



FIVE ESTUARIES OFFSHORE WIND FARM

10.77 APPLICANT'S RESPONSE TO SECRETARY OF STATE REQUEST FOR INFORMATION – PART 3

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DEFINITION OF ACRONYMS

Term	Definition
BMV	Best and Most Versatile
CIEEM	Chartered Institute of Ecology and Environmental Management
DCO	Development Consent Order
DWR	Deep Water Route
EA	Environment Agency
ECC	Essex County Council
EIA	Environmental Impact Assessment
ES	Environmental Statement
FBCP	Farmland Birds Compensation Plan
GRIMP	Guillemot and Razorbill Implementation and Monitoring Plan
HRA	Habitat Regulations Assessment
KIMP	Kittiwake Implementation and Monitoring Plan
LBBG	Lesser Black-Backed Gull
MMO	Marine Management Organisation
NE	Natural England
NGET	National Grid Electricity Transmission
NPS	National Policy Statement
PADSS	Principal Areas of Disagreement Summary Statement
RIAA	Report to Inform Appropriate Assessment
RTD	Red Throated Diver
SPA	Special Protection Area
VE	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 Information dated 21 August 2025.
- 1.1.2 The responses provided in the tables in Sections 2 to 18 of this document are in response to the requests within the letter.
- 1.1.3 In order to aid the Secretary of State, the Applicant is also submitting its response (10.79 Applicant's Response to Part 2 submissions) to the All Interested Parties Consultation from the Secretary of State letter dated 14 August 2025, which was due 13 September 2025, with this response. This document should be read in conjunction with 10.79 Applicant's Response to Part 2 submissions) owing to the closely related topic responses. Where appropriate to do so, the Applicant has provided direct cross-references to Applicant's Response to Part 2 submissions) to provide succinct and complete responses and to avoid repetition.
- 1.1.4 The Applicant is also submitting a number of documents to accompany the text responses in sections 2 to 18. These are listed below in Table 1.1. The Applicant has provided tracked and clean versions where these are documents being revised to aid the Secretary of State's review.
- 1.1.5 Where the Applicant has suggested revised or additional DCO drafting this is underlined within the responses. Struck through text indicates suggested deletions.



TABLE 1.1 – LIST OF DOCUMENTS SUBMITTED TO ACCOMPANY THE PART 3 APPLICANT’S RESPONSE

Number	Document Name	Revision
5.4	Report to Inform Appropriate Assessment (RIAA) (tracked and clean versions)	F
5.5.1	5.5.1 Benthic Compensation Strategy Roadmap (tracked and clean versions)	D
5.5.5	Guillemot and Razorbill – Evidence, Site Selection and Roadmap (tracked and clean versions)	E
5.5.7	Kittiwake Implementation and Monitoring Plan (KIMP) (tracked and clean versions)	E
5.5.8	Guillemot and Razorbill Implementation and Monitoring Plan (GRIMP) (tracked and clean versions)	F
6.2.5	Benthic and Intertidal Ecology (tracked and clean versions)	B
6.2.6	Fish and Shellfish Ecology (tracked and clean versions)	B
6.3.4	Onshore Biodiversity and Nature Conservation (tracked and clean versions)	B
9.13	Margate and Long Sands Special Area of Conservation - Benthic Mitigation Plan (tracked and clean versions)	H
10.77	Applicant's Response to Secretary of State Request for Information - Part 3	A
10.78	Wake Effects Assessment ¹	A
10.79	Applicant's Response to Part 2 submissions	A
10.80	Wake Effects - combined response to Secretary of State letters	A

¹ For completeness, the Applicant has re-submitted 10.78 Wake Effects Assessment as it is referred to in the Applicant's submission.



2. WAKE EFFECTS

DESNZ Ref	Question to:	Question	Applicant's response
5	Applicant, East Anglia Two Ltd.	<p>The Secretary of State notes the positions of the Applicant and IPs, in particular EA2L, in relation to wake effects. The Secretary of State also notes the policy in 2.8.197 and 2.8.200 of NPS EN-3, as well as the specific policy on wake effects set out in the draft NPS EN-3 which was consulted on between 24 April 2025 and 29 May 2025. Those policies suggest that an assessment be carried out, that steps be taken to minimise impacts and that an applicant shows they have made reasonable efforts to work collaboratively with those who may be impacted.</p> <p>The Secretary of State requests that the Applicant and EA2L provide comments, on a without prejudice basis, on the following requirement which could be inserted into the Order:</p> <p><i>Wake effects —</i></p> <p><i>(1) No part of any wind turbine generator may be erected as part of the authorised development until either—</i></p> <p><i>(a) A suitable wake effects plan (including cumulative impacts on nearby wind farms) has been submitted to and approved by the Secretary of State; or</i></p> <p><i>(b) The undertaker has provided evidence to the Secretary of State that alternative mitigation for wake effects has been agreed with the EA2L offshore wind farm.</i></p> <p><i>(2) The wake effects plan provided in accordance with paragraph (1)(a) must include details of reasonable steps that have been taken by the undertaker to minimise wake effects on the EA2L offshore wind farm whilst maximising the capacity of the authorised development within the identified technical, environmental and other constraints of the authorised development.</i></p> <p><i>(3) Where paragraph (1)(a) applies the design plan submitted to the licencing authority under condition 17(1)(a) of schedule 14 of this Order must be in accordance with any approved wake effects plan.</i></p> <p><i>(4) For the purposes of this requirement—</i></p> <p><i>“EA2L offshore wind farm” means East Anglia Two limited.</i></p>	<p>The Applicant has provided a consolidated response on wake effects. Please refer to 10.80 Wake Effects – Combined Responses to the SoS letters. The Applicant has also submitted its own wake assessment (10.78 Wake Effects Assessment).</p>



3. NOISE INVESTIGATION PROTOCOL

DESNZ Ref	Question to:	Question	Applicant's Response
6	Applicant, North Falls Offshore Wind Farm, National Grid Electricity Transmission	<p>The Secretary of State welcomes the responses from the Applicant and ECC in relation to the procedure for the handling of noise complaints. The Applicant, North Falls Offshore Wind Farm, and NGET should provide comments on the following proposed amendment to Requirement 15(2) of the Order:</p> <p><i>15(2) Prior to the commencement of operation of Work No. 15B, the undertaker will consult and agree with North Falls Offshore Wind Farm Limited and National Grid a noise investigation protocol which must be submitted to and approved by the discharging authority. The noise investigation protocol must identify how the undertaker, North Falls and National Grid will jointly investigate noise.</i></p>	<p>The Applicant would suggest the following wording (underlined) is added to the existing requirement 15(2) instead of the wording suggested by the Secretary of State:</p> <p><i>(2) Prior to commencement of operation of Work 15B, a noise investigation protocol must be submitted to and approved by the discharging authority. <u>The protocol must set out a process for the investigation of cumulative operational noise from the proposed National Grid substation and the proposed North Falls substation as and when one or both is operational.</u></i></p> <p>The Applicant does not believe that it is necessary to include a requirement to consult North Falls and National Grid on the protocol as 10.36 Onshore Substations Operational Noise and the Outline Noise Complaints Protocol [C1-018] has already been discussed and agreed with both of those parties. The drafting also needs to recognise that neither of the other projects has yet obtained development consent and so there is not certainty that they will both proceed. The Applicant has agreed the above drafting with National Grid and North Falls.</p>



4. FISH AND MARINE MAMMALS

DESNZ Ref	Question to:	Question	Applicant's Response
7	Applicant, Natural England, Marine Management Organisation	The Applicant, NE, and the MMO are invited to provide draft wording to secure within the Order the implementation of noise abatement systems in the event that driven or part-driven piles are used during construction.	<p>The Applicant has provided the proposed wording (set out below) and has discussed the rationale for this with Natural England and the MMO.</p> <p>As previously submitted, the Applicant is actively investigating potential underwater noise mitigation that may be capable of being deployed at the site. The Applicant wishes to highlight that the potential noise mitigation measures (i.e. noise reduction methods and NAS) being investigated all seek to reduce noise within the marine environment. Therefore, the Applicant's drafting also allows for other forms of noise mitigation, rather than relying purely on noise abatement systems, which are only one type of possible noise reduction measure. The proposed wording will enable the Applicant to deploy the most effective method of noise reduction at the Five Estuaries site rather than being restricted to just one type (i.e. NAS). This approach is fully aligned with the Defra Guidance, which requires applicants to use "best endeavours to deliver noise reductions through the use of primary and/or secondary noise reduction methods in the first instance". The Guidance does not result in a preference for one form of mitigation over another. In fact, it is explicit that "Applicants can propose the use of any noise reduction method (primary, secondary, or a combination of methods) in their marine licence application and/or their post-consent requirement discharge request".</p> <p>Due to the water depth and metocean and seabed conditions at the Five Estuaries array site, there are a limited number of mitigation options that may be available, and of those all are either at a conceptual design stage or require further investigation to determine if they would be deployable with the VE project design and construction vessels available.</p> <p>As such, whilst best endeavours are being made to secure noise mitigation for VE, there is a non-zero possibility that primary or secondary noise mitigation may not be technically viable at the time of construction, and to enforce a binary requirement may render the project undeliverable. The Applicant's wording has been carefully drafted with this in mind.</p> <p>The Applicant's proposed wording to secure noise mitigation, taking into account the site conditions, in the event that driven or part-driven piles are used during construction is as follows:</p> <p><i>"in the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol for that stage, in accordance with the outline marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation bodies and which must include details of any noise reduction methods through project design (primary measures) and/or, deployment of noise mitigation systems or noise abatement systems (secondary measures) that will be utilised to manage sounds from those piling activities and such protocol must include full details and justification for any mitigation chosen or excluded for deployment."</i></p>
8	Natural England, Marine Management Organisation	NE and the MMO should also comment on the Applicant's response to the Secretary of State's request for appropriate fish and marine mammal monitoring. In particular, NE and the MMO should provide views on whether any monitoring approaches, other than those refuted by the Applicant, could	<p>The Applicant has discussed the requirements for additional marine mammal monitoring, beyond the commitment to underwater noise monitoring, with NE and the MMO.</p> <p><u>Fish</u></p> <p>It is the Applicant's position that no fish monitoring has been requested by NE or the MMO (or Cefas) throughout the Pre-application, Application, Examination or Post-examination phases. The Applicant has</p>



DESNZ Ref	Question to:	Question	Applicant's Response
		be employed to validate the predictions made within the Environmental Statement ("ES") and to detect effects significantly beyond those predictions.	<p>discussed this matter with the Parties and that the predicted impacts do not warrant addition monitoring for fish to be secured.</p> <p><u>Marine Mammals</u></p> <p>The Applicant has committed to undertaking underwater noise monitoring (secured through condition 19 of Schedule 10 and condition 20 of Schedule 11) 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 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 for any additional monitoring or justification was made.</p> <p>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 built into the assessment. Further to the response provided in the Applicant's response to the SoS RFIs (Part 2), 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). As such, the Applicant has not identified an alternative methodology which would validate the predictions in the EIA.</p> <p>Furthermore, the logistics of undertaking marine mammal monitoring for VE would be very challenging and would likely raise new stakeholder concerns.</p>



5. ONSHORE ECOLOGY

DESNZ Ref	Question to:	Question	Applicant's Response
9	Applicant	The Applicant is requested to revise the ES 6.3.4 Onshore Biodiversity and Nature Conservation [APP-086] to align the definition of “duration” with the definition provided in the CIEEM Guidelines for Ecological Impact Assessment in the UK and Ireland (2024). The definition of “duration” as per these guidelines is that duration should be defined in relation to ecological characteristics and account for the lifecycle of the species being assessed.	<p>The Applicant initially addressed this misunderstanding in respect of timescales in our Response To Natural England Relevant Representation [REP1-051] section J2:</p> <p><i>The Applicant notes that NE provides additional detail in respect of this point in J32. The Applicant confirms that 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.</i></p> <p><i>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.</i></p>
10	Applicant	The Secretary of State notes that the Applicant considers the conclusions of the assessment would not change following further consideration of the life cycle of the species assessed. However, the Applicant has not evidenced how it has reached this position. The Applicant should therefore provide evidence, as requested above, setting out how this position was reached.	<p><i>With respect to invertebrates of conservation concern, these are primarily associated with habitats adjacent to the coast or to the Holland Brook, hedgerows and ancient or semi-natural woodland. The extent of temporary loss to these habitats is relatively small (see Table 4.17 in 6.3.4 Onshore Biodiversity and Nature Conservation [APP-086]). The proportion of any important invertebrate population affected would therefore be small. The assessment of a potentially significant effect until the proposed mitigation has become established is therefore considered valid and no amendment to the assessment is proposed.</i></p> <p><i>With respect to other protected and notable faunal species, 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.</i></p> <p>The CIEEM Guidelines have been followed throughout; duration has been assessed in relation to the ecological characteristics and accounts for the lifecycle of the species being assessed. The Applicant believes the misunderstanding is as a result of the word “term” being applied in the initial explanatory text of the chapter, leading some readers to the conclusion that this related to a human lifespan (when no such assertion was made in the text).</p> <p>At the SoS request, the ES chapter has therefore been revised to provide additional clarity, and when referencing time periods now uses numbers of years only. No other changes have been made, since the CIEEM Guidelines in respect of the impact assessment process, including duration, have been followed.</p>



6. LANDFALL DRILLING RISK ASSESSMENT

DESNZ Ref	Question to:	Question	Applicant's Response
11	Natural England, Environment Agency, Essex County Council	<p>NE, the EA, and ECC should comment on the following without prejudice wording provided by the Applicant for a requirement in the DCO for a landfall drilling risk assessment; proposed for inclusion within the Order:</p> <p><i>(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 in consultation with the Environment Agency and the relevant statutory nature conservation body.</i></p> <p><i>(2) Any control measures identified in the risk assessment should implemented as approved.</i></p>	No response.



7. BIODIVERSITY NET GAIN

DESNZ Ref	Question to:	Question	Applicant's Response
12	Natural England, Essex County Council	<p>The Secretary of State notes the difference in drafting in relation to an amended biodiversity net gain requirement within the Order between NE and ECC. Both parties are invited to provide final comments on the proposed wording below:</p> <p><i>(1) No stage of the authorised project within the onshore Order limits (excluding any onshore site preparation works) may commence until—</i></p> <p><i>(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 (Option 1 - habitats unmanaged counted as lost) has been approved in writing by the relevant planning authority in consultation with Natural England; and</i></p> <p><i>(b) the biodiversity gain plan must set out how the 10% biodiversity gain objective is expected to be met across the entire development, and how each phase is expected to contribute towards this. The approved biodiversity net gain strategy for each phase must be calculated with the statutory metric.</i></p> <p><i>(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. The Local Nature Recovery Strategy for Essex should be a reference point in this exercise.</i></p> <p><i>(3) The biodiversity net gain strategy for each relevant stage must be implemented as approved.</i></p> <p><i>(4) Any remaining shortfall in biodiversity units identified following detailed design will be secured prior to construction works being completed.</i></p> <p><i>(5) Any biodiversity net gain strategy under sub-paragraph (1) may cover one or more stages of the onshore works.</i></p>	<p>As set out in response to request 35 in 10.74 Applicants response to SoS request for information – Responses to the Secretary of States consultation 1 – Part 2[C1-022], the Applicant objects to the imposition of the suggested requirement in principle as BNG is not mandatory for this application and there is no legal basis for seeking a 10% gain. Full details of the Applicant's position are included in the previous response.</p> <p>The Applicant also objects to the application of the requirement to the entire onshore Order limits. As explained previously, the suggested drafting presupposes that BNG would be delivered at each stage, which is not correct. For much of the cable route, there would be no provision of BNG where the cable is laid in cropland or agricultural land which is then restored due to the temporary nature of the impacts. The Applicant's position is therefore that if such a requirement is to be imposed, that it should apply only to the commencement of Work No. 15. Full reasoning to support this position was given previously and the Applicant maintains its position on this.</p> <p>The Applicant also objects to the inclusion of Option 1 only in paragraph 1(a) – the Onshore BNG Indicative Design Stage Report [add doc ref] contains two options and the Applicant has not committed to following the current statutory metric as it does not apply or been designed for linear NSIPs and therefore it should not be required to follow option 1. The Applicant therefore suggests that the reference to Option 1 is removed from the requirement wording.</p> <p>In relation to paragraph 1(b), the Applicant submits that this drafting is not appropriate, required, proportionate or necessary, for several reasons:</p> <ul style="list-style-type: none"> > Paragraph 1(a) already requires the BNG strategy to be in accordance with the Onshore BNG Indicative Design Stage Report. The Report contains commitments in relation to the percentage of BNG that the Applicant is willing to voluntarily provide. It therefore does not need to be re-stated within the requirement wording, particularly when it is being provided on an entirely voluntary basis with no statutory or policy foundation. It is also not clear if the biodiversity gain plan referred to in 1(b) is the same as the BNG strategy referred to in 1(a). > The voluntary commitment to provide BNG does not apply across the entire development, nor is the term "entire development" defined within the DCO. It is particularly important to note that BNG has no relevance to the offshore works and so any reference to the entire development is inappropriate. > BNG is not intended to be delivered as part of each phase of the project. The Applicant will not have the necessary ongoing control over land that is not permanently acquired (for example, the land used during construction of the onshore export cable corridor, over which permanent rights only are being sought) in order to ensure that BNG could be adequately maintained for the necessary 30 year period. The Applicant is therefore unable to comply with a requirement to demonstrate that each phase of the Project will contribute to provision of BNG. > The Applicant has already provided submissions [C1-022] on why it is not appropriate for the statutory biodiversity metric to be applied to projects of this nature (i.e. NSIPs) and the outcome of the Defra consultation on BNG for NSIPs (which specifically considers this point) is currently awaited, meaning that the future regime and the requirements around the use of the current statutory metric is unknown. To include the requirement as currently drafted would pre-empt the outcome of that consultation and any future statutory requirements and is not appropriate. It may result in a more onerous requirement being imposed upon the Project than will be required of



DESNZ Ref	Question to:	Question	Applicant's Response
			<p>other NSIPs. The Applicant has provided an outline BNG assessment and calculations within the Onshore BNG Indicative Design Stage Report, which is the basis of the Applicant's voluntary commitment.</p> <p>In relation to paragraphs (3) and (5), based on the Applicant's position as set out above, the references to discharge of the requirement in stages should be removed (meaning that (5) would be deleted entirely).</p> <p>Finally, the Applicant is of the view that paragraph (4) should also be deleted as it seems to be linked to the approach taken in the previously suggested drafting rather than this updated version.</p> <p>If the Secretary of State is not content with the Applicant's current drafting for requirement 20, then the Applicant would therefore suggest the following amendments to the suggested drafting:</p> <p>(1) No stage of the authorised project within the onshore Order limits (excluding any onshore site preparation works) may <u>Work No. 15 must not be commenced until—</u></p> <p>(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 (Option 1—habitats unmanaged counted as lost) has been approved in writing by the relevant planning discharging authority in consultation with Natural England the relevant statutory nature conservation body; and</p> <p>(b) the biodiversity gain plan must set out how the 10% biodiversity gain objective is expected to be met across the entire development, and how each phase is expected to contribute towards this. The approved biodiversity net gain strategy for each phase must be calculated with the statutory metric.</p> <p>(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. The Local Nature Recovery Strategy for Essex should be a reference point in this exercise.</p> <p>(3) The biodiversity net gain strategy for each relevant stage must be implemented as approved.</p> <p>(4) Any remaining shortfall in biodiversity units identified following detailed design will be secured prior to construction works being completed.</p> <p>(5) Any biodiversity net gain strategy under sub-paragraph (1) may cover one or more stages of the onshore works.</p>



8. FARMLAND BIRD COMPENSATION PLAN

DESNZ Ref	Question to:	Question	Applicant's Response
13	Applicant, Natural England, Essex County Council	<p>Noting the status of both skylark and corn bunting as Red List Birds of Conservation Concern and Species of Principal Importance, as well as The Environmental Targets (Biodiversity) (England) Regulations 2023, the Applicant, NE, and ECC are invited to provide comments on the wording below for a potential farmland bird compensation plan requirement within the Order:</p> <p><i>(1) No part of Work No. 15B may commence until a Farmland Bird Compensation Plan (FBCP) has been submitted to and approved by the Secretary of State in consultation with the relevant statutory nature conservation body and the local planning authority for the area in which the compensation measure is to be provided.</i></p> <p><i>(2) The FBCP must include—</i></p> <p><i>(a) the location where the compensation measures will be delivered and the suitability of that location (including why the location is appropriate ecologically and likely to support successful compensation), and confirmation that the necessary landowner agreement(s) are in place;</i></p> <p><i>(b) details of the capacity and ability of the compensation areas to compensate for the impact of the authorised development on skylarks and corn bunting;</i></p> <p><i>(c) an implementation timetable for delivery including any arrangements made with a third party for implementation of the measures;</i></p> <p><i>(d) details for the ongoing management and maintenance of the compensation measures;</i></p> <p><i>(e) details for the ongoing monitoring and reporting of the effectiveness of the compensation measures identified in the FBCP including—</i></p> <p><i>(i) survey methods;</i></p> <p><i>(ii) survey programmes;</i></p> <p><i>(iii) success criteria; and</i></p> <p><i>(iv) timescales for the monitoring reports to be delivered;</i></p>	<p>The Applicant has already provided extensive justification (in response to requests 40 and 41 in 10.74 Applicants response to SoS request for information – Responses to the Secretary of States consultation 1 – Part 2 [C1-022]) for its position that the suggested requirement is not appropriate and that its imposition would create an unnecessary risk to the viability and deliverability of the project, contrary to the urgent need for this type of infrastructure established by the NPS. The Applicant maintains its position but does not repeat it here.</p> <p>However, the Applicant notes that the justification being provided by the Secretary of State for imposition of the suggested requirement is partly based on the inclusion of both species in the 2022 Red List Index for England referenced in the Environmental Targets (Biodiversity) (England) Regulations 2023 (which the Regulations clarify means the document entitled "Outcome Indicator Framework for England's 25 Year Environment Plan: D5 Conservation status of our native species, Data Sheet 2022 (NERR124)" published by Natural England in October 2022) and the inclusion of both skylark and corn bunting on the Red List Birds of Conservation Concern and Section 41 (of the Natural Environment and Rural Communities (NERC) Act 2006) List of Species of Principal Importance. Whilst skylark and corn bunting do both appear in the 2022 Red List Index for England, they are both considered to be "Non-threatened" species (as per the criteria set out in the October 2022 Natural England report) as skylark is classified as a species of least concern and corn bunting is classified as near threatened, both of which fall within the category of "non-threatened". The reliance upon the inclusion of these two species in the 2022 Red List Index for England does not appear to consider their status within that document and nor is the Applicant aware of any particular statutory duty, either within the 2023 Regulations or elsewhere, that requires the provision of compensation for these species where adverse effects cannot reasonably be avoided. This can be distinguished from the provision of compensation measures for protected species and habitats under the Habitats Regulations 2017, where there is a statutory duty to compensate.</p> <p>The Applicant has followed the mitigation hierarchy and considered the provision of both mitigation and compensation pre-application and concluded, for the reasons set out in the Applicant's earlier response to the Secretary of State's previous consultation [C1-022] that mitigation was not possible due to the need for landscaping provision and that compensation would not be feasible or justified, particularly due to the further increased impacts it would cause to BMV land and associated agricultural practices. On this basis, it is the Applicant's position that the residual potential impacts on skylark and corn bunting fall to be considered in the overall planning balance and weighed against the significant beneficial impacts that would be delivered by the project.</p> <p>However, should the Secretary of State not accept the Applicant's position, the Applicant would suggest the following amendments to the suggested drafting, which is provided without prejudice to the Applicant's view that such a requirement is not necessary or proportionate (deleted text strike through and additional text <u>underlined</u>):</p> <p><i>(1) No<u>Any</u> part of Work No. 15B may<u>must not be</u> commenced until a Farmland Bird Compensation Plan (FBCP) has been submitted to and approved by the Secretary of State<u>discharging authority</u> in consultation with the relevant statutory nature conservation body and the local planning authority for the area in which the compensation measure is to be provided.</i></p> <p><i>(2) The FBCP must include—</i></p>



DESNZ Ref	Question to:	Question	Applicant's Response
		<p>(f) details of any adaptive management measures, with details of the factors used to trigger any alternative and/or adaptive management measures; and</p> <p>(g) details of how survey and monitoring data will be shared in the appropriate formats with the relevant Local Environmental Records Centre(s) and relevant national/regional environmental recording schemes, and any potential research collaborations.</p> <p>(3) The undertaker must implement the measures set out in the FBCP approved by the Secretary of State, unless otherwise agreed by the Secretary of State following consultation with the relevant statutory nature conservation body and the local planning authority for the area in which the compensation measure is to be provided.</p> <p>(4) Results from the monitoring and reporting scheme referred to in paragraph 2(e) must be submitted at least annually to the Secretary of State, the relevant statutory nature conservation body, and the local planning authority for the area in which the compensation measure is to be provided. This must include details of the effectiveness of the compensation measures delivered. If the undertaker, or on receipt of a monitoring report, the Secretary of State, determines that the compensation measures delivered have been ineffective the undertaker must provide proposals for any alternative and/or adaptive management measures to address this. Any proposals to address the ineffectiveness of the compensation measures must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant statutory nature conservation body and the local planning authority for the area in which the compensation measure is to be provided.</p> <p>(5) The FBCP approved under paragraph (1) includes any amendments that may subsequently be approved in writing by the Secretary of State.</p>	<p><u>(a) an updated assessment of the impact (if any) that Work No. 15B is likely to have on skylarks and corn bunting based on the detailed design of Work No. 15B;</u></p> <p><u>(b) where off-site habitat compensation is proposed to be taken forward to offset any impact identified in the updated assessment required under sub-paragraph (a)—</u></p> <p><u>(i) a calculation of the quantum of compensation required to offset any impact identified in the updated assessment required under sub-paragraph (a);</u></p> <p><u>(a-ii) the location(s) where the compensation measures will be delivered and the suitability of that location or locations (including why the location(s) is appropriate ecologically and likely to support successful compensation), and confirmation that the necessary landowner agreement(s) are in place, including a review mechanism to provide for the scenario where it is necessary to amend the location where the compensation measures will be delivered;</u></p> <p><u>(b-iii) details of the capacity and ability of the compensation areas to compensate for the impact of the authorised development on skylarks and corn bunting;</u></p> <p><u>(c-iv) an implementation timetable for delivery including any arrangements made with a third party for implementation of the measures;</u></p> <p><u>(d-v) details for the ongoing management and maintenance of the compensation measures;</u></p> <p><u>(e-vi) details for the ongoing monitoring and reporting of the effectiveness of the compensation measures identified in the FBCP including (i) survey methods;</u></p> <p><u>(ii) survey programmes;</u></p> <p><u>(iii) success criteria; and</u></p> <p><u>(iv) timescales for the monitoring reports to be delivered;</u></p> <p><u>(f-vii) details of any adaptive management measures, with details of the factors used to trigger any alternative and/or adaptive management measures; and</u></p> <p><u>(g-viii) details of how survey and monitoring data will be shared in the appropriate formats with the relevant Local Environmental Records Centre(s) and relevant national/regional environmental recording schemes, and any potential research collaborations.</u></p> <p><u>(c) provision for the option to be exercised by the undertaker, following consent in writing from the discharging authority, to pay a financial contribution to the Nature Restoration Fund wholly or partly in substitution for the provision of off-site habitat compensation or as an adaptive management measure for the purposes of sub-paragraph (b)(vii) above. The sum of the contribution to be agreed between the undertaker and Defra or other Government body responsible for the operation of the Nature Restoration Fund;</u></p> <p><u>(d) provision for the option to be exercised by the undertaker, following consent in writing from the discharging authority, to pay a financial contribution towards the establishment of compensation measures by another party wholly or partly in substitution for the provision of off-site habitat compensation or as an adaptive management measure for the purposes of sub-paragraph (b)(vii)</u></p>



DESNZ Ref	Question to:	Question	Applicant's Response
			<p><u>above. The sum of the contribution to be agreed between the undertaker and the discharging authority; and</u></p> <p><u>(e) provision for the option to be exercised by the undertaker, following consent in writing from the discharging authority, to collaborate with another party in the delivery of compensation measures wholly or partly in substitute for the provision of off-site habitat compensation or as an adaptive management measure for the purposes of sub-paragraph (b)(vii) above.</u></p> <p><u>(3) The undertaker must implement the measures set out in the FBCP approved by the Secretary of State discharging authority, unless otherwise agreed by the Secretary of State discharging authority following consultation with the relevant statutory nature conservation body and the local planning authority for the area in which the compensation measure is to be provided.</u></p> <p><u>(4) Results from the monitoring and reporting scheme referred to in paragraph (2)(b)(vi)(e) must be submitted at least annually to the Secretary of State discharging authority in accordance with the approved FBCP and any adaptive management measures (if any are required) referred to in paragraph 2(b)(vii) must be implemented by the undertaker in accordance with the approved FBCP, the relevant statutory nature conservation body, and the local planning authority for the area in which the compensation measure is to be provided. This must include details of the effectiveness of the compensation measures delivered. If the undertaker, or on receipt of a monitoring report, the Secretary of State, determines that the compensation measures delivered have been ineffective the undertaker must provide proposals for any alternative and/or adaptive management measures to address this. Any proposals to address the ineffectiveness of the compensation measures must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant statutory nature conservation body and the local planning authority for the area in which the compensation measure is to be provided.</u></p> <p><u>(5) The FBCP approved under paragraph (1) includes any amendments that may subsequently be approved in writing by the Secretary of State discharging authority, including any amendments to the location where the compensation measures will be delivered as referred to in paragraph (2)(b)(ii).</u></p> <p><u>(6) This requirement ceases to have effect on the date that the onshore decommissioning of the authorised development is commenced.</u></p> <p><u>(7) In this requirement—</u></p> <p><u>“Defra” means the Department for Environment, Food and Rural Affairs;</u></p> <p><u>“discharging authority” means Essex County Council for the first five years from commencement of Work No. 15B and for any period after that time means the relevant planning authority; and</u></p> <p><u>“Nature Restoration Fund” means any fund established by Defra or a Government body for the purpose of implementing strategic mitigation measures to offset the adverse environmental impacts from development.</u></p> <p>The drafting changes above have been suggested by the Applicant for the following reasons:</p>



DESNZ Ref	Question to:	Question	Applicant's Response
			<ul style="list-style-type: none">> It is thought to be more appropriate for the discharging to be Essex County Council or, once the PPA with ECC has come to an end, the relevant planning authority. This aligns with the discharge of other requirements and therefore ensures consistency.> Natural England have confirmed that the subject of the draft requirement is outside of their remit and therefore it would not be appropriate for them to be a consultee.> In order to establish the quantum of compensation required, it will be necessary for the Applicant to update the assessment of impact that Work No. 15B is likely to have on skylarks and corn bunting based on the final detailed design of Work No 15B. There is a danger that if this exercise is not undertaken and the quantum is based upon the current worst-case scenario as assessed in the ES, that the measure may end up over-compensating, resulting in unnecessary adverse impacts on BMV land and agricultural practices, which would be disproportionate. Additional drafting has therefore been suggested to secure this.> As explained by the Applicant, it is considered that the provision of off-site compensation could be unfeasible due to the reliance on voluntary agreements being reached with willing landowners. The Applicant therefore must retain the ability to make a form of financial contribution to either the Nature Restoration Fund (assuming that it is available for use within the relevant time period), another suitable scheme being delivered by a third party or the ability to collaborate with another party to deliver compensation. This would provide necessary flexibility and increase the likelihood of the Applicant being able to comply with the requirement. Similar drafting has been accepted for compensation measures being delivered for offshore ornithology impacts in other recent offshore wind farm DCOs, for example the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024. Additional drafting has been added to secure this.> As explained above, it may not be possible for the Applicant to secure landowner agreement for the full period required for delivery of the compensation measures. Suggested wording has therefore been added to allow for a review mechanism to be included within the plan so that amendments can be made to the approved location.> The Applicant has amended paragraph (4) in order to ensure that any monitoring and adaptive management can be agreed through the approval of the FBCP, rather than the requirements being pre-empted before that plan has been consulted upon or approved. The Applicant is also of the view that annual monitoring and reporting is unlikely to be appropriate or proportionate, particularly once the measures have been established.> Any potential impact will only subsist for the lifetime of the project and will cease upon decommissioning. It is therefore appropriate that this requirement ceases upon onshore decommissioning and drafting has been suggested to secure that.> Relevant additional definitions have been added.



9. FLOOD RISK

DESNZ Ref	Question to:	Question	Applicant's Response
14	Environment Agency, Essex County Council	The EA and the ECC are invited to comment on the 10.76 Technical Memo on Revised Environment Agency Flood Mapping Data provided by the Applicant in response to the Secretary of State's request.	No response.



10. BUFFER ZONE FOR RED THROATED DIVERS (RTD)

DESNZ Ref	Question to:	Question	Applicant's Response
15	Applicant	<p>The Secretary of State welcomes the responses from the Applicant and NE in relation to the 2km buffer zone around the Outer Thames Estuary SPA for red-throated divers. The Applicant is requested to provide further programme-level detail to support its statements in relation to operational constraints from the imposition of seasonal restrictions in the 2km buffer within the ECC west of the Trinity DWR. This should include a detailed and evidenced explanation regarding the Applicant's assertion that such restrictions on piling activity could "detrimentally disrupt the overall cable installation programme".</p>	<p>The Applicant has made significant commitments relating to cable installation in order to reduce impacts on receptors, particularly in relation to:</p> <ul style="list-style-type: none"> > Timing restriction during November – March (inclusive) within the Outer Thames Estuary SPA and agreed 2km buffer area (approximately 16km of the cable route). > Installation of cables within Deep Water Routes to allow the UK ports the potential to dredge up to 22m Chart Datum in the future. <p>In respect of the working in the vicinity of the Deep Water Routes and the Sunk pilot boarding area, the Applicant has also undertaken to 'minimise impact on third-party vessels' (paragraph 1.1.2 of the Navigation and Installation Plan) and considers that the efficient and timely installation of cables is critical to this commitment.</p> <p>In order to ensure cables are installed at a depth that allows future dredging to 22m CD, the Applicant is likely to need to undertake seabed preparation within the DWRs before the cables are installed.</p> <p>Due to the complexity of the hydro-sedimentary regime and the potential for the dredged channels to backfill the timing of these works will need to be carefully coordinated with the cable laying activities. If cabling works in the DWRs have to be delayed due an imposed seasonal restriction further work in the area will be needed due to pre-cut trenches cut in the London Clay backfilling with seabed sediment during the restricted time period. This would ultimately increase the duration of cabling activities in the DWRs.</p> <p>The Applicant would like to re-iterate that, in order to allow the cable to be at a depth that satisfies the commitment to allow future dredging for the ports, that this depth is two to three times greater than export cables are typically installed at. The methodology to achieve this in the stiff London Clay ground conditions at the site will be a complex process and the exact methodology (and therefore associated construction programme) is unknown at this time. Whilst detailed design and programming is not yet available it is anticipated that a seasonal restriction could increase the overall cable installation programme by approximately a year.</p> <p>Cable laying in the area will likely be undertaken from the array site to landfall and must already account for the over-winter timing restriction within the SPA, i.e. cables will need to be through the Deep Waters sufficiently far in advance of November to ensure the route can be completed in one season. This may require seabed preparation to be commenced during the winter period such that it is complete ahead of the cable laying.</p> <p>The installation activities within the Deep Water Routes will also need to be managed with the relevant stakeholders (including the PLA and London Gateway etc) and this may introduce constraints or delays in addition to allowances for factors such as weather downtime and unexpected ground conditions.</p> <p>In summary, the timing of the works within the Deep Water Routes and the overall cable laying programme must be carefully coordinated to ensure it is as efficient and safe as possible, and in order to achieve this flexibility is required that would allow the project to undertake seabed preparation activities within the Deep Water Route during the over-winter period.</p>



DESNZ Ref	Question to:	Question	Applicant's Response
16	Natural England	NE are also invited to comment on the Applicant's overarching response (dated 8 August 2025) to NE's response to the Secretary of State's first request for information (Part 1). NE should confirm if this resolves any of its outstanding concerns.	This is noted by the Applicant.



11. BUFFER ZONE FOR SCHEDULE 1 SPECIES

DESNZ Ref	Question to:	Question	Applicant's Response
17	Natural England	NE are invited to confirm whether the amendments made by the Applicant to section 10.4 of the Outline Landscape and Ecological Management Plan resolves the outstanding concern raised in their Risk and Issues Log [REP8A-053] (Point 14 in in J – Onshore Ecology).	No response



12. OPERATIONS AND MAINTENANCE PORT ASSESSMENT

DESNZ Ref	Question to:	Question	Applicant's Response
18	Natural England	NE are invited to comment on the Supplementary Operations and Maintenance Assessment submitted by the Applicant in response to the Secretary of State's first request for information (Part 2), and whether this resolves the outstanding concern raised in their Risk and Issues Log [REP8A-053] (Point 20 in PADSS & Point 5 in J – Onshore Ecology).	<p>The Applicant notes that both point 20 and point 5 in part J – onshore ecology relate to the assessment of impacts locationally specific to the chosen O&M base.</p> <p>As the Applicant has set out in response to part 2 of the Secretary of State's consultation, no O&M port or location for any O&M facilities has been selected, nor is the DCO seeking consent for any such infrastructure.</p> <p>Point 20 refers to assessing impacts from <u>the</u> operation port, which presupposes that this has been selected. As set out above, it is not possible for the Applicant to undertake this assessment, as no port has been selected.</p> <p>Point J5 states that 'Should this extension project utilise the same operational port facility as the constructed Galloper Offshore Wind Farm (OWF), within the Stour and Orwell Special Protection Area (SPA); an assessment of what the disturbance impacts of increased boat traffic and any expansion of the O&M facility is required'. For any new O&M facility, irrespective of whether it is the same as another project, relevant assessments and consents will be required and would be carried out at the time. The Applicant has not included the use or expansion of any O&M facility within its DCO Application and can therefore not assess those impacts.</p>



13. UPDATES TO THE RIAA AND HRA SCREENING MATRICES

DESNZ Ref	Question to:	Question	Applicant's Response
19	Natural England	NE are invited to confirm whether the amendments made by the Applicant to the RIAA and HRA Screening Matrices to screen in the transboundary sites for harbour porpoise within the North Sea Management Unit resolves the outstanding concern raised in their Risk and Issues Log [REP8A-053] (Point 17 in H - Marine Mammals).	No response.
20	Natural England	NE are invited to confirm whether the amendments made by the Applicant to the RIAA to clarify whether seismic surveys have been assigned to Tier 6 or Tier 7 in the in-combination assessment resolves the outstanding concern raised in their Risk and Issues Log [REP8A-053] (Point 18 in H – Marine Mammals).	No response.



14. HRA IMPLEMENTATION AND MONITORING PLANS

DESNZ Ref	Question to:	Question	Applicant's Response
21	Applicant	The Secretary of State welcomes the update provided by the Applicant in relation to engagement with offshore windfarm development partners and the Cornwall Wildlife Trust for the delivery of guillemot and razorbill compensation. The Applicant should provide a further update confirming whether appropriate participation of relevant recreational stakeholders and landowners has been agreed, or provide letters of in-principle support / no in-principle objection if participation has not yet been agreed.	<p>Engagement with relevant recreational stakeholders and landowners (if required) is part of the job specification for the Project Manager due to be appointed by Cornwall Wildlife Trust (CWT).</p> <p>Prior to the CWT involvement the Applicant, through its consultants, had begun initial engagement with parties in the south-west. However, as there are five offshore wind projects (including VE) party to the proposed collaborative measure it would be confusing for local stakeholders and landowners, and potentially damaging to the success of the measure, were each individual project to seek to engage individually with the relevant parties. As such the Applicant has not further progressed engagement with those stakeholders. It should also be noted that the delivery of these measures is unlikely to require any land to be acquired, and where rights or other agreements are needed, it is again considered that this would best be done by a single delivery partner on behalf of the relevant projects.</p> <p>The Applicant has retained the option to deliver these measures on a project-led basis but at this time considers that project specific engagement would hinder the development of the collaborative measure.</p>
22	Applicant	The Applicant is requested to remove the following sentence from paragraph 6.1.3 of the Guillemot and Razorbill Implementation and Monitoring Plan ("GRIMP"), '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 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.	The Applicant has removed the sentence from paragraph 6.1.3 of the Guillemot and Razorbill Implementation and Monitoring Plan (GRIMP) (Revision F).
23	Natural England	NE are also invited to confirm whether the amendments made by the Applicant to the GRIMP resolves some of the outstanding concerns raised in their Risk and Issues Log [REP8A-053] (D – Ornithology Compensation).	No response.
24	Natural England	NE are invited to confirm whether the amendments made by the Applicant to the Lesser Black-Backed Gull Implementation and Monitoring Plan resolves some of the outstanding concerns raised in their Risk and Issues Log [REP8A-053] (D - Ornithology Compensation).	No response.
25	Applicant	The Applicant is also requested to remove the following sentence from paragraph 6.1.1 of the Kittiwake Implementation and Monitoring Plan, '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.	The Applicant has removed the sentence from paragraph 6.1.1 of the Kittiwake Implementation and Monitoring Plan (KIMP) – Revision E.



15. BENTHIC MITIGATION AND WORST-CASE SCENARIO

DESNZ Ref	Question to:	Question	Applicant's Response
26	Applicant	The Applicant is requested to revise paragraph 5.1.4 of the Margate and Long Sands Special Area of Conservation - Benthic Mitigation Plan [REP8A-011] to include a requirement to demonstrate how impacts have been minimised, where avoidance is not 'practicable'.	<p>Paragraph 5.1.5 of the Margate and Long Sands Special Area of Conservation - Benthic Mitigation Plan – Revision H details how the requirement to demonstrate how impacts have been minimised, where avoidance is not practicable is secured.</p> <p>A detailed response on this matter is provided in Section 5 of 10.79 Applicant's Response to Part 2 Submissions).</p>
27	Applicant	The Applicant is requested to revise all relevant documents/plans to ensure consistency in relation to the total worst-case scenario cable protection footprint of 5,400m ² or 5,400m ³ , as presented in the Margate and Long Sands Special Area of Conservation - Benthic Mitigation Plan [REP8A-011].	<p>The following documents have been updated for the purposes of clarification and provide both the maximum area and volume of the cable protection in the Margate and Long Sands SAC –</p> <ul style="list-style-type: none"> > 6.2.5 Benthic and Intertidal Ecology - Revision B; > 6.2.6 Fish and Shellfish Ecology - Revision B; > 5.5.1 Benthic Compensation Strategy Roadmap - Revision D; > Report to Inform Appropriate Assessment - Revision F; and > 9.13 Margate and Long Sands Special Area of Conservation Benthic Mitigation Plan - Revision H. <p>The Applicant wishes to highlight that it is expected that it will be possible to effectively bury the cables in the M&LS SAC based on the ground conditions. However, it is not possible to completely rule out the potential need for cable protection. Therefore, the footprint and associated volume of cable protection in this area is a worst case design scenario.</p> <p>Further clarification regarding the derived volume and area is provided in Section 6 (NE Ref 2) of 10.79 Applicant's Response To Part 2 Submissions.</p>



16. GUILLEMOT AND RAZORBILL COMPENSATION QUANTUM

DESNZ Ref	Question to:	Question	Applicant's Response
28	Applicant	The Applicant is requested to clarify whether the compensation quantum presented within the Guillemot and Razorbill Evidence, Site Selection and Roadmap [REP8-012] were derived using the latest demographic rate advice presented in the 'Interim advice regarding demographic rates, EIA scale mortality rates and reference populations for use in offshore wind impact assessments' published by Natural England and Natural Resources Wales (2024). If this is not the case, the Applicant is requested to re-calculate the compensation quantum in accordance with this advice and provide revised relevant documents/plans.	<p>The compensation quantum calculation results in Table 3 and Table 4 of Guillemot and Razorbill Evidence, Site Selection and Roadmap – Revision E have been updated using the latest demographic rate advice presented in the 'Interim advice regarding demographic rates, EIA scale mortality rates and reference populations for use in offshore wind impact assessments', specifically the razorbill survival rates for age classes 0-1yrs and 1-2 yrs have been updated to 0.792 for each of those year classes taking into account the compounded rate of 0.630, presented in Horswill and Robinson (2015). The resulting compensation requirement for razorbill has approximately halved based on this update.</p> <p>In addition, a minor update to the guillemot calculation of 'survival until adulthood' (following Natural England advice) has resulted in a slight increase in the requirements for guillemot.</p> <p>The revised calculations have resulted in minor changes in the compensation quantum, the mean quantum at a 1:1 ratio for guillemot at FFC SPA is now 3.62 pairs, up from 3.48 pairs and the mean quantum at a 1:1 ratio for razorbill at FFC SPA is down from 1.93 pairs to 0.85 pairs. The compensation measures planned are more than sufficient for the compensation targets set out by Natural England at Deadline 8.</p>
29	Applicant	The Applicant is also requested to provide revised relevant documents/plans with detail of the expected number of produced recruits that would disperse or stay at the natal colonies. Considering advice from NE, the Applicant should do this by providing the compensation quantum for guillemot and razorbill, calculated using the Hornsea Four method, but presented to show the proportion likely to disperse into the National Site Network. In doing so, the Applicant should use the 0.17 natal dispersal rate for razorbill from Lavers et al. (2007) and the 0.58 rate for guillemot from Horswill and Robinson (2015).	<p>The Applicant has added the number of recruits that would disperse or stay at the natal colonies in Tables 5 and 6 in the Guillemot and Razorbill Evidence, Site Selection and Roadmap – Revision E using the 0.17 razorbill natal dispersal rates and 0.58 guillemot dispersal rates, as requested.</p>



17. LESSER BLACK-BACKED GULL COMPENSATION SITE

DESNZ Ref	Question to:	Question	Applicant's Response
30	Natural England	NE are invited to provide draft wording to secure within the Order the commitment to carry out seasonally appropriate surveys prior to implementation of the compensatory measures at the Alde-Ore Estuary SPA to inform mitigation measures for potential impacts to the relevant designated sites.	<p>The Applicant submits that additional wording is not required within the Order to secure seasonally appropriate surveys because they are already secured through paragraph 5.3.4 of the Outline Lesser Black-Backed Gull Implementation and Monitoring Plan, with which the final Lesser Black-Backed Gull Implementation and Monitoring Plan must accord (in accordance with paragraph 3(1) of Schedule 13 to the Order). However, in the event that the Secretary of State disagrees with this position the Applicant would suggest the following amendment is made to paragraph 3(2) of Schedule 13 to the Order:</p> <p><i>(2) The LIMP must include:</i></p> <p><i>(a) details of the location(s) where the compensation measure will be delivered;</i></p> <p><i>(b) details of how any necessary land access rights, licences and approvals have or will be obtained and any biosecurity measures will be or have been secured;</i></p> <p><i><u>(c) details of seasonally appropriate pre-implementation surveys that have or will be carried out to inform mitigation measures (if any) for potential impacts to any European site(s) likely to result from implementation of the compensation measure;</u></i></p> <p><i>(e) an implementation timetable for delivery of the compensation measure;</i></p> <p><i>(d) details of monitoring and maintenance programmes,</i></p> <p><i>(e) success criteria;</i></p> <p><i>(f) survey and reporting programmes for LBBG and predators;</i></p> <p><i>(g) details of any adaptive management measures, with details of the factors used to trigger any such measures;</i></p> <p><i>(h) provision for reporting to the Secretary of State; and</i></p> <p><i>(i) a plan for reporting to the OOEG and consulting the OOEG on the details of any proposed adaptive management measures and/or amendments to the LIMP.</i></p> <p>The Applicant would suggest the following new paragraph is also added to the end of Schedule 13:</p> <p><i><u>10. In this Schedule "European site" has the meaning given in Regulation 8 of the Conservation of Habitats and Species Regulations 2017.</u></i></p>



18. THE DRAFT DEVELOPMENT CONSENT ORDER (DDCO)

DESNZ Ref	Question to:	Question	Applicant's Response
31	Applicant	<p>The Secretary of State notes that Part 1 of Schedule 4 (streets to be temporarily restricted) is not referred to in article 14 (temporary restriction of use of streets) in the draft Development Consent Order. The Applicant should confirm whether Part 1 of Schedule 4 should be referred to in article 14. If it should, the Applicant should provide a draft of article 14 with this included.</p>	<p>The Applicant confirms that Part 1 of Schedule 4 should be referred to in article 14, which should be amended as follows (<u>additional text underlined</u>):</p> <p>Temporary restriction of use of streets</p> <p>14.—(1) <i>The undertaker, during and for the purposes of carrying out the authorised development, may temporarily close, <u>restrict, alter or divert any street and may for any reasonable time—</u></i></p> <p><i>(a) divert the traffic or a class of traffic from the street; and</i></p> <p><i>(b) subject to paragraph (3), prevent all persons from passing along the street.</i></p> <p><i>(2) Without limiting paragraph (1), the undertaker may use any street temporarily closed under the powers conferred by this article within the Order limits as a temporary working site.</i></p> <p><i>(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the alteration or diversion of a street under this article if there would otherwise be no such access.</i></p> <p><u><i>(4) Without limiting paragraph (1), the undertaker may temporarily close, restrict, alter or divert the streets specified in Part 1 of Schedule 4 (streets to be temporarily restricted) to the extent specified by reference to the letters and numbers shown on the street works and access plan.</i></u></p> <p><i>(45) The undertaker must not temporarily close, <u>restrict, alter, divert</u> or use as a temporary working site:</i></p> <p><u><i>(a) any street referred to in paragraph (4) without first consulting the street authority; and</i></u></p> <p><u><i>(b) any <u>other</u> street without the consent of the street authority, which may attach reasonable conditions to the consent.</i></u></p> <p><i>(56) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.</i></p> <p><i>(67) If a street authority fails to notify the undertaker of its decision within 56 days of receiving an application for consent under paragraph (4), that street authority is deemed to have granted consent.</i></p> <p>The Applicant's proposed amendments align with similar drafting in other recently granted DCOs, including the Mona Offshore Wind Farm Order 2025, Rampion 2 Offshore Wind Farm Order 2025, Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024 and Hornsea Four Offshore Wind Farm Order 2023.</p>



DESNZ Ref	Question to:	Question	Applicant's Response
32	Applicant	<p>The Secretary of State notes that Part 2 (removal of hedgerows) and Part 3 (removal of important hedgerows) of Schedule 12 are not referred to in article 37 (felling or lopping of trees and removal of hedgerows) in the draft Development Consent Order. The Secretary of State further notes that Part 2 and Part 3 of Schedule 12 do not appear to be referred to in any other article. The Applicant should confirm whether Part 2 and Part 3 of Schedule 12 should be referred to in article 37. If they should, the Applicant should provide a draft of article 37 with these included. If they should not, the Applicant should confirm whether Part 2 and Part 3 of Schedule 12 should be removed from the draft Development Consent Order.</p>	<p>The Applicant confirms that Article 37 should be amended as follows (<u>additional text underlined</u>):</p> <p><i>Felling or lopping of trees and removal of hedgerows</i></p> <p><i>37.—(1) Subject to article 38 (trees subject to tree preservation orders), the undertaker may fell or lop any tree or shrub, or cut back its roots, within or encroaching upon land within the Order limits if it reasonably believes it to be necessary to do so to prevent the tree or shrub—</i></p> <p><i>(a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or</i></p> <p><i>(b) from constituting a danger to persons within the authorised development.</i></p> <p><i>(2) In carrying out any activity authorised by paragraph (1), the undertaker must—</i></p> <p><i>(a) do no unnecessary damage to any tree or shrub; and</i></p> <p><i>(b) pay compensation to any person for any loss or damage arising from such activity.</i></p> <p><i>(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.</i></p> <p><i>(4) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2):</i></p> <p><u><i>(a) remove any hedgerows within the Order limits and specified in Part 2 of Schedule 12 (removal of hedgerows) that is-are required to be removed for the purposes of carrying out the authorised development; and</i></u></p> <p><u><i>(b) remove any important hedgerows as are within the Order limits and specified in Part 3 of Schedule 12 (removal of important hedgerows) that are required to be removed for the purposes of carrying out the authorised development.</i></u></p> <p><i>(5) In this article "hedgerow" and "important hedgerow" has the same meaning as in the Hedgerows Regulations 1997(a).</i></p> <p>The Applicant's proposed amendments align with similar drafting in other recently granted DCOs, including the Mona Offshore Wind Farm Order 2025, Rampion 2 Offshore Wind Farm Order 2025, Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024, Awel y Mor Offshore Wind Farm Order 2023 and Hornsea Four Offshore Wind Farm Order 2023.</p>



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