

FIVE ESTUARIES OFFSHORE WIND FARM

APPLICANT'S RESPONSE TO SECRETARY OF STATE REQUEST FOR INFORMATION (PART 2)

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DEFINITION OF ACRONYMS

Term	Definition
AEol	Adverse Effect on Integrity
BNG	Biodiversity Net Gain
BSPP	Badger Species Protection Plan
CEA	Cumulative Effects Assessment
Cefas	Centre for Environment, Fisheries and Aquaculture Science
CIEEM	Chartered Institute of Ecology and Environmental Management
CoCP	Code of Construction Practice
CWT	Cornwall Wildlife Trust
DAS	Digital Aerial Surveys
DCO	Development Consent Order
DESNZ	Department for Energy Security and Net Zero
DIO	Defence Infrastructure Organisation
DWR	Deep Water Route
EA	Environment Agency
EACN	East Anglia Connection Node
ECC	Export Cable Corridor
ECOW	Ecological Clerk of Works
EIA	Environmental Impact Assessment
ES	Environmental Statement
ETG	Expert Topic Group
FFC	Flamborough and Filey Coast
FRA	Flood Risk Assessment
GRIMP	Guillemot and Razorbill Implementation and Monitoring Plan
HRA	Habitat Regulations Assessment
IAQM	Institute of Air Quality Management
IMP	Implementation and Monitoring Plan
IPMP	In-Principle Monitoring Plan
JDG	Joint Design Guide
JNCC	Joint Nature Conservation Committee



Term	Definition
KIMP	Kittiwake Implementation and Monitoring Plan
LBBG	Lesser Black-backed Gull
LEMP	Landscape and Ecological Management Plan
LIMP	Lesser Black Backed Gull Implementation and Monitoring Plan
MMMP	Marine Mammals Mitigation Protocol
MMO	Marine Management Organisation
MNR	Marine Noise Registry
MRF	Marine Recovery Fund
NAS	Noise Abatement Systems
NE	Natural England
NFOWF	North Falls Offshore Wind Farm
NGET	National Grid Electricity Transmission
NMS	Noise Mitigation Systems
NPS	National Policy Statement
O&M	Operations and Maintenance
OIPMP	Offshore In-Principle Monitoring Plan
OLEMP	Outline Landscape and Ecological Management Plan
OnSS	Onshore Substation
OOEG	Offshore Ornithology Expert Group
ОТВ	Outer Trial Bank
OTE	Outer Thames Estuary
PINS	Planning Inspectorate
RIAA	Report to Inform Appropriate Assessment
RoFSW	Risk of Flooding from Surface Water
RSPB	Royal Society for the Protection of Birds
RTD	Red Throated Diver
SAC	Special Area of Conservation
SIP	Site Integrity Plan
SMP	Seabird Monitoring Programme
SNS	Southern North Sea
SoS	Secretary of State



Term	Definition
SNCB	Statutory Nature Conservation Body
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest
TCE	The Crown Estate
TSS	Traffic Separation Scheme
UXO	Unexploded Ordnance
VEOWF	Five Estuaries Offshore Wind Farm



1. INTRODUCTION

- 1.1.1 This document has been prepared by Five Estuaries Offshore Wind Farm Limited ('the Applicant') to respond to the Secretary of State's (SoS) Request for Further Information dated 11 July 2025.
- 1.1.2 The responses provided in the response tables in Sections 2 to 12 of this document are in response to the requests to Part 2 within the letter. Section 13 provides updates referenced in the Applicant's Part 1 response. Sections 14 and 15 are the Applicant's responses to submissions made by other Interested Parties at the Part 1 deadline for the Secretary of States Request for Further Information (25 July 2025).
- 1.1.3 The Applicant is also submitting a number of documents to accompany the text responses. These are listed below in Table 1.1. The Applicant has provided two versions of all the revised documents, detailed in Table 1.1, a clean version and a tracked version to aid the Secretary of State's review.

Table 1.1 – List of documents submitted to accompany the Part 2 Applicant's response

Number	Document name	Revision
5.4	Report to Inform Appropriate Assessment (RIAA) – tracked and clean versions	Е
5.4.3	HRA Screening Matrices – tracked and clean versions	E
5.5.6	Lesser Black Backed Gull Implementation and Monitoring Plan (LIMP) – tracked and clean versions	Е
5.5.7	Kittiwake Implementation and Monitoring Plan (KIMP) - tracked and clean versions	D
5.5.8	Guillemot and Razorbill Implementation and Monitoring Plan (GRIMP) - tracked and clean versions	Е
9.14.1	Outline Marine Mammal Mitigation Protocol (oMMMP) Piling - tracked and clean versions	Е
9.14.2	Outline Marine Mammal Mitigation Protocol (oMMMP) Unexploded Ordnance - tracked and clean versions	D
9.18.1	Working in Proximity to Wildlife in the Marine Environment - tracked and clean versions	С
9.21	Code of Construction Practice (CoCP) - tracked and clean versions	F
9.22	Outline Landscape and Environmental Management Plan (OLEMP) - tracked and clean versions	G



Number	Document name	Revision
9.32	Offshore In-Principle Monitoring Plan (OIPMP) - tracked and clean versions	Н
10 72 1	Draft Development Consent Order Without Prejudice Schedules – tracked version only	А
10.72.1	Note: follows 10.72 Draft Development Consent Order (Revision I) Including Without Prejudice Schedules) submitted at Deadline 8A	
10.75	Supplementary Operations and Maintenance Assessment – new document, clean version only.	А
10.76	Technical Memo on revised Environment Agency Flood Mapping Data – new document, clean version only.	А



2. OFFSHORE ORNITHOLOGY

DESNZ Ref	Question to:	Question	Applicant's response				
			As it is an outline plan, the OIPMP we Statutory Nature Conservation Bodie amended prior to submission to the I The Applicant's position on offshore construction Digital Aerial Survey (D. They do not validate collision risk prenumbers of birds predicted to be imperojects currently in the consenting perfort required to produce a statistical be extremely high. Standard digital a predicted impacts, and the value or in	es (SNCBs) post-conser MMO for approval. ornithological monitoring AS) scopes have not pro- edictions in the ES, nor of pacted, as outlined in 5.4 process – see table emb ally meaningful analysis perial survey (DAS) surv	g is that historic ovided ecologic do they address 4 RIAA – Revis bedded below), (such as estima reys would there	e OIPMP wil cally site-spe cal value to p s key knowle ion E (and th means that t ating displac	cific pre- and post- projects or SNCBs. edge gaps. The low he context of other the level of survey ement rates) would
				Guillemot	Razorbill	Kittiwake	Lesser black-
			Level of mortality at designated sites for key bird species	(FFC SPA & Farne Is. SPA) (70:2)*1	(FFC SPA) (70:2)*1	(FFC SPA)*2	backed gull (AOE SPA)*2
			Five Estuaries	4.2	0.63	0.82	11.31
		The Applicant is requested to revise the Offshore In-Principle	North Falls	6.1	1.6	0.76	2.3
		Monitoring Plan ("OIPMP") [REP8A-023] to require appropriate	Outer Dowsing	377.9	108.1	15.5	-
		ornithological monitoring to validate the predictions made within	Dogger Bank South Rampion 2	468.9 6.52	140.4 1.23	191 0.72	-
		the Environmental Statement and detect effects significantly	*1Guillemot and Razorbill based on the wors			0.72	-
16	Applicant	beyond those predictions, as well as to help address key knowledge gaps in modelling and the baseline environment of the site. This should include, but not be limited to, a GPS tagging study to help address knowledge gaps on the impacts from vessel traffic on red-throated divers, as highlighted in Section 2.3 of the Red-Throated Diver Note [REP6-052].	However, following a meeting with N further information, the OIPMP has be monitoring which seeks to target spe hypothesis that could be tested. This The Applicant considers that contribute and/or a regional SPA wide DAS sur England would be of greater value at various knowledge gaps, especially abundance of these species.	atural England (NE) on been updated to include ecific species and / or kn focusses on two species uting to regional studies vey for RTD) both in cond	further consider nowledge gaps es - LBBG and (for example a njunction with o	eration of orn and address red-throated GPS taggine other develop is. This woul	ithological possible diver. g study for LBBG pers and Natural d also help with
			Further discussions and agreement of the Applicant has updated the OIPM strong preference for wider collaborated. As outlined in the updated OIPMP are proposed this in the context of seeking. The Applicant believes the tagging content in this area and validate the ES and the 2km buffer or during the non-bree.	P with a commitment to ative studies. Ind with respect to the taing to agree flexibility to ould provide information RIAA predictions. Howe	undertake orni gging of red-the work within the n on the knowle ever, should the	roated divers 2km buffer of dge gap of v	s, the Applicant has of the OTE SPA. ressel disturbance working outside
			monitoring would not be of value. The project vessels would be able to wor	erefore, undertaking this	s study has bee	en proposed	on the basis that



17	Applicant	The Applicant is requested to revise all sections (not limited to offshore ornithology) of the OIPMP [REP8A-023] to require the regular submission of all relevant pre-construction, construction, and post-construction/operational survey and monitoring data to the Marine Data Exchange (The Crown Estate), and relevant Local Environmental Records Centres.	The OIPMP has been updated, making this commitment up-front for all monitoring reports. In addition, the Applicant has committed to provide the results of any ornithology monitoring to the Seabird Monitoring Programme.
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3. BENTHIC AND INTERTIDAL ECOLOGY

Ref	Question to:	Question	Applicant's response
18	Applicant	The Applicant is requested to revise paragraph 4.6.12 of the OIPMP [REP8A-023] to require that post-construction surveys of biogenic and geogenic reef features are completed within one year of cessation of construction activities.	The Applicant has updated the OIPMP accordingly.



4. FISH ECOLOGY

Ref	Question to:	Question	Applicant's response
19	Applicant	Noting the concern raised by Natural England in their Risk and Issues Log [REP8A-053] (Point 3 in G – Fish Ecology), the Applicant is requested to revise ES 6.2.6 Fish and Shellfish Ecology [APP-075] to assess spawning herring as having a high sensitivity to noise impacts.	The Applicant confirms that, as detailed in 6.2.6 Fish and Shellfish Ecology [APP-075], herring were determined to be of regional importance in the study area, and of high vulnerability and medium recoverability to impacts from underwater noise. Therefore, considering the sensitivity criteria, outlined in Table 6.5 of Fish and Shellfish Ecology [APP-075], herring are classified as being of "medium" sensitivity to underwater noise. The Applicant therefore remains confident that a "medium" sensitivity classification for herring in the fish and shellfish study area is appropriate. Notwithstanding this, the Applicant has proposed the implementation of a seasonal piling restriction to avoid impacts to herring during the peak spawning season, thereby mitigating population impacts on the Downs stock herring (further information on the definition of this peak spawning period for herring is set out in the Herring Seasonal Restriction Note - Revision D [REP6-013]). The implementation of this mitigation measure will reduce the magnitude of impact to a "negligible" level. If the sensitivity of spawning herring were to be categorised as "high", the overall significance of effect, once the agreed mitigation is applied, would be "minor adverse" which is not significant in EIA terms. Therefore, the Applicant has not updated the assessment, as the conclusion remains the same as this is matter of semantics and professional opinion, rather than a matter that is material to the impact assessment outcome. This matter has been discussed with Natural England following receipt of the SoS letter and on 7 th August NE provided the following response via email "With regards to your query on the assessment of sensitivity for spawning herring, we have discussed this with our specialist. Their advice is that whilst Natural England consider the sensitivity of spawning herring to noise impacts to be high, we understand that even if Five Estuaries were to categorise the sensitivity as high, it would not change the overall effect significan
20	Applicant	The Applicant is requested to revise the OIPMP [REP8A-023] to require appropriate fish and shellfish monitoring to validate the predictions made within the Environmental Statement and detect effects significantly beyond those predictions, as well as to help address key knowledge gaps in modelling and the baseline environment of the site.	As detailed in 9.32 OIPMP – Revision H, noise monitoring is proposed to be undertaken, to validate, within reason, the assumptions made within 6.2.6 Fish and Shellfish Ecology [APP-075] and 6.2.7 Marine Mammal Ecology [APP-076]. The aim of the proposed noise monitoring is to reduce the uncertainty for injury / disturbance to marine ecological receptors, which includes fish and shellfish and validate the impact assessment. No additional monitoring or independent surveys are proposed in relation to fish and shellfish ecology on the basis of no residual significant effects being concluded within the ES (after the implementation of secondary mitigation measures which are summarised in Table 6:12 of 6.2.6: Fish and Shellfish Ecology [APP-075], and detailed in 6.5.6.4 Herring Seasonal Restriction Note - Revision D [REP6-013] and 9.8 Dredge Disposal Site Characterisation Report – Revision C[REP7-039]). In addition, given the high level of activity and development in the Outer Thames area, it would not be possible to detect any attributable change or provide any meaningful monitoring data at the project level to validate the impact assessment. This was one of the reasons why data from broader, regional surveys—rather than site-specific surveys—were used to inform the baseline. This approach was agreed upon with Natural England, the MMO, and Cefas during the Evidence Plan process.



at paragraph 3.2.17). Therefore, no additional monitoring is proposed by the Applicant.



5. MARINE MAMMALS

Ref	Question to:	Question	Applicant's response
21	Applicant	Noting the concern raised by Natural England in their Risk and Issues Log [REP8A-053] (Point 10 in H – Marine Mammals), the Applicant is requested to revise the Outline Marine Mammal Mitigation Protocol – Piling [REP7-044] ("oMMMP-P") to reduce the soft-start maximum hammer energy from 15% to 10%.	The Applicant has updated the oMMMP-Piling – Revision E to include a statement that the soft-start hammer energy will not exceed 10% of the maximum hammer energy.
22	Applicant	The Applicant is requested to revise the OIPMP [REP8A-023] and the Outline Marine Mammal Mitigation Protocol – UXO ("oMMMP-UXO") [REP7-046] to require monitoring of underwater noise associated with UXO clearance and the effectiveness of any noise abatement systems ("NAS") employed for UXO clearance in mitigating noise impacts.	The Applicant has updated the oMMMP-UXO – Revision D to include the need to monitor underwater noise during UXO clearance activities, where practicable, taking into account shipping and navigation risks. It should be noted that this document is provided for information only and that UXO surveys and clearance activities are excluded from the dML. Therefore, the OIPMP has not been updated as it would be not be relevant to the discharge of that plan.
23	Applicant	The Applicant is requested to revise ES 6.2.7 Marine Mammal Ecology [APP-076], the oMMMP-P [REP7-044], and the Outline Southern North Sea SAC Integrity Plan [REP6-022] to commit to a specific NAS, or package of NAS, in the event that driven or part-driven piles are used during the construction of the Proposed Development, in order to reduce the level of underwater noise generated and its propagation through the marine environment.	The Applicant updated the oMMMP-Piling - Revision E and the outline Southern North Sea (SNS) SAC Site Integrity Plan (SIP) during examination to align with Defra policy and the position paper authored by Natural England, JNCC and Cefas, both released in January 2025. The Defra policy states: 'we expect that all offshore wind pile driving activity across all English waters will be required to demonstrate that they have utilised best endeavours to deliver noise reductions through the use of primary and/or secondary noise reduction methods in the first instance.' Neither the policy nor the position paper mandate the use of NAS or package of NAS. If the intention of Defra, NE, JNCC and Cefas was to mandate the use of NAS, this would have been set out in the relevant policy and position paper. Nonetheless, the Applicant is committed to seeking to use best endeavours to implement noise reductions and has already met with NE and the MMO to present and discuss noise mitigation options that may be suitable for VE. This approach was welcomed by NE and MMO. The commitment to demonstrating best endeavours, mirroring the Defra policy, is made in both the oMMMP-Piling- Revision E and outline SIP. The Applicant also recognises that the joint position paper makes it clear that going forward projects without noise mitigation of some form may struggle to discharge the relevant dML conditions. The Applicant's assessment of impacts to marine mammals did not conclude any significant effects that require the use of noise mitigation nor a likely Adverse Effect on the Integrity (AEoI) of the SNS SAC. These conclusions for the project-alone were not challenged during the course of the examination, at no point was it linked to necessary mitigation for project-alone impacts or a specific type of NAS mandated. The use of a SIP as mitigation to avoid an AEoI in-combination on the SNS SAC is well established and supported by the MMO (as outlined in the MMO's Relevant Representations [RR-070]), and it is that process (which includes d



The term Noise Abatement Systems (NAS) is unhelpful as it refers solely to use of external measures such as bubble curtains to reduce the propagation of noise. Instead, it is essential that the consideration of other noise mitigation including noise reduction at source is allowed. In amending the oMMMP-Piling – Revision E and outline SNS SAC SIP the Applicant specifically used the term 'noise mitigation systems' (NMS) to encompass a wider range of potential options. The joint policy paper recognises this and refers to 'quieter installation methods and/or NAS' as opposed to simply NAS.

Irrespective of which term is used, these technologies and techniques are evolving rapidly with new options coming to market and others undergoing testing or verification. The availability of specific technologies or equipment will depend on the market and the timing of the VE foundation installation. It is not possible at this time to specify which noise mitigation or package of mitigations will be suitable and available for VE.

When considering the use of NAS that abate the noise once it is in the environment or NMS that reduces the piling noise at source; it is critically important to consider the suitability of the system for the project characteristics. What may be suitable for one project may be unfeasible for another project.

To commit to NAS either generally or specifically would unduly restrict a project such as VE where NAS is unlikely to be the most viable or effective option for noise mitigation, due to water depths and current speeds making commonly referred to NAS (e.g. bubble curtains or hydro sound dampers) potentially ineffective or undeployable. VE is located in an area of very high tidal current (1.1-1.5 m/sec). This is higher than other areas of UK and European offshore wind farms where tidal currents are typically 0.2-0.6m/sec. This significantly impacts the ability of the project to deploy commonly used NAS systems (such as bubble curtains or hydrosound dampers) which are often limited in their deployment and operation to 0.75-1m/sec. The duration of piling will be 4-8 hours, because this duration is longer than the typical period where the tidal current is lower than the maximum values (i.e. slack tide) it is likely not possible for the project to reasonably use systems with this limitation.

The Applicant is also aware of numerous other projects investigating NMS such as piling with combined torsion and vibration, vibro piling, and piling with the use of water jets at the tip of the pile. These are being largely developed in sandy soils, or soft clays. The VE project has stiff London Clay ground conditions. It is not considered likely that these will be suitable for use at the VE project site.

The Applicant has conducted screening and is in the process of conducting engineering assessment of all systems that are proven and under development that may be suitable. These assessments will be ongoing as the engineering design and construction schedule is developed post consent. The Applicant will also engage with MMO and NE to discuss any potential further underwater noise modelling and assessment. Due to the complex site conditions within the VE array areas the early determination of the feasibility of the NAS / NMS systems is not as straightforward as many other sites in the UK / European sectors. The project is however committed to adopting best practice and demonstrating best endeavours, working with the developers of suitable systems that may be available at the time of installation.

In summary, noise mitigation is not required for VE either in terms of reducing significant effects or avoiding AEoI, however the Applicant recognises that, going forward, the use of noise mitigation systems is considered to be best practice and is therefore actively investigating which technologies would be effective and available for VE. The commitments made in both the oMMMP-Piling – Revision E and outline SNS SAC SIP are in line with Government Policy and ensure that best endeavours will be to implement noise mitigation will be demonstrated.



			The Applicant acknowledges that the Defra "Reducing Marine Noise" policy paper (Defra, 2025) makes it clear that projects without noise mitigation will face a challenge to receive approval of relevant plans. However, a blanket commitment of the type proposed would be both unduly restrictive, particularly in the case of VE, and unnecessarily go further than the policy requirement with no justification based on the conclusions of the ES and the RIAA.
	Applicant	The Applicant is requested to revise the OIPMP [REP8A-023] to require appropriate marine mammal monitoring to validate the predictions made within the Environmental Statement and to detect effects significantly beyond those predictions, as well as to help address key knowledge gaps in modelling and the baseline environment of the site.	The Applicant has committed to undertaking underwater noise monitoring to validate the predictions made within the ES, which will demonstrate the realised impact (injury) ranges to marine mammals from piling noise and that they are within the predictions of the ES. The MMO confirmed during examination that they were content with this approach in paragraph 1.5.1 of their Deadline 8A response [REP8A-046]. At no point during examination have either the MMO or NE requested specific further marine mammal monitoring for VE. In NE's comments on the OIPMP [REP4-052] they welcomed the commitment to engaging with the SNCB regarding any additional monitoring. However, no request made for any additional monitoring or justification was made for its requirement.
			In addition, further marine mammal monitoring is considered unnecessary and disproportionate to findings of the assessments, due to the lack of significant effects predicted for marine mammals in the EIA and HRA, and the level of precaution inbuilt into the assessment. Furthermore, the logistics of undertaking marine mammal monitoring for VE would be very challenging and would likely raise new stakeholder concerns – further details are provided below in this response.
			The Applicant highlights that the OIPMP provides a framework for further discussion on monitoring in the post-consent phase, and that the final monitoring plan must receive written approval by the MMO in consultation with the relevant SNCBs, as outlined in the dML conditions.
24			The Applicant does not consider that monitoring should be undertaken as a matter of course, but for specific purposes and to test a specific hypothesis, such as assessing the effectiveness of mitigation (e.g. noise monitoring during piling). This is supported by government guidance on the EIA 2017 regulations (albeit for Town and Country Planning permissions) which states that 'Monitoring should not be used as a general means of gathering environmental information; rather it is a means of monitoring, where appropriate, any mitigating measures identified through the Environmental Impact Assessment process.' No NSIP specific advice on monitoring is provided.
			It also important to note that marine mammal monitoring for piling is undertaken by deploying numerous buoys with hydrophones which detect and identify marine mammals based on their vocalisations. Through analysis of these vocalisations changes in presence of marine mammals can be determined. These studies cannot determine changes either in the number of individuals detected or turnover of individuals at sites, i.e. changes in density cannot be determined. Changes in presence may be due to changes in abundance or to other behaviour changes which cannot be determined through these studies. As documented in 6.5.7.1 Marine Mammals Baseline Characterisation [APP-126], the distribution and abundance of marine mammals in the southern North Sea is well understood and studied. It is the Applicant's understanding that to be able to observe any changes in marine mammal behaviour during activities, such as piling, a large number of buoys would need to be deployed prior to, during and after the activity. These buoys would need to be installed throughout the wider area, i.e. beyond the Order Limits of the array, in order to record meaningful data.
			For example, a large scale multi-species monitoring programme was undertaken in the Moray Firth between 2013 to 2022. For harbour porpoise monitoring 68 echolocation detectors were deployed across Beatrice, Moray East, Moray West in 2022 to compare post-construction data with pre-construction data



(2009-2011) in a Before-After Control Impact design to explore whether the installation and operation of these offshore windfarms had either reduced or increased the occurrence and foraging activity of porpoises. The findings of this study¹ were published in 2024. In addition, numerous analogous studies have been undertaken to date in the southern North Sea, including, recently,for the East Anglia THREE OWF.

It is the Applicant's understanding that further marine mammal monitoring will be undertaken in the region, by East Anglia ONE North and East Anglia TWO OWF as per their dML conditions. The Applicant therefore argues that there would be very limited scientific value in undertaking an equivalent study in such close proximity. It is anticipated that the cost to undertake such a study would be in the order of a million pounds owing the need for routine vessel visits, analysis, repair and maintenance of the equipment over the study period. Therefore, the cost versus value of such a study would be disproportionate especially as no significant effects are predicted in EIA or HRA terms.

The logistics of undertaking such a study, with the need to deploy tens of buoys pre-, during and post-construction in order to obtain meaningful results, would be highly challenging. The locations of the buoys would need to be carefully considered to avoid installation in areas heavily transited by vessels. This is particularly problematic for VE as the presence of these buoys outside the array areas, for the purpose of marine mammal monitoring, is unlikely to be feasible to the navigational constraints and hazards posed by the Sunk Traffic Separation Scheme, Noord Hinder Junction, and other significant and constrained shipping routes. In addition, as the buoys would be likely to be installed below the sea surface they could impede fishing activity for certain gear types.

Further detail is provided below on shipping and navigation constraints that would restrict of prohibit the placement of monitoring buoys:

- North-east and east of the array
 - > As presented Figure 4.11 in 6.1.4 Site Selection and Alternatives [APP-066], the north and northeastern extents of the northern array were refined following feedback from shipping and navigation stakeholders and analysis of both vessel traffic surveys and long-term vessel traffic data. It is the Applicant's position, that buoys could not be placed in the area removed from the array as it would negate the previous benefits realised.
- Within any IMO Routeing measures (see Figure 7.4 of the 9.10 Navigational Risk Assessment [APP-240]):
 - > The North Hinder Junction is to the East of VE;
 - > The TSS Sunk is to the West of VE; and
 - > The North Hinder South TSS is to the South of VE.
- > The navigation corridor that will be created between the northern array area and East Anglia Two.

Based on these identified constraints which surround VE, the Applicant does not believe that a sufficient array of buoys could be deployed safely to provide meaningful scientific data on the presence of marine mammals within and around the VE site.

Therefore, on balance it is the Applicant's position that it would be disproportionate to undertake marine mammal monitoring based on the findings of the HRA and EIA and the associated costs. In addition, before the construction of VE, monitoring results for the East Anglia projects will become available and it

¹ Porpoise Monitoring Report - Moray Firth MMMP WP4 - 250324.pdf



			will be possible to determine whether monitoring for future projects will be necessary or meaningful. Furthermore, it is not considered likely to be feasible to safely undertake monitoring and provide scientifically robust data due to the number of buoys needing to be deployed in a heavily constrained shipping area.
25	Applicant	The Applicant is requested to revise the OIPMP [REP8A-023], the oMMMP-P [REP7-044], and the oMMMP-UXO [REP7-046] to require the submission of all relevant noise monitoring data to the JNCC UK Marine Noise Registry.	The Applicant's understanding is that the JNCC Marine Noise Registry is not currently set up to receive noise monitoring data. The close out reports require the submission of actual location and date data, and where available other source property data (i.e. data relating to the noise source) including as relevant frequency, maximum airgun volume, maximum hammer energy, TNT equivalent, sound pressure level and sound exposure level. The requirement to submit close out reports into the Marine Noise Registry is secured through Condition 23 of Schedule 11 and Condition 22 of Schedule 12 of the draft DCO. As such it is not possible to submit noise monitoring data to the MNR. However, all relevant close out reports will be submitted to the MMO in accordance with the dML and will also be sent to the JNCC Marine Noise Registry.



6. ONSHORE ECOLOGY

Ref	Question to:	Question	Applicant's response
26	Applicant	The Applicant is requested to revise the impact assessment within ES 6.3.4 Onshore Biodiversity and Nature Conservation [APP-086] to align the definition of duration in accordance with the CIEEM Guidelines for Ecological Impact Assessment in the UK and Ireland (2024) - that duration should be defined in relation to ecological characteristics and account for the lifecycle of the species being assessed.	As set out in 10.4.1 Applicant's Response to Natural England's Relevant Representation [REP1-051]: 'The assessment of impacts has been undertaken in accordance with the Chartered Institute of Ecology and Environmental Management (CIEEM) (2022). 'Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine version 1.2', which includes the requirement to consider the duration of impacts in relation to ecological characteristics such as protected species lifecycles. The time frames referenced in 6.3.4 Onshore Biodiversity and Nature Conservation [APP-086] are explicitly unrelated to protected species or habitats life cycles (and are presented as such in section 4.6.10 of 6.3.4 Onshore Biodiversity and Nature Conservation [APP-086]). They are provided simply to add context for how long an effect may last, irrespective of how time relates to the ecological feature experiencing it.' Following the implementation of proposed mitigation measures, no significant residual effects are predicted at any timescale (see Table 4.18 in 6.3.4 Onshore Biodiversity and Nature Conservation [APP-086]). This conclusion would not change following further consideration of the life cycle of the species assessed and as such no amendment to the assessment is proposed or required as it is in accordance with the CIEEM Guidelines. The Applicant has therefore not revised 6.3.4 Onshore Biodiversity and Nature Conservation [APP-086].
27	Applicant	Noting the concern raised by Natural England in their Risk and Issues Log [REP8A-053] (Point 20 in J – Onshore Ecology), the Applicant is requested to revise the Code of Construction Practice ("CoCP") [REP8A-015] to require a detailed environmental risk assessment, supported by local ground investigation data, to be carried out prior to onshore works commencing assessing the likelihood of frac-out at Holland Haven Marshes SSSI, and the potential impacts from this with reference to the features that the SSSI is notified for. The Applicant is also requested to provide without prejudice drafting to secure this within the DCO.	The Applicant has updated section 4.5 of the CoCP provided with this response to include a commitment to undertaking a detailed environmental risk assessment, supported by local ground investigation data, ahead of the works commencing under the Holland Haven SSSI. The Applicant considers as this is included in the CoCP a requirement in the DCO is not required. All of the measures in the CoCP are already secured through requirement 6 and adding a requirement in addition to an amend to the CoCP is unnecessary duplication. However, as requested the following without prejudice drafting is provided should the Secretary of State be minded to include a requirement in the DCO to secure this: Landfall drilling risk assessment XX.—(1) No part of Work No. 4 may commence until a landfall drilling environmental risk assessment, in accordance with the approach set out in the code of construction practice, has been submitted to and approved by the discharging authority. (2) Any measures control measures identified in the risk assessment should implemented as approved. This requirement has been linked specifically to Works No.4 as that is the only part of the works that may in part be constructed underneath the SSSI which has the potential to cause frac out effecting the SSSI.
28	Applicant	The Applicant is requested to revise the CoCP [REP8A-015] and the oLEMP [REP8A-017] to ensure all relevant pre-construction, construction, and post-construction/operational survey and monitoring data is shared in the appropriate formats with the relevant Local Environmental Records Centre(s) and relevant	The Applicant has added a new section 10.3 on data to the updated OLEMP to address this request. As all ecological and biodiversity data will be collected under the OLEMP it is the appropriate place to secure this commitment. The Applicant does not consider it is necessary to secure this in two separate control documents and has therefore not updated the CoCP.



		national/regional environmental recording schemes to ensure that future environmental records of the area are accessible and accurate, in accordance with CIEEM Guidelines for Accessing, Using and Sharing Biodiversity Data in the UK (2023).	
29	Applicant	The Applicant is requested to revise the oLEMP [REP8A-017] to provide an adaptive management methodology that will be followed in the event that habitats or landscape and ecological features fail to establish or reach the intended condition.	The revised OLEMP includes a new section 10.4 setting out a compliance assessment process to be followed, this will be developed further with the relevant stakeholders for inclusion in the final LEMP(s). This approach considers the need for adaptive management and how this will be communicated.
30	Applicant	The Applicant is requested to revise the oLEMP [REP8A-017] to provide a compliance assessment and reporting methodology that will be followed during construction and operation of the Proposed Development. This must ensure the compiling of regular reports to Natural England and the relevant LPAs to evidence compliance with all identified actions, monitoring and survey results, and assess effectiveness, and determine any appropriate adaptive management measures over the next reporting period, where necessary.	The revised OLEMP includes a new section 10.4 setting out a compliance assessment process to be followed. This will be further developed with the relevant stakeholders for inclusion in the final LEMP(s).
31	Applicant	The Applicant is requested to revise the CoCP [REP8A-015] and oLEMP [REP8A-017] to require a Badger Species Protection Plan ("BSPP") to be implemented during construction of the Proposed Development. The BSPP must detail any potential impacts on badgers during construction, avoidance and mitigation measures, ongoing monitoring, adaptive management, and any licensed work(s) that may be necessary. The CoCP and oLEMP should ensure that the BSPP includes, but is not limited to, the measures from SNCB standing advice listed in Appendix A of this letter.	No significant impacts to badgers are anticipated as a result of the Proposed Development (as set out in 6.3.4 Onshore Biodiversity and Nature Conservation [APP-086]). The measures set out in the OLEMP [REP8A-017] are considered sufficient to ensure the risk of an offence under the protecting legislation is minimised. However, in order to address the request, a commitment to a BSPP, should any impacts to badgers be identified during the pre-construction surveys, has been included in the section 7.9 of the updated OLEMP – Revision G. It has been discussed with Natural England that the plan should reference measures set out in the Natural England Standing Advice on badgers, rather than Appendix A of the Secretary of State's Request For Further Information dated 11 July 2025.
32	Applicant	The Applicant is requested to revise the CoCP [REP8A-015] to ensure that the avoidance and mitigation measures set out in the oLEMP [REP8A-017] in relation to otter (Section 7.10) and water vole (Section 7.11) are also secured in the CoCP.	The Applicant has updated section 4.5 of the CoCP to include the relevant controls for otter and water vole from the OLEMP (Revision F) [REP8A-017].
33	Applicant	The Applicant is requested to revise the oLEMP [REP8A-017] to require that all permanent fencing installed is designed in such a way as to allow the movement of animals (where appropriate) across the landscape. This must include access points installed at strategic locations along fence lines to allow badgers	Permanent security fencing around the OnSS compound (where electrical equipment and infrastructure are contained) is necessary for Health, Safety and Security purposes and will be designed to meet the relevant technical specifications — as set out in the Onshore Substation Design Principles Document [REP8-020]. Habitats within the OnSS compound are unsuitable for use by most faunal species, and presence of animals is not desirable for operational reasons.



		and other animals to pass through. Permanent fencing and access points must be checked regularly to ensure that they remain operational and that no animals have become trapped.	Permanent fencing at the wider OnSS area (i.e. the area included in the OLEMP and subject to management for 30 years) will be minimised as far as practicable and will be permeable for mammals, including badger, where appropriate. This requirement has been made clearer in the updated OLEMP (9.22 Outline Landscape and Ecological Management Plan – Revision G) in paragraph 8.1.6.
34	Applicant	The Applicant is requested to revise the oLEMP [REP8A-017] to require appropriate species monitoring to validate the predictions made within the Environmental Statement and to detect effects significantly beyond those predictions, as well as to help address key knowledge gaps in predictions and the baseline environment of the site, and to feed into the ongoing management of the site.	The Applicant has revised the OLEMP to include a new section 10.4 which sets out a compliance assessment process, which will be used to validate the predictions made in the ES and allow mitigation / control measures to be adapted if required to support the ongoing management of the site. This will be further developed with the relevant stakeholders and included in the final LEMP(s).
35	Applicant, Essex County Council, Tendring District Council, Natural England	Noting the concern raised by Natural England in their Risk and Issues Log [REP8A-053] (Point 27 in J – Onshore Ecology), the Applicant, Essex County Council, Tendring District Council, and Natural England are invited to provide comments on the wording below for an amended Biodiversity Net Gain condition within the Order: (1) No stage of the authorised project within the onshore Order limits (excluding any onshore site preparation works) may commence until— (a) a biodiversity net gain strategy for that stage which accords with the outline biodiversity net gain information comprising the Onshore Biodiversity Net Gain Indicative Design Stage Report has been approved in writing by the relevant planning authority in consultation with Natural England; and (b) at least 10% of the total number of biodiversity units as required for that stage of the development (calculated using a biodiversity metric approved by the relevant planning authority in consultation with Natural England) have been secured and where appropriate proof of purchase provided in accordance with the approved biodiversity net gain strategy and to the satisfaction of the relevant planning authority in consultation with Natural England. (2) The location for delivery of biodiversity units is to follow a prioritisation exercise, as described in the Onshore Biodiversity Net Gain Indicative Design Stage Report, with priority given to areas inside or within close proximity to the proposed Order limits. (3) The biodiversity net gain strategy for each relevant stage must be implemented as approved. (4) Any remaining shortfall in biodiversity units identified following detailed design will be secured prior to construction works being completed.	The Applicant objects to the proposed requirement, both in principle and with regard to the wording used. The Biodiversity Net Gain (BNG) to which the Applicant has committed is intended to address the need under the Natural Environment and Rural Communities Act to demonstrate compliance with the duty to conserve and enhance biodiversity and the applicable policy requirements. It is not statutory BNG under the Environment Act 2021. It is noted that the word 'condition' is used, implying that this wording (and the thinking behind it) has been cross applied from the Town and Country Planning Act (TCPA) regime, that is not appropriate. The 'condition' is not necessary or justified. BNG is not mandatory for this application as the requirement for BNG on NSIPs has not yet come into force. The legal basis for seeking 10% gain measured through the metric does not apply to this Application. It is accordingly not justifiable to impose a requirement to reflect a legal basis that is not applicable to the particular application being considered. The proposed requirement accordingly fails the tests for a valid requirement as it is both unnecessary and unjustified in its terms. There is as yet no biodiversity gain statement for NSIP energy developments; the imposition of this wording would prejudge both that statement and, importantly, the outcome of the DEFRA consultation on implementing BNG for NSIPs. The Applicant submits that imposing this requirement is entirely inappropriate and lacks procedural fairness. It imposes wording which is ill-suited to the NSIP consenting regime, imposes wording used in another consenting regime, into no meaningful consideration of the circumstances in this case, does not reflect the particular development being considered but is overly generic, and may end up being considerably different to the final requirements to be placed on NSIPs once the BNG regime actually applies to them. The Applicant has committed to providing BNG and the dDCO includes a requirement securing that: Biodiversity



(5) Any biodiversity net gain strategy under subparagraph (1) may cover one or more stages of the onshore works. 6.—(1) No stage of the connection works in Work No. 7 may commence until a net gain strategy (which must accord with the outline net gain strategy) in relation to that stage has been submitted to and approved by the relevant planning authority, in consultation with the relevant SNCBs.

(2) The net gain strategy must be implemented as approved.

The proposed condition drafting fundamentally misunderstands the circumstances of this development. It presupposes that BNG is required for and must be delivered in each stage - that is not correct. For much of the cable route, there will be no requirement for BNG where the cable is laid in cropland or agricultural land which is then restored. As noted in the Onshore Biodiversity Net Gain Indicative Design Stage Report [REP6-015];

"In respect of cropland or agricultural grassland that is to be returned to its original use within 2 years, the impacts are considered to be temporary loss and will be recorded as retained within the Metric. Note that for agricultural grassland and cropland, original use is considered to be topsoil reinstated and ready to be sown (in view of the fact that rotational agricultural practices and season have a determining role in agricultural land use)."

The landscaping and ecological mitigation to be provided at the substation is anticipated to provide a positive biodiversity impact. Additional BNG units may be needed in addition to the landscaping and ecology works at the substation site, however, the need or extent of that cannot be finalised until the landscaping and ecological mitigation to be provided on that site has been designed, and those changes added into the metric. BNG units may be assessed as required for works along Bentley Road and discrete works along the cable corridor (i.e. if a number of trees or hedgerows cannot be avoided or crossed under using a trenchless technique) but that cannot be confirmed until the detailed design is complete and micrositing of the route has been undertaken.

The final design of substation landscaping and ecology works will seek to maximise opportunities to increase the biodiversity provided onsite within the constraints of providing the mitigation and/ or compensation function. That positive provision has to be considered in the whole with the cable route and not in isolation. Considering each stage in isolation ignores the positive delivery intended at the substation, which will be on land within the Order Limits, already subject to compulsory powers, will be in the operational control of the project (with a maintenance obligation already secured through the LEMP requirement) and is therefore preferable in policy terms to offsite provision.

The inability to commence the substation works suitably protects the delivery of any BNG which is needed because:

- The BNG delivery strategy and assessment work submitted throughout examination is not set up to assess and deliver BNG in stages but rather assesses the overall impact of the whole development.
- The delivery of landscaping and ecological mitigation/ compensation on the substation site will
 materially affect the outcome of the BNG metric and this needs to be considered as part of the
 whole and not by stage, or a misleading picture of the overall impact will be created.
- The substation will be one of the earlier elements to be started onshore as it has the longest build period of the onshore elements. The Applicant's drafting accordingly requires a cohesive, development wide strategy to be delivered early in the programme. The Applicant submits that this is preferable to multiple parts of the strategy being delivered per stage.
- The delivery of the Bentley Road improvements is necessary to address the cumulative impacts of the development of the substations, it is a mitigation for the impacts of building those works. It is



			 important that the road works can be delivered early to manage other impacts and that 'stage' should not be delayed while the assessment of the detailed design of the substation site is finalised. The development cannot operate (and export electricity creating the financial return) unless and until the substation is complete. Preventing commencement of that element appropriately secures the delivery of BNG for the project. The wording of item (b) is objected to as imprecise and unnecessary. The wording requires 'at least 10%', this is imprecise and inappropriate (and unjustified given that delivery of BNG is not a legal requirement and the 10% threshold does not apply). The wording requires 'proof of purchase': it is both unclear as to what this would be and why this is not very premature. If this relates to either units or land, then it is an unnecessary delay for the project to have: acquired these before any stage can commence and delivered proof of purchase rather than only an appropriate mechanism securing delivery – e.g. a signed contract reserving appropriate units to be created rather than purchase of already created units
36	Applicant	The Applicant is requested to revise the Onshore Biodiversity Net Gain Indicative Design Stage Report ("oBNGIDSR") [REP6-015] to require the final strategy to clearly distinguish which parcels of land are to be provided for mitigation, compensation, and biodiversity net gain purposes.	The OLEMP (9.22 Outline Landscape and Ecological Management Plan – Revision G) broadly indicates in Figure 4 the parcels of land that are required for ecological compensation and enhancement. However, it is important to note that all non-operational areas at the OnSS/ within the OLEMP will provide a degree of mitigation, compensation and/ or enhancement for habitats and species (noting that species are not accommodated within the Metric). It would be inappropriate/ inaccurate to allocate individual parcels of land for just one of these purposes and is worth highlighting that the Statutory Metric does not require such discrimination. The Applicant has therefore not revised Onshore Biodiversity Net Gain Indicative Design Stage Report ("oBNGIDSR").
37	Applicant	The Applicant is requested to revise the Onshore Biodiversity Net Gain Indicative Design Stage Report ("oBNGIDSR") [REP6-015] to require the final strategy to clearly distinguish which parcels of land are to be provided for mitigation, compensation, and biodiversity net gain purposes.	This question is a duplication of number 36.
38	Applicant	The Applicant is requested to provide a without prejudice version of the revised oBNGIDSR with Option 2 (Unmanaged habitats count as lost and created) removed.	The Applicant does not agree with this request and would like to note that this was not discussed during examination. As stated in the oBNGIDSR, Natural England believes a habitat can only be considered lost and reinstated if the reinstated habitat is subject to a 30 year management plan. This approach is not however a requirement in any NSIP guidance and is not accepted as a reasonable or proportionate approach for NSIPs. The approach sought is mainly an issue for the Applicant in relation to hedgerows and agricultural land used for haul roads or TCCs for more than 2 years. The linear character of the project establishes that those habitats would not be able to be reinstated until other parts of the project are ready, something that is not currently captured in the Metric calculations. This poses an unreasonable burden on developers for BNG compensation and provides no incentive for actually reinstating these habitats. This also prejudges



			the forthcoming (but not yet in force) application of statutory BNG to NSIPs. It is noted again, that for this
			application, delivery of BNG as calculated by the Metric is <u>not</u> a statutory requirement. In addition, the Applicant maintains that applying the Metric in the manner suggested to NSIPs, especially linear NSIPs where the infrastructure is buried such as the cable corridor in this case, is entirely disproportionate and results in a undeliverable number of units being sought for what is short term, localised disturbance of mostly arable farm land and which disturbance is needed to deliver critical national priority infrastructure. Submissions on this point have been made to the recent DEFRA consultation and the Applicant suggests that it is not reasonable to prejudge the outcome of DEFRA's work on this.
			It is not reasonable or proportionate to seek reinstatement and maintenance of farmland which is in active agricultural use and therefore already subject to the frequent disturbance caused by normal agricultural operations. There is also an issue of unreasonable and unjustifiable interference with landowners rights to manage their own land which would arise from the Natural England approach. The level of control which would allow land to count as reinstated under the Natural England approach requires the project to have 30 years control over a landowner's land management activities, in most cases simply to "secure' a small section of reinstated hedgerow. In addition to this, Option 2 is the same calculation used to calculate Rampion 2's BNG, considering that habitats could be counted as lost and reinstated. This approach was recently consented by the Secretary of State when granting consent for the project. For these reasons, the Applicant remains of the position that Option 2 is the adequate option for BNG
			Metric calculation for this project and does not agree to provide a without prejudice version of the plan.
			The 9.22 Outline Landscape and Ecological Management Plan – Revision G (OLEMP) details in section 9 and indicates in Figures 1 and 4 the locations of species specific compensation and enhancement as follows:
	Applicant	The Applicant is requested to revise the oLEMP [REP8A-017] to provide (using site-won materials, where possible) for raptor perching posts, beetle loggeries, and rubble piles, and provide indicative locations for these.	9.1.10 It is also proposed to install a range of bird boxes (including boxes for barn owl Tyto alba and kestrel Falco tinnunculus, as well as boxes for small passerine species) on retained trees, earth banks for invertebrates, refugia for reptiles, amphibians and small mammals.
39			The beetle loggeries and rubble piles referred to by the Secretary of State are considered synonymous with the 'refugia' already mentioned. No changes to the OLEMP plans are proposed as indicative locations for these are already included. Inclusion of "raptor perching posts" as an enhancement is not considered appropriate, given the greater need to minimise impacts to ground nesting birds (which are a prey item of raptors and corvids which are also likely to use hunting posts). These have therefore not been included.
			The OLEMP has been updated to confirm that site won material will be used where possible.
40 & 41	Applicant	The Secretary of State notes that ES 6.3.4: Onshore Biodiversity and Nature Conservation [APP-086] details that the permanent loss of arable habitat due to the construction of the onshore substation and proposed landscaping / habitat creation will affect up to six corn bunting territories and 21 skylark territories.	The Applicant submits that the plan sought by the Secretary of State is not appropriate compensation as it is not deliverable by the Applicant without creating unjustified long term impacts elsewhere. The Applicant assessed the impact on farmland birds in 6.3.4: Onshore Biodiversity and Nature Conservation [APP-086] and concluded that a significant adverse effect on two species (corn bunting (at a county level) and skylark (at a local level)) cannot be avoided. This is due to permanent direct loss of 6 hectares of arable farmland habitat at the substation and the impact over the wider area due to the



While the Applicant notes that compensation for skylark and corn bunting is not possible within the Order Limits, the Secretary of State notes that off-site habitat compensation and, therefore, the full application of the mitigation hierarchy has not been explored. The Applicant is therefore requested to provide a without prejudice In-Principle Farmland Bird Compensation Plan detailing how off-site habitat compensation for farmland birds (including corn bunting and skylark) would be delivered to compensate for the significant adverse effects from the Proposed Development. This must also include details of longterm management, monitoring, potential research collaborations, adaptive management, reporting, and data-sharing. The Applicant is also requested to provide without prejudice drafting to secure this plan within the DCO and relevant control documents.

provision of the screening planting that is necessary to make the development acceptable in landscape and visual terms. This screening planting will act to make the retained fields unattractive to those two species, which prefer to not nest in fields enclosed by trees.

As required by the ES methodology and the mitigation hierarchy, the Applicant considered the provision of both mitigation and compensation pre-application. Provision of mitigation on site was not possible while meeting the landscape screening function requirement.

The Applicant notes that both species, as shown in 6.6.4.2 Breeding Bird Survey-North of A120 [APP-133] have been recorded in, and are known to use the wider area surrounding the substation. Given the site sits within a wider area used by these species, provision of offsite compensation was considered by the Applicant; however it was concluded that the impacts of providing this outweighed the impact being addressed. The Applicant notes that no Interested Parties or the Examining Authority raised this issue or objected to the balanced conclusion reached by the Applicant during the pre-application phase or during the Examination period.

The provision of compensation for the two species would involve controlling farming practices over areas of land, which could, using conservation advice, include a mixture of the following:

- Spraying regime avoiding insecticide from 15 March onward;
- Cultivation of winter stubbles (left from time of harvest to approx. mid-February the following year);
- Annual sowing of seed-rich winter bird cover crops (not maize), at least 0.4 ha minimum, 48m wide using Defra recommended mix;
- Avoid cutting silage between early April and the end of May;
- Avoiding harvesting before end of July and delay grassland maintenance until August; and
- Creating Skylark plots (undrilled patches) in winter cereals. Skylark plots are 4m x 4m undrilled plots, located at a density of two plots per hectare, in fields over 5 ha in size, ideally located at least 80m from field edges and not connected by tramlines.

Land could also be turned over to enhancement measures within appropriate farm holdings, which could comprise a combination of permanent features (e.g. beetle banks and grass margins) and temporary features (e.g. skylark plots).

Beetle banks, minimum 2m wide grassland strips through the centre of fields > 16ha, and permanent grass margins at least 6m wide which would benefit both corn bunting and skylark by providing habitat for invertebrates and creating grass or wildflower margins over 10m wide and located away from hedgerows to provide corn bunting nesting sites. These would take time to establish.

All of the measures will require significant adjustments to farming practices and will have an impact on agricultural businesses, for example, by preventing the planting of winter crops to leave 'stubble' in place; preventing harvesting at the optimal time for the crop rather than the species; reducing the area of productive land; reducing yields (through not applying pesticide for example). The practice of crop rotation means that multiple fields would need to be subject to control to allow for a programme of measures to align with crop rotation plans. The measures required would reduce the ability of a farmer to respond to changing market conditions, thereby potentially reducing overall efficiency, productivity and profitability of the business.

Skylarks are widespread in Essex, therefore the location of compensation measures for skylark is not critical. However, it would make sense that measures for skylarks would be located in the same place as measures for corn bunting (as many of the measures would benefit both species) and this would reduce the total area that needed to be controlled by the Applicant. Even so, an estimated calculation using one



of the metrics available indicates that, for the skylark plots, the project would need control over an area of approximately 116.6 ha to compensate for the loss of 21 skylark territories. For corn bunting six territories (six pairs) were recorded within the 57.6ha of habitat suitable for corn bunting that will be used for the OnSS and wider landscaping/habitat enhancements. It is noted that the habitat is currently not specifically managed to support this species, and it is therefore considered that the same sized area used under specific management to support the species would support at least six pairs of corn buntings. Management measures for corn buntings would need to be within either 5km of the existing population at the OnSS or within 5km of another existing corn bunting population, due to this species dispersing only small distances. This would limit the project in its ability to locate sites.

The Applicant therefore considered the full mitigation hierarchy, but discounted providing offsite compensation because, on balance, this would further increase the impact that the projects would make on best and most versatile (BMV) land and associated agricultural practices. This was considered a disproportionate impact on farming, with undue long term interference on farming businesses and food production. The long term nature of any compensation measures would also cause an unjustified interference with the landowners' ability to adapt and change farming practices, which restrictions the Applicant does not consider agricultural landowners would accept for the life the development given the constraints that would impose on their operations. As well as interfering with operations, seeking to bind farming practices for the operational period could have adverse impacts in terms of constraining the ability respond to changing conditions, changes in farming practices, or to make climate change adaptations, or responding to changes in government policy and the ability to apply to government backed agri-business schemes in future. All of the above points render compensation undeliverable in practice.

The Applicant has not sought to compulsorily acquire rights as part of its DCO to manage farming practices to provide the compensation measures, as it assessed that the level of interference in doing so was not justified in the overall balance. The Applicant has therefore had to carry this EIA impact forward into the overall planning balance as discussed within the 9.1 Planning Statement [APP-231] (table 6.1 on page 75/76). In that balance, the Applicant notes that a suitable assessment has been carried out and the mitigation hierarchy has been applied as required by the NPS. The Applicant has therefore submitted that this impact, which cannot be practically further mitigated or compensated for, should be set against the great positive weight in favour of the development as CNP infrastructure under the NPS. The Applicant considers that the adverse impact, while regrettable, is clearly outweighed under the NPS by the urgent need for renewable energy infrastructure. The Applicant also notes it is committing to a wide number of habitat and ecological enhancements at the onshore substation site which would benefit a range of other bird species, alongside a voluntary 10% BNG commitment, which will benefit a large number of species.

The Applicant has for the reasons outlined above not submitted a without prejudice In-Principle Farmland Bird Compensation Plan, as requested. The Applicant submits that, as set out, the impact of the compensation measures would be disproportionate to the impact on the farmland birds. The Applicant could only deliver this plan with the long term co-operation of willing landowners and would in effect be in a ransom position if none were willing to enter into voluntary agreements. This creates an unnecessary risk to the viability and deliverability of the project which no prudent developer would accept, and which would be contrary to the NPS position that the delivery of this infrastructure is urgently needed and should be supported.

The Applicant has also therefore not submitted without prejudice DCO requirement wording on the basis that it does not consider such a requirement should be imposed, as it not justified. The Applicant does



however wish to note the following concerns that should be considered if, despite the above rationale, the Secretary of State considers it necessary to impose a requirement, the drafting should consider:

- It is unlikely that the Applicant could put in place a compensation plan that covers the whole operational period as the Applicant does not consider that any reasonable agricultural landowner would be willing to predict and bind their agricultural practices, or the land, for so long a period, nor would it be appropriate to seek to bind them to do so. Any plan would therefore have to be replaced over time to reflect the landowners willing to be a party on acceptable commercial terms at that time.
- The Applicant is not aware of any precedent for a compensation plan that is dynamic enough to account for changes in the location of the site (as opposed to adaptive management on a fixed site).
- That any updated or replacement plan during operation of the substation would have to be signed off by the relevant planning authority not the discharging authority as the funding proposed to support the discharge of requirements for construction would have ended. Any requirement would need to reflect this change in status.
- It would need to be linked to work No 15. where the impacts would occur, rather than the whole project.
- There would need to be a clear end date to the management measures, being the decommissioning of the onshore substation.
- Any compensation would need to allow for collaboration with other relevant projects underway at that time and the ability for any measures to be delivered through flexible approach following discussions with the appropriate stakeholders and agreed with the discharging/relevant planning authority
- Given the duration of the measures required it would need to consider the potential for the wider area due to climate change, changing farming practices or disease would become unsuitable to the two species in question.



7. HABITATS REGULATIONS ASSESSMENT

Ref	Question to:	Question	Applicant's response
42	Applicant	The Secretary of State notes that during the Examination, issues were raised in relation to a potential AEoI on the Farne Islands SPA by virtue of an in-combination harm to the guillemot qualifying feature. The Applicant is therefore requested to provide amended without prejudice versions of Part 3 of Schedule 13 to the DCO, and the Guillemot and Razorbill Implementation and Monitoring Plans ("GRIMP") [REP8-014], to include compensatory measures for guillemot as a qualifying feature of the Farne Islands SPA.	The Guillemot and Razorbill Implementation and Monitoring Plan (GRIMP) has been updated to include compensatory measures for the guillemot feature of the Farne Islands SPA. The measures set out for the Flamborough and Filey Coast (FFC) SPA are, if required, adequate to cover any additional compensation requirements for impacts to the Farne Islands SPA, as confirmed by Natural England in section 4.2 of their response at Deadline 8 [REP8-051].
43	Applicant	Noting the concern raised by Natural England in their Risk and Issues Log [REP8A-053] (Point 14 in J – Onshore Ecology), the Applicant is requested to revise the oLEMP [REP8A-017] and the Report to Inform the Appropriate Assessment ("RIAA") [REP8-004] to detail the actions that would be taken in the event that the proposed disturbance-free buffer zones around active nests of Schedule 1 bird species and other breeding bird species of conservation concern fail.	The Applicant considered that the additional section 10.4 added to the OLEMP would address this point as it would allow the ECOW to implement adaptive management in response to bird behaviour based on the site activities. For example, increasing the proposed disturbance-free buffer zone around active nests, or implementing additional screening around activities.
44	Applicant	Noting NPS EN-1 Paragraph 4.3.12 and PINS Advice Note 9, information contained in the environmental statement submitted to the Secretary of State should be sufficient to fully assess the project's impact on the environment and establish clearly defined worst-case parameters for the assessment. The Applicant, therefore, is requested to revise all relevant EIA and HRA documents to include an assessment of the reasonable worst-case scenario of the impacts from operation and maintenance port activities on the environment. If the Applicant has yet to make a final decision on the location of the operation and maintenance port facilities, the Applicant is requested to include an assessment of the reasonable worst-case scenarios of the different ports under consideration.	No ports for operation and maintenance have yet been selected. The Applicant notes that it is not seeking to consent any new port infrastructure. The Applicant would seek to use existing port infrastructure (including onshore infrastructure) for its operations. That infrastructure, and the traffic movements associated with would already form part of the consented port, and would have been assessed (where required) under the EIA for that port. The Applicant notes that it clarified during Examination (10.28 Applicant's Responses to ExQ2 [REP4-039]) that onshore traffic movements associated with the offshore works would not involve the movement of major components, which the Applicant has explained would come by sea, and that the limited local traffic movements would be associated with crew driving to the port and using existing car parking facilities. As the Applicant is not consenting new port facilities or infrastructure, nor creating new traffic flows to a Port (as it is not consenting new capacity in a Port), there is nothing in this application to be assessed in relation to such facilities. The Applicant notes that EIA is required to be proportionate; the Applicant does not consider it proportionate, reasonable or realistic to assess any onshore impact in relation to O&M port use given that its proposal does not seek to consent any development of any port. NPS EN-1 requires that "4.3.10 The applicant must provide information proportionate to the scale of the project, ensuring the information is sufficient to meet the requirements of the EIA Regulations". As the project for which consent is sought does not include any development of port facilities, the regulations and the NPS have been compiled with.



			The Applicant has, however, reviewed the O&M assessments already undertaken as part of the ES and RIAA and undertaken a more detailed assessment of offshore vessel movements based on available O&M information on potential ports that may be used for O&M and has presented a further refined 'worst-case' scenario in terms of potential vessel movements from the O&M ports currently under consideration. This is set out in 10.75 Supplementary Operations and Maintenance Assessment which accompanies this submission. The Applicant would however again stress that this involves vessels operating from existing ports in a busy area of sea with vessels able to transit under the general right of navigation as illustrated in 10.75 Supplementary Operations and Maintenance Assessment. The Applicant does not accept that, in these circumstances, port specific EIA is necessary or proportionate for these operations as there are no likely significant effects. This is confirmed in 10.75 Supplementary Operations and Maintenance Assessment. It is however important to note that for the ES submission a detailed O&M assessment was already undertaken based on the number of O&M peak vessel requirements and annual round trips (see 6.2.1 Offshore Project Description [APP-069].If a specific worst case port was identified this was detailed. Overall, 10.75 Supplementary Operations and Maintenance Assessment concludes that the effects on all relevant receptors were assessed and found to be either negligible or minor adverse for project alone and cumulatively, and therefore not significant in EIA terms.
45	Applicant	The Applicant is requested to revise the RIAA [REP8-004] and the HRA Screening Matrices [REP8-006] to screen in the transboundary sites for harbour porpoise within the North Sea Management Unit, as listed in Matrix 22.	The Applicant maintains its position that there is a lack of evidence to suggest connectivity between the Project and transboundary sites for harbour porpoise. All transboundary sites are located beyond the standard distance over which disturbance of harbour porpoise is expected (26 km, based on the Effective Deterrent Range (JNCC <i>et al.</i> , 2020)), which is the impact with the greatest range. As such, the potential impacts to transboundary sites are not considered to be significant based on the distance to the sites from the Project, and this position is line with that of recently consented projects (Hornsea Project Four, Dudgeon and Sheringham Extension Project). In addition, no response from transboundary consultees on marine mammal sites has been received. Nevertheless, the Applicant has updated the HRA Screening Matrices to include the transboundary sites for harbour porpoise within the North Sea Management Unit for the relevant impacts. It should be noted that some impacts have been screened out, whilst others have been screened in. The Applicant has also updated the RIAA.
46	Applicant	The Applicant is requested to revise the RIAA [REP8-004] to clarify whether seismic surveys have been assigned to Tier 6 or Tier 7 in the in-combination assessment, as the Secretary of State notes differing tiers are provided in Table 9.6 and Table 12.2. As the Secretary of State also notes contradictory text throughout the RIAA, the Applicant is also requested to revise the RIAA to clarify whether the in-combination assessment draws on the cumulative effects assessment (which includes seismic surveys), as presented in paragraphs 7.13.19 - 7.13.21 and Tables 7.43, 7.44, 7.47, and 7.50 of ES 6.2.7 Marine Mammal Ecology [APP-076].	The Applicant confirms that seismic surveys are considered as Tier 7 for the purpose of the assessment undertaken in the RIAA, and that this aligns with the ES. The RIAA was updated at Deadline 1 [REP1-061] to clarify that seismic surveys were allocated to Tier 7; this was corrected in Table 9.6, though it is noted that this correction was not made in Table 12.2 in error. Nevertheless, the assessment Tables 12.2 and 12.4 already stated that seismic surveys were Tier 7 and therefore there was no change to the assessment outcome as a result of clarifying that seismic surveys are Tier 7. Seismic surveys have not been included in the in-combination assessment of the SNS SAC as there is no information on spatial or temporal overlap of these hypothetical surveys with the SNS SAC, hence the low tier in which they sit. It is therefore not considered appropriate to make up overlap as this would not be based on any real information. It is also highlighted that the inclusion of hypothetical seismic surveys would not change the outcome of the assessment in Tables 12.3 and 12.4; the assessment of all projects in Tiers 2-6 already identified the risk of exceedance of the spatial thresholds in the SNS SAC, so the addition of seismic surveys would not make a material difference.



		The Applicant is requested to make the following revisions to the GRIMP [REP8-014]: • Require that the success of the compensation	Nevertheless, the applicant has updated Table 12.2 in 5.4 RIAA Revision E to clarify that seismic surveys were allocated to Tier 7. These changes do not make a material difference to the conclusions presented in 5.4 RIAA - Revision E. The response to requested amendments to the GRIMP are set out below, however the Applicant would like to reiterate that these measures are provided without prejudice to its conclusion that the very low levels of impact on auks would not lead to an AEoI either alone or in-combination.
47	Applicant	will be determined by both positive changes in bird numbers and productivity, as well as positive human behavioural change. Whilst the Secretary of State notes the influence of other confounding variables and natural fluctuations in the auk populations over time, the Applicant should mitigate against this through monitoring of control sites to better estimate the benefit of the compensation measure. Provide further detail of how these changes in bird numbers and productivity as well as human behavioural change would be monitored using currently available techniques. Provide further detail of additional monitoring such as dietary analysis and colour ringing. Require, under Section 4.3, the engagement with relevant local tourism and recreational	The Applicant notes the recent Defra consultation on Environmental Compensation Reform (https://www.gov.uk/government/consultations/offshore-wind-environmental-compensation-reforms) and in particular the section on 'small impacts'. The consultation document seeks to provide clarification on so-called 'small impacts' to sites or features. As part of these clarifications the document confirms at paragraph 212 that 'there is scope for projects with only a very small level of predicted impact to make no material contribution to an assessment of the in-combination risks. SNCBs will provide advice on this on a case-by-case basis. In these instances, neither mitigation nor compensation may be required.'. It is the Applicant's view that in the case of impacts to the relevant features at Flamborough and Filey Coast SPA (FFC) and Farne Islands SPA the SNCB has adopted a blanket position that for any additional impact incombination an AEol cannot be ruled out. The consultation document makes clear in paragraph 207 that there is no legal requirement to adopt this position stating 'We want to clarify circumstances where mitigation or environmental compensation is required for small levels of impact at a site, and that SNCBs can already advise that a small impact can be excluded from further consideration and not require environmental compensation. We do not believe a legislative change in the SI is necessary to address this.' The Applicants firm position is that an impact of 0.8 guillemot and 0.2 razorbill (Flamborough and Filey Coast SPA) and 0.7 guillemot (Farne Islands SPA), all contributing less than 0.1% to annual mortality, categorically makes no material contribution to the in-combination impact and would be indistinguishable from natural variations. As such, it is possible and reasonable to conclude that for such low impacts, no compensation should be required.
		 stakeholders in the development of the compensation measure. Include the Cornwall Wildlife Trust and relevant local tourism and recreational stakeholders within paragraph 3.1.4 as relevant parties to be invited to form part of the OOEG in an advisory capacity. Revise paragraph 3.1.4, noting that no artificial nesting program is to be implemented through the GRIMP. Remove the following sentence from paragraph 6.1.3, 'The Project will not commit to adaptive measures if the evidence suggests that the reason for lack of success are out of the Project's control e.g. climate change, prey 	Nevertheless, the applicant has provided an updated GRIMP – Revision E and wish to highlight the following: • The Applicant will be monitoring productivity at the compensation sites and control sites therefore changes in bird numbers and productivity will be recorded. Where changes in productivity and colony size correlate with reductions in disturbance it can be assumed that the measures have worked. However, it is considered that due to the high number of variables associated with the productivity of any specific auk colony, demonstrating success based on bird numbers and productivity linked to the measures is highly challenging. In doing so there is a considerable risk that if positive increases in productivity cannot be demonstrated due to the highly variable nature of auk colony populations, even where other indicators show that disturbance has been reduced, this may require unnecessary further intervention or the ceasing of otherwise effective measures. Therefore, although we are collecting colony data it is not the key measure of how successful any compensation measures may be.
		availability', as it is the decision of the Secretary of State, as the competent authority, whether or	The Applicant has been provided with advice from Natural England, which was previously provided by NE to the University of Exeter, which supports the Applicant's position on this matter outlined above. In this correspondence, which is included as Annex 1 to this response (Section 6), Natural



		not implementation of adaptive management measures is appropriate. Include a new section on data-sharing which must require the regular submission of all relevant pre-implementation and operational survey and monitoring data to the Marine Data Exchange (The Crown Estate) and relevant Local Environmental Records Centres.	 England has advised on several steps on how to measure the success of the disturbance reduction compensation measures: Should demonstrate fewer human disturbances within suitable buffer distances of colonies during the breeding season etc. Should demonstrate fewer birds showing negative responses to human activities (e.g. flushing or abandonment), The effect on fitness at individual and population scales, Positive results from points 1 and 2 should increase productivity and breeding success, however they note that demonstrating change is related to the measures is challenging as this is 'highly complex without control of myriad of, often unknowable, variables.' NE go on to state that 'We want to know whether breeding success and abundance respond [sic], but if we are all satisfied that disturbance has been satisfactorily reduced, we should also be satisfied that the compensatory measure has delivered – we will have achieved a good management outcome, but must accept there may be other variables influencing population responses (food, predation, overwinter survival, etc.) that the outcome cannot address.' Productivity will be monitored at all three sites (plus control sites) using the standardised methods set out in the JNCC's Seabird Monitoring Programme handbook (Walsh et al., 1995) as per Section 5.4.4 of the GRIMP (REP8-014). Further details on the monitoring of the disturbance and human behavioural change have been added to Paragraph 5.4.9. Further details of additional monitoring relating to feeding rates has been added to Paragraph 5.4.6. Colour ringing would not provide much new data for auks, with any resighting away from the colony unlikely. Amended to include the engagement with relevant local tourism and recreational stakeholders. Amended to include CWT and relevant local tourism and recreational stakeholders to be invited to form part of the OOEG. Paragraph 3.1.4 has been revised. Section 5
48	Applicant	The Applicant is requested to make the following revisions to the Lesser Black-Backed Gull Implementation and Monitoring Plan ("LIMP") [REP8A-009]: • Include the Wildlife Trusts, relevant to the sites at which predator exclusion/eradication are proposed to be implemented, within paragraph 4.1.3 as relevant parties to be invited to form part of the OOEG in an advisory capacity.	 The Applicant does not believe that the Wildlife Trusts are involved in management or monitoring of either site, Orford Ness or Outer Trial Bank (OTB), and the OOEG should be formed with relevant parties such as the RSPB, NE, and landowners - TCE (OTB) and Cobra Mist (Orford Ness). It is noted that The Wildlife Trusts are not part of the OOEG for the Norfolk projects / Scottish Power Renewables LBBG mitigation at Cobra Mist. Should the core members request their attendance, they could be considered 'other relevant parties'. Paragraph 6.4.13 has been revised. Further details on the breeding monitoring plan at OTB have been added. Further details on the proposed habitat management at OTB have been added. Access methodology to the OTB has been added.



		 Revise paragraph 6.4.13 so that biosecurity measures 'will' be implemented, rather than 'may' as currently stated. Provide further detail as to the proposed breeding monitoring plan at Outer Trial Bank, including core and additional monitoring. Provide further detail as to the proposed habitat management at Outer Trial Bank. Provide a methodology for how the Outer Trial Bank site would be accessed. Include a new section on data-sharing which must require the regular submission of all relevant pre-implementation and operational survey and monitoring data to the Marine Data Exchange (The Crown Estate) and relevant Local Environmental Records Centres. 	Section 6.5 has been included to outline the sharing of any data collected from surveys for the compensation measure to the Marine Data Exchange (The Crown Estate), the relevant Local Environmental Records Centre and Seabird Monitoring Programme (SMP) database.
49	Applicant	 The Applicant is requested to make the following revisions to the Kittiwake Implementation and Monitoring Plan ("KIMP") [REP5-023]: Revise paragraph 3.1.4 to require the convening of a steering group and to include the RSPB and relevant Wildlife Trust as relevant parties to be invited to form part of the steering group in an advisory capacity. Remove the following sentence from paragraph 6.1.1, 'The Applicant will not commit to adaptive measures if the evidence suggests that the reason for lack of success are out of the Projects control e.g. climate change, prey availability', as it is the decision of the Secretary of State, as the competent authority, whether or not implementation of adaptive management measures is appropriate. Include a new section on data-sharing which must require the regular submission of all relevant pre-implementation and operational survey and monitoring data to the Marine Data Exchange (The Crown Estate) and relevant Local Environmental Records Centres. 	The response to requested amendments to the KIMP are set out below, however the Applicant would like to reiterate that these measures are provided without prejudice to its conclusion that the very low levels of impact on kittiwake from FFC SPA would not lead to an AEoI either alone or in-combination. The Applicant notes the recent Defra consultation on Environmental Compensation Reform and in particular the section on 'small impacts'. The consultation document seeks to provide clarification on so-called 'small impacts' to sites or features. As part of these clarifications the document confirms at paragraph 212 that 'there is scope for projects with only a very small level of predicted impact to make no material contribution to an assessment of the in-combination risks. SNCBs will provide advice on this on a case-by-case basis. In these instances, neither mitigation nor compensation may be required.'. It is the Applicant's view that in the case of impacts to the kittiwake features of the Flamborough and Filey Coast SPA (FFC) the SNCB has adopted a blanket position that for any additional impact in-combination an AEoI cannot be ruled out. The consultation document makes clear in paragraph 207 that there is no legal requirement to adopt this position stating 'We want to clarify circumstances where mitigation or environmental compensation is required for small levels of impact at a site, and that SNCBs can already advise that a small impact can be excluded from further consideration and not require environmental compensation. We do not believe a legislative change in the SI is necessary to address this.' The Applicant's firm position is that an impact of 0.82 kittiwake associated with the FFC SPA, contributing an increase of 0.006% to baseline mortality, categorically makes no material contribution to the incombination impact and would be indistinguishable from natural variations. As such, it is possible and reasonable to conclude that for such low impacts, no compensation D and wish to highlight the following: •



			 Section 5.9 has been included to outline the sharing of any data collected from surveys for the compensation measure to the Marine Data Exchange (The Crown Estate), relevant Local Environmental Records Centres and Seabird Monitoring Programme (SMP) database.
50	Natural England	Noting that a substantial amount of HRA-related information was submitted at Deadline 8 and 8A which Natural England, as the appropriate nature conservation body, may not have had the opportunity to comment on, Natural England are invited to provide any final comments on any outstanding HRA-related issues.	No response.



8. FARMING AND LAND RESTORATION

Ref	Question to:	Question	Applicant's response
51	Applicant	Requirement 14 (Restoration of land used temporarily for construction) in Part 1 of Schedule 2 of the dDCO does not include a mechanism to establish the baseline condition of land temporarily used for construction. The Applicant is requested to comment on the inclusion of the Records of Conditions in Requirement 14 to ensure that agricultural land to be "reinstated" is in accordance with the Records of Condition pursuant to the CoCP [REP8A-015].	The Applicant does not see any need to make such an addition. The CoCP already secures a record of condition and pre-construction surveys which would establish the baseline condition, for both general condition and specific purposes (such as the soil management plan, or drainage). The OLEMP also specifies that surveys are required for the purposes of designing and ensuring the sufficiency of restoration. These surveys will feed into the appropriate record of condition. The Applicant does not consider that it is necessary or appropriate to duplicate those provisions in this requirement. Producing a record of condition at the time access to land is taken is an entirely standard working practice which is not normally secured in planning consents (it is sometimes secured in voluntary land agreements). The Applicant would require such a record in order to be able to establish compliance with the restoration requirement, comply with any voluntary land agreements or provide a suitable record for the assessment of compensation for use of powers.
52	Applicant	The Applicant is requested to revise the CoCP [REP8A-015] to include details of the scope of the Records of Condition (part 4.2.2 (bullet point 2 of the CoCP)), which should include (as a minimum) the details set out in paragraphs 1.4.47 of the ES Volume 6, Part 3, Chapter 1:Onshore Project Description (AS-041).	The Applicant has updated section 4.2.2 of the CoCP to include details of those elements which commonly form the minimum scope for a record of condition undertaken prior to the commencement of construction or ahead of any intrusive pre-commencement works. The scope included in section 4.2.2. of the CoCP reflects that which has been discussed with landowners, and which is envisaged to be included in voluntary land agreements when these are finalised. Each record of condition will be tailored to reflect the specific characteristics and circumstances of the land parcel or landholding, including any discussions held on-site with the landowner and/ or occupier in respect of specific observations. This will ensure that the record is relevant and appropriate for each specific location. In line with paragraph 1.4.47 of 6.3.1: Onshore Project Description [AS-041] this includes recording the location of existing hedgerows, fences and trees which may be impacted and need to be replaced. Given the inspection is visual prior to works it is not feasible to include land drains as these are buried, with often only outfalls visible from a non-intrusive inspection. However, separate drainage surveys are already a pre-construction requirement of section 4.9 of the CoCP and included in the construction practice addendum. The surveys will be undertaken as a matter of course (whether a voluntary land agreement has been satisfactorily concluded or not) in order to inform the pre- and post-construction drainage schemes.



9. SUBSTATION DESIGN AND LANDSCAPING

Farm (NFOWF) and National Grid Electricity Transmission (NGET) have been coordinating proposals on a number of topics, including construction access and operational noise. Furth outlined in the Tripartite Position Statement which is appended to the Coordination Docume The Applicant and NFOWF have been allocated the same connection point to the national retransmission network (the East Angila Connection Node) and have co-located onshore substitutions are suit, the projects have committed to producing a Joint Design Guide (JDG), there were some designs at the conclusion of the examination, through the developers will reconcile any differences in the designs at the conclusion of the examination, through the developers will reconcile any differences between their schemes and ensure that 'Good Des delivered and maintained throughout the project lifespans, in accordance with National Plan and Best Practice guidance for NSIPs. The JDG has been developed based on the Applicant, swider screening proposals to the samination issues were raised in relation to Applicant which aligns the organisal. It considers how the landscape plans for the OnSS contribute to the wider landscape setting, for example by ensuring that new planting has convising off-site assets (e.g. hedgerows, shelter belts, drainage ditches) and that the localizer and halter below the substation. Therefore, the Applicant and North Palls Offshore Wind Farm, National Grid The Secretary of State notes that during the examination issues were raised in relation to Applicant which aligns the very proposals. It considers how the landscape plans for the OnSS site will also reinforce existing noted characters and halter the substation. Therefore, the Applicant and North Palls Offshore Wind Farm, National Grid The Secretary of State notes that during the examination issues were raised in relation to Applicant which aligns the Applicant and North Palls Offshore Wind Farm, National Grid The Secretary of State notes that during the examination issues were raised in	Ref Que	estion to:	Question	Applicant's response
engineering and heritage. The panel conducted a site visit and review of an initial draft JDG 2025, and is producing a formal report with independent and impartial guidance on the JDG	App Fall Win	plicant, North lls Offshore nd Farm,	The Secretary of State notes that during the examination issues were raised in relation to Applicant and North Falls Offshore Wind Farm (NFOWF) regarding coordination and good design, due to both developers having different landscape designs for the substation. Therefore, the Applicant, NFOWF, and National Grid are requested to provide an update on their respective Substations and EACN design and	As highlighted in 9.30 Coordination Document [REP8-029], the Applicant, North Falls Offshore Wind Farm (NFOWF) and National Grid Electricity Transmission (NGET) have been coordinating their proposals on a number of topics, including construction access and operational noise. Further detail is outlined in the Tripartite Position Statement which is appended to the Coordination Document. The Applicant and NFOWF have been allocated the same connection point to the national electricity transmission network (the East Anglia Connection Node) and have co-located onshore substations (OnSS). As a result, the projects have committed to producing a Joint Design Guide (JDG). Although there were some differences in the designs at the conclusion of the examination, through the JDG, bot developers will reconcile any differences between their schemes and ensure that Good Design' is delivered and maintained throughout the project lifespans, in accordance with National Planning Policy and Best Practice guidance for NSIPs. The JDG has been developed based on the Applicant's wider screening proposals to the south east, which aligns the two projects' proposals. It considers how the landscape plans for the OnSS area can contribute to the wider landscape setting, for example by ensuring that new planting has connectivity to existing off-site assets (e.g. hedgerows, shelter belts, drainage ditches) and that the location, design a type of new planting enhances existing views and/or creates new amenity views. Landscape elements and habitat types created within the OnSS site will also reinforce existing noted characteristics and priority habitats within the local area. Planting along existing layers of natural screening will help to maintain the agricultural landscape. In terms of the substations themselves, the JDG will ensure a coherence of design between the two projects, such as in terms of identification of colour palettes and fencing types. Production of the JDG started in May 2025 and is expected to be completed by December 202
NGET throughout the development process, to ensure that wherever there is design overlap				The Applicant and NFOWF have established regular monthly meetings with Essex County Council and Tendring District Council to discuss the progress of the JDG and address any issues or queries. In addition, the Applicant and NFOWF are engaging in an independent review process undertaken by the Essex Quality Review Panel (EQRP). This was recommended by Essex County Council, and involves five-member panel of independent professionals, with expertise covering landscape design, ecology, engineering and heritage. The panel conducted a site visit and review of an initial draft JDG on 2 July 2025, and is producing a formal report with independent and impartial guidance on the JDG for the



undertake works). NGET has confirmed that it will engage with the JDG process as a key stakeholder. Ongoing coordination will be undertaken with NGET throughout their Examination process once their DCO application is submitted (expected Q3 2025).
This response is agreed, and on behalf of, The Applicant, North Falls OWF and National Grid.



10. AIR QUALITY

Ref	Question to:	Question	Applicant's response
54	Applicant	The Applicant is requested to revise the CoCP [REP8A-015] to require dust deposition, dust flux, and PM10 continuous monitoring during construction, with the locations and reporting of such monitoring to be agreed with the relevant planning authorities, in line with IAQM Guidance on the Assessment of Dust from Demolition and Construction. This must include baseline monitoring before work on each onshore phase commences.	The scope and methodology of the air quality assessment and associated mitigation were agreed with relevant consultees throughout the EIA process. A qualitative construction dust assessment was undertaken in accordance with Institute of Air Quality Management (IAQM) construction dust guidance. This methodology considers both the dust emission magnitude and the sensitivity of surrounding receptors to determine the overall dust risk. The maximum risk classification is then used to inform the appropriate suite of mitigation measures. Where these measures are effectively implemented, residual effects are considered not significant. In the Environmental Statement (ES) Air Quality chapter, the Applicant applied a maximum risk classification (High), based on an assessment of the entire DCO Order Limits as a single live construction site - without consideration of staging of the works. This represented a conservative but proportionate approach. While mitigation measures were defined using the IAQM risk framework, they were also refined to reflect the construction activities, logistics and practical constraints of the project. Although the site was assessed as High Risk, no instrumental monitoring (e.g. dust or PM10) was proposed. The proposed approach relies on regular visual inspections, audits and responsive measures - considered a more flexible and proportionate approach, particularly given that construction will be staged and move progressively along the onshore ECC. No concerns on air quality have been raised by local authorities, statutory consultees or the Examining Authority during the Examination. Additionally, the Local Impact Reports prepared by the relevant local authorities do not raise any comments on dust or air quality mitigation or identify the need for monitoring. The Applicant has, however, as requested by the Secretary of State revised section 4.4 of the updated CoCP to commit to agreeing dust deposition, dust flux, and/or PM10 continuous monitoring during construction, where appropriate and in



11. NOISE AND VIBRATION

	Ref	Question to:	Question	Applicant's response
į		Applicant	The Applicant is requested to revise the CoCP [REP8A-015], in accordance with British Standard 5228, to require continuous noise monitoring during construction to ensure that the noise level limits committed to are complied with, and the locations and reporting of such monitoring to be agreed with the relevant planning authorities.	The Applicant does not agree that British Standard 5228 requires continuous monitoring. Annex G of British Standard 5228 provides guidance on noise monitoring during construction projects, where it is confirmed that the need for, and the frequency of, monitoring will be specific to each site. For many construction sites within the UK, noise does not need to be monitored if the predicted impact is low or the number of receptors affected is low. In the ES, Volume 6, Part 3, Chapter 9: Airborne Noise and Vibration [APP-091] provides a robust
	55			assessment of construction noise impacts for all phases of construction. A small number of areas along the construction corridor were calculated to be at risk of producing short-term elevated noise levels while construction work passed closest to dwellings. Those areas were summarised in the CoCP Revision E [REP8A-015] Figure 1.1 of Appendix F, where either 'standard' or 'enhanced' noise mitigation was recommended. At no stage during pre-application consultation or during the examination was the Applicant requested to consider noise monitoring during construction either by the local authorities or the Examining Authority.
				Whilst noise monitoring, continuous or otherwise, is not a mandatory requirement of British Standard 5228, the Applicant has as requested by the Secretary of State revised section 4.3 of the CoCP to require noise monitoring to check compliance with the noise levels committed to during construction. The locations, type, durations and reporting of monitoring is to be agreed with the discharging authority.



12. FLOOD RISK

Ref	Question to:	Question	Applicant's response
56	Applicant	The Secretary of State notes that the Environment Agency has published new data following an update to the National Flood Risk Assessment. The Flood Map for Planning and flood zones were also updated on 25 March 2025. The Applicant is invited to explain whether the updates have any implications for the conclusions of the ES 6.3.6 Hydrology, Hydrogeology, and Flood Risk [APP-088], the Flood Risk Assessment Export Cable Corridor [APP-038], and the Flood Risk Assessment Onshore Substation [APP-039]. The Applicant should provide revised documents, as necessary.	The Applicant has prepared 10.76 Technical Memo on Revised Environment Agency Flood Mapping Data, which sets out a review of the latest Environment Agency data releases against the data used to inform the Flood Risk Assessment Export Cable Corridor [APP-038], the Flood Risk Assessment Onshore Substation [APP-039] and the ES chapter 6.3.6 Hydrology, Hydrogeology, and Flood Risk [APP-088]. The release of new flood risk data by the EA in 2025 has been assessed by comparing the datasets used to inform the Flood Risk Assessment reporting for VE DCO application against the new data. The comparison, reported in 10.76 Technical Memo on Revised Environment Agency Flood Mapping Data, finds that there are no significant changes to fluvial, tidal or surface water flood risks highlighted within the new data, and the findings of the Flood Risk Assessment reports would not change if these reports were to be updated using the latest 2025 EA data. Therefore, the Applicant does not consider any of the application documents need to be revised.



13. FURTHER UPDATES TO THE APPLICANTS PART 1 RESPONSE (25TH JULY 2025)

13.1 DEFENCE INFRASTRUCTURE ORGANISATION (DIO)

13.1.1 The Applicant noted in its Secretary of State Request for Information Part 1 Response [C1-007] point 4 that it would provide an update on those discussions as part of this Part 2 response. The Applicant can confirm on 08 August 2025 it received confirmation from DIO that it granted consent as required by section 135(2) of the Planning Act 2008. A copy of that letter is included at Annex 2 (Part 17).

13.2 NETWORK RAIL

13.2.1 The Applicant noted in its Secretary of State Request for Information Part 1 Response [C1-007] point 9 that it would update on the discussions between the two parties as part of this Part 2 response. Although discussions have continued the position has not changed from that provided on 25 July 2025. The Applicant will update the Secretary of State if agreement is reached.



14. RESPONSES TO COMMENTS FROM PART 1 OF SECRETARY OF STATE LETTER (25TH JULY 2025)

14.1 INTRODUCTION

14.1.1 This section addresses comments submitted by other parties in response to Part 1 of the Secretary of State's request for further information.

14.2 NATURAL ENGLAND

Natural England Response	Applicant's Response
Offshore Ornithology	
Since the submission of our Deadline 8 response, we have discussed the matter with the Applicant further during an Expert Topic Group (ETG) meeting held 11th June 2025. During this meeting we were able to highlight that work in the 2 km buffer of the central sector of the export cable corridor (ECC) would likely have the most impact. Natural England's opinion is that work to lay cables within the SPA and its 2km buffer in the stretch west of the Trinity Deep Water Route (DWR) and across the Sunk DWR would be of principal concern and therefore needed the most judicious mitigation possible. During the ETG we suggested one way to resolve the issue would be to only impose the seasonal restriction within the ECC west of the Trinity DWR (and apply vessel best practice elsewhere), but it was unclear how disruptive to operations this would be. In other words, whether it would be feasible to install the stretch of cable west of the Trinity DWR to shore entirely outside of the seasonally restricted period (i.e. between 01 April to 31 October). Should this be feasible it would provide an acceptable resolution, minimising disturbance to RTD not only where the cable route crosses the SPA directly but also in the higher diver density zones around the DWR routes where the cable route passes within 2km of the SPA boundary.	The Applicant's response is provided in Section 15 below. In response to the requests made the Applicant has revised the outline Working in Proximity to Wildlife plan to more clearly provide the measures to be applied by vessels undertaking operation and maintenance works as part of the authorised development. The Applicant considers that as this primarily applies to vessels required for works to the array, an additional condition could be added the generation deemed marine licence securing an operational stage Working in Proximity to Wildlife plan for these measures. The Applicant suggests the insertion of the following in schedule 10 part 2 of the draft DCO: Operational and maintenance vessel movements 38. Vessel movements required for the licensed activities for the operation and maintenance of the authorised development must not commence until a working in proximity to wildlife plan, in accordance with the operational stage vessel movement provisions in the outline working in proximity to wildlife plan (in so far as is relevant to the licensed activities) has been submitted to and approved in writing by the MMO in consultation with the relevant SNCB.
 Our advice on the revised mitigation proposed by the Applicant in [REP8a-013] is as follows: Whilst the intentions are welcomed, we do not consider only working on one DWR at any time will make any difference to disturbance on RTD in the SPA. This is because the cable route across the Trinity DWR lies outside the SPA 2km buffer anyway. Laying cables within the restricted period but limited to 3 months is also unlikely to reduce impacts enough, because it would still limit the birds' use of the SPA during the sensitive winter period for long enough to potentially cause harm. It is also unclear if the 3 months of work proposed would occur in a single period or intermittently, spread over the entirety of the sensitive season. Carrying work out in vessel clusters would be helpful, but in the context of a 3-month duration would not in and of itself avoid significant impacts. Offering to work outside of the seasonally restricted period (01 November-31 March, inclusive) only if feasible provides insufficient reassurance or commitment to the task and therefore cannot be meaningfully factored into the impact assessment. 	The Applicant's response is provided in Section 1515 below.



Marine Mammals

Natural England expressed concern about the assigned sensitivity and magnitude scores for several scenarios during the Preliminary Environmental Information Report (PEIR stage). It is our view that in many instances lower scores were assigned thus we advised that they need to be reviewed and amended accordingly, especially in regard to harbour porpoise due to its high sensitivity to underwater nose. The Applicant responded to our Section 42 responses by reassigning the sensitivity categories by only changing their names (from Negligible/Low/Medium/High to Low/Medium/High/Very High). For example, the original sensitivity score of Low for harbour porpoise for PTS from UXO clearance and piling then became Medium but their definitions were the same hence the sensitivity of harbour porpoises was not upgraded to a higher score, it was simply renamed. As such, we did not consider this amendment to be adequate in addressing the issues we raised as no further evidence has been provided to support the Applicant's rationale for the lower scores in the assessment, thus this issue remained unresolved.

We have experienced similar issues in the assessments for other OWF projects (such as Rampion), so our impression is that this is a much wider problem due to the lack of clear guidance for defining sensitivity and magnitude scores for ecological impact assessments.

At this stage, Natural England is content to consider closing this matter noting that implementation of NAS will reduce the significance of the effect to acceptable, non-significant, levels.

Habitats Regulations Assessment

The inclusion of paragraphs 10.2.5 and 10.2.6 will provide reassurance that any impacts on black-tailed godwit, likely to occur from unplanned maintenance, can be mitigated but with the caveat that they are both re-written to state that a 'suitably qualified and experienced ecological clerk of works' will be used for oversight rather an 'ecologist'.

The Applicant welcomes Natural England's response on this matter. With regards to the implementation of NAS the Applicant reverts to their position as outlined in Section 5, Reference 23 of this document and the updated MMMP-Piling – Revision E.

In summary, the Applicant commits to demonstrating best endeavours in applying noise mitigation in line with Defra policy but requires flexibility in choosing appropriate noise mitigation systems. Due to strong tidal currents, water depth and stiff London Clay, conventional measures such as bubble curtains would be ineffective, so a broader range of Noise Mitigation Systems, including at-source reduction, must be considered.

Although the Applicant considers noise mitigation is not required to avoid significant effects or AEoI, it is actively reviewing available technologies and will continue to engage with NE and the MMO.

The Applicant has updated the text in paragraphs 10.2.5 and 10.2.6 of 9.22 OLEMP – Revision G following discussions with Natural England. The revisions ensure that a suitably qualified and experienced ecological clerk of works will be used to oversee any unplanned works in 10.2.6. The Applicant considers an ecologist would be more appropriate in 10.2.5 to advise on the required mitigation but have confirmed that they should suitably qualified and experienced.



14.3 MARINE MANAGEMENT ORGANISATION

MMO Response	Applicant's Response	Responsible
On the 11 July 2025, the MMO received a letter from the SoS requesting further information to assist in reaching a determination. The SoS invited the MMO to comment on the following:		
11. Natural England is invited to provide clarity on Point 5 in H – Marine Mammals in their Risk and Issues Log [REP8A-053]. Noting the advice provided during the examination of recently made offshore windfarm DCOs (such as Rampion 2 OWF), Natural England and the Marine Management Organisation are also invited to confirm their respective positions on the appropriate sensitivity scoring for cetaceans. The MMO notes in REP8A-053 that Natural England (NE) did not agree that a sembination of modium consistivity and modium magnitude about the result in a	It is noted that Natural England has responded to this query following the Part 1 responses and are content to close this matter. See section 1414.2 for further details.	
combination of medium sensitivity and medium magnitude should result in a nonsignificant effect and that the Cumulative Effects Assessment (CEA) for disturbance to harbour porpoise and harbour seals should result in moderate effect. This point remained unresolved at the end of examination.		
With regards to sensitivity scoring for cetaceans, the MMO defers to NE regarding the most appropriate scoring to be used.		



14.4 DEFRA

Defra Response	Applicant's Response	Responsible
As confirmed in the Written Ministerial Statement, and the interim guidance published in January 2025, Defra committed to designating new MPAs and/or extending existing MPAs in Secretary of State waters to deliver sufficient strategic compensation to compensate for likely benthic environmental effects of offshore wind development. These also outlined specific eligibility criteria that new offshore wind developments would need to meet.		
Based on the information available, we understand that the Five Estuaries offshore windfarm project will impact benthic habitat and could be eligible for the compensation we are proposing to make available via compensatory MPAs. This would be verified upon application to the MRF through the supporting documentation provided at the time.	The Applicant welcomes this information from Defra and confirmation of eligibility for the MRF.	
We are confident that compensation is likely to be available for this feature and that this could be delivered through the MRF which is expected to go live by the end of 2025. We note that whilst you refer specifically to the extension of an existing SAC or designation of a new SAC, we are unable to confirm at this stage the designation type that would be delivered through the MRF. The applicant will have to go through the appropriate MRF process to secure compensation, and guidance on this will be published in due course.		



The Crown Estate Response	Applicant's Response
This response is submitted following the request for information to The Crown Estate on 11 July 2025 for an update on the following matter:	
"The Secretary of State notes during the examination the Applicant was approaching the rights holders to create new rights at the land at Orford Ness (Plots 19-001, 19-002, 19-003 and 20-003). Therefore the Applicant and Crown Estate are requested to provide clarification regarding what consent, if any, is required under section 135 of the Planning Act 2008 for new rights, whether consent has been obtained and if not when agreement will be reached."	
The Crown Estate does not hold any interests or rights in the land at Orford Ness (Plots 19-001,19-002, 19-003 and 20-003).	The Applicant welcomes this submission from The Crown Estate.
There is no consent required from The Crown Estate under s.135(1) in this case. Consent under S.135(2) has, however, been requested in relation to offshore land only. Whilst it is The Crown Estate's general position that S.135(2) consent is not required for offshore land, in this case the grant of S.135(2) consent has been agreed. On Thursday 24th July 2025, The Crown Estate submitted a letter to the Planning Inspectorate to confirm its consent under S135(2) of The Planning Act 2008, and The Crown Estate's consent to Articles contained within the Development Consent Order to the extent that they are applicable to the offshore Crown Land forming part of The Crown Estate.	

15. RESPONSE TO NATURAL ENGLAND'S PART 1 ORNITHOLOGICAL COMMENTS

15.1 APPLICANT'S OVERARCHING RESPONSE TO NATURAL ENGLAND

15.1.1 The Applicant thanks Natural England for the comments received and for the constructive discussions during the meetings on 11 June 2025 and 30 July 2025. The Applicant acknowledges Natural England's concerns regarding potential disturbance to red-throated divers (RTDs) within the Outer Thames Estuary SPA and its 2 km buffer, particularly in the stretch west of the Trinity Deep Water Route (DWR) and across the Sunk DWR. However, based on the current evidence, the Applicant does not consider a seasonal restriction to cable installation in this area (the 2km SPA buffer) to be justified or proportionate for the reasons outlined below.

LACK OF EVIDENCE FOR RTD PRESENCE

15.1.2 There is no evidence of RTD usage in the 2 km buffer outside the SPA. Within the SPA itself, where survey data exists, only a single observation of RTD has been recorded in the relevant stretch within a 2km buffer of the ECC (see the figures below). This does not support the need for seasonal restrictions in the 2km buffer based on RTD sensitivity (note the Applicant has committed to a seasonal restriction to cable installation works within the Outer Thames Estuary SPA). Further information is provided in 10.48 Red Throated Diver Note [REP6-052].

EXISTING DISPLACEMENT DUE TO SHIPPING ACTIVITY

- 15.1.3 The two DWRs identified as areas of concern (Trinity and Sunk) are busy commercial shipping lanes. These routes experience high levels of vessel traffic year-round, which already results in displacement of RTDs from these habitats. As such, the ecological value of these areas for RTDs is already compromised (as illustrated in the figures below), and additional temporary construction activity will not result in significant further disturbance.
- 15.1.4 An additional figure has now been added below which highlights shipping traffic data collected during the baseline traffic surveys for VE. The two central routes which converge to create the red triangle on the map and cross the ECC, are the Sunk and Trinity DWRs. These data reiterate how busy this area already is.

OPERATIONAL CONSTRAINTS

- 15.1.5 Imposing seasonal restrictions in the 2km buffer area would present significant logistical challenges due to the presence of important and busy shipping routes and could detrimentally disrupt the overall cable installation programme. The logistical challenges of installing cables in Trinity DWR (which lies outside the SPA and its 2 km buffer) have been documented throughout the ES and subsequent examination submissions, namely the 9.12 Outline Cable Specification and Installation Plan Revision D [REP7-040] and the 9.20 Outline Navigation and Installation Plan Revision D [REP7-048]. This summary has been provided here to demonstrate why the Applicant is unable to commit to a seasonal restriction in this area as there are numerous engineering challenges which require detailed design work (post-consent) to overcome.
- 15.1.6 The Applicant has made the following commitment, as detailed in paragraph 4.3.3 of the 9.12 Outline Cable Specification and Installation Plan Revision D [REP7-040] –

"Cables will be installed and maintained so as not to impede dredging to a depth of at least 22m below CD within the DWR areas Sunk A and Trinity. Cables will be installed so as not to impede dredging to a depth of at least 19m below CD in the DWR area Sunk B. This commitment is secured in the DCO through Requirement 2(3)."

- 15.1.7 In order to dredge to this depth, noting that this depth is an order of magnitude greater than export cables are typically installed at, will be a complex process and the exact methodology (and therefore associated construction programme) is unknown at this time. Given the programme uncertainty, the Applicant is unable to commit to a seasonal restriction in the 2km buffer at this time.
- 15.1.8 The Applicant would like to reiterate that this area, and in fact the majority of the ECC, is outside the SPA boundary, and, where the ECC does cross into the SPA the Applicant has committed to a cable-laying timing restriction, as outlined in 9.10 Working in Proximity to Wildlife Revision C, which has been updated at this Part 2 response deadline.
- 15.1.9 Given the lack of ecological justification, such restrictions in the 2km buffer would not represent a proportionate or effective mitigation measure. The Project is open to exploring options to avoid works during the winter months where possible, but it is not in a position to commit to a full seasonal restriction in the 2km buffer zone at this time.
- 15.1.10 The Applicant remains committed to minimising disturbance through the application of vessel best practice protocols across the ECC and will continue to engage constructively with stakeholders to ensure that mitigation measures are evidence-based and deliverable.
- 15.1.11 Furthermore, and as highlighted within 9.32 Offshore In Principle Monitoring Plan Revision H, the Applicant has made significant commitments to monitoring in response to Natural England's concerns in 9.32 Offshore In Principle Monitoring Plan Revision H, which has been updated at this Part 2 response deadline.

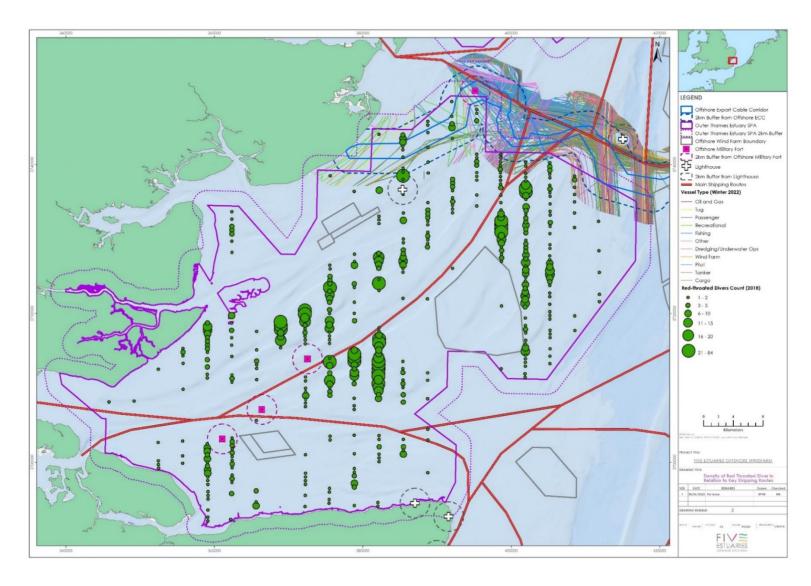


Figure 15.1 VE ECC traffic survey data in relation to the OTE SPA and Red Throated Diver Count Data (Irwin et al. (2019))

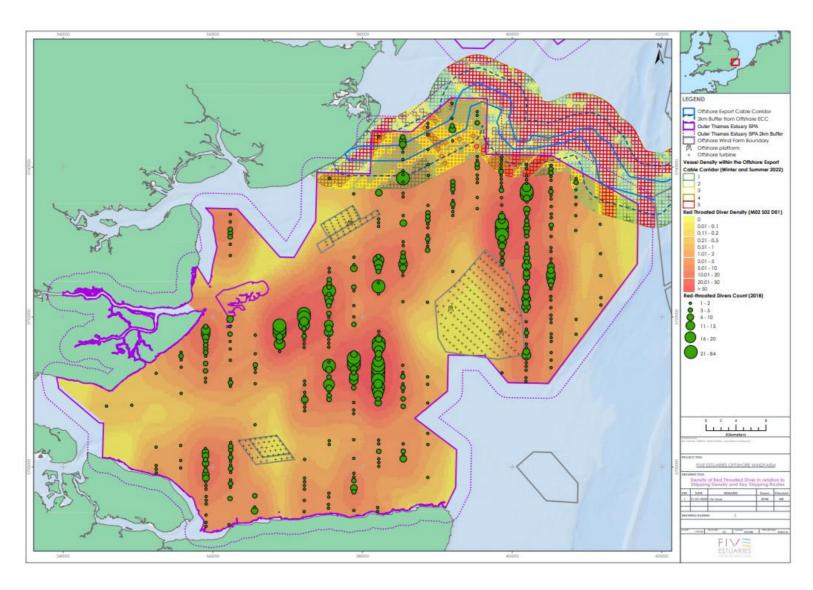


Figure 15.2 RTD densities (Irwin et al, 2019) and the shipping densities along the ECC (taken from [REP6-052)

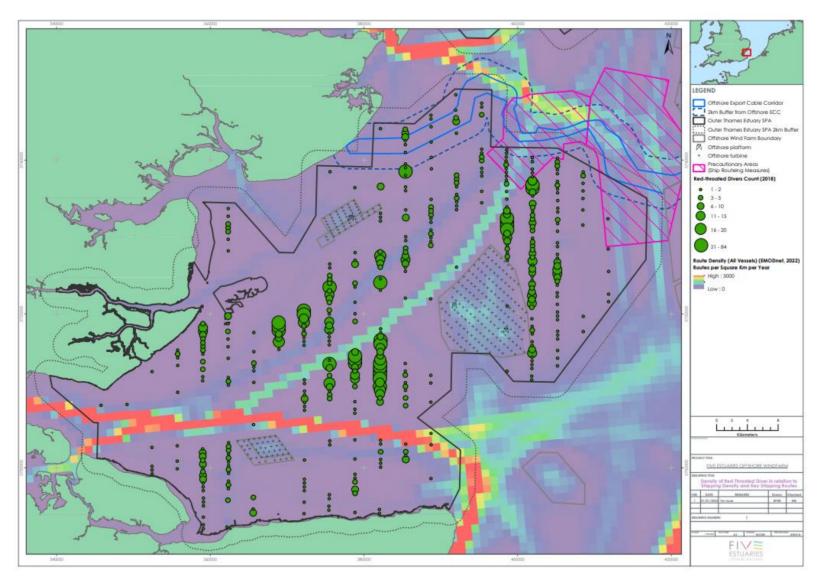


Figure 15.3 Vessel densities (EMODnet, 2022) in relation to RTD Diver counts (Irwin et al. (2019)) taken from [REP6-052]

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15.2 APPLICANT'S RESPONSE TO NATURAL ENGLAND'S SPECIFIC POINTS

15.2.1 A response to Natural England's specific points in their Part 1 response is provided in Table 15.1 below.

Table 15.1 Response to Natural England's Part 1 Response

NATURAL ENGLAND RESPONSE	APPLICANT'S RESPONSE
Our advice on the revised mitigation proposed by the Applicant in [REP8a-013] is as follows: Whilst the intentions are welcomed, we do not consider only working on one DWR at any time will make any difference to disturbance on RTD in the SPA. This is because the cable route across the Trinity DWR lies outside the SPA 2km buffer anyway.	The Applicant agrees that the Trinity DWR lies outside the SPA and its 2 km buffer. As such, the proposal to limit works to one DWR at a time was not intended as a primary mitigation measure for RTD disturbance within the SPA. Rather, it was part of a broader package of proposals aimed at reducing cumulative vessel activity, as outlined in paragraph 3.3.5 in 9.18.1 Working in Proximity to Wildlife – Revision C.
Laying cables within the restricted period but limited to 3 months is also unlikely to reduce impacts enough, because it would still limit the birds' use of the SPA during the sensitive winter period for long enough to potentially	The Applicant does not consider a seasonal restriction outside of the SPA boundary in the area of existing busy shipping lanes to be justified. Survey data shows only a single RTD observation within the SPA in this stretch, and the is no evidence of RTD presence in the adjacent 2 km buffer as there is no data available for this area (because it is outside of the SPA). As outlined previously, the area in question includes the busy agreement of the space.
cause harm.	includes two busy commercial shipping lanes (Trinity and Sunk DWRs), which already result in displacement of RTDs from these habitats. Therefore, the ecological value of these areas for RTDs is low, and temporary construction activity will not cause significant additional disturbance.
It is also unclear if the 3 months of work proposed would occur in a single period or intermittently, spread over the entirety of the sensitive season.	This measure has been proposed to ensure that the project is not operating with 2km of the SPA boundary for longer than is absolutely necessary – ensuring that 9 weeks of the 21.5 RTD overwintering season is avoided. This approach is intended to minimise the duration of disturbance and avoid prolonged presence in sensitive areas. However, given the lack of RTD presence in this stretch and the existing displacement from shipping activity, the risk of significant impact is considered low regardless of scheduling (see below).

NATURAL ENGLAND RESPONSE	APPLICANT'S RESPONSE
Carrying work out in vessel clusters would be helpful, but in the context of a 3-month duration would not in and of itself avoid significant impacts.	Vessel clustering remains part of the Applicant's proposed approach to reduce the spatial footprint of any disturbance. While we acknowledge that clustering alone may not eliminate all potential impacts, it contributes to a broader mitigation package that includes minimising duration, avoiding intermittent activity, and focusing mitigation where it is ecologically justified and can be achieved.
Offering to work outside of the seasonally restricted period (01 November-31 March, inclusive) only if feasible provides insufficient reassurance or commitment to the task and therefore cannot be meaningfully	The Applicant has committed to this timing restriction within the SPA and will continue to explore options to avoid works during the winter months in the 2km buffer where possible, but the Applicant cannot commit to a full seasonal restriction in the 2km buffer area. This is primarily due to operational constraints but the lack of ecological justification should also be noted. As noted above, RTD presence is minimal in
ctored into the impact assessment.	this stretch, and the habitat usage is already heavily disturbed by shipping. Therefore, a rigid seasonal restriction would not represent a proportionate or evidence-based mitigation measure.

16. ANNEX 1 – NATURAL ENGLAND ADVICE PROVIDED TO UNIVERSITY OF EXETER REGARDING SUCCESS CRITERIA FOR AUK MONITORING

<u>Success criteria for auk disturbance collaborative project in the South-west: summary of correspondence with University of Exeter</u>

Natural England's ornithology specialists are keen to help shape the detailed design of the proposed monitoring of the recreational disturbance management work targeting auk colonies in South West England. We hope to engage fully once live offshore wind cases conclude (~Jul 2025), so that we don't create any conflict of interest.

However, in general terms, we can offer some advice on our views about measures of success.

Effectively with the disturbance limitation we are looking at a management pathway to providing compensatory benefits, and there are various elements that it would be interesting to monitor and measure.

Firstly, there is the intervention itself, namely to reduce the frequency and duration of disturbing events in relevant seabird colonies in the breeding season. Success measure #1 should therefore demonstrate e.g. fewer human activities within suitable buffer distances of colonies (as well as e.g. social science measures about awareness, etc.).

Secondly, there is the proximate effect on bird behaviour – i.e. hopefully a reduction in responses to disturbance (especially flushing / abandonment). Success measure #2 could therefore demonstrate e.g. fewer birds showing negative responses to human activities, though this would require robust baseline data on current responses, and possible use of control sites going forward. This seems achievable in short timeframes and would be powerful in demonstrating that colonies were well managed (i.e. birds were 'free' from human disturbance).

Thirdly, there is the ultimate effect on fitness at individual and population scales. We hope the result of measures #1 and #2 would be a measurable increase in productivity rates / breeding success, and eventually breeding abundance. However, we are all aware that showing change is directly related to management intervention is highly complex without control of myriad (often unknowable) variables.

So our current view is that we very much encourage monitoring of all three success measures, and would be happy to help University of Exeter consider how best to design them. However, we also suggest we (collectively) should caveat the third success measure carefully. We want to know whether breeding success and abundance respond, but if we are all satisfied that disturbance has been satisfactorily reduced, we should also be satisfied that the compensatory measure has delivered – we will have achieved a good management outcome, but must accept there may be other variables influencing population responses (food, predation, overwinter survival, etc.) that the outcome cannot address.

However, whilst success measure #3 should be open to some interpretation and expert opinion, and not a hostage to fortune of a specific threshold of improvement, we do still require some justification that the intervention is having a positive effect for the birds concerned. For example, this could be through (albeit modest) increases in productivity / abundance / new nesting areas used / etc.

At some point there would need to be a discussion based on the success measures that considered any need for changing tack / adaptive management / etc. This would naturally need to be informed by some judgment of the apparent benefits we could ascribe to the bird populations.

17. ANNEX 2 – COPY OF LETTER FROM DEFENCE INFRASTRUCTURE ORGANISATION (DIO) DATED 08 AUGUST 2025 REFERENCE SECTION 135(2) OF PLANNING ACT 2008



Property Lawyer
MoD Property Law Team
Commercial Law Group
Government Legal Department
Ministry of Defence,
Poplar 2b #2216
MoD Abbey Wood, Bristol
BS34 8JH

Land Transaction Manager
Five Estuaries Offshore Wind Farm

By email: @rwe.com

8 August 2025

T @mod.gov.uk

www.gov.uk/gld

Your ref: EN010115 Our ref: CSF/25/26-117

Dear Sirs

Application by Five Estuaries Offshore Wind Farm Ltd ("the Applicant") for an Order Granting Development Consent for the Five Estuaries Offshore Wind Farm Order (EN010115)

Property: Plots 19 -001, 19-002, 19-003, 20-003 land at Orford Nurse, Suffolk

We are authorised to respond on behalf of the Secretary of State for Defence ("SoSD").

We do not believe that the Property comprises any Crown land in which the SoSD has an interest.

Notwithstanding the above, we are authorised to confirm the following on behalf of the SoSD:

1. In accordance with section 135(2) of the Act the SoSD hereby agrees to the wording of Article 41 of the DCO as drafted (Revision I, March 2025, REP8A-004).

Yours faithfully

MOD Property Law Team



PHONE EMAIL WEBSITE ADDRESS

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