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Five Estuaries Offshore Wind Farm – Decision Period Update

Dear Mr Wheadon,

In order to assist the Secretary of State in determining the Application, the Applicant has set out below a number of updates where the proposals have progressed during the recommendation period since the close of the examination.

1. Completion of Agreement for Lease with The Crown Estate regarding the transmission assets

Section 3.2.2 of the Statement of Reasons [REP7-015] explained that discussions were taking place with The Crown Estate (TCE) with respect to an agreement for lease for the transmission assets. An agreement for lease for the wind farm array site is already in place.

The Applicant is pleased to confirm that an agreement for lease for the transmission assets was entered into on 21 March 2025.

2. Update on Section 135(2) consent discussions with The Crown Estate

The Applicant has continued to engage with TCE since the end of the examination in order to obtain TCE's consent under Section 135(2) of the Planning Act 2008. This consent is required on the basis that provisions of the draft development consent order would apply to offshore Crown land within the ownership of TCE. The Applicant is confident that consent under section 135(2) will be obtained in the near future, and will provide a further update to the Secretary of State once this has been achieved. As confirmed in TCE's response to a rule 17 request for information made by the examining authority during the examination [REP8A-056], no consent is required from TCE under section 135(1) of the Planning Act 2008.

3. Update on Section 135(1) discussions with the Defence Infrastructure Organisation

The Applicant has engaged with the Defence Infrastructure Organisation (DIO) in respect of property interests of the Secretary of State for Defence at land at Orford Ness, Suffolk (Five Estuaries land plot numbers 19-001, 19-002, 19-003 and 20-003). The Applicant understands that request has been passed to an appropriate team of Chartered Surveyors for review, and awaits a response from the DIO. Due to the nature of the property interests held by the Secretary of State for Defence and the rights sought by the Applicant, the Applicant does not foresee any impediment to the granting of s.135 consent.

4. Update on discussions with National Trust

The Applicant has held further discussions over the property interests of National Trust and has updated 2.3 Land Plans (onshore) – Revision E [REP7-004], 2.4 Special Category Land Plans – Revision C [REP7-005] and 4.1 Book of Reference – Revision F [REP7-013] to remove from compulsory acquisition of any inalienable National Trust rights. The Applicant requests the deletion of plot 19-001 from schedule 7 of the Order to align with these changes – this is included in Annex A and in the tracked changed draft Development Consent Order provided with this letter. The Applicant is currently negotiating an access licence with the National Trust and has agreed Heads of Terms for this. It is understood that following the agreement of these Heads of Terms National Trust have written to the Secretary of State confirming the removal of their objection to the application. The updated Land Plans and Book of Reference have been provided to the National Trust for information. The Applicant would like to submit the revised versions of these land documents to the Secretary of State to be certified documents.

5. Protective Provisions

The Applicant provides the following updates on protective provisions:

National Highways

The version of the protective provisions included in the Applicant's preferred version as submitted at the final examination deadline (Deadline 8A) were not correctly updated to the final version, agreed with National Highways. The Applicant apologises for this error and requests, that as agreed with the protected party, the changes listed in Annex A and shown in track changes on the updated draft DCO, included with this letter, are included in any DCO granted.

Affinity Water

The Applicant has continued to engage with Affinity Water on protective provisions since the close of the examination and is pleased to report that agreement on a form of protective provisions has now been reached. The Applicant has set out the changes sought to the final revision of the draft order to reflect the now agreed position in Annex A and shown in track changes in the enclosed draft order.

Protective Provisions - General

A number of other minor errors were picked up in the protective provisions since the close of the examination where the submitted DCO did not align with the agreed versions between the parties these are set out as changes within Annex A to this letter.

6. Update on Habitats Regulations Assessment

The Applicant has continued to make progress on its conceded and without prejudice HRA measures and would like to provide an update on the following species:

Lesser Black-Backed Gull

At application the Applicant proposed two mutually exclusive compensation measures for Lesser Black-Backed Gull (LBBG), specifically predator control fencing at Orford Ness and predator eradication at Outer Trial Bank. Both of these measures continue to be progressed, however the Applicant's firm position is that only one of these measures would be required to more than fully compensate for the impacts of the project, and that to undertake both would be unnecessary and unjustified.

Natural England's position at the close of the Five Estuaries examination was that they 'consider there to be significant merit in progressing both schemes, as they are in several respects complementary' citing ecological uncertainties. They do not address the fact that either measure has the potential to significantly overcompensate. Natural England state that the target for compensatory measure should be 42.4 pairs, which should be compared to a potential benefit of 2,400 pairs at Orford Ness and 1,700 pairs at Outer Trial Bank. The use of predator control fencing at Orford Ness is an accepted and established

compensation measure having been accepted by the Secretary of State for both the Norfolk Vanguard and Boreas projects, and East Anglia Two and East Anglia One North. Further, Natural England's current advice to the North Falls Offshore Wind Farm Project currently going through examination on the same proposed measure (predator control fencing) [REP4-060] is that 'Natural England continue to advise that an appropriate 4 ha area is likely sufficient to compensate the project's estimated impacts'. The Applicant is not clear why such different advice is being provided, given the approximately 6ha site secured in the Five Estuaries DCO and the comparable levels of impact between the projects. However, it serves to reinforce the Applicant's position that a single measure is more than sufficient to compensate for impacts to LBBG.

For the Orford Ness measure, the Applicant has continued to progress land agreements with the landowner (Cobra Mist Limited) and has commenced seasonal surveys on the site for vegetation and invertebrates, as required by Natural England to inform post-consent mitigation on the Orford Ness – Shingle Street SAC.

In relation to the Outer Trial Bank measure, discussions are ongoing with The Crown Estate regarding a licence to undertake the measure, and bird productivity and mammal (rat) surveys are underway, in partnership with North Falls Offshore Wind Farm Ltd.

Kittiwake

Discussions are ongoing with the Dogger Bank South projects on the form of an agreement which would secure the nesting spaces at the kittiwake tower in Gateshead as a without prejudice compensation measure. The Applicant's position remains that the contribution to the in-combination impact on the kittiwake feature of the Flamborough and Filey Coast (FFC) SPA from Five Estuaries (0.82 adult collisions per annum) is not material, and it is possible to conclude that this is *de minimis* and does not equate to an Adverse Effect on Integrity (AEoI).

At Deadline 8, Natural England confirmed that these measures were appropriately scaled, although it should be noted that the Applicant does not agree with the nesting spaces calculated by Natural England. The Applicant's position, based on the Hornsea 4 methodology and a 3:1 ratio, is that the appropriate number is seven spaces. It is noted that in the Secretary of State's decision for Rampion 2 (which was made on 4 April 2025, after the close of the Five Estuaries examination) the quantum of nesting spaces secured was 10. This was based on a 2:1 ratio using the Hornsea 3 part 2 methodology. For Five Estuaries this approach would result in a requirement of 11 spaces. Natural England, in the Deadline 8 representations [REP8-051], concluded that a suitable compensation target of 5.3 pairs for FFC SPA was appropriate.

Guillemot

The Applicant provided without prejudice compensation measures for the guillemot feature of the FFC SPA, specifically disturbance reduction around auk colonies in the south-west.

At a late stage in the Five Estuaries examination Natural England returned to the prospect of compensation for the Farne Islands SPA guillemot feature. The Applicant maintains that the contribution to the in-combination impact on the kittiwake feature of both the FFC SPA and the Farne Islands SPA from Five Estuaries is not material, is well within natural fluctuations of population, and that it is possible to conclude that this is *de minimis* and does not equate to an AEol. Nonetheless, Natural England agreed [REP8-051] that the proposed measure has the potential to provide sufficient benefit to compensate for impacts to both sites.

The Applicant calculated a compensation quantum for guillemot of 10.44 pairs, based on 50% displacement, 2% mortality and a 3:1 ratio using the Hornsea Four methods. It is noted that in the Secretary of State's recent decision on the Rampion 2 project, the quantum of breeding pairs was 30 for FFC SPA and 26 for Farne Islands SPA, based on 70% displacement and 2% mortality (2.99 mortalities), 2:1 ratio and Hornsea 4 methods. Based on these calculations, with an equivalent impact of 2.28 mortalities for VE, the quantum for VE would be 19.38 pairs for FFC SPA and 17.46 pairs for Farne Island SPA. Natural England, in their Deadline 8 representations [REP8-051], concluded that a suitable compensation target of 9.69 pairs for FFC SPA was appropriate and that 'A slightly smaller target can be expected for Farne Islands SPA'.

This measure continues to be progressed collaboratively with Rampion 2, and strategically through the Offshore Wind Industry Council (OWIC) and engagement with Cornwall Wildlife Trust. The Applicant and Rampion 2 are currently undertaking further surveys of three short-listed sites where measures could be delivered by the project-alone or collaboratively.

Razorbill

The Applicant maintains that the Five Estuaries impact of 0.2 adult razorbill mortalities per annum does not equate to an AEol of this feature of the FFC SPA. It is noted that the Secretary of State concluded that Rampion 2's mortality of 1.23 razorbill per annum did not equate to an AEol and the Applicant considers that the same conclusion should be reached for Five Estuaries.

7. Update on The Crown Estate's Plan-Level Habitats Regulations Process

The Applicant notes that The Crown Estate's plan-level Capacity Increase Programme HRA has concluded and is now published in the public domain. The conclusions of the HRA identify plan-level impacts to which Five Estuaries may contribute. These are largely aligned with the key features where compensation measures have been provided by the Applicant on a conceded or without prejudice basis. The exception to this is the gannet feature of the FFC SPA where it was agreed with Natural England that an AEol could be ruled out for project-level impacts [REP7-110].

The HRA and associated derogation cases for Five Estuaries have been thoroughly assessed and examined, and the Applicant considers that the plan-level HRA conclusions

do not override the more detailed and site-specific assessment for the project. It is noted that in response to The Crown Estate the Secretary of State identified that [emphasis added] *‘Further project-level consents and associated environmental assessments including HRA will be required for several individual projects and projects must continue to adhere to their Development Consent Orders. Further evaluation at a project level may result in different conclusions being reached on the possibility of adverse effects on integrity. Similarly, the decision not to prohibit TCE from adopting the CIP does not preclude the decision maker from reaching different conclusions regarding alternative solutions, IROPI and the adequacy of compensatory measures when determining any subsequent consent applications.’*

Accordingly, the Applicant’s position is that the project-level HRA remains appropriate for decision-making, and that the outcomes from the plan-level HRA will be dealt with separately between the Applicant and The Crown Estate.

8. Port Traffic Management Plan

The Applicant addressed requests from Suffolk County Council (SCC) for a Port Traffic Management Plan during the examination, stating this was not required as the project would be the customer of any relevant port and would therefore be operating within the port’s own planning permission and any relevant traffic management measures. This point was broadly accepted by SCC by the close of examination, however the Applicant notes that SCC in response to the same point in the North Falls Offshore Wind Farm examination has concluded that it “does not intend to pursue its required for a Port Traffic Management Plan” [REP4-096] which supports the Applicant’s position.

It is however noted that SCC continue to request a Port Travel Plan to “provide guidance on how the project can maximise the use of sustainable transport” [REP4-096]. Details of sustainable travel measures will be set out for the construction of the onshore infrastructure in the Workforce Travel Plan and the Applicant maintains there is no justification or need for a separate plan for specific port traffic as where relevant, such measures will already be secured through the port’s own plans. As a customer of any port Five Estuaries would be expected to implement measures required by the operator of that port.

9. Updates on Cumulative Effects Assessment projects

The Applicant notes that a Section 35 direction was made in respect of the proposed Tarchon interconnector project on 7 April 2025, after the close of the Five Estuaries examination. The Tarchon interconnector project is proposed to be routed offshore in the vicinity of the Five Estuaries export cable corridor, and to connect at the East Anglia Connection Node. To date, limited information has been published about Tarchon and it is understood that an EIA scoping report is due to be submitted later this summer. The Applicant considers that there is not sufficient certainty or detail of information available that would enable the project to update its cumulative impact assessment.

10. Corrections to the draft DCO

Alongside the changes requested by TCE and other Interested Parties set out above the Applicant has also identified a number of small inconsistencies in the drafting of the DCO, these are included in Annex A to this letter. The Applicant would be grateful if the Secretary of State could consider these in finalising the DCO.

A tracked changed copy of 3.1 Draft Development Consent Order showing requested changes as set out in Annex A has been provided with this letter. Please note we have only included the text changes in the protective provisions in Schedule 9 in the tracked changed DCO and have not updated the cross referencing between the Parts of that schedule. The cross referencing will need to be reviewed and where relevant updated to reflect the final form of the protective provisions the SoS may be minded to include, given that the Applicant is unaware of any other changes the SoS may be making to this schedule.

Documents updates identified in this letter

The Applicant in this letter has identified the need to update a number of the land documents which would be certified:

- 2.3 Land Plans (onshore) – Revision F;
- 2.4 Special Category Land Plans – Revision D;
- 2.17 Crown Land Plans – Revision D; and
- 4.1 Book of Reference – Revision G.

Please could you provide details of how you would like to receive these updated documents, including a tracked version of the changes to 4.1 Book of Reference and if it would be helpful we can also provide a word version of the draft Development Consent Order amendments.

I trust these updates are useful and if you require any clarifications or additional information please contact Kieran Somers ([REDACTED]@rwe.com) copying in James Eaton ([REDACTED]@rwe.com) and Daniel Bates ([REDACTED]@ceaenvironmental.co.uk).

Yours sincerely,

[REDACTED]

Project Lead

Five Estuaries Offshore Wind Farm Ltd

Annex A: amendments to the draft Development Consent Order

Article 1, schedule 10 and schedule 11, definition of “Margate and Long Sands special area of conservation benthic mitigation plan”

This plan was removed from the outline CSIP and is a certified document in its own right as listed in schedule 15. The definition required to be amended to reflect this update.

Article 41 Crown Rights

Minor wording changes have been requested by The Crown Estate to Article 41, inclusion of “lessee” and deletion of “take” which the Applicant is requesting that the Secretary of State include in any order made:

41.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee or lessee to use, ~~take~~, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

Schedule 2 Requirements, part 1

Requirement 2, table 1

The figure for “Maximum total seabed footprint for wind turbine generators (excluding scour protection) (metres squared)” should read 99,274 not 92,274, as is correctly shown in schedule 10, part 2, paragraph 10(6)(a)

The figure for Maximum dimensions of offshore substations: Topside ‘area’ should be topside ‘width’ as correctly referenced in schedule 11, part 2, paragraph 10(c).

Schedule 7 Land in which only new rights etc. may be acquired

In the final row of the table, plot 19-001 requires to be deleted to align with the position agreed with National Trust.

Schedule 9 Protective Provisions

Part 4 - For the protection of drainage authorities

It was agreed with Essex County Council that the period cited in paragraphs 31 and 33(2)(a) should be 21 days not 14 days. A change from 14 to 21 days is requested.

Part 6 – National Highways

The following amendment were agreed with National Highways but omitted by the Applicant in error, and are now requested to be made by the Secretary of State:

- In paragraph 65, the definition of ‘bond sum’, insertion of ‘plus 100% of the commuted sum’;
- In paragraph 68, insertion of ‘of a road’ after ‘in respect of’;
- Insertion of new paragraph 82, indemnity;
- In paragraph 83(2) (as renumbered), replacement of ‘authorised development’ with ‘SRN works and cable work’; and

- Amendment and correction of cross-referencing.

Part 13 – Affinity Water

The amendments shown in track in the enclosed order and summarised below are sought to reflect the drafting now agreed between the Applicant and Affinity Water:

- Amendment of the definition of ‘apparatus’ to ‘Affinity Water’s apparatus’ and consequential amendments;
- Deletion of the definition of authorised development which is already defined in article 2;
- Amendment of references from ‘authorised development’ to authorised works’;
- Insertion of new item (c) in the definition of specified works;
- Insertion of the following at the beginning of paragraph 158 “Except for paragraphs 159 (*apparatus in stopped up streets*), (*specified works*), 10 (*expenses and costs*) and 11 (*indemnity*) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights of Affinity Water or of Affinity Water’s apparatus, the other provisions of this Part of this Schedule”
- Deletion of paragraph 156 ‘Access’;
- Amendments to paragraph 161 (Acquisition of land), deletion of “PROVIDED THAT “ wording;
- Amendments throughout paragraph 162 (removal of apparatus) including deletion of reference to specific plots, amendment of 28 days to 56 days, insertion of new sub-paragraph 162(3), (10) and (11);
- Insertion of a new paragraph 165(2)(h);
- Deletion of sub-paragraph 166(7);
- New paragraph on access added as paragraph 169.

Part 15 - Cadent

Paragraph 193(6): the words “proper and convenient” in the paragraph and the words “means of access to any apparatus.” where they appear as an incomplete sentence at the end of the paragraph, are both errors and should be deleted.

Schedule 10 - Deemed marine licence – Generation Assets

Definitions, the definition “outline cable specification and installation plan” means the document certified as such by the Secretary of State for the purposes of this Order under article 44 (certification of plans etc.);” only applies to schedule 11 and should not be included in schedule 10.

Paragraph 16(3), the cross reference should be to 12(1)(g) not (i).

Schedule 11 Deemed marine licence – Transmission Assets

Paragraph 17(3), the cross reference should be to 13(1)(h) not (i).

Schedule 15 Documents to be certified

Document 9.13, Margate and Long Sands SAC Benthic Mitigation Plan should be revision G.