British Trust for Ornithology	
CD	Chart Datum	
CfD	Contract for Difference	
CIEEM	Chartered Institute of Ecology and Environmental Management	
CIV	Central Impact Value	
CSIP	Cable Specification and Installation Plan	
DAS	Discretionary Advice Service	
DCO	Development Consent Order	
dDCO	Draft Development Consent Order	
DDV	Drop Down Video	
Defra	Department for Environment, Food & Rural Affairs	
dML	Deemed Marine Licence	
DWR	Deep Water Route	
ECC	Essex County Council	
ES	Environmental Statement	
EXA	Examining Authority	
FFC	Flamborough and Filey Coast	
FLCP	Fisheries Liaison and Co-existence Plan	
H3Pt1	Hornsea 3 Part 1	
H3Pt2	Hornsea 3 Part 2	
H4	Hornsea 4	
HEO	Harbour empowerment order	
HRA	Habitat Regulations Assessment	
IHLS	International Herring Larvae Surveys	
IMP	Implementation and Monitoring Plan	
IPMP	In Principle Monitoring Plan	
LAT	Lowest Astronomical Tide	
LBBG	Lesser Black Backed Gull	
LFA	Low Flying Area	
LGPL	London Gateway Port Limited	
LIMP	LBBG Implementation and Monitoring Plan	
LSE	Likely Significant Effect	
MBES	Multi-beam Echo Sounder Survey	
MCA	Maritime and Coastguard Agency	
MDS	Maximum Design Scenario	



MLS	Margate and Long Sands	
MMMP	Marine Mammals Mitigation Protocol	
MMO	Marine Management Organisation	
MoD	Ministry of Defence	
	•	
NAF	Nocturnal Activity Factor	
NAS	Noise Abatement System	
NBMP	National Bat Monitoring Programme	
NERC	Natural Environment Research Council	
NGET	National Grid Electricity Transmission	
NIP	Navigation and Installation Plan	
NMS	Noise Mitigation System	
NRA	Navigational Risk Assessment	
NSN	National Site Network	
O&M	Operations and Maintenance	
OSPAR	Convention for the Protection of the Marine Environment of the North-East	
	Atlantic	
OWF	Offshore Wind Farm	
PADSS	Principle Areas of Disagreement Summary Statement	
PLA	Port of London Authority	
PP	Protective Provision	
R&I	Risks and Issues	
RIAA	Report to Inform Appropriate Assessment	
RIES	Report on the Implications for European Sites	
RRH	Remote Radar Head	
SAC	Special Area of Conservation	
SIP	Site Integrity Plan	
SNCB	Statutory Nature Conservation Body	
SNS	Southern North Sea	
SoS	Secretary of State	
SPA	Special Protection Area	
SSC	Suspended Sediment Concentration	
UCI	Upper Confidence Interval	
UCL	Upper Confidence Limit	
UWN	Underwater Noise	
UXO	Unexploded Ordnance	
VE OWF	Five Estuaries Offshore Wind Farm	
WAM	Wide Area Multilateration	
WCS	Worst Case Scenario	
WMS	Written Ministerial Statement	
WSI	Written Scheme of Investigation	



#### 1. INTRODUCTION

- 1.1.1 This document has been prepared to set out the response of Five Estuaries Offshore Wind Farm Limited ('the Applicant') to submissions made at Deadline 8 with regards to the Five Estuaries Offshore Wind Farm Project ('the Project'), application reference: EN010115.
- 1.1.2 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 8 submissions and then responded to them (while being mindful of the context of those excerpts and being careful not to lose context in summaries).
- 1.1.3 The absence of commentary on a submission should not be taken as implication that the Applicant supports its content.



#### 2. MARINE MANAGEMENT ORGANISATION [REP8-046]

Dof	Summary or execut of Deadline 9 submission	Applicant/a recognica
Ref	Summary or excerpt of Deadline 8 submission	Applicant's response
MMO-01	Closing Statement  The MMO would like to highlight to the Evernining Authority (EvA) and Secretory of State	The Applicant and the MMO have mot regularly throughout the examination period
IVIIVIO-0 I	The MMO would like to highlight to the Examining Authority (ExA) and Secretary of State (SoS) that requests for information from the Applicant were made during the pre-application process, especially in relation to fisheries and underwater noise. In addition to this the MMO also requested early engagement and booking meetings before and after each deadline to ensure resource was available during the Examination.	The Applicant and the MMO have met regularly throughout the examination period and before, with a standing monthly meeting and additional meeting with Cefas have been arranged for specific matters. The Applicant is not aware of requests for further meetings made by the MMO.
	The MMO is disappointed that the additional information requested was provided at later deadlines within the Examination. The MMO is an enabling regulator but without the confidence in the evidence provided must take the precautionary approach, especially in	On underwater noise, the Applicant considers there to be no major outstanding matters.
	relation to mitigation and impacts to species. This delay in providing the information means that we have not been able to engage in detailed discussions within the time scales of the examination period.	Regarding fisheries, the Applicant has provided calculations using the MMOs preferred approach for herring spawning, despite disagreeing with the methodology, and has presented both for consideration by the ExA and SoS.
MMO-02	The MMO understands that disagreements are reviewed, and recommendations are made to the SoS by the ExA, so the SoS can make a decision. However, the MMO would highlight that with the Applicant leaving some of the major issues for examination, it has increased resource requirements during this process and some high priority issues remain unresolved, undermining the development consent order process.	This is noted by the Applicant.
MMO-03	The MMO would like to highlight that there has been a delay in providing further information on DML matters and understands this is frustrating for all parties. The MMO has been engaging with the Applicant and notes the Applicant did not raise DML issues within the most recent meeting. The MMO also noted that the Applicant is unlikely to agree with the proposed changes from earlier responses to the comments raised by the MMO and therefore there is a number of issues outstanding that are agree to disagree.	This is noted by the Applicant.
MMO Commo	ents on Draft Development Consent Order (DCO) – Revision H – REP7-008/REP7-009	
MMO-04	The MMO notes and welcomes the inclusion of '(d), (e) and' in Schedule 10, Part 2, Condition 3 (3)/Schedule 11, Part 2, Condition 4 (3).	This is noted by the Applicant.
	The MMO notes the inclusion of 'and, in so far as is relevant, the principles of the outline cable installation and specification plan' for Schedule 11, Part 2, Condition 4 (4).	This is noted by the Applicant.
	The MMO notes the changes made to Conditions 14/15 Site Integrity Plan and Schedule 11, Condition 20 (2), in response to the Examining Authority (ExA). The MMO notes in REP7-097 that we did not have any objections to the ExA's suggested changes.	This is noted by the Applicant.
	The MMO notes the changes made to Schedule 11, Part 2 Paragraph 13(1) (g) (iv). The MMO has no comments to add.	This is noted by the Applicant.
	The MMO welcomes the update of the Marine Mammal Condition in Schedule 10 to state 'or' instead of 'and' as mentioned in REP6-063. The MMO requests that this is changed for Condition 20 of Schedule 11.	This has been changed in Revision I of the 3.1 Draft Development Consent Order submitted at Deadline 8a.
	The MMO provided our full position on the deemed Marine Licences (DML) in Section 1 of REP7-097 and we maintain our position.	This is noted by the Applicant.
Comments o	on Applicant's Deadline 6 Submissions	
Fish Ecology		
MMO-05	The MMO notes the Applicant is aware of our position on the use of the 135 dB SELss threshold for modelling the range of effect for behavioural responses in herring. The MMO does not believe any further comments on this issue are needed.	This is noted by the Applicant.



Ref	Summary or excerpt of Deadline 8 submission	Applicant's response
MMO-06	With regard to the Applicant's comment (MMO-17 of REP6-043) on larval densities in the Southern North Sea (SNS), whilst it is recognised that higher abundances of herring larvae are recorded in the English Channel portion of the Downs spawning ground in the IHLS surveys, this does not diminish the importance of the SNS portion of the spawning ground to the overall contribution to the Downs population as a whole. Furthermore, the Applicant's statement must caveat that IHLS data for the years 2018 to 2024 are absent for the survey period 16-31 January due to the cessation of this survey and therefore the maps presented in the Herring Seasonal Restriction Note showing larval abundance per metres squared for the period 2012-2024 (Figure 5-1) and Figure 6-6 (2019 – 2020), Figure 6-7 (2020-2021), Figure 6-8 (2021 – 2022), Figure 6-9 (2022 – 2023) and Figure 6-10 (2023 – 2024) are not truly representative of the spawning activity in the SNS in the latter part of the spawning season.	Whilst the Applicant has acknowledged that low intensity spawning of the Downs stock herring is occurring in the vicinity of the Proposed Development, (as indicated by the IHLS data, the interrogation of which is recommended by the MMO), the Applicant has taken a highly precautionary approach, in proposing a piling restriction during the Downs stock spawning period, to mitigate against the potential for impacts from piling on low intensity spawning herring in the vicinity of the Proposed Development.  The Applicant also confirms that the discontinuation of the IHLS surveys undertaken by the Netherlands in January is addressed in the Herring Seasonal Restriction Note [REP6-013]. The Applicant also confirms that on recommendation of the MMO, to take into account different survey periods, the data were considered separately within the Herring Seasonal Restriction Note to allow for better interrogation of the data [REP6-013]. Further, the Applicant confirms that data from both the Germany and the discontinued Netherlands IHLS surveys, were used to inform the parameters used in the back calculations to define the peak herring spawning period.
MMO-07	The MMO thanks the Applicant for including the 5 millimetres (mm) and 11mm hatch lengths in their back-calculation scenarios for determining the start and end dates for the peak of spawning activity as requested. This value is appropriate for the reasons outlined in our AS-074.	This is noted although the Applicant does not agree with the use of these parameters, they have been presented as an alternative scenario for the MMO.
MMO-08	The MMO thanks the Applicant for including an 18-day egg development period in their back-calculation scenarios. This value is appropriate for the reasons outlined in our AS-074.	This is noted although the Applicant does not agree with the use of these parameters, they have been presented as an alternative scenario for the MMO.
MMO-09	The MMO thanks the Applicant for including a 20-day yolk absorption period in their back-calculation scenarios. This value is appropriate for the reasons outlined in our AS-074.	This is noted although the Applicant does not agree with the use of these parameters, they have been presented as an alternative scenario for the MMO.
MMO-10	The MMO thanks the Applicant for using the growth rate of 0.25mm per day (as per Heath,1993) in their back-calculation scenarios. This value is appropriate for the reasons outlined in our AS-074.	This is noted although the Applicant does not agree with the use of these parameters, they have been presented as an alternative scenario for the MMO.
MMO-11	As previously highlighted, the MMO requested the Applicant to use scenarios 'I' and 'P' to determine the conservative start and end dates of the peak of herring spawning period for a precautionary approach. This has not been completed. Without this information or evidence to the contrary, the MMO maintains that, based on scenario 'I' the start date of the peak of spawning is calculated as 02 November, and using scenario 'P' the end date for the peak of spawning is calculated as 17 December. Combining these dates with a minimum buffer period of 24 hours before piling commences to allow adult fish to migrate to the spawning ground without risk of injury and a 'buffer' period of 7 days at the end of the peak spawning period to allow developing larvae to drift away from the spawning grounds in their early developmental stages without injury, the MMO maintains that a temporal piling restriction from 01 November to 24 December (inclusive) is appropriate due to lack of confidence in the evidence provided to date. The restriction must be included in the DMLs and updated within Schedule 10 Condition 13 (6) and Schedule 11 Condition12 (6).  The MMO understands the Applicant disagrees with this restriction but with lack of evidence and confidence in the information provided to date, the MMO has to take the precautionary approach.  The MMO understands that this is for the ExA to recommend and SoS to make a decision on and would highlight that should the decision be the dates 01 November to 24 December (inclusive), the MMO is open to further evidence being provided post consent. As per the	The Applicant confirms, that as detailed in 6.5.6.4 Herring Seasonal Restriction Note - Revision D [REP6-013], the Applicant has undertaken the back calculations both in accordance with the parameters as recommended by the MMO, and those supported by the Applicant.  As aforementioned, the Applicant does not support the use of the parameters as suggested by the MMO to inform the definition of the peak herring spawning period (to determine the duration of the proposed piling restriction) which are based on the minimum temperatures recorded in the IHLS data (over a 12-year period). The use of these overly precautionary parameters suggested by the MMO leads to the definition of a period that reflects spawning earlier in the season, which is not supported by the literature. Spawning of the Downs stock in the southern North Sea occurs later in the season as the stock migrate north from the English Channel (Cushing & Bridger, 1966, and Burd, 1978).  With regard to the suggested buffer periods to allow for the migration of adult fish to the spawning grounds, and the drift of larvae away, the Applicant has already detailed in the Applicant's response to MMO-RR90 in [REP1-049], that the proposed development is positioned on the northeastern return leg of the herring migration pathway, therefore piling operations will not have any



Ref	Summary or excerpt of Deadline 8 submission	Applicant's response
	current wording of the condition if evidence is provided the MMO can allow works to take place in this period.	impacts on herring migration to the spawning grounds. Furthermore, the Applicant has incorporated multiple measures of conservatism into the back calculations to define a peak spawning period for downs stock herring, therefore the Applicant is confident that it has implemented a sufficiently precautionary approach in defining a piling restriction that will accommodate the migration of herring away from the spawning grounds, and the drift of larvae away from the grounds.
		The Applicant therefore maintains that a pilling restriction implemented from the 25 <sup>th</sup> November until 3 <sup>rd</sup> January is an appropriate, and precautionary mitigation measure (as informed by suitably conservative parameters) to avoid population impacts on the Downs stock herring. This commitment to the piling restriction is secured in principle in the Draft Development Consent Order [REP7-008].
		The Applicant agrees with the MMO, that due to the outstanding disagreement between the MMO and the Applicant on this topic, that it is for the ExA to recommend, and the SoS to make a decision, on the dates of the herring piling restriction to be implemented.
MMO-12	The MMO notes, in REP6-043 (comment MMO-31), the Applicant states; 'as shown by the IHLS data (from 2000-2024), the majority of the Downs stock herring are spawning in the English Channel, and not in the southern North Sea'.  Please see points 1.2.2-1.2.3 concerning the limitations of IHLS data for the years 2018 - 2024.	The Applicant directs the MMO to their response to MMO-11 above.
MMO-13	The MMO notes that the hatch lengths in Tables 2-4 and 2-5 in REP6-013/014 have been corrected from 5mm for all scenarios to 6mm (scenarios C, D, K, L), 7.5mm (scenarios E, F, M, N) and 11mm (scenarios G, H, O, P).	This is noted by the Applicant.
MMO-14	The MMO notes that the Applicant has still not provided any further information to address our concerns regarding the impacts of elevated suspended sediment concentration (SSC) and associated redeposition resulting from cable installation and bed preparation works. As stated in the previous responses, the sediment disposal restriction does not provide adequate protection to spawning herring and resultant eggs and larvae.  Given that the southern array overlaps areas of high herring spawning potential and that the impacts of elevated SSC may extend up to 500m from the source, there may be potential for significant impacts to herring spawning success at a population level. Therefore, the MMO maintains that a temporal restriction on bed preparation and cable laying works in the southern array area will be necessary. Therefore, to minimise the potential for impacts to herring eggs and larvae from activities likely to generate high SSC, Schedule 10 Condition 13 (6) and Schedule 11 Condition 12 (6) should be updated to the following: 6) No percussive piling associated with wind turbine generator foundations, cable laying or sea bed preparation may take place between 1 November to 24 January (inclusive) in any year for the protection of spawning herring unless otherwise agreed in writing with the MMO. It should be noted that the cable corridor and northern array overlap areas of lower herring spawning potential and therefore are of less concern. However, with lack of clearly defined areas provided by the Applicant within the certified documents, the MMO is not able to reduce the requirement of the restriction to the specific location. The Applicant must propose	
	appropriate mitigation such as a temporal restriction for the southern array area to minimise the potential for impacts to herring eggs and larvae from activities likely to generate high SSC.	The Applicant therefore maintains that further mitigation to minimise the potential for impacts to spawning herring and resultant eggs and larvae in the southern array



Ref	Summary or excerpt of Deadline 8 submission	Applicant's response
	Should the Applicant propose appropriate mitigation and/or provide maps at the post consent stage the MMO would welcome further discussion to reduce the restriction area to enable works that overlap areas of lower herring spawning potential to take place within the restricted period.	area is not necessary, due to the significantly lower densities of herring larvae present in the area, and low intensity spawning activity.  The Applicant, however, notes that in the event that the SoS does decide to implement this restriction, that the restriction should be implemented during the peak spawning period of herring (25 November until 3 January) as defined in the Herring Seasonal Restriction Note [REP6-013]. In the event that this restriction is imposed, Schedule 10 Condition 13 (6) and Schedule 11 Condition 12 (6) should be updated to the following:  6) No percussive piling associated with wind turbine generator foundations, cable laying or sea bed preparation may take place between 25 November to 3rd January (inclusive) in any year for the protection of spawning herring unless otherwise agreed in writing with the MMO.  The Applicant also notes the drafting of the commitment by the MMO considers 24th January, when the MMO has been requesting 24th December in the other comments.
MMO-15	The MMO has reviewed the Fish and Shellfish Ecology section of the Offshore In-Principle Monitoring Plan (REP6-028/029) and notes that no monitoring or surveys relating specifically to fish ecology are proposed. The MMO is content with this. The MMO also notes that underwater noise monitoring of the first four piles of each foundation type will be undertaken to validate predictions on the received sound levels and source levels and the conclusions made within the ES, which is considered appropriate.	This is noted by the Applicant.
MMO-16	The MMO has briefly reviewed the Outline Fisheries Liaison and Co-existence Plan (REP6-024/025) and does not have any comments or concerns with the Applicant's plan.	This is noted by the Applicant.
Underwater	Noise (UWN)	
MMO-17	The MMO welcomes the update to the Landfall Impact Piling Modelling to include the depths. The MMO would request that it is made clear that if vibropiling is not utilised, that the cofferdam is included within post consent documentation for UWN and request that this commitment is captured within the Marine Mammal Mitigation Protocol (MMMP) and design plan.	If vibropiling is not utilised, the Applicant will include the cofferdam within post consent documentation for UWN.
Dredge and		
MMO-18	The MMO welcomes that the Applicant provided the MMO with the raw data for sediment quality in the MMO's excel format as requested in REP3-029, as well as the shapefiles for the proposed disposal sites. The MMO is discussing the designation of the disposal sites with our technical advisers and the Applicant.	The MMO has shared the references for the disposal sites with the Applicant on 14 March 2025 and they were included in the dML.
MMO-19	After reviewing the results in the correct templates, the MMO notes that the results are fully corroborated and acceptable with respect to risk of contaminants. However, the MMO notes that the Applicant has not filled out the template completely, missing out the "Dredge Area" column from each contaminant tab and missing out the tables "Marine licence applicant information" and "Dredge area tonnages" on tab 1. All of these should be filled out to enable annual OSPAR reporting and the MMO highlights that this should be sorted early, rather than at the point of processing the future returns data.	The Applicant has now provided the MMO with the Dredge Area information in the MMO excel template.
MMO-20	With regards to comment MMO-40 in REP6-043, the MMO notes the Applicant states that they "did not apply a threshold of 6% to determine whether a samples should be included for	This is noted by the Applicant.



Ref	Summary or excerpt of Deadline 8 submission	Applicant's response
	contaminant analysis" and that contaminant samples instead "incidentally all contained a mud fraction higher than 6%" and that the contaminant survey "was designed to target those sediments with the greatest predicted mud content."	
MMO-21	The main question the MMO had on this concern was what were the criteria for selecting which samples to test for contaminants and whether a silt fraction threshold was used as is sometimes the case for sediments expected to be coarse. The apparent coincidence that all samples were above 6% fines was the reason for raising the comment in the first instance, due to lack of any sort of justification from the Applicant on sampling effort. The Applicant's reference to other relevant responses does not elucidate this any further. Ultimately the sampling effort is not adequately justified, however, due to the late stage in the examination process the MMO considers the overall risk remains acceptable.	This is noted by the Applicant.
MMO-22	The MMO has reviewed the Sediment Disposal Management Plan (REP6-041/042) and has no significant concerns. The report clarifies that the anticipated dredge volumes will amount to 31.5 million cubic metres (Mm³) total, with the majority of the material being associated with sandwave clearance intra-array, inter-arrays and associated with export cables (29.7Mm³). Most of this disposal will be within the Array area disposal site(s) (24.5Mm³), with the remaining 9.2Mm³ going to the Cable Corridor disposal site. The volumes are clear, and the relevant information related to methodology and mitigation is best practice.	This is noted by the Applicant.
MMO-23	The MMO highlights that there are no major dredge and disposal concerns left for further discussion, other than the raw data and designation of the disposal sites, which is ongoing. As per the comments in Section 1.10 of REP7-097 the MMO and the Applicant are still in discussions on the disposal site reference numbers and requests the DML is updated accordingly.	The Applicant has now provided the MMO with the raw data and the shapefiles for the disposal site. The MMO has shared the reference numbers for the disposal sites and they are now included in the dML.
Benthic Eco	ology	
MMO-24	The MMO agrees with the Applicant's response to previous concerns raised regarding sediment bound microplastic load (comment MMO-42 in REP6-043) and would note the approach taken by an Offshore Wind Farm developer in the Irish Sea which included post-construction monitoring of paint loss and leading-edge protection erosion (and updates to the In-Principle Monitoring Plan accordingly) to provide the required context and potential scale of the input of paint flakes. The MMO requests the Applicant to consider doing similar to enable a better understanding of the potential release of microplastics from Offshore Windfarm developments, however this is not a major comment.	Five Estuaries is an extension project and located in an area with other OWFs, therefore there would be limited benefit in the Applicant conducting post-construction monitoring of paint loss as it would not be possible to determine whether the paint flakes detected are from VE or other OWFs.  As this is a general concern relating to offshore wind and not a project specific issue, the Applicant believes it is best considered as an industry issue. Monitoring may best delivered at that level through channels such as the Offshore Wind Evidence and Change programme run by The Crown Estate.
MMO-25	The MMO is content with the changes made to clarify the post-construction monitoring of potentially impacted biogenic/geogenic reef in REP6-028/029.	This is noted by the Applicant.
MMO-26	The MMO defers to the relevant Statutory Nature Conservation Body regarding the proposed approach to monitoring installed cable (and cable protection) within the Margate and Long Sands Special Area of Conservation (M&LS SAC). The MMO notes that the Applicant has added text to Section 4.6.13 of the Offshore In-Principle Monitoring Plan (REP6-028/029) to outline the approach to post-construction monitoring of cable protection within M&LS SAC and to clarify the aims of post-construction monitoring survey.	This is noted by the Applicant.
MMO-27	The MMO acknowledges the Applicant's recognition of potential impacts to sensitive habitats such as biogenic reefs from disposal activities in REP6-041/042 and is content with the Applicants commitment to identify and avoid these areas.	This is noted by the Applicant.
MMO-28	The MMO notes there are no major benthic ecology concerns left for further discussion, however the MMO would encourage the Applicant to consider postconstruction monitoring to enable a better understanding of the potential release of microplastics from OWF developments.	This is noted by the Applicant



Ref	Summary or excerpt of Deadline 8 submission	Applicant's response
Shellfish Ed		This is noted by the Applicant
MMO-29	The MMO notes the Applicant states the following in section 4.8 in REP6-028/029: 'the impacts on fish and shellfish ecology during the construction, operation and decommissioning phases of the Five Estuaries Offshore Wind Farm (assessed in Volume 6, Part 2, Chapter 6: Fish and Shellfish Ecology) found that there will be impacts of negligible to minor adverse significance with no residual impact on fish and shellfish ecology assessed'. Accordingly, no specific shellfish monitoring is specified. The MMO notes that benthic monitoring will occur, and shellfish presence/absence can be reported from this, however no assessment of shellfish populations would be feasible as benthic grabs or beam trawl surveys are not suitable methods to catch shellfish.  The MMO also notes the changes made to section 4.10 of REP6-028/029. The MMO notes no monitoring specific to commercial shellfish fisheries is listed, however it is noted that the AIS activities will be reviewed to compare pre and post fishing impacts alongside Fisheries Liaison Officer records. Outcomes from this is to be reported. It is important to note that this	This is noted by the Applicant.
	is reported in line with monitoring reports to capture any observations on impact on	
	commercial fisheries.  The MMO notes that monitoring commitments within the Outline Fisheries Liaison and Coexistence Plan (FLCP) Revision D will be agreed in a final version prior to start of construction.	
	The MMO notes the Applicant recognises the importance of effective communication with	
	fisheries stakeholders in managing relations and, therefore, has developed appropriate liaison and information sharing strategies which includes implementation of mitigation strategies to minimise the overall impacts of the Project. These include: communication and	
	dialogue throughout the project, minimising restrictions on safety distances, safe working	
	practices, claim guidance etc in line with best practice and industry guidance.	
	The MMO notes that there are no further shellfisheries concerns left for further discussion,	
	however, would like to highlight that it will be important to include the output of this monitoring within monitoring reporting to establish the level of impact on commercial shellfish fisheries.	
Coastal Pro		
MMO-30	The MMO requests the Applicant updates documents REP6-028/029 in section 4.2.3 to include meteorological and oceanographic.	The Applicant notes this paragraph refers to potential engineering survey methods, and states 'buoys may be deployed to survey local meteorological conditions.'.
MMO-31	The MMO notes that in documents REP6-028/029 in section 4.3.1, the 500 metre (m) potential impact zone survey around pre-construction activity should be regarded as a minimum with 100% coverage of the seabed by Swath and sidescan sonar within this zone. The MMO would like to highlight that if the disposal zone from dredgings is outside of this zone then the coverage should also include the disposal zone.	The Applicant has updated the document to include this commitment.
MMO-32	The MMO requests clarification for REP6-020/021, whether in Table 1, is the 22m minimum cable burial depth reflected in the total volumes of sediment to be dredged along with what will be provided post consent in relation to this?	The 22m cable burial depth is reflected in the total sediment volumes to be dredged in Table 1 of REP6-020/021.
MMO-33	In response to comment MMO45 in REP6-043, the MMO would like to highlight that whilst the reuse of clay is relatively well known, the use of sand and gravel in a beneficial manner is also an established principle in the UK, and new opportunities for re-use and recycling are developing, such as in the Harwich Haven area for coastal defences (L/2020/00360): https://www.bbc.co.uk/news/articles/c5yxvrj5enjo	This noted by the Applicant.
MMO-34	In section 3.5.2 of REP6 –041/042, the MMO notes the deposition of clay will depend on the method of removal, storage, transportation and placement. The final version of the Sediment Disposal Management Plan must describe this in detail. Any losses of fine material (sourced from Clays) can travel a significant distance due to the low settling velocity.	The Applicant has updated 10.20 Outline Sediment Disposal Management Plan to Revision D to include detail on the method of removal, storage, transportation and placement. This has been submitted at Deadline 8a.



Ref	Summary or excerpt of Deadline 8 submission	Applicant's response
MMO-35	The MMO notes there are a few points that require clarification from the Applicant. The	This is noted by the Applicant.
	MMO has also provided what must be included in the final Sediment Disposal Management	
	Plan. There are no major concerns left regarding coastal processes that the MMO believes	
	cannot be resolved.	
Summary		
MMO-36	The MMO notes that a majority of our concerns have been resolved. The following major	This is noted by the Applicant.
	concerns are still outstanding:	
	Herring seasonal restriction and sediment disposal restriction on bed preparation and	
	cable laying works	
	Dredging in the deep water routes	
	Disposal sites (however two options provided in REP7-097).	_
	The MMO has provided our reasons and comments for the restrictions we have requested in	
	RR-070, AS-074 and section 3.2 of this response.	
	on Applicant's Deadline 7 Submissions	
MMO-37	The MMO welcomes the inclusion of Defra's Written Ministerial Statement and interim	This is noted by the Applicant.
	guidance in the Marine Recovery Fund in the document - 5.5.1 Benthic Compensation	
	Strategy Roadmap – Revision B [REP7-027]. The MMO defers to Natural England regarding	
	the updates and necessary compensation measures required.	
MMO-38	. The MMO welcomes the inclusion of Defra's Written Ministerial Statement and interim	This is noted by the Applicant.
	guidance in the Marine Recovery Fund in the document – 5.5.2 Outline Benthic	
	Implementation and Monitoring Plan – Revision C [REP7-029]. The MMO defers to Natural	
	England regarding the necessary compensation measures required.	
MMO-39	The MMO notes the Applicant has updated the maximum volumes to be disposed of within	The Applicant has provided the data to the MMO and has received reference
	the Array Area disposal sites in 9.8 Dredge Disposal Site Characterisation Report [REP7-	numbers for the disposal sites.
	039]. The MMO has no concerns in relation to this as the numbers have been reduced and	
	are within the worst-case scenario. As per the comments in Section 1.10 of REP7-097 the	
	MMO and the Applicant are still in discussions on the disposal site reference numbers and	
1010 10	requests the DML is updated accordingly.	
MMO-40	The MMO notes the changes made to 9.12 Outline Cable Specification and Installation Plan	This is noted by the Applicant.
	[REP7-041] to take into consideration the Deep Water Routes (DWRs).	
	The MMO notes the inclusion of a section on Wet Storage and stating that this will not occur	
	within the DWRs. 4.5.3.	
	The MMO would like to highlight that it should be clear on Schedule 11 Paragraph 2, 'Details of licensed marine activities' and Condition 1 'Design Parameters' the worst case wet	
	of licensed marine activities' and Condition 1 'Design Parameters', the worst case wet	
	storage impact figures. However, due to the stage of the Examination and the fact the	
	maximum area of seabed disturbed by the wet storage area will be 15,000 m <sup>2</sup> (with an	
	indicative shape of 75 m x 200 m). The MMO will not be requesting this update to the DML	
	and is content this is captured within a certified document.	This is noted by the Applicant
	The MMO notes and welcomes the commitment to not use a jack-up barge within the SAC and that the material will be disposed of within the same sediment cell.	This is noted by the Applicant.
MMO-41	· ·	This is noted by the Applicant
IVIIVIO-4 I	The MMO notes and welcomes that the Applicant has updated 9.14.2 Outline Marine	This is noted by the Applicant.
	Mammal Mitigation Protocol – Piling [REP7-045] to mention the Defra Noise Policy 2025 and that 'VE will demonstrate that they have utilised best endeavours to deliver noise	
	reductions through the use of primary and/or secondary noise reduction methods for pile	
	driving activity'. The MMO welcomes that VE will demonstrate that they have utilised best	
	endeavours.	
MMO-42	However, would echo the advice provided in Section 2.4 of REP7-097 that Noise Abatement	The Applicant notes that both the Defra Noise Policy (2025) and the JNCC guidance
IVIIVIO-42	Systems (NAS) (this also includes any additional Noise Mitigation Systems (NMS)) will likely	on underwater noise (2025) requires developers to use best endeavours to deliver
	be required for all piling in the coming years and stresses that this commitment to using	noise reductions. Noise reduction can be achieved through various techniques,
	be required for all plining in the contining years and stresses that this confinitinent to using	Holse reductions. Noise reduction can be achieved through various techniques,



Ref	Summary or excerpt of Deadline 8 submission	Applicant's response
	these techniques should be clear in the MMMP and Application now and not as a potential to review post consent. The cost alone is not enough to show best endeavours and the MMO may be in a position where approval for a wildlife licence/approval of the MMMP is either delayed or rejected unless NAS is utilised, therefore commitment to utilise NAS/NMS as part of the consent should be clearly stated.  As the enabling regulator this position would not be taken lightly and would encourage the Applicant to start engagement for NAS procurement as soon as possible should the SoS be minded to grant consent.  The MMO notes NE is also requesting this commitment.  The MMO notes the changes made to section 4.5 to reference 'noise reduction' instead of 'noise abatement'.	including NAS, but not all are suitable, effective or implementable at all sites, and therefore any measure must be considered on a site specific basis and with the detail of foundation design known. The policy and guidance do not require developers to commit to these measures pre-consent, nor is it appropriate to do so. The Applicant set out the reasons for this in response to MMO-24 at Deadline 8.  The SIP and MMMP both secure that the Applicant must use best endeavours to reduce noise, in line with the aforementioned policy.
MMO-43	The MMO notes the Applicant has included references to the Defra Noise Policy 2025 and has stated that low-order clearance techniques will be the default method for clearance. The MMO welcomes this commitment and that the MMMP will be used as part of the separate marine licence application for UXO investigation and clearance.	This is noted by the Applicant.
MMO-44	The MMO notes the changes made to 9.20 Outline Navigation and Installation Plan [REP7-049], the MMO understands that section 2.6 of the document sets out the approval's mechanism.  The MMO would encourage the Applicant and interested parties to come to an agreement prior to the document being submitted to the MMO.  In relation to the updates, all updates should be provided to the MMO for approval, the MMO should always have the most up to date version of the documents and these all have to be approved, no matter how minor. If these documents are not shared and approved and changes are implemented the Applicant would be in breach of the licence.  The MMO would also welcome all updates being provided to interested parties prior to submission as these may have to be consulted on post consent which could cause delays.	
MMO-45	The MMO notes the update to the Offshore In-Principle Monitoring Plan (IPMP) to consider the potential monitoring options for migratory bats. The MMO provided further comments regarding bats in Section 5.1.2 of this response.  The MMO still notes that the Applicant is not willing to commit to utilising best practice standards. This should already be stated within the IPMP for the current standards that exist.  The MMO notes that other offshore wind developments have updated the IPMP to state they will consider industry standards post consent. For example, this is updated in Morecambe Offshore wind Farm Application (REP4-026): 'In the development of detailed monitoring methods post-consent (for receptors identified as requiring monitoring), including data collection and reporting, the Applicant will consider the application of standardisation where widely recognised agreed standards for monitoring already exist at the time.'  The MMO does not believe that this update is too onerous at this stage, as utilisation of current best practices is standard across the industry.	As stated in response to MMO-25 10.63 Applicant's Comments on Deadline 7 Submissions [REP8-035], 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.
MMO-46	The MMO notes the Applicant has updated the 10.30 Outline Sediment Disposal Management Plan [REP7-079] to include a section regarding boulder clearance. The MMO welcomes this addition and clarity.	This is noted by the Applicant.



Ref	Summary or excerpt of Deadline 8 submission	Applicant's response
MMO-47	The MMO has no comments on this document (10.56 Applicant's Responses to the Report on the Implications for European Sites (RIES) [REP7-083] and defers to NE in relation to the specifics on marine protected areas.	This is noted by the Applicant.
MMO-48	The MMO notes that the Applicant is content with the ExA's suggested wording from DCO.3.12 of PD-026, which the MMO also did not have any objections to.	This is noted by the Applicant.
MMO-49	The MMO notes the Applicant's response to HE.3.03 where they do not consider it necessary to name the Essex County Council (ECC) as a consultee for Condition 13 of the DML. The MMO is content to consult with ECC under this Condition, but would also be content for ECC to be a named consultee, should the ExA/SoS include this.	This is noted by the Applicant.
MMO-50	The MMO notes comment MM0-13 where the Applicant does not consider it reasonable to commit to following the guidance provided in our REP6-063 in relation to a project being undertaken on the standardisation of offshore wind post-consent monitoring data for In-Principle Monitoring Plans.  The MMO would like to highlight that this will become the default approach, which will	As stated in response to MMO-25 10.63 Applicant's Comments on Deadline 7 Submissions [REP8-036], 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.
	impact Five Estuaries going forward. Therefore, the MMO requests for these changes to be made as set out in Section 4.10 above.	
MMO-51	The MMO notes the Applicant's response to comment MMO-21, stating that for the same commitment to be in three places it would be unnecessary and confusing. The MMO would like to highlight that the DMLs are standalone documents and as the matters relate to the MMO's jurisdiction, then wording would be necessary within the DMLs. As long as the wording is consistent, then it should not be confusing. As this 18 was a major issue the MMO believes it would be beneficial for this to be on the face of the DML and the detail within the plan.	This is noted by the Applicant.
Comments of	on Interested Parties' (IP) Deadline 7 Submissions	
Natural Engla	and (NE)	
MMO-52	The MMO notes Natural England's comments regarding migratory bats in REP7-109. The MMO is responsible for wildlife licensing in the English marine area. A wildlife licence may be required for actions which result in an offence to protected species. There is currently insufficient evidence to understand impacts to the species, and therefore whether it may be appropriate to consider licensing this activity. This evidence gap should be addressed to inform whether a licence may be appropriate, however, the MMO would not pre-determine any licence application.	This is noted by the Applicant.
MMO-53	When determining a wildlife licence application, the MMO must consider if satisfactory alternatives or solutions exist. The MMO therefore advises that if impacts to migratory bats are identified, the primary approach must be to avoid impact through project design before a licence could be considered.	See the Applicants response to ME.3.0.3 in 10.58 Applicant's Responses to ExQ3 [REP7-085] for explanation why an EPS licence for operational impacts on bats should not be required.
MMO-54	The MMO notes that NE reiterates their advice that Noise Abatement System (NAS) within the MMMP and Site Integrity Plan (SIP) should be committed to. The MMO advised the use of NAS in Section 2.4 of REP7-097 and Section 4.7 of this response.	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 within the MMMP and SIP, in line with the Defra Noise Policy Paper (2025).
		The Applicant highlights that noise reduction can be achieved by several methods and Noise Abatement Systems are not the only option. Therefore, the Applicant is confident that the current commitment is in line with policy and does not agree any updates are necessary.
MMO-055	The MMO notes that NE has outstanding concerns regarding the Margate and Long Sands Special Area of Conservation Benthic Mitigation Plan. The MMO defers to NE regarding these matters.	This is noted by the Applicant.
Port of Lond	lon Authority (PLA)	



Ref	Summary or excerpt of Deadline 8 submission	Applicant's response
MMO-56	The MMO notes that there are still some outstanding comments from the PLA in relation to suggested changes for the Outline Cable Specification and Installation Plan and Outline Sediment Disposal Management Plan. The MMO does note that the Applicant has included maintenance within the term for DWR areas, which the PLA suggested.	This is noted by the Applicant.
MMO-57	The MMO has liaised further with the PLA and understands that they will be providing a further response in response to REP7-097. The MMO has hopefully covered the comments to be raised below.	This is noted by the Applicant.
MMO-58	In relation to Section 1.1.12 of REP7-097 we requested 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 MMO understand that reference to Condition 16 relates to Condition 18 (Pre-construction monitoring and surveys) and is content that this condition is updated accordingly.	The Applicant has added the PLA to the list of stakeholders in Condition 18(5).
MMO-59	In relation to Section 1.1.14 of REP7-097 the MMO notes that the PLA suggested adding the following new sub condition 13(1)(g)(ii) as it is dealing with a different activity: "(g)(ii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment demonstrating compliance with condition 3(3) within the Areaof Interest". The MMO understands this update is dealing with activities generally against the parameter. Meanwhile the next sub-paragraph is dealing with cable protection. The MMO is content for this to be included.	The burial risk assessment will not demonstrate compliance with that condition. It is an assessment of risk to the cable that will inform target cable burial depths, therefore this amendment is not accepted as it is not capable of being complied with.
MMO-60	In relation to 'in accordance' Section 1.1.15 of REP7-097 the MMO understands there is a slight drafting preference between the PLA and ourselves. The PLA has requested "which substantially accords with". The MMO believes that in accordance with is enough as the outline document should be the base of the development of the final document post consent and therefore more should be added rather than taken away, unless with agreement and justification the information is no longer relevant as part of the design plan so can be removed. This is not a matter of disagreement and the MMO would be content with the inclusion of substantially if this is clearly defined.	The Applicant has retained the drafting 'which accords with'.
Comments	on PD-026 - Examining Authorities Written Questions 3 (ExQ3)	
MMO-61	Question: DCO.3.13 - Condition 6(16) (Notifications and inspections) of Part 2 of Schedule 10 (Deemed marine licence – Generation Assets) What type of materially false or misleading information is being referred to in subparagraph (16) of condition of the Deemed Marine Licence for the generation assets?  Response: The MMO believes the addition of this condition puts a positive obligation on the Applicant in the event the environmental data submitted is identified as wrong or misleading at the post consent stage. This is an unlikely event but allows the MMO to understand any issues and identify if we need to react and/or take further action, should this be identified by the Applicant.	This is noted by the Applicant.



#### 3. NATURAL ENGLAND

#### 3.1 COVERING LETTER [REP8-050]

Ref	Question	Applicant's response
NE-101	Natural England is currently reviewing the large number of documents submitted by the Applicant at Deadline 7. This document review will inform the update to our Risk and Issues Log and PADSS, consequently, we will be providing the next (and final) update to our Risk and Issues Log and PADSS at Deadline 8A.	This is welcomed, but the Applicant would like to note that there will be no opportunity for response to anything submitted at Deadline 8A.
NE-102	Natural England has reviewed the updated draft. We note and support the proposed changes to Schedule 10 Part 2 condition 19 (4).	This is noted by the Applicant.
NE-103	4.1. (9.14.1) Outline Marine Mammal Mitigation Protocol – Piling (Revision D) (Tracked) [REP7-045] Natural England notes that the Applicant has updated the Outline Marine Mammal Mitigation Protocol (MMMP) for Piling [REP7-045], which we welcome. However, we note that the Applicant has not addressed our advice related to soft start. Therefore, this remains unresolved.	The JNCC (2010) guidance defines soft start as the gradual ramping up of piling power, incrementally over a set time period, until full operational power is achieved and that this should be for a minimum of 20 minutes. It does not specify the maximum hammer energy that defines soft start. As the total time prior to full operational power is 35 minutes as per 6.5.6.2 Underwater Noise Technical Report [APP-122], the Applicant is complying with the soft start guidance within JNCC (2010).
NE-104	4.2 (9.14.2) Outline Marine Mammal Mitigation Protocol – UXO (Revision C) (Tracked) [REP7- 047] Natural England notes that the Applicant has also updated the Outline MMMP – UXO by committing to the low order detonation, as per the joint policy paper, which is welcomed.	This is noted by the Applicant.
NE-105	Natural England welcomes the Applicant's updated benthic ecology, mitigation and compensation documents provided at Deadline 7 (and listed in Annex 1 to this Cover Letter). However, we note that there are inconsistencies between the documents provided regarding the mitigation measures associated within sandwave levelling within Margate and Long Sands Special Area of Conservation (MLS SAC).	This is noted by the Applicant and updated in the relevant documents.
NE-106	We also note that removal of boulders has been included and discussed within [REP7-079] which is welcomed. The Applicant has stated that a SCAR plough or similar may be used to clear a high boulder density area. We would advise against using this (or similar) tool within MLS SAC and recommend the use of a grab (or other less impactful) tool to remove and replace boulders within the SAC. This is a new issue which will be added to Natural England's Risk and Issues Log for submission at Deadline 8A.	Please see response to Ref 7 in the NE Document reviewed: [REP7-079] table below.

#### 3.2 APPENDIX D8 - ADVICE ON THE APPLICANT'S PROPOSED SEABIRD COMPENSATION MEASURES – DEADLINE 8 [REP8-051]

Ref	Question	Applicant's response
General C	omments	
NE-201	To summarise, Natural England currently considers the Hornsea 3 Part 2 ('H3pt2') method to	Noted by the Applicant
	be the most ecologically complete for compensatory measures where it is necessary to	
	calculate the number of breeding pairs required to compensate for a specified mortality	
	impact. It is of note that the H3pt2 method was conceived to inform the design parameters of	
	artificial nesting structures (ANS) for black-legged kittiwake (kittiwake hereafter). The method	
	is also, in principle, suitable for wider application to other measures and for other seabird	
	species. However, in many cases the required demographic information may be limited, or	
	poorly evidenced. Thus, it may not be possible to adequately populate the H3pt2 method.	
	Following testing of the H3pt2 method for guillemot, razorbill, and lesser black-backed gull, it	
	has become apparent that lower levels of natal dispersal, compounded by older recruitment	
	ages and lower productivity can produce unrealistic and clearly disproportionate	



	requirements for scaling compensatory measures for other seabird species. Furthermore, it is not clear that some of the demographic information is well evidenced, which can introduce significant uncertainty into any calculations reliant on those data. In such cases and pending further refinement and updates to best practice advice, Natural England consider that given the current absence of a robust alternative option for these species, it is appropriate for the Hornsea 4 ('H4') method to be used, in conjunction with the other steps set out below. Nevertheless, depending on the species, proposed measure(s), and the location(s) they are to be deployed, we advise that the calculations may also need to take account of philopatry.	
NE-202	Natural England generally advises that the scale of implementation of seabird compensatory measures should be sufficient to address the 95% upper confidence limit (UCL) predicted impact value. The mean or central impact value should be used to inform and define success criteria, if appropriate.  The application of a ratio to address the uncertainty of success should continue to be set on a case-by-case basis, considering the level of impact, the feasibility of the measure, and its potential effectiveness. We highlight that the ratio should be applied to scale the implementation of a measure, for example by delivering at multiple distinct sites, each capable of addressing the impact alone.	Noted by the Applicant
NE-203	Natural England highlight that the application of any method to calculate the scale of compensatory measures with respect to the number of breeding pairs required to compensate a specified annual mortality impact remains somewhat contentious. The pressing need for independent expert advice on the topic led to the BTO being contracted by Natural England (on behalf of the Collaboration on Offshore Wind Strategic Compensation) to critically review the available methods and determine the most appropriate for this application, or to identify an alternative method. It is unlikely that the outputs of this project will be finalised in time for proper consideration within this examination. Our case-specific advice on this topic set out below reflects current knowledge and the application of expert judgement to the potential of measures to deliver tangible benefits, but we acknowledge the need for greater clarity of advice and guidance in this challenging area.  Estuary Special Protection Area (AOE SPA) Lesser Black-Backed Gull (LBBG)	Noted by the Applicant
NE-204	Predicted impacts – the central impact value (CIV) generated when Natural England's parameters are used is 11.31 adults from the SPA per annum, with a 95% upper confidence interval (UCI) value of 51.8 adults. Natural England advises that an adverse effect on the integrity (AEOI) of the SPA cannot be ruled out in combination with other projects. We are satisfied that the above are appropriate values for the impact assessment and scaling compensatory measures.	Noted by the Applicant
NE-205	Natural England's general advice on the proposals – Natural England considers that if the Applicant makes good progress with reaching agreements with the relevant landowners and can bring forward measures at both the 'VE2' site on Orfordness and at the Outer Trial Bank, it is likely that appropriate compensatory measures can be secured for the above level of impact. As set out in our Deadline 7 response (Appendix C7 in [REP7-104]), there are ecological uncertainties regarding the success of colonisation at the VE2 site and the current impacts of rat predation and vegetation growth on the Outer Trial Bank. Therefore, and as set out in our Relevant Representations [PD2-006] we consider there to be significant merit in progressing both schemes, as they are in several respects complementary. Landowner agreements do need to be progressed, however. There are also some as-yet unresolved aspects of the proposals that will need to be addressed post-consent in the Implementation and Monitoring Plan (IMP), not least the need to revisit measures to mitigate for potential impacts on the features of Orfordness – Shingle Street Special Area of Conservation (SAC) once seasonally appropriate vegetation and invertebrate surveys have been conducted.	The Applicant's position remains that they consider that the compensation quantum target will be reached by carrying forward one of the sites rather than both.  Commitment to undertaking appropriate surveys to inform mitigation measures is secured through the 5.5.6 LBBG Implementation and Monitoring Plan – Revision D, submitted at Deadline 8a.



NE-206	Information provided on compensation requirements – the Applicant has presented compensation quanta based on their preferred impact values (CIV and UCI) as well as Natural England's, based on the H4 calculation method. The Applicant has not formally presented outputs of the H3pt2 method or, as Natural England proposed as an alternative option, H4 with an additional step to take philopatry into account. We note that in the Applicant's response to Natural England's Deadline 4 submissions [REP5-074] they cite a value of 1,270 pairs in the context of their preferred impact value, but no calculations are provided, and we are unable to replicate this value.	The Applicant has noted in NE-207 that Natural England is happy to use the H4 calculation methods to calculate the CQ.
NE-207	Natural England's advice on compensation requirements - Natural England considers that the target for the compensatory measures should be set with respect to the CIV of 11.31, which yields a target of 42.4 or 53.5 pairs (we are seeking clarification on the correct value). However, it is important that the compensatory proposals should be able to demonstrate that	The Applicant clarified the target number of 42.4 birds in 10.63 Applicant's Comments on Natural England's Deadline 7 Submissions. The Applicant has shown that the compensation measure has the capacity to the cover the quantum required using the UCI and 3:1 ratio and is happy to agree with the CQ target of 42.4 pairs.
	<ul> <li>they could compensate for the UCI value should the impacts of the project be greater than the CIV, and</li> </ul>	
	<ul><li>ii. the measure is scaled using a ratio to increase confidence that sufficient benefits will still arise, should the measures underperform.</li></ul>	
	Whilst Natural England continues to consider that philopatry is an important consideration, we also note that the 'VE2' site falls within the NSN, and the value of Outer Trial Bank,	
	outside of the NSN, relates to increasing metapopulation resilience of the biogeographic population within which the NSN sits. Therefore, were the Applicant to progress both 'VE2'	
	and Outer Trial Bank (the latter potentially in partnership with North Falls), we consider that it is sufficiently precautionary to scale the compensatory measure using the UCI impact	
	value generated using the Nature England advised approach, applying the H4 method to	
	derive the quantum and finally applying a 3:1 ratio to generate the number of pairs the measure should be able to accommodate. Subject to the matters raised above regarding	
	the proposals being resolved, we consider that the two measures combined have the	
Flamboro	potential to provide compensatory benefits to that level.  ugh & Filey Coast Special Protection Area (FFC SPA) Kittiwake	
NE-208	Predicted impacts – the central impact value (CIV) generated when Natural England's	Noted by the Applicant
	parameters are used is 0.82 adult collisions from the FFC SPA per annum. Please note that	, · · · ·
	the Applicant has clarified in [REP7-086] that an appropriate Nocturnal Activity Factor (NAF)	
	has been used to generate this value. Natural England advises that an adverse effect on the	
	integrity (AEOI) of the SPA cannot be ruled out in-combination, albeit Five Estuaries only	
NE-209	makes a small contribution to the in-combination total.  Natural England's general advice on the proposals – given the modest contribution that the	Noted by the Applicant
112 200	Applicant's proposal makes to the in-combination collision total for FFC SPA kittiwakes,	. tota 2, the ripphoant
	Natural England considers the proposals are proportionate and appropriate. Indeed, Natural	
	England proposed using the 'Dogger Bank South' tower for the compensatory requirements	
	of Rampion 2, Five Estuaries and North Falls OWFs during Discretionary Advice Service	
NE 040	meetings with these developers.	Nickella die Acellacid
NE-210	Information provided on compensation requirements – The Applicant has presented compensation quanta based on their preferred impact values (CIV and UCI) as well as	Noted by the Applicant
	Natural England's, based on the H4, Hornsea 3 part 1 (H3Pt1), and H3Pt2 calculation	
	methods. Natural England welcomes the approach of providing the Secretary of State	
	multiple approaches to consider.	
NE-211	Natural England's advice on compensation requirements – Natural England continues to	Noted by the Applicant and the Applicant has shown that the compensation measure
	advise that for kittiwake, compensatory requirements should be scaled with respect to the	has the capacity to the cover the quantum required using the UCI and 3:1 ratio and is
	UCI and the H3Pt2 method. We consider it the most ecologically appropriate approach.	happy to agree with the CQ target of 5.3 pairs.
	Please see REP5-095 for a more detailed rationale. The low rates of philopatry shown by	



	kittiwake are at the heart of the ANS concept, indicating that a substantial proportion of the birds produced by the ANS will recruit elsewhere, including to the NSN. As noted above, the CIV based on Natural England's preferred parameters is 0.82 adults per annum. The CIV value for 0.82 results in a target of 5.3 pairs. It is also important that the compensatory proposals should be able to demonstrate that  i. they could compensate for the UCI value should the impacts of the proposal be greater than the CIV, and  ii. ii. the measure is scaled using a ratio to increase confidence that sufficient benefits will still arise, should the measure underperform.  We highlight that when a UCI value of 2.35 adults, the H3Pt2 calculation and a 3:1 ratio is used, it yields a compensatory requirement of 45.7 pairs. The Applicant has stated that it is seeking to secure a share of approximately 48 nest spaces ([REP5-018]). Notwithstanding the need for the 'Natural England CIV value' being clarified, this indicates that the proposed compensatory measures are appropriately scaled.	
	Guillemot, Farne Islands SPA Guillemot	
NE-212	Predicted impacts – a mean impact value of 2.28 adults from the FFC SPA per annum and approximately 2 adults from Farne Islands SPA are generated by Natural England's approach to displacement effects, when a 70% displacement rate and a 2% mortality rate are applied for the purposes of scaling compensatory measures. The UCI for FFC SPA is 3.08. Natural England advises that an adverse effect on the integrity (AEOI) on these two SPAs cannot be ruled out in combination, albeit Five Estuaries only makes a small contribution to the in-combination totals. We are satisfied that the above are appropriate values for the impact assessment and scaling compensatory measures for FFC SPA. The UCI for Farne Islands SPA should be clarified, but given the similarity between the impacts, the FFC SPA value can be used indicatively.	Noted by the Applicant, the Applicant updated the roadmap to include Farne Islands at Deadline 8, 5.5.5 Guillemot and Razorbill - Evidence, Site Selection and Roadmap - Revision D (Clean) [REP8-012]. However, the Applicant does not agree with an AEoI for the Farne Islands based on the reasoning from Natural England, Berwick Bank has not been approved and the connectivity to Farne Islands from VE is tenuous with the colony being over 470km from the array area
NE-213	Natural England's general advice on the proposals – given the modest contribution that the Applicant's proposal makes to the in-combination collision total for FFC SPA and Farne Islands SPA guillemot, Natural England considers that, subject to further development and refinement, the proposals are proportionate and appropriate. Indeed, Natural England proposed the option of exploring the potential reduction of recreational disturbance to Southwest auk colonies to multiple developers, including Rampion 2, who presented an in principle compensation plan for their impacts on both SPAs. We do recognise that Natural England has returned to the prospect of compensation for the Farne Islands SPA guillemot at a late stage in the Examination.	Noted by the Applicant
NE-214	Information provided on compensation requirements – for FFC SPA, the Applicant has presented compensation quanta based on their preferred impact values (CIV and UCI), and Natural England's, based on the H4 calculation method. The Applicant has informally shared outputs of the H3Pt2 method with us, which we were unable to match, as well as H4 calculations with an additional step to account for philopatry. The Applicant has not presented any calculations for Farne Islands SPA, but again, we consider the values from FFC SPA can be used indicatively.	Noted by the Applicant, see response to NE-212 regarding the Applicants position on the Farne Islands.
NE-215	Natural England's advice on compensation requirements – Natural England considers that the target for the compensatory measures for FFC SPA should be set with respect to the CIV of 2.28, which yields a target of 9.69 pairs. A slightly smaller target can be expected for Farne Islands SPA. However, it is important that the compensatory proposals should be able to demonstrate that	The Applicant has updated the potential level of benefit for the three selected sites in the 5.5.5 Guillemot and Razorbill - Evidence, Site Selection and Roadmap - Revision D (Clean) [REP8-012] and this has increase from 39 pairs to 184 pairs therefore the Applicant considers the 3 sites is more than enough even if the Farne Islands impacts are included.



FFC SPA	<ul> <li>i. they could compensate for the UCI value should the impacts of the proposal be greater than the CIV, and</li> <li>ii. ii. the measure is scaled using a ratio to increase confidence that sufficient benefits will still arise, should the measure underperform.</li> <li>Natural England continues to consider that philopatry is an important consideration. The rates in Horswill &amp; Robinson (2015) for both guillemot and razorbill are based on a small number of studies. Whilst these represent the best available evidence, they should be treated with caution. Furthermore, we highlight the importance of increasing the resilience of the biogeographic breeding population with respect to ensuring NSN coherence. Given the Applicant's modest contribution to the in-combination impacts at both sites, we consider that it is sufficiently precautionary to scale the compensatory measure using the UCI impact value generated using Nature England advice, applying the H4 method to derive the quantum and finally applying a 3:1 ratio to generate the number of pairs the measure should be able to accommodate. This approach indicates that the proposed measures should be evaluated against the potential need to deliver an additional 39.27 pairs of guillemot for FFC SPA, and a slightly smaller value for Farne Islands SPA. Natural England considers that management of recreational disturbance in the south-west has the potential to provide this level of benefit, particularly if undertaken as part of a collaborative or strategic initiative. However, to cater for both Farne Islands SPA and FFC SPA, it seems likely that it will be necessary to select further sites from the ten short-listed locations to carry out interventions beyond the three colonies of Lye Rock, Tresungers Point and North Cornwall 2 selected. Nevertheless, we consider that the required level of benefit could be achieved with the inclusion of additional colonies.</li> </ul>	The Applicant has shown that the compensation measure has the capacity to the cover the quantum required using the UCI and 3:1 ratio and is happy to agree with the CQ target of 9.69 pairs.
NE-216	Predicted impacts – a mean impact value of 0.63 adults from the SPA per annum is generated by Natural England's approach to displacement effects, when a 70% displacement rate and a 2% mortality rate are applied for the purposes of scaling compensatory measures. The UCI is 0.98. Natural England advises that an adverse effect on the integrity (AEOI) of the SPA cannot be ruled out in combination, albeit Five Estuaries only makes a small contribution to the in-combination total. We are satisfied that the above are appropriate values for the impact assessment and scaling compensatory measures.	Noted by the Applicant
NE-217	Natural England's general advice on the proposals – given the very modest contribution that the Applicant's proposal makes to the in-combination collision total for FFC SPA razorbill, Natural England considers that, subject to further development and refinement, the proposals are proportionate and appropriate. Indeed, Natural England proposed the option of exploring the potential reduction of recreational disturbance to Southwest auk colonies to multiple developers, including Rampion 2, who presented an in-principle compensation plan for their impacts on both SPAs.	Noted by the Applicant
NE-218	Information provided on compensation requirements – the Applicant has presented compensation quanta based on their preferred impact values (CIV and UCI), and Natural England's, based on the H4 calculation method. The Applicant has not formally presented outputs of the H3Pt2 method or, as Natural England proposed as an alternative option, H4 with an additional step to account for philopatry. We note that in the Applicant's response to Natural England's Deadline 4 submissions [REP5-074]) they cite a value of 1,364 pairs in	Noted by the Applicant



	the context of their preferred impact value, though we are unable to replicate this specific value.	
NE-219	Natural England's advice on compensation requirements – Natural England considers that the target for the compensatory measures should be set with respect to the CIV of 0.63, which yields a target of 5.65 pairs. However, it is important that the compensatory proposals should be able to demonstrate that	Noted by the Applicant. The Applicant has updated the potential level of benefit for the three selected sites in the 5.5.5 Guillemot and Razorbill - Evidence, Site Selection and Roadmap - Revision D (Clean) [RE8-012] and this has increase from 25 pairs to 34-113 pairs.
	<ul> <li>i. they could compensate for the UCI value should the impacts of the proposal be greater than the CIV, and</li> <li>ii. the measure is scaled using a ratio to increase confidence that sufficient benefits will still arise, should the measure underperform.</li> <li>Natural England continues to consider that philopatry is an important consideration. The rates in Horswill &amp; Robinson (2015) for both guillemot and razorbill are based on a small number of studies. Whilst these represent the best available evidence, they should be treated with caution. Furthermore, we highlight the importance of increasing the resilience of the biogeographic breeding population with respect to ensuring NSN coherence. Given the Applicant's modest contribution to the in-combination impacts at both sites, we consider that it is sufficiently precautionary to scale the compensatory measure using the UCI impact value generated using Nature England advice, applying the H4 method to derive the quantum and finally applying a 3:1 ratio to generate the number of pairs the measure should be able to accommodate. This approach indicates that the proposed measures should be evaluated against the potential need to deliver an additional 25.74 pairs of razorbill. Natural England considers that management of recreational disturbance at the three colonies of Lye Rock, Tresungers Point and North Cornwall 2 has the potential to provide this level of benefit, particularly if undertaken as part of a collaborative or strategic initiative.</li> </ul>	The Applicant has shown that the compensation measure has the capacity to the cover the quantum required using the UCI and 3:1 ratio and is happy to agree with the CQ target of 5.65 pairs.
Strategic	Approach to Auk compensation by Monitoring and Intervention at SW Colonies	
NE-220	Having proposed this measure to several projects, alongside highlighting the advantages of working collaboratively to deliver greater benefits, Natural England are pleased to see that the proposed measures considered by Five Estuaries are being considered as part of a wider strategic scheme. Natural England is strongly supportive of this concept. We would welcome more information regarding this proposal, and any ongoing updates regarding progress with stakeholders regarding the short-listed sites that could improve the level of confidence as regards securing the measures. Natural England advises that if the project or a wider strategic scheme can make good progress with reaching agreements with the relevant landowners, potential partners, and stakeholders, we consider that it is plausible that appropriate compensatory measures can be secured when Natural England's approach to impact assessments is followed.	The Applicant has submitted a letter from the Cornwall Wildlife Trust at Deadline 8a that contains more information on the proposed strategic measures.

#### 3.3 APPENDIX E8 –BENTHIC ECOLOGY ADVICE ON THE APPLICANT'S DEADLINE 8 DOCUMENTS [REP8-052]

Ref	Question	Applicant's response
	Document reviewed: [REP7-027] 5.5.1 Benthic Compensation Road Map (Revision B)	
NE-301	Natural England notes that the favourable condition status of MLS SAC has been duly noted by the Applicant and confirm that the site is currently in unfavourable condition due to anthropogenic impacts. This is information provides importance context for the Secretary of State as decision maker for the project.	This is noted by the Applicant.
	Natural England notes that the WMS has been referred to be the Applicant in relation to	
	the provision of Strategic Benthic compensation. Natural England welcomes the WMS as	



	this further supports the Applicant's and SNCB preference for strategic compensation being progressed for this project.  Natural England notes that Aggregate removal has been removed as an option for project level benthic compensation. Our advice at Relevant/ Written Rep [PD2-008] remains unchanged and therefore we have no concerns with the removal of project level compensation option.  Natural England notes the BT support for the progression of removing redundant telecommunications cables as project level compensation. However, no further details have been provided therefore our Relevant/Written Representations advice remains unchanged.  Document reviewed: [REP7-029] 5.5.2 Outline Benthic Implementation and Monitoring Natural England advises that this BIMP for project level benthic compensation would need to be updated should project level compensation be progressed. Therefore, our previous comments provided at Relevant/Written Representations [PD2-008] remain unchanged. Similarly, we note that as part of the announcement on 29 January 2025 in relation to the Marine Recovery Fund it was stated that a BIMP will be produced in consultation with	g Plan (Revision C) This is noted by the Applicant.
	Defra should strategic compensation be progressed. Therefore, we have no further advice at this stage.	
	Document reviewed: [REP7-039] 9.8 Dredge Disposal	
NE-302	Natural England welcomes the reduction in the amount of sediment disposal within the array. However, we note that this document is not consistent with mitigation measures included within the benthic related documents for disposal within MLS SAC. We advise that this document is updated accordingly.	As noted in the 10.30 Outline Sediment Disposal Management Plan, commitments relating to the disposal of material within the Margate Long Sands SAC are secured in the M&LS SAC Benthic Mitigation Plan.
		The wording within the 10.30 Outline Sediment Disposal Management Plan has been updated to be consistent with the M&LS SAC Benthic Mitigation Plan, with the use of a discharge pipe (or downpipe) will be used where practicable. Revision D has been submitted at Deadline 8a.
	Document reviewed: [REP7-041] 9.12 Outline Cable Specification and Installation Pla	
NE-303	We welcome the commitment to monitor protection and shallow/unburied cables over the life-time of the project. However, it is not clear if this monitoring will be shared with the MMO in consultation with Natural England. Natural England advises that all monitoring reports on cable burial over the life-time of the project within MLS SAC should be provided to the MMO and shared with relevant interested parties.	The Applicant will share monitoring reports with the MMO and Natural England on cable burial over life-time of the project, this commitment has been added to 9.13 Margate and Long Sands Special Area of Conservation Benthic Mitigation Plan Revision G. SAC
NE-304	Natural England notes that there is now an inclusion within the CSIP to allow for potential over dredging to occur in the deep water routes. It is not clear how this will relate to assessing WCS. Natural England advises that clarification should be sought from the MMO in relation how this proposal is assessed and enforced.	This is noted by the Applicant.
NE-305	The Applicant has stated that vessels will, when necessary, undertake wet storage techniques for anchor blocks and cable sections across the Order Limits, with a maximum area of 15,000m2. We query whether this includes use of Margate and Long Sands Special Area of Conservation (MLS SAC) and other areas of designated seabed and/or other sensitive receptors? We advise that the Applicant should clarify whether designated areas of seabed/sensitive receptors may be affected by wet storage. And if so, commitments should be made to avoid LSE to interest features of MLS SAC.	The Applicant can confirm that areas within the M&LS SAC will not be used for wet storage. The area of known peat and clay exposures with piddocks, as shown in Figure 3.1 of the Outline Sediment Disposal Management Plan [REP7-078] will also not be used for wet storage. This has been added to the Benthic Mitigation Plan
NE-306	Document reviewed: [REP7-043] 9.13 Margate and Long Sands Special Area of Conse Natural England welcomes the commitment to not use jack-up barges within Margate and	This is noted by the Applicant.
INE-300	Long Sands (MLS SAC).	This is noted by the Applicant.
NE-307	Natural England is disappointed that the Applicant has weakened its commitment to use a discharge/downpipe within MLS SAC by adding the term 'where practicable'. Natural	The Applicant has removed the reference to 'where practicable'.



	England advises that a firm commitment to use a downpipe where sediment disposal has a potential pathway of effect to MLS SAC should be reinstated, and at the very least, where the use of a downpipe has not been considered 'practicable', then there should be a requirement to demonstrate how impacts have been minimised. Noting the other risks and issues raised below in relation to benthic mitigation associated with sandwave levelling; there is every probability that the issue of sandwave levelling becomes a 'RED' outstanding area of disagreement in the final PADSS and R&I log due to the risk of AEoI occurring. Natural England advise that in the event that the mitigation measures are not reinstated, all relevant assessments, including the RIAA, will require updating to account for the elevated residual impacts resulting from the removal of mitigation measures.	
NE-308	Natural England is disappointed that commitments to deposit material updrift of levelling/seabed preparation and cable trenching operations to encourage natural backfill and reworking (except where upstream deposition may have an adverse impact on another features) have been removed. The reasoning for this is unclear and also contradictory to Section 7 of the same document. Natural England strongly advises that the commitment to deposit material updrift of levelling/seabed preparation and cable trenching operations to encourage natural backfill and reworking (except where upstream deposition may have an adverse impact on another features) should be reinstated. Noting the other risks and issues raised in relation to benthic mitigation associated with sandwave levelling; there is every probability that the issue of sandwave levelling becomes a 'RED' outstanding area of disagreement in the final PADSS and R&I log due to the risk of AEoI occurring. Natural England advise that in the event that the mitigation measures are not reinstated, all relevant assessments, including the RIAA, will require updating to account for the elevated residual impacts resulting from the removal of mitigation measures.	The Applicant has updated the Benthic Mitigation Plan to Revision G at Deadline 8a to secure the commitment to depositing material updrift where that is possible whilst keeping material within the SAC (and avoiding adverse impacts on other features).
NE-309	Natural England note a contradiction in the mitigation commitments relating to the use of a downpipes for sediment disposal. There are inconsistencies between this document and [REP7-079] with regards to the use of a discharge pipe (or downpipe) and Section 3.2.1 of this document. Natural England advises the Applicant to clarify their intentions with regard to commitments relating to the use of downpipes when discharging sediment from seabed preparation activities.	The Applicant has addressed this inconsistency as per comment 2.
NE-310	The Applicant has stated that any dredging material removed from the SAC will be placed within the offshore ECC within MLS SAC via discharge pipe(s) (or downpipe) within the 'same sediment cell'. However, this needs to be clearly defined. We advise that the Applicant should clarify what is meant by 'same sediment cell'.	Additional clarification text has been added to the 9.13 Margate and Long Sands Special Area of Conservation Benthic Mitigation Plan (Revision G) regarding the term 'same sediment cell', which could also be referred to as the 'same sedimentary system'. This is used to note that sediment removed from the seabed or bedforms is returned to the seabed sufficiently nearby that there would be no net change to the overall sediment volume available for natural processes to continue and bedforms to rebuild.
	Document reviewed: [REP7-079]10.30 Outline Sediment Disposal Management Plan (	Revision C) (Tracked)
NE-311	Natural England note that the WCS figure for volume of sediment disposal in the array area has been updated. These changes are a minor reduction from 24,556,610 to 22,374,371m3 and will not result in a material difference to the environment; nor change our advice.	This is noted by the Applicant.
NE-312	Natural England assume the use of the term 'postconsent' is a typo and should read 'pre- construction'. For the avoidance of doubt, Natural England advises this text should be corrected.	This has been updated to 'pre-construction' in the Outline Sediment Disposal Plan (Revision D).
NE-313	Natural England welcomes the commitment to avoid Annex I Sabellaria spinulosa reef using a 50 m buffer when disposing of sediment. However, we advise that this commitment should be extended to include the Section 41 habitat of "Peat and clay	This additional avoidance of "Peat and clay exposures with Piddocks" by 50 m has now been included in the Outline Sediment Disposal Plan (Revision D).



	exposures with Piddocks". Whilst Natural England welcomes the commitment to not dispose of sediment in areas identified as "A4.231 – Piddocks with sparce associated fauna in sublittoral very soft chalk or clay" we advise that the commitment of 'not disposing of sediment within a 50 m buffer of S. spinulosa' should be extended to include both the area identified in baseline surveys as 'A4.231 – Piddocks with sparce associated fauna in sublittoral very soft chalk or clay' as well as any areas which may be identified during pre-construction surveys (which are not currently included within commitments). These commitments should also be updated where relevant within the Offshore In Principle Monitoring Plan.	No additional wording has been added to the Offshore In Principle Monitoring Plan (Revision G) as there is no equivalent paragraph.
NE-314	Natural England notes inconsistencies in commitments between this document and the [9.13 MLS SAC Benthic Mitigation Plan (Revision D) (Tracked)]. These inconsistencies relate to the use of downpipes and location of sediment disposal relative to activities. Please refer to Natural England's advice on [9.13 MLS SAC Benthic Mitigation Plan (Revision D) (Tracked)] above, (specifically, lines 2 and 3).	The Applicant has removed the reference to 'where practicable' in 9.13 MLS SAC Benthic Mitigation Plan Revision G.
NE-315	As noted in Table 2 above, the Applicant has stated that when depositing sediment that has been removed from MLS SAC back onto the seabed 'within the same sediment cell' (within MLS SAC), a discharge pipe (or downpipe) will be used. While we welcome the use of a discharge or down pipe for replacing removed sediment back into MLS SAC; the definition of 'same sediment cell' has not been provided. However, this needs to be clarified. We advise that the Applicant should clarify what is meant by 'same sediment cell'.	Please see response to comment NE-310 in the table above.  Additional clarification text has been included within the Outline Sediment Disposal Management Plan (Revision D)
NE-316	Natural England welcomes the clarification of the use of the term 'within the vicinity of M&LS SAC' when considering disposal locations.	This is noted by the Applicant.
NE-317	Natural England welcomes the further detail provided on boulder clearance methods in Section 3.8. However, we highlight that some of the boulder clearance tools/methodologies proposed will have an LSE on Annex I interest features if used within MLS SAC. For example, the use of SCAR plough is likely to create a trench and move boulders to the side creating a linear formation which could disrupt sediment transportation and change ecological communities. Natural England advises that commitments should be made to ensure that boulder clearance activities within MLS SAC ensure that boulders are deposited in similar habitats to their removal location and that they are deposited in such a way to replicate the habitat and avoid linear formations.	The Outline Sediment Disposal Plan (Revision D) has been updated to ensure linear features are not created as a result of boulder clearance that may be required within the SAC.

## 3.4 APPENDIX J8 – ADVICE ON THE APPLICANT'S DEADLINE 7 DOCUMENTS RELATED TO THE PROPOSED LESSER BLACK BACKED GULL COMPENSATION SITE AT ORFORD NESS [REP8-053]

Ref	Update made	Issue progressed?	Applicant's response
NE-401	[REP7-026] Vol 5, Report 4.5: LBBG Compensation Site – HRA (Tracked) Page 29 references Natural England's Deadline cover 6 letter (Ref EN010115) and agrees to include post consent surveys, and any additional mitigation required along with confirmation or updates to mitigation proposals. This is welcomed. If these commitments are secured within the DCO or appropriately conditioned plans (i.e. surveys in the appropriate season and an adaptive mitigation strategy) our outstanding issue may be progressed or potentially resolved.	Progressed pending securing seasonally appropriate surveys and adaptive mitigation strategy commitment.	The Outline LBBG IMP (LIMP) has been updated to secure these surveys in paragraph 5.3.4 which states 'Prior to implementation seasonally appropriate surveys will be carried out to inform mitigation measures for potential impacts to the designated sites. Proposed mitigation measures are set out in the Lesser Black-Backed Gull Compensation Site HRA [REP7-025] and these will be reviewed and where necessary amended following the results of these surveys, in consultation with Natural England.'.  The Outline LIMP is secured in Schedule 13(3).



NE-402	[REP7-026] Vol 5, Report 4.5: LBBG Compensation Site – HRA (Tracked) Comment number NE52 states that removal of arisings to reduce the potential for increased nutrients is included within Section 5.4 of 5.5.6 LBBG Implementation and Monitoring Plan – Revision C. However, this has not been updated and still refers to the removal of arisings as a 'consideration'. This needs to be secured as a commitment.	Progressed pending securing removal of arisings as a commitment in the LIMP.	This has been updated to being where necessary to mitigate impacts from nutrient increase in paragraph 5.4.2.
NE-403	[REP7-020] Vol 5, Report 4.1: HRA Site Integrity Matrices – Revision B C (Tracked) Designated sites associated with the compensatory measures at Orfordness have been added into the matrices. The Applicant excludes LSE for the Alde-Ore Estuary Ramsar site and SPA, and Orfordness – Shingle Street SAC (Matrix 40, 41 and 42), but this is based on conclusions in the HRA Report which are not themselves based on appropriate survey information. Natural England advises that given there are potential impact pathways (as set out in e.g. our comments on the RIES [REP7-110]), a conclusion of Likely Significant Effects is inescapable. Further, Natural England cannot rule out adverse effects on the above sites unless seasonally appropriate surveys and an adaptive mitigation strategy commitment are secured in the DCO.	Progressed pending securing seasonally appropriate surveys and adaptive mitigation strategy commitment.	See the Applicant's response above.

#### 3.5 APPENDIX N8 – COMMENTS ON THE OFFSHORE IN PRINCIPLE MONITORING PLAN - REP6-029 [REP8-054]

Ref	Question	Applicant's response
NE-501	Pre-construction survey of the final array areas and a refined cable corridor survey will be undertaken to provide full sea floor coverage swath-bathymetric and side-scan data for area(s) where construction works are to be carried out. However, it is stated that the comparative post-construction survey will be carried out within the agreed array and cable corridor survey areas. It is not clear whether the post-construction survey covers the array areas and cable corridor? This needs to be clarified.	Post-construction surveys will be conducted in the array area and the refined cable corridor. Wording has been amended in the Offshore In Principle Monitoring Plan (Revision G).
NE-502	The Applicant has stated that the post-construction survey will be used to substantiate the desk-based assessment and that further surveys may be required if there are significant differences between modelled and recorded scour. We note, however, that triggers for remedial measures (i.e. adaptive management) have not been included, in this event. We advise that the IPMP should also consider the need for adaptive monitoring if observations of scour are found to be significantly different to that predicted in the ES.	The trigger for adaptive management should scour be significantly more than modelled within the ES will depend on the type of turbine foundations ultimately employed. As such it is not possible to present at this stage, what will trigger the need for adaptive management.  The need for further surveys should the observed and modelled scour be significantly different is already included within the Offshore In Principle Monitoring Plan.
NE-503	Natural England welcomes the Applicant's commitment to survey areas subject to pre- sweeping of sandwaves or other bedforms as part of construction. However, there is no specific mention of Annex I sandbanks or areas of designated seabed. Adaptive monitoring and triggers for the development of countermeasures have not been included either. We advise that Annex I sandbank and designated areas of seabed subject to sandwave levelling should be surveyed to validate ES predictions of sandwave recovery. The IPMP should also consider the need for adaptive monitoring if unforeseen impacts are detected. Similarly, triggers for the development of countermeasures should be clearly stated.	The requirement to monitor designated sandbank features within the M&LS SAC are presented within Section para 4.6.9 onwards in the Offshore In Principle Monitoring Plan (Revision G).  The requirement for further surveys should significant impacts be observed is already included within the Offshore In Principle Monitoring Plan.
NE-504	Natural England welcomes the additional commitment to analyse DDV footage to determine the presence of Section 41 NERC habitats (including S. spinulosa reef and peat and clay exposures with piddocks), we also welcome commitments to microsite	This additional wording has been added to the Offshore In Principle Monitoring Plan (Revision G).



	around these habitats where encountered and where practicable. Natural England welcomes, the additional mitigation commitments, but advise that these should go	
	further to state that where avoidance of Section 41 habitats during construction has	
	not been practicable, then there should be a requirement to demonstrate how impacts	
	have been minimised.	
NE-505	Natural England welcomes post construction monitoring commitments to determine	This is noted by the Applicant.
	any changes in the location, extent and composition of biogenic and/or geogenic reef	The second by the supplies.
	features which have the potential to be impacted by project infrastructure. Natural	
	England welcomes post construction monitoring commitments in relation to biogenic	
	and/or geogenic reef features.	
NE-506	Natural England welcomes the additional commitments to monitor the impacts of	The Applicant has not had sufficient time to consider the monitoring of sediment character and
	cable installation within Margate and Long Sand's SAC, but advise that the monitoring	will consider this further when drafting the final Offshore In-Principle Monitoring Plan.
	parameters need to consider changes in sediment character in addition to changes in	
	volume of sediment; this is required because sediment character is known to be a key	
	environmental variable in determining the benthic communities present, and will	
	therefore provide an indication of the need for benthic infaunal monitoring. Natural	
	England welcomes post construction monitoring commitments in relation biogenic	
	and/or geogenic reef features. However, we advise that sediment character (particle	
	size analysis) should be monitored in addition to the proposed monitoring of changes	
	in sediment volume in order to understand likely changes/monitoring requirements for	
	benthic infaunal communities.	
NE-507	Natural England notes additional text related to noise measurements of the first four	The Applicant has not previously been asked to consider further monitoring for marine
	piles as well as the mention of the contingency measures in case noise	mammals and does not consider that any further monitoring is required.
	measurements indicate greater levels of impact than those assessed in the ES. We	
	also note the absence of any additional monitoring for marine mammals. We advise	
	additional monitoring for marine mammals in addition to the monitoring of underwater	
NE-508	noise.	The Applicant has proposed appropriate onshore and offshore monitoring informed by literature
INE-500	The phrase 'the project maintains the position that there will not be a significant effect on migratory bats' is stated without any evidence to back it up. The position	review. Monitoring proposals will be further detailed in the final IPMP submitted for approval.
	of the Five Estuaries windfarm (between South-East England and continental Europe)	review. Morntoning proposals will be further detailed in the linar in will submitted for approval.
	is likely to be on or near to a number of bat migration routes. In particular, it is on or	The Applicant cannot commit to monitoring on behalf of other projects nor can it commit to
	near to eight of the ten possible Nathusius' pipistrelle migration routes discovered as	monitoring within other project sites.
	part of a national project (National Nathusius' Pipistrelle Project - Explore NBMP	morntorning within other project office.
	Surveys - Bat Conservation Trust). More generally, the location of Five Estuaries is	
	also likely to be on/near migration routes of other bats travelling to/from continental	
	Europe. This includes species which may be colonising or recolonising the UK (e.g.	
	greater mouseeared bat, Geoffroy's bat and parti-coloured bat). The Five Estuaries	
	windfarm project does recognise that there is currently a lack of baseline data	
	associated with migratory bats and is considering appropriate monitoring with a view	
	to providing useful and relevant additional data. Notwithstanding the detailed technical	
	advice provided below, Natural England does welcome this commitment from the	
	Applicant. Natural England considers that appropriate onshore and offshore	
	monitoring (at both this site and existing adjacent arrays) should be carried out in the	
	post-consent phase. This should be informed by a comprehensive literature review on	
	the topic. We highlight that there is now some research which could help with both	
	appropriate survey and an offshore bat mitigation strategy (e.g. Brabant et al., 2021).	
	Li Aldelitian alle di la comuta de combanio a colo attanto a casa a casa la calatada al fancial accidente la stalata	
T. Control of the Con	Additionally, it is worth exploring whether access can be obtained for relevant bat data	
	held by Motus: Motus Wildlife Tracking System, as this may yield insights regarding risk factors and thereby inform monitoring.	



Not all potential monitoring options are discussed here. Despite a number of UK offshore windfarms now being operational, offshore bat monitoring is currently in its infancy, and there is currently no offshore bat survey guidance in the same way as there is for onshore windfarms. However, there is still a need for adequate survey and scientifically appropriate impact assessment. Monitoring bats both offshore and onshore should be considered to improve the evidence base regarding potential interactions and inform mitigation strategies if required. Offshore monitoring techniques for other windfarms have included attaching bat detectors to: floating buoys, boats doing geotechnical surveys, and existing wind turbines. We refer the ExA and the Applicant to the CIEEM webinar 'Bats and the Offshore Marine Environment between Ireland and Wales – Plugging the Empirical Data Gap', recording available online. Additionally, use of night vision aids should be considered to look at bat behaviour around nearby existing offshore turbines. No mention is made of the three other windfarms that have been/will be constructed in the near vicinity. The potential accumulative impact of four windfarms in close proximity should be considered as part of the monitoring proposals. The monitoring should be designed in a way to consider the potential impact of the existing/proposed windfarm cluster. Given multiple projects are involved, it would be appropriate for Five Estuaries to seek to develop this through a collaborative approach with the three other developers. This will ensure that any findings, including recommendations around potential mitigation, will be on the basis of a shared approach to the issue.

#### 3.6 APPENDIX P7 - NATURAL ENGLAND'S COMMENTS ON THE REIS [REP7-110]

#### Ref L NE-601 V

#### Update made

Vessel Disturbance Risk on Red Throated Diver QT3.3.11 [To NE and the RSPB] Other than on the basis of a precautionary approach, can NE and the RSPB explain why the Applicant's proposed mitigation for effects on red throated diver would not be sufficient to mitigate adverse effects?

### Issue progressed? Natural England welcome the seasonal restriction on export cable installation

within the OTE SPA to mitigate impacts on red-throated diver (RTD), between 1st November and 31st March but continue to advise that the restriction should be applied within the boundary of the SPA with a 2km buffer. This remains consistent with our advice given elsewhere and ensures the designated RTD population can be appropriately safeguarded up to the SPA boundary. One of the high-level conservation objectives of the OTE SPA is to maintain or restore 'the distribution of the qualifying features within the site', with underpinning supplementary advice targets to 'Maintain the extent, distribution and availability of suitable habitat...' and 'Reduce the frequency, duration and/or intensity of disturbance...'. If RTD are displaced from an area inside the SPA over an extended period of time, then the site's conservation objectives could be compromised and AEoI could not be ruled out, particularly given the existing and consented pressures on the SPA. The scientific rationale for mitigation extending 2km beyond the SPA boundary is based on evidence indicating that vessel movements within 2km of the SPA could impair use of the site by RTD by causing displacement (Burt et al. 2017, Schwemmer et al. 2011, Fleissbach et al. 2019) and, for a proportion of the population may extend much further (Burger et al 2019, Mendel et al 2019). Imposing a 2km buffer is therefore pragmatic and not over-precautionary. The export cable corridor (ECC) route that abuts the northern edge of the SPA and lies within the 2km buffer surrounding the boundary. A key area of concern is the mid-northern sector of the SPA, where evidence from DAS indicates high densities of RTD are present in the SPA and, as the Applicant has stated, these high densities extend close to the SPA boundary where they abruptly fall off in the vicinity of the VTS route and high shipping activity (see marked areas of

#### Applicant's response

The Applicant met with Natural England to discuss where the 2km buffer may not be required, particularly the midnorthern sector where the 2km buffer overlaps 0.18% of the SPA, and the Applicant subsequent provided mitigation which aligns with the area of dense shipping traffic associated with the Deep Water Routes.

The Applicant's position is that working within areas already heavily trafficked by vessels will not increase the impacts on the SPA. A further area to the east of the SPA which is in proximity to the heavily trafficked Traffic Separation Scheme (TSS) and in an area identified by Natural England as having a lower density of RTD could also be worked in without having any significant impact on the distribution of RTD. Furthermore the works are temporary and sporadic in nature, and therefore would not in any case displace RTD for an extended period of time.

The Applicant therefore does not agree that the blanket application of a 2km buffer is necessary to meet the conservation objective and notes that this has not been imposed on other similar projects, specifically the Neuconnect interconnector which is routed through the SPA.



Applicant's Doc 10.48 Fig. 2.2 [REP6-052] and Irwin (2019)). Of less concern, where evidence indicates RTD numbers are comparatively lower include the sections of the ECC route that border the northeastern and northwestern edges of the SPA boundary, most notably inshore close to the port of Harwich (see Doc 10.48 fig.2.2 [REP6-052]). It is possible that RTD numbers remain high close to the midnorthern edge of the SPA and near 2km of the busy VTS due to habituation (as the Applicant has implied). However, this remains speculation and counter to current evidence. Although it should be acknowledged that some individual RTD will be more tolerant of vessels than others, it is the proportion that are not that is important to consider. We note the proximity of the Margate and Long Sands SAC sandbank in this sector and the favourable foraging conditions it provides may well account for the high numbers of RTD in the area despite the relative proximity of the busy VTS. The Applicant has suggested the cable laying vessels will be less disturbing anyway as the movement of the tide relative to the vessels will make them appear stationary to a bird on the water. However, this might only be true when the tidal current flowed in the same direction as the vessels' movement, the converse would apply when the tide turns. Furthermore, there is evidence that slow -moving as well as fast -moving vessels are more disturbing to divers than vessels moving at a moderate speed (Burger et al., 2019). We highlight that the cable laying operation does not involve just a single vessel but a suite of auxiliary vessels too. During construction up to 35 vessels may be present on site simultaneously during the construction phase of the ECC (c.f. Doc. 6.2.9 Shipping and Navigation [APP -078]), with up to 12 vessels involved in cable laying (Doc. 6.2.4 Offshore Ornithology [APP -073]). Those associated with the cable laying, travelling at 150 -450m per day, will require at least 35 days to cover the 16km of ECC within the OTE SPA. Considering this worst -case scenario and the other areas of SPA impacted in addition to the likely timing, frequency and duration of cable laying along the corridor (i.e. for sequential periods lasting 5 -15 days over 5 years) without further mitigation, Natural England are not persuaded that adverse effects on site integrity in combination could only be ruled out where DAS data indicated RTD densities were ranked low (<1.0 birds/km2).

As it stands, the current mitigation offered by the Applicant does not fully address the potential impacts on the high densities of divers' present near the northern boundary of the SPA. That stated Natural England has no intention of seeking unreasonable mitigation recognising, in this case, the variation in diver distribution shown by the DAS presents potential opportunities for a lower level of restriction along parts of the ECC but also that strict adherence to the 2km buffer would unnecessarily limit access to the port at Harwich. Subject to confirmation of likely vessel activity in the sector, it may be viable to modify the seasonal restriction (but still apply vessel best practice to reduce wildlife disturbance) along section(s) of the ECC that traverse the 2km SPA buffer where RTD densities are lower e.g. inshore near the port of Harwich (see Applicant's annotated map, Doc 10.48, Fig. 2.2). In this regard we would welcome further discussion with the Applicant to resolve the issue.

Nonetheless, further mitigation measures have been included in the updated Working in Proximity to Wildlife in the Marine Environment document Revision B submitted at Deadline 8a.

The Applicant considers that this is sufficient to ensure no AEol.



#### 4. PORT OF LONDON AUTHORITY

#### 4.1 COMMENTS ON 10.62 NOTE ON THE DDCO DRAFT – APPLICANT'S POSITION ON PROTECTIVE PROVISIONS [REP8-056]

The Applicant has reviewed this document and maintains its position set out in 10.62 Note on DDCO Drafting - Applicant's Position on Protective Provisions [REP7-090].

#### 4.2 COMMENTS ON DEADLINE 7 SUBMISSIONS [REP8-055]

4.2 COMMENTS ON DEADLINE 7 SUBMISSIONS [REP8-055]		
Ref	Summary or excerpt of Deadline 8 submission	Applicant's response
PLA-01	The PLA's Response to the EXA Suggested DWR Parameter PLA—01 to PLA-10.	a) The Applicant maintains its position.
	The PLA notes the Applicant's comments but maintains its position regarding the wording of the parameter namely:	b) Whilst the Applicant does not consider it necessary for the reasons previously stated in prior submissions, there is no fundamental reason to not include the condition in dML if so concluded by the ExA or SoS.
	(a) Ultimately there is a three-step process regarding the cables in the export cable corridor: design, implementation and maintenance. If the first step 'design' does not take all relevant factors into account, then it is unlikely that the second and third steps will be achieved either. Therefore, the PLA considers that it is appropriate for the offshore design parameter to refer to design.	c) The Applicant would suggest that referring to commitments in multiple places in the order and in multiple conditions is far more likely to lead to inconsistency and unintended consequences or interpretations than simply relying on a clear design parameter that must be complied with.
	(b) The parameter should also be a condition in the Deemed Marine Licence for the Transmission Assets Schedule 11 ("DML"). The MMO endorsed the PLA's position in its Deadline 7 "Comments on any submissions received at Deadlines 6 and 6A" (REP 7-097) - see paragraph 1.1.8 to 1.1.10 of REP7-097.	
	(c) The two other references to 5% in this context in schedule 11 are in paragraph 13(g)(ii) and relate to the identification of any cable protection that exceeds a reduction 5% of navigable depth referenced to Chart Datum. The Applicant has noted that within the deep water areas, the depth cannot be reduced, therefore it cannot be reduced in excess of 5%, and reference to that makes no sense. Attempting to add the drafting to this paragraph reduces clarity and adds no additional restriction. The PLA would note, however, that real world experience of the implementation of DCO's is also relevant. Any inconsistency within the dDCO is an opportunity and with a condition that clearly contemplates reduction in water depth, much time and effort will be spent by the PLA defending proposals to reduce navigable depths at the deep water routes. An amendment to the drafting of condition 13(g)(ii) will prevent this.	
PLA-02	APPLICANTS RESPONSES TO EXQ3 (REP7-084)  The PLA notes the Applicant's response to question DCO.3.14 in respect of changes to the drafting of condition 4 of Schedule 11, most particularly in respect of subsection (3) that might be necessary to ensure that 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 Applicant does not consider there to be any inconsistency.	This is noted by the Applicant
	The PLA notes the Applicant's response to NS.3.02 in relation to pre-construction activities within the DWR and would draw the Examining Authorities attention to the area of disagreement regarding the wording in relation to pre-construction activities in the PLA's Response Document to the "10.62 Note on dDCO drafting – Applicant's position on Protective Provisions" (REP7-090), which is submitted at this Deadline 8 (see paragraph 9.34).	
PLA-03	OUTLINE CABLE SPECIFICATION AND INSTALLATION PLAN ("oCSIP") (REP7-040)	This is noted by the Applicant



PLA-04	The PLA generally welcomes the updates that were made to the oCSIP at Deadline 7. The PLA notes and disagrees with the amendment at paragraph 1.4.4 which now sees the PLA consulted on the CSIP (the deadline 6 version of the oCSIP (REP6-020) saw the PLA approve the CSIP). The PLA's position in relation to approval of the CSIP is well documented (see for example, the PLA's Response to ExA's ExQ3 Question DCO.3.09 (REP7-113)).  OUTLINE SEDIMENT DISPOSAL MANAGEMENT PLAN ("oSDMP") (REP7-079)	The 10.30 Outline Sedimental Disposal Management Plan has been updated to
FLA-04	The oSDMP has been updated at deadline 7 to include information on the re-positioning of boulders. At paragraph 3.8.4 it is stated "if boulder[s] are found within the Deep Water Channels and relocating them as close as possible would result in a hazard to the shipping and navigation function of these channels, boulder[s] will be relocated outside of these areas." This addition appears to conflict with the oCSIP (REP7-040) which states at paragraph 4.2.5 "Boulders will not be relocated within the DWR areas."	Revision D, and submitted at Deadline 8a, accordingly to read:  "If boulders are found within the Deep Water Routes these will be relocated outside of these areas to avoid impacts to the navigation of these channels."
PLA-05	OUTLINE NAVIGATION AND INSTALLATION PLAN ("ONIP) (REP7-049)  The PLA welcomes the updates to the oNIP that were made at deadline 7. Notwithstanding that the PLA considers that it should approve the NIP and any updates, a minor correction is required to paragraphs 2.6.6. At 2.6.6 there is reference to "Paragraph 2.6.32.6.2" this should read "Paragraph 2.6.2".	This is noted by the Applicant and this typo will be corrected in the final NIP preconstruction.
PLA-06	SCHEDULE OF MITIGATION – ROUTEMAP (REP7-059)  The PLA welcomes the addition of reference to the oNIP in paragraph 1.2.7. For consistency this document should be given the same name as the document to be certified: the Outline Navigation and Installation Plan (emphasis added).	This is noted by the Applicant, however it is considered the Schedule of mitigation is sufficiently clear which plan is being referred to.
PLA-07	STATEMENT OF COMMON GROUND – THE UK CHAMBER OF SHIPPING (REP7-066)  The PLA welcomes the UK Chamber of Shipping's support of the PLA's position regarding cable burial and dredging.	This is noted by the Applicant.
PLA-08	COMMENTS ON ANY SUBMISSIONS RECEIVED AT DEADLINES 6 AND 6A – MARINE MANAGEMENT ORGANISATION (REP7-097)  The PLA welcomes the MMO's deadline 7 submission and the MMO's request for amendments to Schedule 11 of the Deemed Marine Licence. The PLA and the MMO are aligned on the proposed changes. In terms of the areas of difference, the PLA note as follows:  In paragraph 1.1.12 of REP7-097 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". This accords with the request made by the PLA save that the PLA would wish to be added as a consultee to condition 17 rather than 16.  (b) In paragraph 1.1.13 of REP7-097, 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 — The PLA is content to accept the MMO wording in bold above.	<ul> <li>(a) The MMO in response to Deadline 8 clarified that this should be condition 18 (pre-construction monitoring and surveys). The PLA have stated that this should be condition 17 (reporting of engaged agents, contractors and vessels). The Applicant is unclear which condition this applies to and which section, given the Condition 17 does not require consultation.</li> <li>(b) The Applicant would be content with this change</li> <li>(c) As per the Applicant response to the MMO on this matter, the drafting is imprecise as the burial risk assessment will not in itself demonstrate compliance with commitments of cable installation levels. The PLA do not need to be consulted on reduction in navigable depth as it is already established this does not apply to the area of interest.</li> </ul>



(a) In paragraph 1.1.14 of REP7-097 the MMO notes that "the PLA requested an update and addition to Condition 13 (1)(g) and understands as the 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".

The PLA would note in response that the PLA suggested adding the following new limb 13(1)(g)(ii) as it is dealing with a different activity:

"(g)(ii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment demonstrating compliance with condition 3(3) within the Area of Interest".

This limb is dealing with activities generally against the parameter. Meanwhile the next sub-paragraph is dealing with cable protection. This is the limb which reads:

"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 that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA, the PLA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection"

(b) The PLA would like to see the additional 13(1)(g)(ii) wording added. In paragraph 1.1.15 the MMO asks "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 PLA had inserted substantially in accordance with at Condition 13(1)(g). The oCSIP and oNIP include specific items of mitigation which the PLA would want to ensure are carried forward into the final plans. The PLA would ask that Condition 13 (g, i, j, k and l) are in fact updated with "which substantially accords with" the relevant outline plan".

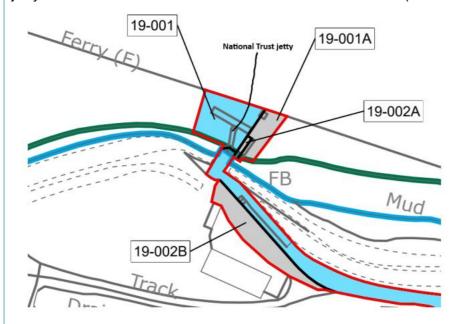


#### 5. NATIONAL TRUST – DEADLINE 8 SUBMISSION [REP8-049]

#### Ref Summary or excerpt of Deadline 8 submission

NT-01 Further to our submission at Deadline 7 (REP7-101), the National Trust wishes to update the Examining Authority regarding Plot 19-001 at Orford Ness, included in the Applicant's latest version of the Book of Reference (REP7-013) and on the Onshore Land Plans (REP7-004), described as 362 square metres of river (River Ore) and jetty (south of Orford Quay) (excluding all the interests of the Crown.

In the Book of Reference, submitted by the Applicant at Deadline 7, the National Trust has not been included in the list of Category 1 parties for Plot 19-001. The jetty mentioned above falls within the National Trust's freehold ownership, as shown on Land Registry title SK127406 (referred to in the title as 'the pier' and shown on the title plan as 'timber walkway') and this land was subsequently declared inalienable. The location of the jetty is shown on an extract of the submitted Land Plan (Onshore) below (Sheet No.19).



The jetty is main and habitual means of access to Orford Ness for operational staff, visitors and contractors.

The jetty is in constant daily use. Staff and visitors travel by our main vessel Octavia (an open launch holding 12 passengers) from the mainland at Orford harbour, across the river, to the Ness. On visitor open days Octavia operates as a passenger ferry and makes the trip across to Orford and back every 20 minutes from 08:30 to 17:00. The use of the jetty is vital for this operation, for the National Trust's conservation work on the internationally designated site and for the experience of thousands of visitors. Visitor numbers for the 2024 operating year were 13,412, set to grow in the 2025 operating year. Vital income which funds our conservation work is attached to our visitor operation.

The Trust has a second vessel Eleanor, a workboat permanently moored to the jetty and used by our teams for patrol and carrying staff and equipment to the Southern end of Orford, this again requires access at all times.

The jetty also forms a critical part of our emergency plan and operations and is vital for public and employee safety. The ability to control the use of this jetty is essential for our operations on Orford Ness.

The National Trust does not consider that the use of the jetty is necessary for the delivery of compensatory measures by the Applicant on third party land on Orford Ness. There is an alternative option available to the

#### Applicant's response

The Applicant notes the comments from the National Trust in respect of Plot 19-001. In response, the Applicant's land referencing specialists have re-investigated the title documents available to them at HM Land Registry, which, when compared with the comments and sketch provided by the National Trust, lead the Applicant to conclude in the first instance that the HM Land Registry documents may not be a fully comprehensive record of all relevant conveyances. The Applicant has requested further information from the National Trust for review by the Applicant's real estate lawyers. Notwithstanding this ongoing review, the Applicant maintains that from the information currently available, the Applicant has correctly identified freehold ownership in the Book of Reference [REP7-013] and Land Plans Onshore [REP7-004].



Ref	Summary or excerpt of Deadline 8 submission	Applicant's response
	Applicant using land owned by the same party who owns the proposed compensation land. The National Trust advises the Examining Authority that there is no commercial agreement in place between the Trust and the Applicant to use this jetty. The National Trust has requested that the applicant clarifies whether or not it intends to use the jetty. It would seem unnecessary to include Plot 19-001 within the Book of Reference and Land Plans if the jetty is not required. If it does intend to use the jetty, it is essential that an agreement is in place in order to prevent the Applicant's operations impeding the use of the jetty for our operations and impacting on our visitor business and conservation work. The implications of including rights over inalienable land were set out in our submission at Deadline 7 (REP7-101).	
	The National Trust's current position is that the matter of the use of this jetty is unresolved.	



#### 6. LONDON GATEWAY PORT LIMITED – COMMENTS 10.62 NOTE ON DDCO DRAFTING [REP8-045]

The Applicant has reviewed this document and maintains its position set out in 10.62 Note on DDCO Drafting - Applicant's Position on Protective Provisions [REP7-090].

#### 7. AFFINITY WATER – DEADLINE 8 SUBMISSION [REP8-043]

#### **Ref** Summary or excerpt of Deadline 8 submission

AFW-01 Further to the Applicant's submission at deadline 7 setting out its position on protective provisions, Affinity Water Limited (Affinity) state the following:

- That Affinity do not agree with the position or amendments put forward by Five Estuaries and note in particular the following in response to Five Estuaries submission:
  - The undertaker's Deadline 7 submission provides the most substantive explanation of the undertaker's position provided to date. For example, with regards to paragraphs 2.10-2.14 of the Deadline 7 submission, Affinity has been seeking an explanation as to why paragraph 5 (Access) has been included specifically and what it was covering since the commencement of negotiations.. This approach makes is highly difficult for Affinity to respond substantively both directly to the undertaker and to counter the assertions made in the Deadline 7 submission as Affinity is not clear where the undertaker stands on certain points and why they are seeking to make certain amendments. Another example is the indemnity cap referred to a paragraphs 2.68-69 of the Deadline 7 submission which was only proposed to Affinity in the version of the PPs received on 26 February 2025 with no explanation as to how this figure had been reached
  - The submission demonstrates fundamental misunderstandings of the purpose and meaning of aspects of the protective provisions, despite Affinity's efforts to clarify. For example, paragraph 7 (Removal of apparatus) in Affinity's Bespoke Protective Provisions includes wording to refer to the adoption of alternative apparatus. Where apparatus is constructed by Affinity, it is automatically adopted by virtue of Affinity being a water undertaker. Where a third party constructs apparatus, an adoption process needs to be undergone in order for that apparatus to become part of Affinity's network. This drafting has been ignored and removed by the undertaker without sufficient justification as to why.
  - The undertaker points to 'precedented' examples as to why certain amendments should be accepted. These precedent examples are protective provisions for other undertakers, not Affinity Water therefore they are not 'precedented' for Affinity. In addition, it is likely that certain amendments were agreed by other statutory undertakers on the basis of private agreements which allowed the statutory undertaker to get comfortable. Affinity therefore cannot agree to inclusion of amendments on the basis that they have been agreed elsewhere when what has been agreed is subject to other undisclosed protections.

Of particular concern is the undertaker's refusal to provide an indemnity on the basis that reasonable compensation is precedented. Not only are there are many examples of indemnities

#### Applicant's response

Since Deadlines 7 and 8, the Applicant has continued to engage with Affinity Water on the drafting of the protective provisions, including a meeting on 12 March 2025. Whilst some progress has been made by the Applicant conceding on points, in general the Applicant's view is that Affinity has not been willing to engage meaningfully on the drafting to find reasonable compromises or to ensure the drafting is accurate and precise. The Applicant's full position on the areas that are not yet agreed is set out in 10.62.1 Update to 10.62 Note on dDCO drafting – Applicant's position on Protective Provisions submitted at Deadline 8A. The Applicant notes that it is engaging alongside North Falls with Affinity Water and will continue to negotiate the protective provisions for both projects during the Five Estuaries recommendation period with the intention of providing an updated (and hopefully agreed) version to the Secretary of State at the beginning of the decision period.



being provided in protective provisions, anywhere where an indemnity is not provided is likely to have been the subject of an external agreement.

- The justifications as to the need for Affinity's Bespoke Protective Provisions were set out in detail in its Deadline 7 submission and until the point that the parties reach an agreed position Affinity must seek this version of the protective provisions in the Order so as to provide sufficient protection for its undertaking.
- Affinity will continue to engage to try to reach an agreed position by 17 March but note that the engagement from the undertaker to date has been sporadic, delayed and without sufficient clarity as to enable considered responses from Affinity



#### 8. MINISTRY OF DEFENCE – DEADLINE 8 SUBMISSION [REP8-042]

Summary or excerpt of Deadline 8 submission	Applicant's response
With regard to the onshore element, the MOD has identified that the onshore cable route will pass through a Statutory Safeguarding Zone associated with a technical asset which contributes to Air Traffic Management designated East 2 Wide Area Multilateration (WAM) Network.	This is noted by the Applicant.
On 25 November 2025 the MOD was provided with additional information regarding the specific implementation method and machinery/equipment/plant that will be used during installation. The applicant provided this information in documents titled "UK_FES_EX_MoD_Area_of_Interest_v1" and "Plant dimensions final". This information has been assessed and the MOD is content that the construction and installation of the onshore cable route does not introduce a detrimental effect on the East 2 WAM Network. Therefore, the MOD no longer has a need for the submission and approval of this information to form the subject of a requirement in any future draft Development Consent Order.	
The above only applies to the construction and installation of the onshore cable route and that the relevant sections of the letter dated 31 October 2024 – detailed below for ease (with updated references and information as appropriate) – remain extant, specifically the requirements relating to MOD accredited aviation safety lighting scheme and charting.	
Air Defence Radar	This is noted by the Applicant.
The applicant addresses the impact of the proposed development on Military and Civil Aviation through Volume 6, Part 2, Chapter 13 of the submitted Environmental Statement (Application Document Number 6.2.13, Rev. A, dated March 2024). At paragraphs 13.4.15 and 13.4.16 the applicant identifies the potential for the development to be visible to, and detectable by Air Defence (AD) Radars deployed at Remote Radar Head (RRH) Neatishead. It should be noted that the AD Radar previously deployed at RRH Trimingham has been redeployed at RRH Neatishead, and as such RRH Trimingham may be omitted from assessments.	
The MOD has carried out assessments based on Rochdale Envelope boundary co-ordinates provided by the applicant and accounting for a maximum blade tip height of 370m Lowest Astronomical Tide (LAT). These assessments concluded that turbines within both the southern and northern array areas will be detectable to the AD Radar at RRH Neatishead but will have no operational impact.	
Physical Obstruction	This is noted by the Applicant.
In this case the development falls within Low Flying Area 11 (LFA 11). Within these areas fixed wing aircraft may operate as low as 250 feet or 76.2 metres above sea level to conduct low level flight training. The addition of turbines in this location would introduce a physical obstruction to low flying aircraft operating in the area.	
The applicant has sought to address the potential for the development to form an obstruction by adding the requirement at Schedule 2, Part 1, Requirement 3 of the draft Development Consent Order (Document Number 3.1, Revision G dated February 2025). Schedule 2, Part 1, Requirement 3 sets out that the wind farm will be lit to meet MOD aviation safety requirements and stipulates that sufficient information will be provided to ensure the development is appropriately charted. Schedule 10, Part 2, Condition 9 sets out that the Generation Assets will be lit to meet MOD aviation safety requirements and stipulates that sufficient information will be provided to ensure the Generation Assets are appropriately charted. Schedule 11, Part 2, Condition 10 sets out that the Transmission Assets will be lit to meet MOD aviation safety requirements and stipulates that sufficient information will be provided to ensure the Transmission Assets are appropriately charted.	
The MOD is content that the requirement and conditions set out above would be sufficient to address the impact of the development on the Physical Obstruction of low flying aircraft.	
Export cables	This is noted by the Applicant.



The applicant has provided details of a cable routeing corridor which runs from the proposed wind farm to make landfall between Holland-on-Sea and Frinton-on-Sea on the Essex coast. Onshore cables would then run to a new substation on land to the east of Ardleigh and north of Great Bromley.	
The potential presence of unexploded ordnance (UXO) has been identified as being relevant to offshore cable installation and intrusive works in paragraphs 1.4.10 to 1.4.13 of Volume 6, Part 2, Chapter 1: Offshore Project Description of the applicant's Environmental Statement (Application Document Number 6.2.1, Rev. A, dated March 2024). The applicant has proposed that detailed preconstruction surveys would be employed to identify and then address the potential presence of UXO prior to the installation of cables and other intrusive works that may be undertaken in the maritime environment.	
Summary	This is noted by the Applicant.
In summary, the MOD does not object to the proposed development on the basis that requirements relating to MOD accredited aviation safety lighting scheme and charting will form part of any Development Consent Order.	



#### 9. NATIONAL GRID ELECTRICITY TRANSMISSION – COMMENTS ON DEADLINE 7 SUBMISSIONS [REP8-048]

Ref	Summary or excerpt of Deadline 8 submission	Applicant's response
NG-01	We are instructed to represent NGET in respect of Five Estuaries DCO application.	The Applicant confirms it has included the bespoke Protective Provisions agreed with National Grid Electricity Transmission in its draft DCO submitted at Deadline
	By way of update, the confidential Co-operation Agreement between Five Estuaries, North Falls	8A.
	and NGET is agreed in principle, subject to all parties sign off and execution processes.	
	Accordingly, it is our understanding that Five Estuaries and NGET are in agreement that NGET's bespoke Protective Provisions (as appended at Appendix 1) should be included in Five Estuaries' draft DCO submitted at Deadline 8.	
	In any event to avoid any oversight we would be grateful if the Examining Authority could ensure that NGET's bespoke Protective Provisions, which are agreed with the promoter are included in the final DCO as made. These are enclosed with this letter.	

#### 10. EAST ANGLIA TWO LIMITED – COMMENTS ON DEADLINE 7 SUBMISSIONS [REP8-044]

The Applicant has reviewed this document and maintains its position as set out in sections 3.24.19 to 3.24.21 of the 10.68 Closing Statement submitted at Deadline 8a.



PHONE EMAIL WEBSITE ADDRESS

COMPANY NO

0333 880 5306 fiveestuaries@rwe.com www.fiveestuaries.co.uk

Five Estuaries Offshore Wind Farm Ltd Windmill Hill Business Park Whitehill Way, Swindon, SN5 6PB Registered in England and Wales company number 12292474