



# Marine Management Organisation

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MMO Reference: DCO/2021/00002  
Planning Inspectorate Reference: EN010119  
Identification Number: 20051047

17 February 2025

Dear Wendy McKay,

## **Planning Act 2008, Proposed North Falls Offshore Wind Farm Project Order Deadline 1 Submission**

On 22 August 2024, the Marine Management Organisation (the “MMO”) received notice under section 56 of the Planning Act 2008 (the “PA 2008”) that the Planning Inspectorate (“PINS”) had accepted an application made by North Falls Offshore Wind Farm Ltd, (the “Applicant”) for determination of a development consent order for the construction, maintenance and operation of the proposed North Falls Offshore Wind Farm Project (the “DCO Application”) (MMO ref: DCO/2021/00002; PINS ref: EN010119).

The DCO Application seeks authorisation for the construction, operation and maintenance of North Falls Offshore Wind Farm (the ‘Project’ or ‘North Falls’): an offshore generation station with a capacity exceeding 100 megawatts (MW) comprising up to 57 wind turbine generators together with associated onshore and offshore infrastructure and all associated development.

Three Deemed Marine Licences (DML) are included in the draft DCO. One in relation to generation assets and two in relation to transmission assets. One in relation to Wind Turbine Generators (WTG) and Associated Infrastructure, and one for Offshore Substation Platforms and Interconnector Cables.

As a marine licence has been deemed within the draft DCO, the MMO is the delivery body responsible for post-consent monitoring, variation, enforcement, and revocation of provisions relating to the marine environment. As such, the MMO has an interest in ensuring that provisions are drafted in a DML that enable the MMO to fulfil these obligations.

This document comprises the MMO’s submission for Deadline 1.



Marine  
Management  
Organisation

...ambitious for our  
seas and coasts



This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

Yours Sincerely,

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## Contents

1. Comments on Relevant Representations from other Interested Parties .....	4
1.1 General Comments .....	4
1.2 Corporation of Trinity House of Deptford Strong (TH) (RR-059) .....	4
1.3 Environment Agency (EA) (RR-091) .....	4
1.4 Historic England (HE) (RR-130) .....	5
1.5 Maritime and Coastguard Agency (MCA) (RR-217) .....	6
1.6 National Federation of Fishermen's Organisations (NFFO) (RR-238) .....	6
1.7 Natural England (NE) (RR-243) .....	7
1.8 Essex Wildlife Trust (EWT) (RR-095) .....	10
1.9 Royal Society for the Protection of Birds (RSPB) (RR-294) .....	11
1.10 UK Chamber of Shipping (UKCOS) (RR-343) .....	12
2. Initial Statements of Common Ground .....	13
3. Further Comments .....	13

# **1. Comments on Relevant Representations from other Interested Parties**

## **1.1 General Comments**

1.1.1 The MMO notes that a number of comments have been raised in relation to shipping, navigation and impact to other industries. The MMO hopes the Applicant can resolve these comments and defers to the statutory Interested Party. The MMO will maintain a watching brief for any concerns where DML conditions may be required.

## **1.2 Corporation of Trinity House of Deptford Strong (TH) (RR-059)**

1.2.1 The MMO notes that all correspondence, should it be necessary, between Trinity House and other Interested Parties should be directed to its Legal Advisor, Russell Dunham. The MMO welcomes this point and will ensure that any correspondence is directed through this channel.

## **1.3 Environment Agency (EA) (RR-091)**

1.3.1 The MMO notes the concerns raised by the EA regarding engagement with the Applicant.

1.3.2 The MMO notes that the Applicant has included the EA in the protective provisions, however the MMO notes concerns raised by the EA regarding the content of these, and an in-principle agreement has not been agreed to disapply the provisions of the Environmental Permitting Regulations in respect of flood risk activity permits required for the crossings of main rivers. The MMO is aware that the EA seeks to discuss with the Applicant regarding disapplication prior to submission for examination.

1.3.3 The MMO notes that the EA hopes to resolve this matter during the examination but is not able to consent disapplication nor the working in the draft DCO.

1.3.4 The MMO also notes that the EA will not consent to disapplication of the Environmental Permitting Regulations in respect of the abstraction and dewatering activities.

1.3.5 The MMO is aware that a significant number of the issues of concern to the EA are addressed through embedded mitigation in post-consent processes and approvals. The MMO is aware that the EA is content that those environmental concerns can be managed this way.

1.3.6 The MMO notes that the EA wishes to be listed as name consultees for the following process requirements:

- Requirement 12: Ecological Management Plan
- Requirement 14: European Protected Species; Onshore
- Requirement 15: Groundwater Monitoring
- Requirement 22: Operational Drainage Strategy
- Requirement 23: Horizontal Drilling Method Statement Flood Risk
- Chapter 19: Grunt Conditions and Contamination Table 19
- Chapter 21: Water Resources and Flood Risk

- Appendix 21.3

- 1.3.7 The MMO notes that the EA, as well as its responsibilities for Main Rivers, has an interest in ordinary water courses where there is associated fluvial Flood Zones 2 and 3a.
- 1.3.8 The MMO notes the concerns raised by the EA regarding consideration of haul road crossing and trench crossing will be addressed post consent. The MMO notes that the EA does not agree with this approach as trenched crossings and haul road crossings have the potential to interfere with the flow of flood water which can increase the risk of flooding to third parties.
- 1.3.9 The MMO notes that the EA is aware of the complexities to crossing the defences without causing harm and recognising potential for future works, which the EA is content can be agreed post consent.
- 1.3.10 The MMO is aware of discussions between the EA and the partner project of Five Estuaries which are more advance, and notes that the EA welcomes agreeing an approach to take this forward in parallel.

#### **1.4 Historic England (HE) (RR-130)**

- 1.4.1 The MMO notes that HE is aware of the range of potential archaeological anomalies within the proposed Order Limits which were identified in the marine and geophysical survey undertaken in 2021 and from the assessment of desk based data sources. The MMO notes that HE is aware that heritage assets could be impacted both directly and indirectly by the proposed development.
- 1.4.2 The MMO notes that HE acknowledges the mitigation measures to avoid, minimise and mitigate these impacts have been proposed and are focused on appropriately securing these through the draft DCO and draft DML.
- 1.4.3 The MMO is aware that HE is concerned about the spatial proximity of the proposed development to HMS E6 (subject to statutory protection under the Protection of Military Remains Act 1986), which is situated within the export cable corridor. The MMO acknowledges concerns raised by HE that the site's status as a protected site is not discussed in Chapter 16 (Examination Ref. APP-030), and as such the statement made in paragraph 109 that there are no known sites with statutory protection is incorrect.
- 1.4.4 The MMO notes that a 50 metre (m) Archaeological Exclusion Zone (AEZ) is proposed for the HMS E6. The MMO agrees with HE that any comments on this should be deferred to the Ministry of Defence who are the competent authority for all responsibilities under the 1986 Act.
- 1.4.5 The MMO acknowledges concerns raised by HE regarding marine geotechnical survey work not being undertaken. The MMO agrees that the Outline Offshore Written Scheme of Investigation (WSI) must be provided for geoarchaeological investigations. The MMO also supports that archaeological investigations should be secured through the DCO and draft DML. The MMO notes this has been considered and updated in other Offshore Wind DCOs.
- 1.4.6 The MMO is aware that HE will provide further comment through Written Representations and the MMO will keep a watching brief and provide comment when necessary.

## **1.5 Maritime and Coastguard Agency (MCA) (RR-217)**

- 1.5.1 The MMO welcomes the MCA's confirmation that the MCA will be responding on matters of navigational safety and maritime emergency response. The MMO notes that the MCA have concerns about vessel routing, and the MMO hopes to see these concerns addressed throughout examination.
- 1.5.2 The MMO acknowledges that MCA welcome that the traffic data has been collected in accordance with MGN654 and is suitable for assessment.
- 1.5.3 The MMO also notes that MCA welcomes the removal of the northern array in order to avoid unacceptable risks to navigation safety.
- 1.5.4 The MMO notes that MCA have agreed the necessary mitigation of a Structures Exclusion Zone (SEZ) to ensure no surface piercing or above-surface infrastructure will be installed within 1 nautical mile (NM) of the International Maritime Organisation's (IMO) traffic routing measure boundaries.
- 1.5.5 The MMO is aware of the concerns raised by the MCA regarding the Galloper Recommended Route and notes that the MCA must maintain an objection to the North Falls Offshore Wind Farm project until approval is received from the IMO to remove the Galloper Recommended Route. The MMO notes that the MCA will support a proposal to remove the Galloper Recommended Route to UKSON only if the Secretary of State grants consent for the North Falls Offshore Wind Farm.
- 1.5.6 The MMO acknowledges the position of the MCA that a condition of consent must be included within the DCO for removing the Galloper Recommended Route. The MMO would like to be included in the condition wording if this is to be placed within a DML.
- 1.5.7 The MMO is aware that MCA welcomes the preparation of a Navigation Installation Plan (NIP) for the offshore export cable corridor (ECC) in consultation with local ports and operators.
- 1.5.8 The MMO acknowledges that the MCA will undertake a full review of the draft conditions in the DML and provide comments in their Written Representation for Deadline. The MMO would highlight that it is working with the MCA to ensure a consistent response on the DML conditions.

## **1.6 National Federation of Fishermen's Organisations (NFFO) (RR-238)**

- 1.6.1 The MMO acknowledges concerns raised regarding impacts to commercial fisheries in the area. The MMO notes the concerns raised regarding additional loss of space in an area already faced with extensive spatial restriction such as existing offshore wind developments, offshore cables, Marine Protected Areas and legislative restrictions in the region. The MMO is aware that further displacement of commercial fishing in the region will result in economic harm, through direct displacement, loss of earnings from the ground, additional operating costs due to increased steaming times during construction and operation of the project, as well as contributing to the spatial squeeze on fisheries in the region.

- 1.6.2 The MMO notes that the NFFO is concerned about the lack of contemporary and site-specific data presented in the fish and shellfish ecology assessments, and a lack of focus on key commercial species that have a range that overlaps with the development area, specifically shellfish. The MMO will review the Applicant's response in relation to this and may provide further comments at Deadline 2 or 3 due to resource availability, the MMO will provide this earlier if possible.
- 1.6.3 The MMO also notes the concerns raised by the NFFO surrounding the methodology used in assessments and interpretation of data. The MMO is aware that the NFFO feels that the commercial fisheries assessment underestimates the impacts and the NFFO disagrees with the assessment that the displacement effects are assessed as non-significant for all fisheries assessed.
- 1.6.4 The MMO acknowledges that the NFFO welcomes the development of a Fisheries Liaison and Co-existence Plan and see this as an integral and important step to minimise and, if needed, mitigate impacts on the region's fisheries.
- 1.6.5 The MMO supports the NFFO's request for a Statement of Common Ground (SoCG) to ensure that the fisheries concerns are considered during the decision-making process.

## **1.7 Natural England (NE) (RR-243)**

- 1.7.1 The MMO is aware that there remain unresolved issues that centre around protected sites and that on the basis of the information submitted, NE, as the competent authority (Conservation of Habitats and Species Regulations 2017), is not satisfied that it can be excluded beyond reasonable scientific doubt that the project would have an adverse effect alone or in-combination on the integrity of the following sites:
- Margate and Long Sands Special Area of Conservation (SAC)
  - Orfordness – Shingle Street SAC
  - Southern North Sea SAC
  - Alde-Ore Estuary Special Protection Area (SPA)
  - Alde-Ore Estuary Ramsar
  - Farne Islands SPA
  - Flamborough and Filey Coast SPA
  - Outer Thames Estuary SPA
  - Stour and Orwell SPA
  - Kentish Knock East Marine Conservation Zone (MCZ)
  - Alde-Ore Estuary Site of Special Scientific Interest (SSSI)
  - Flamborough Head SSSI
  - Farne Islands SSSI
  - Holland Haven Marshes SSSI

- 1.7.2 The MMO defers to NE on all matters related to Habitats Regulations Assessments (HRA). The MMO will maintain a watching brief on these matters and will ensure we are included/are provided with any updates on any discussions in relation to the HRA. The MMO highlights that any mitigation secured through the HRA will need to be included within the conditions on the DML.
- 1.7.3 The MMO notes NE's decision to use the 'Red Amber Green' (RAG) system to denote the level of risk associated with a topic related to this development. The MMO welcomes NE's use of this system and considers it a clear and concise way to present the severity of an outstanding concern.
- 1.7.4 The MMO acknowledges concerns raised by NE regarding landscape and visual impact and the potential for in-combination/cumulative impacts between this project, North Tilbury, and the Five Estuaries substations. The MMO fully defers to NE and the Local Planning Authority (LPA) on this topic but will keep a watching brief throughout examination and hope to see concerns resolved.

#### Development Consent Order and Deemed Marine Licence

- 1.7.5 The MMO is aware of NE's concerns regarding the DCO and DMLs not accurately capturing all the required maximum parameters of the proposed works and agrees that the Applicant should update the DCO and DMLs to ensure maximum parameters of all important metrics are appropriately secured.
- 1.7.6 The MMO agrees to support NE's view that the Site Integrity Plan (SIP) condition should be amended to give an individual timing requirement no sooner than 9 months and no later than 6 months prior to commencement of piling to appropriately consider in-combination impacts of other developments.
- 1.7.7 The MMO agrees with NE and their advice that all piling conditions should be amended to include the requirement to stop should the noise impacts of the work be significantly in excess of that predicted.
- 1.7.8 The MMO agrees with NE regarding the requirement to notify the MMO with regard to which build option has been chosen. The MMO are also in agreement regarding the requirement for coordination with Five Estuaries regarding their chosen build options and onshore cable works.
- 1.7.9 The MMO agrees that monitoring of benthic, ornithological and marine mammals should be secured through appropriate conditions.

#### Marine Geology, Oceanography and Physical Processes

- 1.7.10 The MMO notes NE's concerns regarding the uncertainty of the likely success of subtidal Horizontal Directional Drilling (HDD) at the landfall point. The MMO also notes NE's advice that the Applicant should seek/provide confirmation from an appropriate specialist, that HDD can be achieved through the geology present to the extent proposed. If this is not possible, then NE recommends that working in the intertidal should be considered as a worst-case scenario (WCS). The MMO agrees and supports this.
- 1.7.11 The MMO acknowledges NE's concerns regarding WCS parameters for seabed level changes during construction from deposition. NE advises that the WCS for seabed level changes due to the different construction activities should be provided, including sediment deposition thickness, extent, and persistence. The MMO would welcome this.



- 1.7.12 The MMO notes NE's uncertainty regarding the wave and current modelling and a lack of information regarding seabed mobility and seabed erosion/deposition. The MMO welcomes the advice from NE that the Applicant should consider and assess bed shear stress changes and the sediment erosion/deposition potential within and adjacent to the array through the different phases for the project alone and cumulatively with other nearby Offshore Wind Farms (OFWs).
- 1.7.13 The MMO notes the advice from NE that pre- and post-construction surveys should be secured in the DCO and/or In-Principle Monitoring Plan (IPMP) to demonstrate sandwave recovery (as predicted) and ensure remedial measures will be undertaken if impacts are found to be greater than predicted. The MMO agrees with this.
- 1.7.14 The MMO notes NE's concerns in relation to insufficient information on the anticipated location and extent of cable protection measures placed near Margate and Long Sands SAC to rule out any negative impacts to the SAC due to disruption of sediment transport pathways operating around the northern boundary.

#### Benthic and Intertidal Ecology

- 1.7.15 The MMO acknowledges the concerns raised by NE that there is insufficient evidence in relation to cable protection worst case scenarios, indirect benthic impacts, impacts on SPAs, MCZ assessment and MCZ buffers.
- 1.7.16 The MMO also acknowledges that NE considers that where possible impacts to all Section 41 habitats under the Natural Environment and Rural Communities (NERC) Act 2006 are avoided.
- 1.7.17 The MMO notes NE's comments in relation to mitigation measures and support that further consideration should be given by the Application to adopting further mitigation measures including reducing the project's Rochdale Envelope.
- 1.7.18 The MMO notes the comment raised by NE regarding the overlap with spawning and nursery grounds for Herring and Sandeel and whilst these species are not designated features of the MPA network in sites in proximity of the works, Herring are a Section 41 species under the NERC Act 2006 and both provide prey resources for other receptors such as Red-throated Divers (RTD) designated within the Outer Thames Estuary SPA.

#### Marine Mammals

- 1.7.19 The MMO notes the major concerns raised by NE in relation to the project-alone assessment of disturbance impacts from piling as they have concerns with how the results of the interim Population Consequences of Disturbance (iPCoD) modelling are presented. The MMO agrees with NE's recommendations for the Applicant to update how the iPCoD modelling results are presented and for the Applicant to commit to further mitigation of project-alone impacts, should they be significant.
- 1.7.20 The MMO also acknowledges the concerns raised by NE in relation to the Environmental Statement (ES) and HRA and agrees that the Applicant should address the concerns raised.
- 1.7.21 The MMO supports the advice provided by NE that the Applicant commit to the use of specific mitigation measures at this stage, which may be removed at a later date if the revised SIPs demonstrate that they are not required.

- 1.7.22 The MMO supports the commitment of noise abatement in the Draft Marine Mammal Mitigation Plan (MMMP) and SIP. The MMO also agrees that the effects of noise abatement systems in reducing the noise impacts should be included in the assessment at this stage including noise abatement systems (NAS) modelling.
- 1.7.23 The MMO supports NE in recommending that the Applicant revises the in-combination assessment and applies the Effective Deterrent Radius (EDR) approach as per the Best Practice Guidelines Phase III and the Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoises SACs.

#### Offshore Ornithology

- 1.7.24 The MMO notes NE's major concerns regarding the adverse effect on integrity (AEOI) for RTD at the Outer Thames Estuary Special Protection Area. NE welcomes the partial mitigation of impact by updates to the proposed location of the array area since the Preliminary Environmental Information Report (PEIR) submission and consider the Applicant should demonstrate to the Examining Authority that no further reduction in impact is possible whilst retaining a viable project. The MMO defers to NE for matters relating to ornithology.
- 1.7.25 The MMO notes NE's comments requesting the Applicant carry out a full in-combination assessment of impacts for guillemot at the Farne Islands. The MMO defers to NE for matters relating to ornithology and supports NE's request to update assessments as required.
- 1.7.26 The MMO acknowledges NE's recommendations that the construction and decommissioning of the export cable should not take place within the Outer Thames Estuary SPA with a 2 kilometre (km) buffer during the sensitive over wintering period for RTDs of November to March inclusive. NE requests that this mitigation should be appropriately secured on the DML, the MMO requests to be part of any discussion on DML condition wording.
- 1.7.27 The MMO also acknowledges and agrees that all vessels should follow NE's best practice guidelines on vessel movements during all other phases of the development for both the export cable and array, and this should be committed to by the Applicant.

### **1.8 Essex Wildlife Trust (EWT) (RR-095)**

- 1.8.1 The MMO notes that EWT recognise that green energy infrastructure is a major decarbonisation pathway to limit climate change, however development must not be at the expense of environmental protection, recovery and enhancement of marine and terrestrial habitats, species and carbon stores.
- 1.8.2 The MMO notes that EWT consider that North Falls should have regard to the findings of the Offshore Transmission Network Review (OTNR) Expert advisory group and other relevant strategic forums and where possible incorporate their recommendations on reducing adverse impacts on marine and terrestrial ecology.
- 1.8.3 The MMO acknowledges that EWT notes the Applicant's commitment to delivering a minimum of 10% Biodiversity Net Gain (BNG) and advise that this should be secured by requirement in the DCO.

- 1.8.4 The MMO further notes that EWT expect everything within the Red Line Boundary (Order Limits) should be included in the BNG baseline calculations, including any retained habitats.
- 1.8.5 The MMO agrees that a key mitigation for marine mammals that should be included in the condition wording for the DML is that piling activity must cease in the event that the monitoring highlights that noise impacts are in excess of the predicted impacts. The MMO is reviewing the condition and will provide comments in due course.
- 1.8.6 The MMO is also in agreement that the production and implementation of a MMMP will minimise the impacts of piling and unexploded ordnance clearance (if required). The Applicant should commit to specific mitigation measures, particularly Noise Abatement Systems (NAS), in the MMMP. The MMO acknowledges that EWT consider that this should sit alongside a Working in Proximity to Wildlife Plan to reduce the risk of disturbance from ships, boats and other vessels and the risk of them colliding with marine mammals. The MMO supports the comments in relation to MMMP and defers to NE on the Working in Proximity to Wildlife Plan.
- 1.8.7 The MMO acknowledges EWT's concerns regarding a European Protected Species Licence (EPSL). The MMO defers to NE on these matters.

## **1.9 Royal Society for the Protection of Birds (RSPB) (RR-294)**

- 1.9.1 The MMO notes that RSPB are supportive of the deployment of renewable energy projects, providing that they are sited in appropriate places and designed to avoid potential adverse impacts on wildlife.
- 1.9.2 The MMO notes RSPB's significant concerns regarding the findings from impact assessments and considers that AEOL could not be ruled out on the Kittiwake, Guillemot and Razorbill features of the Flamborough and Filey Coast SPA, and the Lesser Black-backed Gull (LBBG) feature of the Alde-Ore Estuary SPA. As a result of methodological concerns, the RSPB considers that some of the impacts have not been adequately assessed and as such consider that an AEOL on the Northern Gannet feature of the Flamborough and Filey Coast SPA and the Red-throated Diver feature of the Outer Thames Estuary SPA cannot be ruled out at this stage.
- 1.9.3 The MMO acknowledges that the RSBP's key concerns regarding AEOL conclusions include:
- Alde-Ore Estuary SPA: The impact of collision mortality on the LBBG population
  - Flamborough and Filey Coast SPA: The impact of combined collision and displacement on the Northern Gannet population, the impact of collision mortality on the Kittiwake population, the impact of mortality arising from distributional change on the Guillemot population, the impact of mortality arising from distributional change on the Razorbill population
  - Outer Thames Estuary SPA: The impact of distributional change on the Red-throated Diver population, arising from vessel movement during construction, decommissioning and operations and maintenance.
- 1.9.4 The MMO acknowledges the RSPB's key concerns with the impact assessment methodology relate to:
- Inadequate details of digital aerial survey methodology

- The application of a macro-avoidance correction factor to predicted Northern Gannet collision mortalities
- Screening out of Kittiwake collision mortality at Flamborough and Filey Coast SPA
- Inadequate consideration of the conservation objectives of the Outer Thames Estuary SPA.
- A lack of consideration of impacts compounded by Highly Pathogenic Avian Influenza
- Inadequate consideration of wider ecosystem impacts.

1.9.5 The MMO notes that the RSPB strongly disagrees with the approach of excluding “compensated for” projects from the in-combination assessment. The MMO understands that the RSPB will provide further comment on this in future submissions.

1.9.6 The MMO acknowledges that the RSBP consider a derogation case is required if the Secretary of State is to consider consenting a damaging project.

1.9.7 The MMO notes that the RSPB considers compensation measures would be required for the following species: LBBG; Kittiwake; Northern Gannet; Guillemot; Razorbill and Red-throated Diver, should the Secretary of State decide to consent the Application as it is currently proposed.

1.9.8 The MMO agrees with the RSPB’s view that proposed compensation measures must be sufficiently detailed in advance of the examination to enable interested parties to assess them fully and for proper scrutiny by interested parties and the Examining Authority.

1.9.9 The MMO will maintain a watching brief of these concerns and will look to see resolution on these points. The MMO defers to NE for matters relating to ornithology.

## **1.10 UK Chamber of Shipping (UKCOS) (RR-343)**

1.10.1 The MMO notes that UKCOS support the Government’s obligations to achieve Net Zero by 2050 and welcomes the development of offshore renewable energy to succeed this obligation.

1.10.2 The MMO acknowledges the UKCOS’ stance in seeking to ensure navigational safety is upheld, and that developments are appropriately positioned to enable existing and future commercial navigation to continue safely and efficiently.

1.10.3 The MMO welcomes the UKCOS’ request to comment on site boundaries and impact on Allision and Collision Risk, interaction with international IMO Routeing Measures, export cable burial and interaction with deep water routes, and deviation of commercial routing at examination. The MMO will maintain a watching brief for anything that may need to be included within the DML.

## 2. Initial Statements of Common Ground

2.1.1 The MMO has worked with the Applicant to prepare a SoCG which will be submitted at Deadline 1. The MMO will continue to work with the Applicant outside of the written process to ensure issues are being moved to resolution where possible.

## 3. Further Comments

3.1.1 The MMO would highlight that the Underwater noise policy papers have been published, by DEFRA, JNCC, NE and Cefas. These set out the direction of travel into reducing the noise at source for piling and sets out further detail on how UXO mitigation.

- [Reducing noise policy](#)
- [UXO position statement](#)
- [NE/JNCC/Cefas joint position on Noise Abatement](#)

3.1.2 The MMO has included links above but will enter these into the examination at Deadline 2 (if another interested party has not done this at Deadline 1). The MMO would ask the Applicant how the publication of these documents changes their Application, what updates will be made and at which deadline. This will assist in managing resources to review the most up to date information.

Yours Sincerely,

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Marine Licensing Case Officer

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