



Marine Management Organisation

Marine Licensing
Lancaster House
Hampshire Court
Newcastle upon Tyne
NE4 7YH

T +44 (0)300 123 1032
www.gov.uk/mmo

Wendy McKay
North Falls Lead Panel Member
North Falls Offshore Wind Farm Case
Team
Planning Inspectorate
NorthFalls@planninginspectorate.gov.uk
(Email only)

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

18 March 2025

Dear Wendy McKay,

Planning Act 2008, Proposed North Falls Offshore Wind Farm Project Order Deadline 3 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 3.



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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,

[Redacted Signature]

[Redacted Name]

Marine Licensing Case Officer

[Redacted Email Address]

[\[Redacted\]@marinemanagement.org.uk](mailto:[Redacted]@marinemanagement.org.uk)

Copies provided to:

Marine Licensing Senior Case Manager – [Redacted] [@marinemanagement.org.uk](mailto:[Redacted]@marinemanagement.org.uk)

Marine Licensing Case Manager - [Redacted] [@marinemanagement.org.uk](mailto:[Redacted]@marinemanagement.org.uk)

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1. Responses to Examiner's Questions (ExQ1)

1.1.1 The MMO provided responses to most ExQ1 questions in REP2-043, these have been referenced and further comments included in Table 1 below for clarity.

Table 1: Responses to ExQ1.

ExQ1	Question	MMO Response
Q9.1.3	<p>Article 2 Interpretation</p> <p>The ExA notes that the MMO RR [RR-216] states that the activities authorised under the dDCO [AS-022] and DML [AS-022] should be limited to those that are assessed within the EIA, and the statement that activities will be limited to those that 'do not give rise to any new or materially different environmental effects' should be updated to clarify this. The definition of "maintain" in the dDCO is limited "to the extent assessed in the environmental statement". The Applicant is requested to comment on the concerns raised in this respect. MMO is requested to indicate whether there are any outstanding concerns in relation to the definition of 'maintain' in the dDCO.</p>	<p>The MMO addressed 'Article 2' and the definition of 'maintain' in Section 2 of REP2-043.</p> <p>The MMO will always prefer more detail within the definition for it to be clear. It would also be welcomed if the maintain definition was linked to the outline Operations and Maintenance plan.</p> <p>In addition to this interpretation, Schedules 8-10, Part 1, Paragraph 9 Should be updated to:</p> <p><i>Any amendments to or variations from the approved details, plan or scheme must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the MMO that it is unlikely to give rise to any materially new or materially greater different environmental effects from those assessed in the environmental statement.</i></p>

Q9.1.7	<p>Part 2 Principal Powers Article 5 Benefit of the Order</p> <p>The EM [AS-024] paragraph 4.2.9 explains that the Marine and Coastal Access Act 2009 includes provisions relating to the transfer of a DML. Article 5(9) makes it clear that the procedure included in s72(7) and (8) of that Act do not apply, save that the MMO may amend any DML to update the name of the undertaker to the name of the transferee. The MMO RR [RR-216] states that it has major concerns over the drafting of Article 5. A key concern is that Article 5 would operate to override and/or unsatisfactorily duplicate provisions that already exist within the Marine and Coastal Access Act 2009 for dealing with variations to marine licences. MMO also submits that such provisions are inconsistent with the PINS Guidance on how DMLs should operate within a DCO.</p> <ul style="list-style-type: none"> (i) The Applicant is requested to respond to the criticism made, explain any drafting amendments and provide further justification for the drafting of this article in its current form. (ii) The MMO is requested provide further explanation to support the position of that these provisions should be removed, and that any transfer should be subject to the existing regime under the 2009 Act, with the decision maker remaining the MMO. 	<p>The MMO provided comments on Article 5 Benefit of the Order in Section 2 of REP2-043.</p> <p>The MMO disagrees with the purpose of the inclusion of the DML as set out in previous representations. The creation of a new route to transfer the DML is unnecessary as there is already an established route to transfer and vary a marine licence and the Article will not work in practice.</p> <p>The MMO has pushed back on the inclusion of this provision for many of the DCOs and has continued to do so during the recent DCOs undergoing examination.</p> <p>The MMO also notes that it is not clearly explained within the Sheringham and Dudgeon Extension Recommendation report or Decision document on the inclusion of the Transfer of Benefit.</p> <p>With regards to Transfer of Benefit being included in other DCOs and setting a precedent, the MMO considers that this does not mean the provisions that are in other orders should be repeated here, especially if there is good reason why they should not be included. The MMO had model provisions, however it has moved</p>

		<p>away from them now as its stance has changed, and it has provided its reasoning why it is against this provision in previous submissions.</p> <p>The MMO acknowledges the ExA and Secretary of State (SoS) made amendments in Hornsea Four OWF recommendation report/decision and notes the only reasoning provided was to keep them consistent with other consents and the SoS removed the ability to transfer part of the DML, which the MMO welcomed.</p> <p>The MMO has provided further reasoning since that Examination including counsel comments from Rampion 2 Examination, that were incorporated into its relevant and written representations alongside further comments on the Planning Act.</p> <p>The MMO does not agree that because there is a provision in other DCOs that this is reason enough to include it in this one, as the drafting process is iterative.</p> <p>Even if the Secretary of State (SoS) approves a transfer of benefit for the DML the SoS has no power under the Planning Act 2008 to change the DML once consented. As set out in Schedule 6 Paragraph 2 (13) and Paragraph 5 (6):</p>
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		<p><i>“The power may not be exercised in relation to provision included in an order granting development consent by virtue of paragraph 30A or 30B of Schedule 5 (deemed marine licence under Marine and Coastal Access Act 2009).”</i></p> <p>Therefore, the transfer and variation completed by the MMO is the right and proper way to amend the DML.</p> <p>As per Section 72 (7) & (8) of the Marine and Coastal Access Act 2009 (MCAA 2009):</p> <p><i>Variation, suspension, revocation and transfer</i></p> <p><i>...(7)On an application made by a licensee, the licensing authority which granted the licence—</i></p> <p><i>(a)may transfer the licence from the licensee to another person, and</i></p> <p><i>(b)if it does so, must vary the licence accordingly.</i></p> <p><i>(8)A licence may not be transferred except in accordance with subsection (7).</i></p> <p>The reason MCAA 2009 says if the MMO transfer the licence must be varied is because it recognises that it is necessary to vary on transfer to maintain the</p>
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		<p>enforceability of the licence. If DMLs are transferred under Article 5, but cannot be varied by the SoS, the MMO would have to review and then vary under its powers under Section 72(3)(d) (MCAA 2009) should a variation be required and it may well have to consider suspending the licence whilst that variation takes place, depending on what the nature of the required variation would be.</p> <p>There is no good reason to move away from the process already set out in MCAA 2009, save for operator convenience, and the MMO's strongest preference remains for the DMLs not to be made subject to the Transfer of Benefit provisions in the main body of the order, in full or in part.</p> <p>The MMO is not trying to be unduly difficult over the issue, and has not yet been in a position to use this route as for all other consented offshore wind farms, even those with the more recent proposed wording, the undertakers have provided a request to the MMO for a variation alongside the Transfer of Benefit request to the SoS, therefore the MMO is not entirely sure what consequences will be.</p> <p>The MMO believes there is more risk included the DML with the inclusion of</p>
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		Article 5 than managing it under the current process.
Q9.2.4	<p>Requirement 2 Offshore design parameters</p> <p>The NE RR [RR-243] queries why the maximum amount of drill arisings is not included within the design parameters of either the requirements of the DML. NE recommends that the Applicant considers an amendment to the dDCO [AS-022] to include the maximum volumes of drill arisings within the requirements and both DMLs. Please indicate whether this is agreed and, if not, explain why not?</p>	<p>The MMO notes this comment is directed to the Applicant.</p> <p>The MMO has reviewed both the Applicant and NE comments.</p> <p>If the maximum figures are identified now, then the MMO would welcome drill arisings being included in the DML. The MMO notes this has been included within Norfolk Boreas Offshore Windfarm Order.</p>
Q10.2.3	<p>Ecological Enhancement/ BNG Strategy</p> <p>(i) All relevant Council's (including Suffolk County Council/East Suffolk District Council/Essex County Council)/Essex Wildlife Trust/RSPB/NE/Forestry Commission/National Trust/IPs submit your views on seeking any further ecological enhancement/ facilitating BNG, or wider environmental gains inclusive of any future proofing (even if dual purpose for meeting wider design principles, climate change/adaption and resilience purposes) which may be desirable including regard expected local climatic conditions.</p> <p>(ii) Submit your views on boosting the level of BNG or other ecological enhancement proposals that could be delivered factoring all relevant local initiatives and scope to secure betterment. This may be linked to existing development plans, planned revisions to those, or stand-alone initiatives.</p>	<p>The MMO defers to Natural England as the Statutory Nature Conservation body and the local planning authorities in relation to BNG.</p>

	<p>(iii) Explain what scope remains for the scheme to further complement existing ecological enhancement initiatives within the local areas the scheme passes through; or which may be relevant to in-combination considerations; or wider ecological enhancement possibility.</p> <p>(iv) If relevant local/ regional or national initiatives have not been fully considered to date, provide an Examination update on how potential integration could be achieved.</p> <p>(v) The ExA specifically highlights that the scheme is projected to deliver a net loss for watercourses. Thus, further consideration should be given to BNG for watercourses in tandem with the above.</p> <p>(vi) NE – Biodiversity credits. The ExA acknowledges the Applicant's intention that if 'bespoke' mechanisms of off-site habitat enhancement or creation cannot be achieved in area habitat and hedgerow modules through consultation with relevant bodies and stakeholders on or off-site, biodiversity credits could be purchased through NE's register. Is there confidence from NE that scope for such contingency can/should be reasonably relied upon in those circumstances?</p> <p>(vii) The Applicant – Does the Applicant consider the use of the register to be 'likely'? What is the expected probability, at this stage, of the register mechanism being required and is it the Applicant's preferred/expected position to rely on the register mechanism or not? The Applicant is invited to demonstrate the likelihood/need for such an option being utilised within the Examination period.</p>	
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Q10.2.4	<p>Ecological enhancement/Marine Net Gain (MNG)</p> <p>The ExA notes that Chapter 2 of the UK Marine Policy Statement (2011) states that the vision for the marine environment is for ‘clean, healthy, safe, productive, and biologically diverse oceans and seas’. The UK high level marine objectives published in April 2009 set out the broad outcomes for the marine area in achieving this vision, and reflect the principles for sustainable development. In that context, UK Government consultation June 2022 sought views on the high-level principles of MNG. This showed broad support for MNG as well as a range of recommendations around what MNG could cover, how it could be applied to developments and which Net Gain interventions would be most appropriate at sea. Defra’s “Consultation outcome Government response updated 9 December 2023” is a relevant consideration. The ExA is aware MNG could represent a feasible opportunity/consideration for delivering nature recovery/ecological enhancement at sea even at a nascent stage. Moreover, based on public consultation statements an industry wide Offshore Wind Environmental Improvement Package to support the accelerated deployment of offshore wind is anticipated to potentially come forward.</p> <p>(i) Applicant/NE/Marine Management Organisation/Crown Estate/IP’s – Is it possible/feasible (in principle) for a MNG strategy to be produced for this development to compliment the onshore BNG Strategy; or in the interests of pursuing other offshore ecological enhancements possible currently? If not, why not?</p> <p>(ii) Applicant/NE/IP’s – Clarify/signpost what cross-cutting work with NE/Crown Estate/MMO or other</p>	<p>(i) As noted in the response by NE, at the moment, it is not possible to put together a Marine Net Gain plan, as policy on MNG has not been set out by Government. There is currently no mandatory requirement on Developers to deliver net gain below Mean High Water Springs. The MMO welcomes any voluntary measures that the Applicant would like to deliver in terms of ecological benefits to the marine environment, notwithstanding any existing licence permissions.</p> <p>The MMO directs the Applicant to the updates to the published Marine Restoration Potential (MaRePo) restoration potential maps and reports which may help any considerations for future restoration opportunities:</p> <p><u>Marine Restoration Potential plus (MaRePo+) - MF6006; 2023, Natural England, Environment Agency, JNCC, and Cefas, Offshore Wind Evidence and Change Programme, Marine Restoration Potential (MaRePo) Marine Data Exchange.</u></p>
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	<p>consultees has occurred to explore due offshore ecological enhancement opportunity? If it has not occurred, state why not.</p> <p>(iii) NE – At what stage are the ongoing investigations to which habitats and species have the most potential for restoration, recovery and enhancement through the Marine Restoration Potential and Enhancement Project?</p> <p>(iv) NE – At what stage/status/availability is the mapping provision for Marine Irreplaceable Habitats and would this be relevant to have regard to?</p> <p>(v) Applicant/NE – Is it technically possible, presently, to measure and compare marine development impacts which allows robust/meaningful marine environmental gains (or offsets) to be delivered from this development?</p>	
Q10.3.16	<p>Compensation - Site Implementation Plans</p> <p>(i) NE advise that Site Implementation Plans are submitted to the MMO for consideration. Has this happened?</p> <p>(ii) Either way, the ExA requests a clear/committed timescale to be set out by the Applicant to allow facilitation of due documentation agreement with the MMO within the Examination period itself by Deadline 2.</p>	<p>The MMO defers to NE in relation to ornithology and any specific compensation measures required in relation to the National Site Network. The MMO does review the documents and is part of the steering groups should consent be given. However, the MMO's main focus is if any compensation measures require marine licensable and if so, how these would be implemented (i.e. in the DML or as a separate marine licence).</p>

2. Comments on Responses to Examining Authority's (ExA) Questions (ExQ1) (REP2-020)

2.1.1 The MMO has reviewed the Applicants response to ExQ1 (REP2-020) and has provided comments on relevant points in Table 2 below.

Table 2. MMO response to Applicant's response to ExQ1.

ExQ1	Question	Applicant response	MMO's Deadline 3 Response
Q 9.1.3	<p>Article 2 Interpretation</p> <p>The ExA notes that the MMO RR [RR-216] states that the activities authorised under the dDCO [AS-022] and DML [AS-022] should be limited to those that are assessed within the EIA, and the statement that activities will be limited to those that 'do not give rise to any new or materially different environmental effects' should be updated to clarify this. The definition of "maintain" in the dDCO is limited "to the extent assessed in the environmental statement". The Applicant is requested to comment on the concerns raised in this respect. MMO is requested to indicate whether there are any outstanding concerns in relation to the definition of 'maintain' in the dDCO.</p>	The Applicant has responded to the issues raised in this question in its response to MMO RR's [RR-216], please see MMO-30 of the Applicant's Response to Relevant Representations from Statutory Consultees and Non Prescribed Consultees [REP1-045].	The MMO responded to the issues raised in this question in its response to the Applicant in Section 2.3.1 & 2.3.2 of REP2-043 and in Table 1 above.
9.1.7	Part 2 Principal Powers	(i) Please see the Applicant's response to the MMO's RR [MMO-216] set out at MMO-13, MMO-22 and MMO-29 of the Applicant's	The MMO provided further comments in Section 2 of

	<p>Article 5 Benefit of the Order</p> <p>The EM [AS-024] paragraph 4.2.9 explains that the Marine and Coastal Access Act 2009 includes provisions relating to the transfer of a DML. Article 5(9) makes it clear that the procedure included in s72(7) and (8) of that Act do not apply, save that the MMO may amend any DML to update the name of the undertaker to the name of the transferee. The MMO RR [RR-216] states that it has major concerns over the drafting of Article 5. A key concern is that Article 5 would operate to override and/or unsatisfactorily duplicate provisions that already exist within the Marine and Coastal Access Act 2009 for dealing with variations to marine licences. MMO also submits that such provisions are inconsistent with the PINS Guidance on how DMLs should operate within a DCO.</p> <p>(i) The Applicant is requested to respond to the criticism made, explain any drafting amendments and provide further justification for the drafting of this article in its current form.</p>	<p>Response to Relevant Representations from Statutory Consultees and Non Prescribed Consultees [REP1-045]. The Applicant's position is that the scope and drafting in article 5 (Benefit of the Order) of the dDCO [REP1-011] relating to the transfer of DMLs is appropriate and there is precedent for this drafting in multiple made DCOs for offshore wind farm projects.</p> <p>(ii) This question is not directed to the Applicant.</p>	<p>REP2-043 and in Table 1 above.</p>
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	<p>(ii) The MMO is requested provide further explanation to support the position of that these provisions should be removed, and that any transfer should be subject to the existing regime under the 2009 Act, with the decision maker remaining the MMO.</p>		
Q9.2.8	<p>Requirements 2 and 6 – Offshore design parameters and detailed onshore design parameters</p> <p>The MMO RR [RR-216] paragraph 3.4.5 includes reference to the ‘Rochdale Envelope’ case. The EM [AS-024] paragraph 1.5.1 states that: <i>“the design parameters secured in Requirements 2 and 6 of Part 3 of Schedule 1 provide flexibility in the delivery of the Authorised Development. This approach has been recognised as appropriate for a wide range of NSIPs and is described in PINS Advice Note 9: Rochdale Envelope (July 2018)”</i>. The Planning Inspectorate advice note nine: Rochdale Envelope (Planning Inspectorate, 2018) states: <i>“The ‘Rochdale Envelope’ approach is employed where the</i></p>	<p>(i) The design envelope presented within ES Chapter 5 Project Description [APP-019] and considered within the ES is based on maximum and minimum parameters, where appropriate, to ensure the worst-case scenario can be quantified and is assessed in the EIA. The final design of North Falls will lie within the range of parameters assessed in the EIA and detailed in ES Chapter 5 Project Description [APP-019]. This follows the standard approach for offshore wind farms. The Applicant has continued to review the need for flexibility throughout the pre-application and post submission stages of the Project and made significant refinements to its design envelope, including for example, reducing the height and number of wind turbines following Section 42 consultation and removing gravity base foundations from the design envelope (secured through the draft DCO submitted at Deadline 1 [REP1-011 (Clean) and REP1-012 (tracked)]).</p>	<p>The MMO is content with the Rochdale Envelope approach.</p>

	<p><i>nature of the Proposed Development means that some details of the whole project have not been confirmed (for instance the precise dimensions of structures) when the application is submitted, and flexibility is sought to address uncertainty</i>". However, it also indicates that the need for flexibility should not be abused.</p> <p>(i) Explain further how the parameters for the Proposed Development can be regarded as being 'clearly defined' and sufficiently detailed to enable a proper assessment to be carried out which considers the 'worst case' scenario.</p> <p>(ii) Explain further how the approach to the description of the development consistently addresses the uncertainty and necessary flexibility across all relevant application documents.</p> <p>(iii) Please explain how notwithstanding the flexibility incorporated within the project, the ExA can be assured that the likely significant</p>	<p>(ii) Each technical chapter (Chapters 8 to 33 [APP-022 to APP-044, APP-046, AS-010, APP-047, AS-012]) of the ES outlines the relevant worst case scenario, noting that this will vary depending on the receptor and impact being considered. For example, with regards to duration of foundation construction (see Section 5.5.3.3 of ES Chapter 5 Project Description [APP-019]), the worst case scenario for underwater noise would be based on foundations installed using pile driving, whereas the worst case scenario for habitat loss would be based on gravity base foundations with the largest seabed footprint.</p> <p>(iii) The use of a 'worst-case scenario' approach outlined under (ii) above and described in detail in ES Chapter 5 Project Description [APP-019] allows for a detailed assessment to be undertaken within each chapter of the ES, whilst still ensuring the 'worst case' impacts are considered. For each technical chapter, the first stage of this process is to identify which of the three build options for the Project outlined in Section 5.3.1 of ES Chapter 5 Project Description [APP-019] represents the 'worst-case':</p> <ul style="list-style-type: none"> • Option 1: Onshore electrical connection at a national grid connection point within the Tendring peninsula of Essex, with a project 	
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	<p>environmental effects from the Proposed Development have been properly assessed and presented in the ES.</p> <p>(iv) In relation to R6(2)(a), (b) and (c) and Work No 11 (onshore substation), fully explain and justify the need for the proposed maximum heights for the building, external electrical equipment or enclosure, lightning rods and area of the fenced compound specified therein.</p>	<p>alone onshore cable route and onshore substation infrastructure;</p> <ul style="list-style-type: none"> • Option 2: Onshore electrical connection at a national grid connection point within the Tendring peninsula of Essex, sharing an onshore cable route and onshore duct installation (but with separate onshore export cables) and co-locating separate project onshore substation infrastructure with Five Estuaries; or • Option 3: Offshore electrical connection, provided by a third party. <p>(iv) Once the option which represents the worst case has been selected, then the relevant 'worst-case' parameters for that option from ES Chapter 5 Project Description [APP-019] are summarised in the 'worst case scenario' table for each ES chapter (see for example Table 8.2 in ES Chapter 8 Marine Geology Oceanography and Physical Processes [APP022]). The detailed parameters presented in the worst case scenario table for each chapter then form the basis of the technical assessment presented in that chapter. This ensure that although the assessment is undertaken using a 'worst-case', it is precise and can reach a conclusion regarding the significance of the effects relating to the receptors considered in each chapter.</p>	
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		<p>(v) The proposed building and equipment heights are based on initial design work for an AIS substation. These have been sized based on estimated equipment sizes from initial calculations of requirements e.g. initial estimates of reactive compensation needed for STATCOMs and reactors. Transformers have been sized based on previous experience of others similar sized offshore windfarm projects, and lightning masts sized based on typical requirements given previous experience. All sizes will need to be refined once more detailed sizing is available. The proposed substation area has then been defined based on the sizes of this equipment, spaced apart to allow for electrical safety clearances and with an allowance for mechanical handling of large components.</p>	
Q9.2.18	<p>Requirement 19 Onshore build options</p> <p>The NE RR [RR-243] notes that nowhere within the DMLs does there appear to be any requirement to notify the MMO as regards the chosen build option. In addition, there does not appear to be any requirement for the NFOWF and the VEOWF developments to co-ordinate their response to the chosen build options. NE recommends</p>	<p>The Applicant considers a requirement to notify the MMO to be unnecessary as this Requirement relates to onshore works only.</p> <p>The Applicant notes that there is a similar Requirement in the Five Estuaries draft DCO.</p> <p>By design, build options 2A and 2B require cooperation between the Applicant and VEOWF. However, the timing of the discharge of this Requirement will depend on the progress of each project and may not be concurrent. It is therefore not considered appropriate to add an obligation to</p>	<p>The MMO is reviewing this response and NE's comments. The MMO's jurisdiction is below Mean High Water Springs.</p>

	consideration of including provisions for co-operation and for notification to the MMO as offshore enforcing body of the build option selected. Please indicate whether it is agreed that the dDCO should include such provisions, whether by way of amendment to R19 and/or the DMLs and, if not, explain why not?	co-operate on the timing of the discharge of this Requirement.	
9.4.1	<p>Schedules 8-10 DMLs</p> <p>The MMO RR [RR-216] Table 1 contains criticism of various aspects of the DMLs and suggests amendments to the drafting thereof.</p> <p>Please comment on the criticisms made and outline any drafting changes to which the Applicant proposes to make to the DMLs in response.</p>	The Applicant considers it has addressed all the concerns of the MMO set out in Table 1 of the MMO RR [RR-216], please see the Applicant's responses MMO-44 to MMO-90 of the Applicant's Response to Relevant Representations from Statutory Consultees and Non Prescribed Consultees [REP1-045].	<p>The MMO welcomed the Applicant's response at Deadline 2 and updates made to the DML, however noted that there were still outstanding concerns to be addressed by the Applicant in relation to definitions. The MMO does not agree that the reasoning that the definitions provided by the applicant 'aligns with the wording' of other offshore wind farm project provides enough justification for not updating the definitions. The MMO notes that previous DCOs may have similar definitions, however upon review, the definition has been expanded to provide clarity.</p> <p>The MMO also maintains the position that the Applicant should remove 'Subject to</p>

			<p>article 5' (Benefit of the Order). Please see section 2 of [REP2-043] for further detail on Benefit of the Order.</p> <p>The MMO has also previously requested the removal of Force Majeure because it unnecessarily duplicates the effect of Section 86 of MCAA 2009.</p> <p>Further detail on the comments that have been resolved and those that are still outstanding can be found in the MMO Deadline 2 response [REP2-043].</p>
9.4.2	<p>Part 2 Conditions</p> <p>Condition 12 Maintenance of the authorised development</p> <p>Condition 12(4) includes <i>“substantially in accordance with the outline offshore operations and maintenance plan.”</i> Please explain and justify the use of the term ‘substantially’ in this condition?</p>	<p>‘Substantially’ reflects that the operations and maintenance plan will be in accordance with the Outline Offshore and Maintenance Plan [APP-255] but subject to any changes required as part of the finalisation of the operations and maintenance plan happening post-consent, in conjunction with submitting it to the MMO for approval in consultation with the relevant statutory nature conservation body.</p> <p>The drafting provided in the dDCO [REP1-011] is precedent – see, for example the Hornsea Four Offshore Wind Farm Order 2023 (Schedule 11, Part 2, Condition 4(4)).</p>	<p>The MMO does not believe substantially should be included without an interpretation. The MMO believes that any final plan post consent starts with the outline plan as the base and is updated accordingly with justification being provided if something is not included.</p>

9.4.3	<p>Condition 21 Pre-construction plans and documentation</p> <p>Condition 21(1) (h) refers to a cable specification and installation plan. The ExA notes that this has not been included within the Application documents. Please clarify when the cable specification and installation plan will be available and confirm it is intended to include this as a document to be certified in Schedule 12.</p>	<p>The cable specification and installation plan (CISP) will be prepared during the pre-construction phase, post consent, as it will be informed by, amongst other things, the Cable Burial Risk Assessment which will inform key decisions such as final routing, cable installation method etc. As such, the Applicant does not propose to submit an Outline CSIP into Examination or include an Outline CSIP as a document to be certified in dDCO Schedule 12.</p> <p>The Applicant considers that this is appropriate in the context of the Project (noting, for example, that the offshore export cable corridor avoids designated sites for benthic habitats) and that the current wording of the DML condition provides robust protection, as the CISP developed post-consent must be submitted to and approved by the MMO, in consultation with, where relevant, Trinity House, the MCA, UK Hydrographic Office and relevant statutory nature conservation body.</p> <p>The approach of the Applicant is precedented – see, for example The East Anglia TWO Offshore Wind Farm Order 2022, and The East Anglia ONE North Offshore Wind Farm Order 2022, where no Outline CSIP was provided or required at the application stage.</p>	<p>The MMO notes the commitment that the cable specification and installation plan will be submitted to and approved by the MMO, in consultation with, where relevant, Trinity House the Maritime and Coastguard Agency (MCA), UK Hydrographic Office and relevant SNCBs.</p> <p>The MMO would highlight that on other projects such as Five Estuaries Offshore Wind Farm an outline plan has been provided.</p> <p>The MMO does note that this plan is usually the most difficult plan to discharge post consent and would highlight that if an outline plan was created it may remove some of the issues that could occur during the consultation and discharge process.</p>
Q9.4.4	<p>Condition 21 Pre-construction plans and documentation</p> <p>Condition 21(1) (i) refers to the lighting and marking plan to be</p>	<p>The dDCO has been updated for Deadline 2 in respect of the relevant condition across each of the DMLs in Schedules 8 – 10.</p>	<p>The MMO welcomes the updates made in REP2-007 in respect of the relevant</p>

	<p>agreed by the MMO following consultation with Trinity House. ES Chapter 15 [APP-029] Shipping and Navigation, Table 15.3, refers to: “A lighting and marking plan will be agreed with the Marine Management Organisation (MMO), in consultation with Trinity House, MCA, and the Civil Aviation Authority, and considering IALA G1162/O139 (IALA, 2021).”</p> <p>Please clarify if the consultation covered by this condition should also include with the MCA and the CAA? The same question also applies to the conditions 22(1) (i) and (21) (1) (i) relating to Pre-construction plans and documentation in Schedules 9 and 10 respectively.</p>		condition across each of the DMLs in Schedule 8-10.
Q9.4.5	<p>Condition 21 Pre-construction plans and documentation</p> <p>The NE RR [RR-243] advises that Condition 21 (1) (m) should be amended to give an individual timing requirement to be submitted no sooner than 9 months and no later than 6</p>	<p>The suggested amendment is not agreed, as the Applicant considers it inappropriate to include a maximum timescale on submission of plans for approval under DML conditions and the Applicant is not aware of any offshore wind DCO/DML which imposes such a requirement.</p> <p>As Critical National Priority Infrastructure it is imperative that the Project can be delivered without unnecessary and undue delay, to ensure the construction programme can be maintained.</p>	<p>The MMO considers it necessary for Condition 21(1) to be submitted at least six months prior to commencement of piling. This is to allow time for necessary approvals to be obtained. The MMO notes Natural England comments '<i>Natural England note that, due to the need to appropriately consider</i></p>

	<p>months prior to commencement of piling.</p> <p>Please indicate whether the amendment suggested by NE to this condition is agreed and, if not, explain why not?</p>	<p>Imposing a maximum time period for submission of pre-construction plans will provide less time for the necessary approvals to be obtained (including any amendments to the submitted plan which the MMO might require) and adds unnecessary risk to the construction programme.</p>	<p><i>in combination impacts of other developments it is important that the Site Integrity Plan (SIP) should not be submitted too early as the plan needs to consider in combination issues and submission too early may mean significant in combination factors are not included.'</i></p> <p>The MMO understands this request is to ensure as much information is provided so a full review of in-combination impacts can be undertaken by the MMO in consultation with NE.</p> <p>The MMO would highlight that if submitted too early, this may be rejected as the information to discharge the document may not be provided or multiple updates to the SIP may be requested prior to the discharge.</p>
Q10.1.4	<p>Baseline data – fish and shellfish ecology</p> <p>(i) Useful North Sea Sandeel survey data from International Council for the Exploration of the Sea has not been used for the characterisation of Sandeel habitat within the ES.</p>	<p>(i) The Applicant considers that the data used for and the assessment presented in ES Chapter 11 Fish and Shellfish Ecology [APP-025] is robust. The Applicant notes that the MMO's Relevant Representation confirms that the Applicant has used generally appropriate data sources to inform their assessment for fish and while it is suggested that the North Sea Sandeel Survey (NSSS) data "could have also been</p>	<p>The MMO notes that the Applicant plans to submit the updated sandeel habitat heatmap in line with the 2024 methodology at Deadline 3. The MMO awaits this submission and will review and provide comments at Deadline 4 or 5.</p>

	<p>Moreover, heat mapping for Sandeel habitat and fishing layer data applied should be more robustly clarified as per the commentary of the Marine Management Organisation. Can the Applicant confirm due updates and clarify the robustness of the data which informs the ES?</p> <p>(ii) For herring, the ES appears to have omitted key fishing ground layer information in heat mapping and presented inaccurate vessel monitoring data. Therefore, the extent of herring spawning habitat may not be fully accounted for. The ExA requests further clarification on these issues and a reassessment of the likely impact(s).</p>	<p>used to supplement the characterisation of sandeel habitat for the ES”, the MMO’s RR does not highlight a specific concern. As set out in the Applicant’s Response to Relevant Representations from Statutory Consultees and Non Prescribed Consultees (Rev 0) [REP1-045, at MMO-163], the suitability of the North Sea Sandeel Survey (NSSS) to inform the Fish and Shellfish Ecology baseline was discussed during a Seabed Expert Topic Group meeting (November 2023). The data was reviewed by the Applicant and was not considered of relevance as the spatial coverage of the NSSS does not extend as far south as the fish and shellfish ecology study area identified for ES Chapter 11 Fish and Shellfish Ecology [APP-025], see Figure 11.1 [APP-056]. The NSSS area is focused on the key sandeel grounds in the North Sea between Dogger Bank and Scotland, with sampling locations 118km from the North Falls Array Site at the closest point. The Applicant has responded to the MMO’s commentary on the sandeel heat mapping at MMO-164 to MMO-169 of the Applicant’s Response to Relevant Representations from Statutory Consultees and Non Prescribed Consultees (Rev 0) [REP1-045] and set out why the heat mapping approach taken by the Applicant is considered appropriate. However, the Applicant confirms that a sandeel habitat</p>	
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		<p>heatmap, in line with the 2024 methodology (Reach et al., 2024), is in the process of being produced for discussion with the MMO to allow comparison with the ES submissions and to demonstrate the robustness of the conclusions of the assessment in the ES. The updated sandeel habitat heatmap will be submitted by Deadline 3.</p> <p>(ii) The fishing ground layer omitted for herring referred to is one of the data layers produced as part of Eastern Sea Fisheries Joint Committee's (ESFJC) Fisheries Mapping Project (2010), which aimed to describe, using best available data and fishermen's knowledge, the extent of the main fisheries within the ESFJC District. At the time of publication, the ESFJC noted that the data layers associated with the project were not exhaustive and that they should be used with discretion, and not in replacement of full and proper consultation within the fishing industry, but rather be seen as illustrative of the types of activity within the district and, where information is available, an indication of seasonality (ESFJC, 2010). The Applicant notes that the report and data layers associated with this project were removed from the Eastern Inshore Fisheries and Conservation Authority (IFCA) (formerly ESFJC) website over 5 years ago. It is understood from communication between the Applicant with Eastern IFCA (on 29 January 2024) that</p>	
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		<p>this was purposely removed to avoid confusion, as the IFCA were made aware that the data was often used without the appropriate caveats.</p> <p>Furthermore, the Applicant notes that the boundary and jurisdiction of the Eastern IFCA extends out to 6nm, with its southern limit in Felixstowe (Suffolk) and its northern limit in Haile Sand Fort (Lincolnshire). Therefore, there is no overlap between the Eastern IFCA (formerly ESFJC) and the Project.</p> <p>With the above in mind and considering the nature, limitations and scope of the information included in ESFJC dataset, it was not considered appropriate for inclusion to inform the herring spawning habitat heatmapping originally submitted with the Application.</p> <p>The Applicant notes that there was a typo in the information presented in Table 6.16 Appendix 11.1 Fish and Shellfish Ecology Technical Report [APP-095] with regards to the vessel monitoring system (VMS) data used to inform the herring spawning heat mapping. The VMS data used in the heat map is for UK pelagic trawls and covers the years 2016 – 2020, this is in line with the methodology used in Reach et al. 2013.</p> <p>The heatmap for herring habitat suitability is in the process of being updated in line with the updated 2024 methodology (Kyle-Henney et al., 2024) for discussion with the</p>	
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		MMO to allow comparison with the ES submissions and to demonstrate the robustness of the conclusions of the assessment. The updated heatmap for herring habitat suitability will be submitted by Deadline 3.	
Q10.1.8	Offshore Construction Monitoring <ul style="list-style-type: none"> (i) Having regard to the Offshore In-Principal Monitoring Plan (IPMP) [APP-245] would the first four piles monitored be the worst-case scenario piles? (ii) If so, how is this to be formally demonstrated as committed to at Examination stage? Provide all IPMP updates necessary to ensure this. (iii) Signpost/list the precise noise mitigation methods to be imposed during any pre-commencement piling activity for the worst-case scenario conditions identified by the ES and clarify how the mitigation would differ moving to better case scenarios. (iv) Would the mitigation be 'tailored' accordingly? 	<ul style="list-style-type: none"> (i) The Applicant understands the question relates to the issue of worst-case scenario for underwater noise also raised by the MMO in their Relevant Representations [RR-216] at paragraph 4.10.1. The build-out sequence of North Falls will need to ensure safety of mariners. For the first four piles to be the worst case for underwater noise, this could lead to piles being scattered around the array areas which could have safety implications for shipping traffic. Therefore, it is the Applicant's position that this is not appropriate and the IPMP has not been updated to include this. (ii) As above. (iii) Mitigation for piling noise is secured through the conditions to the deemed Marine Licences which requires a Marine Mammal Mitigation Protocol (MMMP) in accordance with the draft MMMP [APP-242] and a Site Integrity Plan (SIP) for the Southern North Sea (SNS) Special Area of Conservation (SAC), in accordance with the Outline SIP for the SNS SAC [APP-243] (see paragraph 21 of Schedule 8; paragraph 22 of Schedule 9; paragraph 21 of Schedule 10, of the dDCO [REP1-011]). 	<p>(i) & (ii) The MMO believes any monitoring should show the worst-case scenario. The MMO acknowledges that it is not always possible to do the worst-case piles first. The MMO believes there should be some commitment to providing monitoring that validates the predictions of the ES. The MMO believes it is possible to at least have some evidence of the most impactful piles during the monitoring campaign. For example, Morgan Generation Offshore Wind Farm has committed to monitoring the higher hammer energy piles along with the first four piles. The MMO's consultees have raised concerns on this requirement and is in discussion on changing this requirement. Until this time, the MMO would welcome further discussion with the Applicant on the possibility of providing</p>

	<p>(v) How would any commitment to tailoring be appropriately formalised?</p>	<p>Section 1.3.2 of the draft MMMP [APP-242] lists mitigation which will be considered to mitigate auditory injury of marine mammals.</p> <p>Section 1.7 of the Outline SIP for the SNS SAC [APP-243] lists the mitigation which will be considered to mitigate the contribution of North Falls to an in-combination effect on the SNS SAC (designated for harbour porpoise) to ensure there will be no adverse effect on the site integrity.</p> <p>Both documents will be updated post consent to reflect the actual piling scenario for North Falls and taking into account the latest information on the in-combination scenarios. This approach reflects the standard procedure for offshore wind farms. The deemed Marine Licence conditions require that the MMMP and SIP are agreed with the MMO in consultation with the relevant SNCB.</p> <p>How the mitigation would differ moving to better case scenarios is described below.</p> <p>(iv) In accordance with the draft MMMP [APP-242], the final MMMP to be produced post consent will provide details of the maximum predicted impact (Permanent Threshold Shift) ranges and areas for piling based on the final design. This will enable mitigation to be tailored, where appropriate.</p> <p>With regards to piling mitigation secured by the MMMP to reduce auditory injury, a</p>	<p>monitoring data in line with the predictions.</p> <p>(iii) The MMO agrees that the MMMP and SNS SAC SIP will include the information on the mitigation, however would highlight at this stage that without firm commitment of noise abatement or mitigation solutions within these documents in line with the Defra policies the Applicant may struggle to ensure the mitigation required is able to be procured and therefore get a Wildlife Licence or discharge the SIP. The MMO would also note that the North Sea is getting progressively noisy so without this commitment now there could be a delay to the project.</p>
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		<p>‘better case’ piling scenario could result from the final design of North Falls, for example if hammer energies less than the 6,000kJ assessed for monopiles or the 4,400kJ hammer assessed for pin-piles are required. This might arise if smaller pile sizes are selected during the final design and/or due to findings of a pile driveability study to be undertaken post consent. The majority of the mitigation would remain as described in the draft MMMP, however the final design would inform the required monitoring area and the actual soft start and ramp up hammer energies. It should be noted that the maximum hammer energy is unlikely to be required for all piles and the minimum hammer energy required to install piles would be used, however this would be determined during piling and cannot be predetermined, therefore mitigation would be based on the relevant maximum hammer energy required for the final design. With regards to the mitigation secured by the SIP, the scenarios are based on the Effective Deterrent Radius (EDR) of 26km for monopiles and 15km for pin-piles, regardless of the size of piles and hammer energies used, in accordance with JNCC et al., 2020. Therefore a ‘better case’ piling scenario of relevance to the SIP would relate to the in-combination scenario with other projects piling at the same time as North Falls, considering the distance</p>	
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		<p>between piling locations, the number of piles installed per day and/or number of piling days in the relevant season (North Falls is in the winter season for harbour porpoise of the Southern North Sea SAC). If the scenario exceeds the thresholds identified by JNCC et al., (2020), thereby triggering the need for mitigation, mitigation would be selected in accordance with the Outline SIP for the SNS SAC [APP-243].</p> <p>(v) As per point (iii) the deemed Marine Licence conditions require that the MMMP and SIP are agreed with the MMO in consultation with the relevant SNCB. Therefore, any tailoring of mitigation would have to be agreed with the MMO prior to piling commencing.</p>	
Q10.1.9	<p>Offshore Construction Monitoring –for marine mammals</p> <p>There appears inadequate justification to explain why the cumulative sound exposure of two piles is not required in the outline Marine Management Mitigation Protocol (MMMP).</p> <p>The ExA notes that the MMO strongly recommends that mitigation is required prior to piling of foundations at each pile</p>	<p>The Applicant notes the MMO's comment and will amend the Draft MMMP for Deadline 3 so that the sequential piling impact results are presented and mitigation measures are based on these. It must be noted the Draft MMMP [APP-242] impact ranges will remain largely the same, as by the time the subsequent piles are installed, the fleeing receptor is at such a distance that the additional exposure is small.</p> <p>The requested plot will be provided with the updated Draft MMMP.</p>	<p>The MMO will review the amended Draft MMMP at Deadline 3 and will look to provide comments by Deadline 4 or 5.</p>

	<p>location, and the mitigation requirements should be based on the predicted ranges for the cumulative exposure for three monopiles and six pin piles installed sequentially (or the worst-case number of monopiles/pin piles installed in 24-hours). The Applicant is asked to either provide robust justification or include the additional mitigation into the MMMP.</p> <p>For underwater sound monitoring during construction the MMO is seeking confirmed 'plots' to enable noise monitoring comparisons (for comparable hammer strike energies) be provided with the associated envelopes of variability. The ExA requests that this step is incorporated into the outline MMMP.</p>		
Q10.1.10	<p>Offshore Construction –winter piling</p> <p>Paragraph 73, Outline Project Environmental Management Plan [APP-241] states <i>“In order to reduce impacts to Downs herring the Applicant is committed to restrict piling activities during a</i></p>	<p>To reduce impacts to Downs herring, the Applicant is committed to no piling activities over a suitable period (to be determined post-consent) between 1 November and 31 January. The 1 November to 31st January timeframe represents the overall established key spawning period of the Downs herring (ICES 2005; ICES, 2023). The specific duration of the piling restriction within the period between 1 November and 31 January will</p>	<p>The MMO as noted in its Deadline 1 response (REP1-067), notes that 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. The MMO also refers to its Deadline</p>

	<p><i>suitable period between 1 November and 31 January, the duration of which will be discussed with the MMO and their advisors.”</i></p> <p>Clarify what the restrictions to piling activities will be and how these have been determined?</p>	<p>be discussed post consent with the MMO and their advisors, with the refinement of key spawning dates being subject to the availability of new data on spawning activity specific to areas of relevance to the Project (i.e. Southern Bight spawning grounds).</p>	<p>1 document which notes 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 monitoring highlights that noise impacts are in excess of the predicted impacts. The MMO is also in agreement with NE that the production and implementation of a MMMP will minimise the impacts of piling and unexploded ordnance clearance (if required). Any piling restriction should be included in the DML and refined using the Marine Mammal Mitigation Plan (MMMP).</p>
Q10.2.4	<p>Ecological enhancement/Marine Net Gain (MNG)</p> <p>The ExA notes that Chapter 2 of the UK Marine Policy Statement (2011) states that the vision for the marine environment is for ‘clean, healthy, safe, productive, and biologically diverse oceans and seas’. The UK high level marine objectives published in April 2009 set out the broad outcomes for the marine area in</p>	<p>There is currently no requirement for MNG to be provided for NSIPs and no available guidance on how MNG could be delivered, if it were required. Therefore, the Applicant considers this is not currently required or feasible. The Government response (9 December 2023) sets out actions (for Government to undertake) and states: “<i>After we have developed the policy in conjunction with stakeholders, we will hold a further consultation with stakeholders prior to any implementation.</i>” No such consultation has taken place to date.</p> <p>Response applies to points (i), (ii) and (v).</p>	<p>As noted in the response by NE, at the moment, it is not possible to put together a Marine Net Gain plan, as policy on MNG has not been set out by Government. There is currently no mandatory requirement on Developers to deliver net gain below Mean High Water Springs. The MMO welcomes any voluntary measures that the Applicant would like to deliver in terms of</p>

	<p>achieving this vision, and reflect the principles for sustainable development.</p> <p>In that context, UK Government consultation June 2022 sought views on the high-level principles of MNG. This showed broad support for MNG as well as a range of recommendations around what MNG could cover, how it could be applied to developments and which Net Gain interventions would be most appropriate at sea. Defra's "Consultation outcome Government response updated 9 December 2023" is a relevant consideration.</p> <p>The ExA is aware MNG could represent a feasible opportunity/consideration for delivering nature recovery/ecological enhancement at sea even at a nascent stage. Moreover, based on public consultation statements an industry wide Offshore Wind Environmental Improvement Package to support the accelerated deployment of offshore wind is anticipated to potentially come forward.</p>		<p>ecological benefits to the marine environment, notwithstanding any existing licence permissions. As referred to by NE, the MMO directs the Applicant to the updates to the published MaRePo restoration potential maps and reports which may help any considerations for future restoration opportunities:</p> <p><u>Marine Restoration Potential plus (MaRePo+) - MF6006; 2023, Natural England, Environment Agency, JNCC, and Cefas, Offshore Wind Evidence and Change Programme, Marine Restoration Potential (MaRePo) Marine Data Exchange.</u></p>
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	<p>(i) Applicant/NE/Marine Management Organisation/Crown Estate/IP's – Is it possible/feasible (in principle) for a MNG strategy to be produced for this development to compliment the onshore BNG Strategy; or in the interests of pursuing other offshore ecological enhancements possible currently? If not, why not?</p> <p>(ii) Applicant/NE/IP's – Clarify/signpost what cross-cutting work with NE/Crown Estate/MMO or other consultees has occurred to explore due offshore ecological enhancement opportunity? If it has not occurred, state why not.</p> <p>(iii) NE – At what stage are the ongoing investigations to which habitats and species have the most potential for restoration, recovery and enhancement through the Marine Restoration Potential and Enhancement Project?</p> <p>(iv) NE – At what stage/status/availability is</p>		
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	<p>the mapping provision for Marine Irreplaceable Habitats and would this be relevant to have regard to?</p> <p>(v) Applicant/NE – Is it technically possible, presently, to measure and compare marine development impacts which allows robust/meaningful marine environmental gains (or offsets) to be delivered from this development?</p>		
Q10.3.16	<p>Compensation - Site Implementation Plans</p> <p>NE advise that Site Implementation Plans are submitted to the MMO for consideration. Has this happened?</p> <p>Either way, the ExA requests a clear/committed timescale to be set out by the Applicant to allow facilitation of due documentation agreement with the MMO within the Examination period itself by Deadline 2.</p>	<p>(i) The MMO defers to Natural England for matters relating to ornithology (i.e. including compensation) as stated in Paragraph 1.9.9 of the MMO's Comments on Relevant Representations from other Interested Parties, Initial Statements of Common Ground and Further Comments [APP-067]. Extensive consultation has been undertaken with Natural England during development of the compensatory measures as described in the Habitats Regulations Assessment Appendix 1 Compensatory Measures Overview (Rev 1) (Clean) [REP1- 015] and Annex 1A Habitats Regulations Assessment Compensation Consultation [APP-185].</p> <p>(ii) Updated Compensation Implementation and Monitoring Plans were submitted at Deadline 1 and Deadline 2. It is expected relevant stakeholders will comment on</p>	<p>The MMO defers to NE in relation to ornithology and any specific compensation measures required in relation to the National Site Network. The MMO does review the documents and is part of the steering groups should consent be given. However, the MMO's main focus is if any compensation measures require marine licensable and if so, how these would be implemented (i.e. in the DML or as a separate marine licence).</p>

		these at an early deadline of the Examination, which the Applicant will then consider and provide further updates if required.	
Q15.1.2	<p>Navigational Risk Assessment (NRA) indicative worst-case layout</p> <p>With reference to the NRA, Section 6.2.1 Indicative Worst-Case Layout [APP-106], explain the reasoning for the minimum crosswind and downwind spacing between Wind Turbine Generators (WTGs) of 944 metres and 1,180 metres respectively, and provide and explain the reasoning for the minimum spacing between the WTGs and the Offshore Substation Platforms (OSPs)?</p>	<p>The windfarm layout will be developed once turbines have been selected. This will happen post-consent and will be subject to approval by the MMO in consultation with the MCA and Trinity House (DML condition 21, dDCO Schedule 8 [REP1-011]). However, the principles are demonstrated below.</p> <p>Generally, windfarms want wind turbines to be spaced as far apart as possible to increase their energy output. The most efficient layout will depend on the proportion of time the wind is in each direction and how the wakes from upstream turbines impact on downstream ones.</p> <p>Given this, the windfarm layout will depend on the proportion of time the wind blows from any single direction and how the turbines generate their wakes. If there is no distinct prevailing wind, it is beneficial to have a common spacing in both the prevailing wind and cross wind directions (normally a minimum of 5 times the rotor diameter of the turbines is chosen – notionally set at 236m for the project). However, if the prevailing wind is more dominant, there may be a benefit to increasing the spacing in that orientation as it will generate more energy. To ensure capacity is maximised, it may be necessary to reduce the distance in the cross wind direction, typically</p>	The MMO welcomes the principles and notes that ‘layout principles’ have been included as a certified document before but defers to MCA on if this is a requirement for the Project.

		<p>reducing it by a rotor diameter from the common spacing. In addition to this, turbine technology is improving such that adaption of the wakes may be possible to mitigate impacts from one turbine to the next.</p> <p>The exact spacing requirements will depend on the specific turbine selected, understanding the impacts from the upstream turbines on the downstream ones. This could lead to either scenario being the most optimal, and hence the worst case spacings assumes the closest of these two scenarios.</p> <p>The prevailing wind is perpendicular to the Galloper Recommended Ferry Route, and hence the current single line of orientation is based on that ferry route.</p> <p>Due to the wind shadow created by the OSP, the spacing required between the OSP and downstream WTG does not need to be as large as the spacings between two WTGs. The OSP will be placed in the same single line of orientation as the WTGs, and hence the spacing between OSPs and the nearest wind turbines will be a minimum of half the cross-wind spacing of between WTGs i.e. 522m.</p>	
Q15.1.12	<p>Further mitigation required for recreational craft</p> <p>The NRA [APP-107] Annex C Hazard Log records the following</p>	<p>The RYA and the Cruising Association indicated a marked channel may be preferable from a recreational vessel perspective at meetings held on the 27th October 2024 and the 29th November 2024 respectively. However, it was agreed with</p>	<p>The MMO would highlight that if this is a major concern then this is a matter to be decided during the consenting process and not post consent. The</p>

	<p>additional comments on pages 281-282 and 291- 292: “<i>The MCA noted concern that recreational vessels would be displaced into the TSS lanes and therefore increase potential for encounters with commercial vessels. The potential for a marked channel for recreational vessel use was discussed.</i>” The Further Mitigation Required presented includes: ‘e.g., a marked channel or line of orientation aligning with typical recreational vessel transits.</p> <p>Has agreement been reached with RYA and MCA on the most effective option and how this will be secured in the DCO?</p>	<p>the MCA, Trinity House, and Chamber of Shipping in a meeting on the 27th June 2024 that either option could be acceptable, and that a final decision could be agreed as part of post-consent layout discussions. It is also noted that both solutions could be implemented (i.e., a marked channel and a sympathetic line of orientation).</p> <p>The requirement for the MMO to approve the layout of wind turbine generators post-consent in consultation with the MCA is secured under Schedule 8 Part 2 paragraph 21(1)(a)(i) of the dDCO [REP1-011].</p>	<p>MMO does not want to be in a position of having to manage conflicting views on something that could have been agreed during the consenting stage.</p>
Q15.1.13	<p>Concerns about offshore buried cables becoming exposed</p> <p>Concerns raised by Harwich Harbour Fishermen’s Association in their RR [RR-125] include sections of cables on other existing wind farms where cables were originally buried but have become exposed. How will this risk be mitigated for the Proposed Development to prevent cables</p>	<p>As set out in the Applicant’s Response to Relevant Representations from Statutory Consultees and Non Prescribed Consultees (Rev 0) [REP1-045], the Project has proposed a wide range of embedded mitigation measures (Table 4-4) which will reduce impacts on commercial fishing and have been accounted for when identifying effect significance (ES Chapter 14 Commercial Fisheries, [APP-028]). These are listed in Section 14.3.3 of ES Chapter 14 Commercial Fisheries, [APP-028] and in the Outline Fisheries Liaison and Co-Existence Plan (FLCP) [APP-244], and include, in relation to cable exposure, commitments to bury cables to a</p>	<p>The MMO welcomes these commitments.</p>

	<p>becoming a snagging hazard to fishing vessels?</p>	<p>minimum of 0.6m where practicable and to evaluate appropriate protection measures for cables that cannot be buried to this depth. The final burial depth will be based on the Cable Burial Risk Assessment to ensure that every cable is sufficiently protected from any hazards that may occur above it. As set out in the Outline FLCP, where rock placement is required for cable protection, designs that minimise potential gear snagging risk (i.e. use of graded rock and 1:3 profile berms) will be used, where practicable. This will facilitate co-existence and minimise potential damage to and from fishing gear and associated safety risks.</p> <p>Additionally, under the following conditions of the deemed Marine Licences of the draft DCO [REP1- 011],:</p> <p>Schedule 8 Part 2 Condition 21(1)(h)(iv);</p> <p>Schedule 9 Part 2 Condition 22(1)(h)(iv); and</p> <p>Schedule 10 Part 2 Condition 21(1)(h)(iv),</p> <p>the Applicant must provide proposals for approval by the MMO in consultation with the MCA and Trinity House in relation to “monitoring offshore cables including cable protection during the operational lifetime of the authorised development”. Therefore, the measures also include post-lay and cable burial inspection surveys and, as set out in the Outline FLCP, in the event that cable exposures are identified during the operational phase, the location of</p>	
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		these will be published via the standard notices with additional liaison to be undertaken with fisheries stakeholders. Where appropriate, additional temporary measures would also be put in place (e.g., surface marker buoys, use of guard vessels, etc).	
Q16.1.3	<p>National Federation of Fishermen's Organisation's concerns</p> <p>Provide here or in your SoCG, your response to concerns in the National Federation of Fishermen's Organisation's RR [RR-238] to include confirmation about how the concerns extracted below have been addressed and if not, what further action is proposed:</p> <p>(i) <i>"Further displacement of commercial fishing in the region will result in economic harm, through direct displacement, loss of earnings from the ground and additional operating costs due to increased steaming times during construction and operation of the project as well as contributing to the spatial</i></p>	<p>The Applicant confirms that key concerns raised by the NFFO in their relevant representation [RR-238] and previous feedback provided during the pre-application stage are being considered for discussion in the SoCG.</p> <p>Notwithstanding this, a summary of the Applicant's position on these matters is provided below:</p> <p>(i) The potential impacts of the Project on commercial fishing during construction, operation and decommissioning both alone and cumulatively with other projects/activities are assessed in Sections 14.6.1 and 14.7 Chapter 14 Commercial Fisheries [APP-028]. This includes specific assessments for loss of access to fishing grounds and associated displacement of activity to other areas, as well as increased steaming times, amongst other aspects. The assessments identified potential for impacts of negligible to minor significance, depending on the fleet under consideration. The Applicant notes that the assessments take account of the wide range of embedded mitigation measures</p>	<p>The MMO maintains a watching brief on these issues, as noted in the MMO Relevant Representation (RR-216), the MMO considers the data sources used in Chapter 11 Fish and Shellfish Ecology to be appropriate but notes NFFO may have more up to date information in relation to specific locations.</p>

	<p><i>squeeze on fisheries in the region.”</i></p> <p>(ii) <i>“Concerns 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.”</i></p> <p>(iii) <i>“We feel that the commercial fisheries assessment underestimates the impacts at almost every stage.”</i></p> <p>(iv) <i>“Displacement effects are assessed as not significant for all fisheries assessed, we disagree with this assessment.”</i></p> <p>(v) <i>“If it is not actually safe to return to fish due to cables becoming exposed then this mitigation strategy needs reviewing with alternatives suggested.”</i></p>	<p>that have been proposed (and listed in Table 14.4 of Chapter 14 Commercial Fisheries [APP-028]), including the development of a Fisheries Liaison and Co-existence Plan (FLCP) in accordance with the Outline FLCP already submitted as part of the Application [APP-244].</p> <p>(ii) The Applicant notes that the sources of data and information used to inform ES Chapter 11 Fish and Shellfish Ecology [APP-025] were discussed with the Seabed Expert Topic Group (ETG) as part of the Evidence Plan Process (EPP). Following detailed discussions on this matter during a meeting held on 20th June 2022, it was agreed that the existing available data was suitable to characterise the fish and shellfish ecology baseline and that there was no requirement to collect additional or more contemporary fish and shellfish data. The appropriateness of the data sources used in Chapter 11 Fish and Shellfish Ecology is further supported by the statement included under paragraph 5.5.2 of the Relevant Representation issued by the MMO [RR-216].</p> <p>(iii/iv) The potential impacts of the project on commercial fisheries have been assessed in Sections 14.6.1, 14.6.2 and 14.7 of ES Chapter 14 Commercial Fisheries [APP-028], including cumulative effects arising from other projects/activities in the region. The assessment was carried out using the</p>	
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		<p>standard EIA methodology described in Chapter 6 EIA Methodology [APP-020] and in line with the established methodology used for assessment on commercial fishing for offshore wind farm projects across the UK. The conclusions on impact significance take account of the sensitivity of the receptors and the magnitude of the impact in the context of the commercial fisheries baseline identified in areas of relevance to the Project and the wide range of mitigation measures already embedded into the assessment and described in Table 14.4 of Chapter 14 Commercial Fisheries [APP-028].</p> <p>(v) Consideration has been given to the potential for sections of cables to become exposed during the operational phase in the assessment (Section 14.6.2.6 ES Chapter 14 Commercial Fisheries [APP-028]). As described in embedded mitigation measures included in Table 14.4 ES Chapter 14 Commercial Fisheries [APP-028], in the event that cable exposures are identified during the operational phase, the location of these will be published via the standard notices with additional liaison to be undertaken with fisheries stakeholders. Where appropriate, additional temporary measures would also be put in place (e.g. surface marker buoys, use of guard vessels, etc) Additionally, North Falls must notify mariners in the event of cable exposure, as required by condition under each of the deemed Marine Licences – see</p>	
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		paragraph 15(12) of Schedule 8, paragraph 16(12) of Schedule 9, and paragraph 15(12) of Schedule 10.	
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3. MMO Comments on Submissions at Deadline 2

3.1 Shellfisheries

3.1.1 In providing this response, the MMO has reviewed the following documents:

- EN010119-000774-9.1 Applicant's Response to Relevant Representations from Natural England (Rev 0).pdf (REP1-044)
- EN010119-000775-9.2 Applicant's Response to Relevant Representations from Statutory Consultees and Non Prescribed Consultees (Rev 0).pdf (REP1-045)
- EN010119-000787-9.14 Further Information Regarding Marine Mammals (Rev 0).pdf (REP1-057)
- EN010119-000796-2.6 Schedule of Mitigation (Rev 1) (Clean).pdf (REP1-006)

3.1.2 The MMO notes that the embedded mitigation measures proposed for both shellfish and commercial fisheries include:

- Provision of an offshore fisheries liaison officer and coexistence plans.
- A minimum depth of 0.6m for cable burial or cable protection where burial is not achieved to reduce the impacts of electromagnetic fields.
- The use of hard sediment.
- A soft start for pile driving to reduce the impact of underwater noise during construction.
- A winter piling restriction for fish species that will also reduce the impact occurring while female edible crabs (*Cancer pagarus*) are buried and have limited mobility to move away from a stressor.
- Good practice techniques and due diligence against accidental spills or contaminant releases.

3.1.3 The MMO notes the comments raised by the National Federation of Fishermen's Organisation (NFFO) and Harwich Harbour Fishermen's Association (HHFA) on the impact on commercial shellfish fisheries from this project and in cumulation with other projects. Whilst in agreement that data presented should identify impacts of the proposed windfarm on key commercial species whose range occurs within primary area, the MMO defers specific comments on commercial fisheries operations to the NFFO and HHFA as the most relevant source of current fisheries interaction.

3.1.4 The MMO has some recommendations for future reporting regarding the Fisheries Liaison and Co-existence Plan. It is important that issues raised with the Fisheries Liaison officers are reported and reviewed alongside any other ongoing monitoring to ensure any fisheries impacts are noted and examined. The MMO would be interested to see if any comments raised were documented, including but not limited to:

- reported changes in location/ access to fisheries,
- trends in landings,
- changes in sex ratio trends or size proportions in the landed catch, and
- any notification of displaced effort impacting other fisheries.

3.1.5 There is limited evidence of impacts (both negative or positive) from windfarms on shellfish biology (Gill, et al, 2025), however there will be an impact on fisheries through the exclusion zones and restrictions of the physical footprint of the windfarm. Any further feedback included in monitoring considerations over a longer time frame such as the period of windfarm construction, operation and decommissioning, will strengthen evidence for windfarm and shellfish interactions and co-existence. This evidence will support any ES predictions and success of mitigations.

3.2 The MMO's response to the Applicant's response to the MMO's Deadline 1 Submission. (REP2-022)

3.2.1 The MMO welcomes the Applicant's engagement with the SoCG. The MMO notes that the Applicant will provide comments on the underwater noise policy papers at the forthcoming deadline. The MMO will review this response expected to be submitted at Deadline 3 and expect to give comments at Deadline 4.

3.3 The MMO's comments deferred to Deadline 3 at Deadline 2 (REP2-043)

3.3.1 The MMO notes that at Deadline 2 there were several comments the MMO deferred comment to Deadline 3. The MMO will provide an update to the Applicant, week commencing 24 March and is aiming to also submit this into the Examination as an additional submission. The MMO notes the ExA may not accept an additional submission and if not, the information will be provided at Deadline 4. However, the MMO will ensure ongoing discussions are taking place with the Applicant.

4. Comments on the Updated Draft Development Consent Order (REP2-007)

4.1.1 The MMO welcomes the updates the Applicant has made to the DML in relation to Aids to Navigation Plans and MCA/TH/CAA updates.

4.1.2 The MMO maintains its position as stated in REP2-043 that the updates to the dDCO are made in relation to definitions, the removal of Article 5 Benefit of the Order, Force Majeure and condition wording updates to ensure clarity.

Decommissioning

4.1.3 The MMO notes that decommissioning activities have not been fully considered. The MMO requests an outline decommissioning plan to be part of the consenting process. The recently published guidelines by Offshore Energies UK (OEUK, 2024) for 'Designing for Decommissioning of Offshore Wind' states that:

"Assets should be designed to be decommissioned with a technology available at the time of commissioning"

4.1.4 The MMO notes the Examining Authority for Five Estuaries Offshore Wind Farm Limited (project EN010115) has requested from the Applicant that:

"Decommissioning is required to be assessed in order that the Examining Authority (ExA) and Secretary of State can have regard to the likely significant effects of the whole project over its lifecycle in making a recommendation and determination."

4.1.5 This can be achieved by following the OEUK 'Designing for Decommissioning of Offshore Wind' guidelines and assessing decommissioning based on available technologies now and not in the future.

4.1.6 The MMO understands that there is a requirement for a decommissioning programme to be submitted to the Secretary of State (SoS) in Schedule 2, Requirement 19 (now 21), however believes that an outline plan with decommissioning information should be provided at this stage.

Schedule 2 Requirement 1 – Time limits/Lifespan

4.1.7 The MMO has noted that on some offshore windfarms the ES has not assessed a set number of years during the Operation and Maintenance (O&M) phase.

4.1.8 This is not the case for the Project. However, the MMO wanted to highlight to the ExA and SoS that there may be a benefit to including an end date of the O&M phase within the DCO and DML in relation to the lifespan of the project, to ensure that it is clear that any repowering etc. would be subject to a new consent or variation. The MMO notes that Marine Licences have end dates for all construction and maintenance activities and there is a clear line when a new consent is required.

4.1.9 The MMO is still discussing a position internally and may provide further comments during examination.

Condition 19(1) Chemicals

4.1.10 The MMO requests that Condition 19(1) is removed and the following updates are made to Condition 21(1)(d) to include the following:

(ii) a chemical risk register, including information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance and standards;

(X) a site specific chemical risk assessment for all chemicals that have a pathway to the marine environment used for the marine licensed activities, outside the course of normal navigation, to include;

(aa) the function of the chemical,

(bb) the quantities being used and the frequency of use,

(cc) the physical, chemical, and ecotoxicological properties of the chemical. Chemicals present on the OSPAR List of Substances Used and Discharged Offshore which Are Considered to Pose Little or No Risk to the Environment (PLONOR) are exempt from this requirement;

Submissions for approval must take place no later than ten weeks prior to use;

4.1.11 This would also include adding the following definitions to the 'interpretation' section of the DML:

"pathway to the marine environment" open systems or closed systems that require top up.

"chemicals" comprise both substances and preparations.

"preparation" means a mixture or solution composed of two or more substances.

"substance" means a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition.

4.1.12 Based on the best available evidence to date, the MMO aims to create a revised consistent and thorough approach to chemical consenting for OWF. This should proactively avoid last minute delays and provide robust evidence regarding environmental impacts.

4.1.13 The current approach for consented OWF projects requires chemical information to be submitted in an inconsistent manner across different projects. This results in many chargeable hours from both the MMO and Centre for Environment Fisheries and Aquaculture Science (Cefas) for reviewing, assessing and requesting information from applicants.

4.1.14 Past DML's (including the current Condition 19(1)) have referenced the Offshore Chemical Notification Scheme (OCNS) definitive ranked list of registered products (or otherwise incorrectly termed "approved list of chemicals") for offshore petroleum activities, stating that chemicals for use should be chosen from this list or consent sought where unable. However, the use of this list for offshore petroleum activities does not remove the need for approval and reporting, as such, the use of this list for OWF should also not remove the need for approval and reporting.

- 4.1.15 Noting that the list contains chemicals considered to be a threat to the marine environment (Chemicals of Priority Action) (as reported by OSPAR), the list should not be relied upon for assumption of safe use. The MMO has reviewed this past way of working, alongside new available evidence and is proposing an improved process. The approach being sought through this new condition is explained below.
- 4.1.16 For all chemicals, written approval from the MMO must be obtained before their use, regardless of the risk of entering the marine environment. This is already standard practice and is conditioned by the requirement for a chemical risk assessment (or risk register) to be submitted to and approved by the MMO before the licensed activities or any phase of those activities may commence (usually held within the pre-construction plans and documentation of the DML conditions, e.g. the Project Environmental Management Plan). The condition generally reads as follows “chemical risk assessment/register including information regarding how and when all chemicals are to be used, stored and transported in accordance with recognised best practice guidance and standards”. For completeness, the MMO outlines that this should include information on chemical use, including function (meaning what the chemical will be used for, e.g., use within engines, paint, degreaser), methodology, quantity, and frequency of use.
- 4.1.17 The MMO is proposing a change for chemicals with a pathway to the marine environment, where more information beyond the standard chemical risk assessment (above) is required.
- 4.1.18 A more detailed chemical risk assessment (CRA) should be provided for any chemical with a “pathway to the marine environment”, this includes chemicals used in both open systems, and closed systems where “top-up” is required (i.e., repeated use or maintenance). The CRA should include information on the physical, chemical, and ecotoxicological (bioaccumulation, biodegradability and aquatic toxicity) properties, and function of the chemical, alongside the quantities and frequency of use. This should be submitted to the MMO no later than 10 weeks prior to use. The review of this information and/or in consultation with Cefas, will allow the MMO to make a determination on an approval for chemicals use by a project.
- 4.1.19 The MMO is aware that concerns may be raised around the 10-week submission timescale proposed within the condition and provide the following justification. Based on the information intended to be assessed by Cefas obtained through this condition, the MMO has accounted for an 8-week period for their review. The MMO further anticipates a 2-week period within which to review the submission, regard Cefas advice, and make a determination. This is deemed to be acceptable considering the current timeframes for which projects currently receive post-consent chemical discharges.
- 4.1.20 The definitions to be included within the consents pertaining to the new condition wording, come from the definition for ‘chemicals’, ‘preparation’ and ‘substance’ given within OSPAR Decision 2002/2 on a Harmonised Mandatory Control System for the Use and Reduction of the Discharge of Offshore Chemicals.
- 4.1.21 The MMO further includes clarity on where other regulations/ agreements exempt chemicals from this process.
- 4.1.22 This approach should exempt fluids used within gears and machinery (closed systems) from requiring a more detailed CRA, and disregards chemicals used on vessels and accommodation type chemicals (bleaches/toilet cleaners/grey water etc.), which are covered by alternative regulations.

- 4.1.23 As the OSPAR Commission considers that the substances on the “OSPAR List of Substances Used and Discharged Offshore which Are Considered to Pose Little or No Risk to the Environment (PLONOR)” pose little or no risk to the environment and that they do not normally need to be strongly regulated they have been exempted from the need for approval.
- 4.1.24 The MMO notes that the same CRA can be used for submission across both conditions, as long as they contain the necessary information and presented in a format allowing for clear distinction between the two requirements.
- 4.1.25 The MMO is committed to supporting all of the UK Government's environmental goals, this includes both net zero targets and nature and biodiversity targets, by promoting sustainable practices to protect and enhance the marine environment. This new condition enables both, by ensuring the proactive collection, assessment and management of evidence regarding chemical use post-consent.

Condition 27 Adaptive management

- 4.1.26 The MMO requests a standard condition in relation to Adaptive Management is included within Condition 27.
- 4.1.27 The MMO is requesting this to implement a more proactive process to manage issues, in the event that post construction monitoring shows a greater impact than that assessed in the Environmental Statement. The MMO is currently experiencing this on Round 1 and 2 offshore wind farms.
- 4.1.28 Example condition drafting is below:

“(5). In the event that the reports provided to the MMO under sub-paragraph (3) identify a need for additional monitoring, the requirement for any additional monitoring will be agreed with the MMO in writing and implemented as agreed.

(6). In the event that monitoring reports provided to the MMO under sub-paragraph (3), identifies impacts which are beyond those predicted within the Environmental Statement/Habitat Regulations Assessment, adaptive management/mitigation may be required. An Adaptive Management/Mitigation Plan to reduce effects to within what was predicted within the Environmental Statement/Habitat Regulations Assessment, unless otherwise agreed in writing by the MMO, must be submitted alongside the monitoring reports submitted under sub-paragraph (3), including timelines and associated monitoring to test effectiveness. This plan must be agreed with the MMO in consultation with the relevant SNCB's, to reduce effects to a suitable level for this project.

(7) Any such agreed or approved adaptive management/mitigation should be implemented and monitored in full. In the event that this adaptive management/mitigation requires a separate consent, the Applicant shall apply for such consent.”

- 4.1.29 The additional conditions ensure that all parties are clear what is required if the monitoring shows higher impacts than predicted during the assessment stage. It also allows the Applicant themselves to provide potential solutions when reviewing the results of monitoring, to then be discussed with the MMO and SNCBs.

- 4.1.30 The aim of the condition is to provide a clear process to the Applicant, the MMO and any consultees if, in preparing the monitoring reports, the Applicant identifies greater impact than the Environmental Statement (ES) predicted rather than a report being submitted and then a discussion having to take place upon review/consultation of the reports.
- 4.1.31 The MMO notes that if impacts are higher than predicted, the MMO can utilise Section 72 of 2009 Act and vary the marine licence to request Adaptive Management, but believes the addition of this condition gives a clear process to all and allows for proactive management by the Applicant, rather than reactive management by the MMO.

Condition 29(1) Marine Noise Registry

- 4.1.32 The MMO has liaised with the Joint Nature Conservation Committee (JNCC) and requests that Condition 29(1) is updated as below to reflect timing updates to submissions. This is to ensure the information within the registry is the most up to date for both reporting and utilising the information for in-combination impacts.

“(1) In the event that driven or part-driven pile foundations are proposed to be used as part of the foundation installation, the undertaker must provide the following information to the Marine Noise Registry—

(a) no less than six months prior to the commencement of each stage of construction of the licensed activities, information on the expected location, start and end dates of impact pile driving to satisfy the Marine Noise Registry’s Forward Look requirements,

(b) within two weeks after commencement of each stage of construction of the licensed activities, information on the location, start and end dates of impact pile driving to satisfy the Marine Noise Registry’s Forward Look requirements;

(c) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry’s Close Out requirements by 7 April for winter season October – March inclusive and 7 October for summer season April – September inclusive, or within 12 weeks of completion of impact pile driving whichever is earlier.”

5. Comments on Deadline 2 Written Representations (WR)

5.1 Maritime and Coastguard Agency (REP2-046)

- 5.1.1 The MMO notes that the MCA is satisfied that appropriate traffic data has been collected in accordance with MGN654.
- 5.1.2 The MMO acknowledges that MCA welcomes the removal of the northern array for avoiding unacceptable risks to navigation safety.
- 5.1.3 The MMO also notes that the Red Line Boundary (RLB) of the southern array was changed after the Preliminary Environmental Information Report (PEIR), as presented in Figure 1-1 of the NRA, to avoid encroaching into the International Maritime Organization (IMO) adopted Precautionary Area, and to increase the distance from two IMO-adopted Traffic Separation Schemes. MCA notes that, whilst these distances do not meet the guidance within MGN654 for mitigating collision and allision risks, a Structures Exclusion Zone (SEZ) is proposed to ensure no surface piercing or above-surface infrastructure will be installed within 1 nautical miles (NM) of the IMO-adopted traffic routeing measure boundaries. This has been agreed by MCA as a necessary mitigation measure for reducing navigational risks.
- 5.1.4 The MMO acknowledges that the mitigation measures in Table 19.1 of the NRA and Table 15.3 of the Chapter 15 are relevant and appropriate and will serve to reduce identified risks to As Low As Reasonably Practicable (ALARP).
- 5.1.5 The MMO notes MCA's position that a condition of consent must be included within the DCO/DML to ensure that no offshore construction that directly interacts with the Galloper Recommended Route can commence before the removal is in force and will maintain a watching brief on the wording for this.
- 5.1.6 MCA notes that any consented cable protection works must ensure existing and future safe navigation is not compromised and MCA welcomes the preparation of a navigation installation plan (NIP) for the offshore Export Cable Corridor (ECC) in consultation with local ports and operators.
- 5.1.7 The MMO is aware that the Applicant will continue discussion with MCA and Trinity house in relation to turbine layout design and its compliance with MGN 654 which will require MCA and Trinity House approval prior to construction to minimise risk.
- 5.1.8 The MMO notes that all lighting and marking arrangement, including identification markings, will need to be agreed with MCA and Trinity House.
- 5.1.9 The MMO acknowledges the support of safety zones during the construction, maintenance and decommissioning phases by the MCA.
- 5.1.10 The MMO supports the updates requested by MCA to the DML condition wording and requests that the Applicant update these.
- 5.1.11 The MMO has liaised with MCA on Condition 19(10) dropped objects and this should be replaced with:

"10(a) Debris or dropped objects which are considered a danger or hazard to navigation must be reported as soon as reasonably practicable but no later than six hours from the undertaker becoming aware of an incident, to the relevant HM Coastguard Maritime Rescue Co-ordination Centre by telephone (add number), and the UK Hydrographic Office email: navwarnings@btconnect.com.

(b) All dropped objects, including those in (a), must be reported to the MMO using the Dropped Object Procedure Form (including any updated form as provided by the MMO) as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident, unless otherwise agreed in writing with the MMO.

(c) On receipt of notification or the Dropped Object Procedure Form, the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the marine environment at the undertaker's expense if reasonable to do so."

5.1.12 The MMO is currently reviewing the Dropped Object Procedure and there is a potential of a change of wording to align with Marine Directorate - <https://www.gov.scot/publications/offshore-renewables-accidental-deposit-of-an-object-at-sea-form-and-guidance/> (The MMO can PDF this webpage if requested by the ExA). This change should not alter the requirement by the Applicant or any changes to the DML as (b) identifies what should be submitted, it would just be a change in wording.

5.1.13 The aim of this update is to ensure that reports must be made no later than 6 hours after the incident has been discovered for more major 'deposits' i.e. those that may be hazardous to shipping and within 24 hours of the incident being discovered in all other cases. A defined list of major deposits cannot be provided due to the nature of the activity. If the Project is in doubt whether an object is a danger/hazard to navigation, then the MMO would encourage them to assume it is and report it within 6 hours as per the condition.

5.2 Historic England (HE) (REP2-039)

5.2.1 The MMO notes that the main concern raised by HE is in relation to the lack of site-specific geotechnical samples collected to feed into the geoarchaeological baseline and assessment and has made recommendations in its written representation to address this matter, including that it is separately secured within the DCO/DMLs for geotechnical work and its geotechnical assessment and the condition should specify the completion of stages of analysis prior to construction to ensure that sufficient material across the project area is collected before any impacts occur.

5.2.2 HE has addressed this Outline Marine Written Scheme of Investigation (WSI) as a mitigation action which should inform the production of a WSI to support archaeological assessment of further survey data acquired post consent (should consent be obtained).

5.2.3 The MMO acknowledges that HE has offered comments in relation to specific DCO documents, clarifications and amendments which will be required in any subsequent document produced from the Outline DCO documents which HE has detailed for onshore and marine components in its Written Representation (WR).

5.3 Essex County Council (REP2-035)

5.3.1 The MMO notes that the WR submitted by Essex County Council addresses concerns relating to Highways, Public Rights of Way, Landscape, Green Infrastructure, Outline Landscape and Ecological Management Strategy, Flood, surface water and drainage, Code of Construction Practice and Cumulative Impacts.

5.3.2 Essex County Council notes that applying the same approach as with the Five Estuaries Windfarm, the Councils would expect the Applicant to include Protective Provisions on highways in the draft DCO, alongside a Framework Highway Agreement. The MMO acknowledges that suggested wordings will be provided to the Applicant for their consideration and subject to the further discussions between the parties.

5.4 Natural England (NE) (REP2-054)

- 5.4.1 NE notes the ExA comments regarding the need for prompt review and continued engagement, however NE highlights its response to the Rule 6 letter in relation to focusing on issue resolution rather than production of a SoCG at this point in the examination.
- 5.4.2 The MMO notes that NE's advice remains unchanged on the basis of the information submitted, that an adverse effect alone or in-combination on the integrity of Stour and Orwell SPA and the Ramsar site can be excluded beyond reasonable scientific doubt. The MMO acknowledges that the features for which outstanding concerns remain are unknown as the impacts are yet to be assessed, and NE will update the Examination on this matter once the Applicant has carried out an assessment.
- 5.4.3 The MMO notes NE's issues with regards to differing project life spans and different timelines for construction relating to the cumulative impact assessments within the Environmental Statement which NE has provided comments on in its RR and WR.
- 5.4.4 NE has addressed the question relating to ornithology/methodology that NE has endorsed but the RSPB does not consider appropriate. NE has provided references to studies relating to macro-avoidance and advised that the evidence base informing the macro-avoidance was likely to be informative in this case and reducing densities considered in Collision Risk Modelling (CRM) was appropriate.
- 5.4.5 NE has addressed the ExA questions relating to Marine Net Gain (MNG) noting that it is not possible to put together a MNG plan, as policy on MNG has not been set out by Government. There is currently no mandatory requirement on developers to deliver net gain below Mean Low Water, but NE would welcome working with developers on any voluntary measures that they would like to deliver in terms of ecological benefits to the marine environment, notwithstanding any existing licensing permissions.
- 5.4.6 NE has detailed its reasoning why it considers there to be an adverse effect on integrity (AeOI) of the Orfordness Shingle Street Special Area of Conservation which is designated for three Annex I coastal habitat types [1150] Coastal lagoons, [1210] Annual vegetation of drift lines and [1220] Perennial vegetation of stony banks. These features are geographically constricted in range and reliant on natural processes to maintain hydrological, morphological and sedimentary functions. Impacts on extent, structure, composition, and spatial distribution could lead to fragmentation and reduce the viability of the habitats to support the diversity of species connected with them. NE notes that the installation and maintenance of a predator exclusion fence and Proposed Compensation Site (PCS), should this be located within the SAC, could result in disturbance and changes within the shingle feature area.
- 5.4.7 NE also advised that AeOI can be ruled out for the Northern Gannet Feature of the Flamborough and Filey Coast SPA and does not seek a derogation case for this species.

5.4.8 NE notes that invertebrates associated with coastal lagoons are a noted feature in the Ramsar citation along with the unique lichen communities of East Anglian beaches and shingle habitats. Evidence would be necessary to ensure that these communities along with other invertebrate and plant assemblages would not be impacted by the installation and maintenance of predator fencing and the management of the PCS area, should that be located within those parts of the Ramsar site that host these features.

5.5 Corporation of Trinity House of Deptford Strond (TH) (REP2-060)

5.5.1 The MMO notes that TH is content with the methodology used to assess the Proposed Development's shipping and navigational risks in the submitted NRA is satisfactory, and data sources within the NRA are suitable.

5.5.2 The MMO notes that TH is content that the Proposed Development. Subject to implementation of management plans and the level of mitigation proposed by the Applicant, reduces the risks to navigational safety to ALARP.

5.5.3 TH is satisfied that the DMLs contained within the dDCO secure necessary commitments to enable safe and practical search and rescue operations.

5.5.4 TH is satisfied with the provisions relating to 'Pre-Construction Plans and Documentation' provide, which are to be found at Schedule 8, Part 2, s.21, Schedule 9, Part 2, s.22, and Schedule 10, Part 2, s.21.

5.6 Environment Agency (EA) (REP2-034)

5.6.1 The MMO notes that EA has no overriding concerns that would prevent it from agreeing to the use of Protective Provisions (PPs) in principle. As of this time EA has not yet been contacted by the Applicant's legal representatives to discuss PPs. EA has requested an amendment to the draft DCO in relation to the standard PPs.

5.6.2 The MMO notes that EA does not agree that the approach to assess flood risk post consent is best practice. EA requests that a flood risk assessment (FRA) should be made to enable decision makers to understand the risk, consider the feasibility of mitigation and consider the weight that should be given in the planning balance.

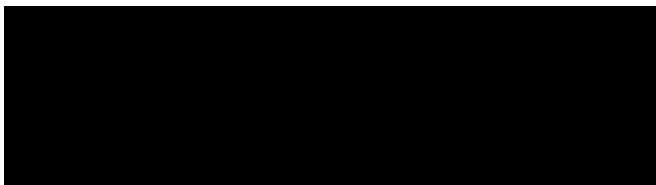
5.6.3 The MMO notes EA's view that the sizing of culverts should be tested through an FRA to understand the risk and feasibility of the mitigation proposed.

5.6.4 The MMO notes that EA does not consent the disapplication of environmental permits for abstraction and dewatering activities. This is a position that applies to all NSIPs in the East Anglia Area and is not unique to this Application. An abstraction licence is only required for abstraction of over 20 cubic metres a day and may also be exempt if the activity is of short duration. This issue may be overcome by applying to the EA for an abstraction licence (or exemption) for this activity. EA recommends that applications are made at the earliest opportunity if the DCO is approved by the Secretary of State.

5.7 Royal Society for the Protection of Birds (RSPB) (REP2-062)

- 5.7.1 The MMO notes RSPB's position that the conservation objective of the Outer Thames Estuary SPA, to maintain the distribution of qualifying features within the site is unlikely to be fulfilled if there are distributional responses (such as displacement) by red throated divers to the presence of turbines.
- 5.7.2 The MMO notes RSPB reasoning with regards to Gannet macro-avoidance Correction Factor which has been set out in its RR. The MMO notes that RSPB does not agree with the approach set out above by Natural England.
- 5.7.3 The MMO acknowledges that RSPB disagrees with the approach of excluding compensated for projects from "in-combination" assessments and has provided reasoning, including that if compensation measures have been required for a project, then that project has been identified as giving rise to potential adverse impacts on the integrity of a protected site.

Yours Sincerely,



Marine Licensing Case Officer

 _____@marinemanagement.org.uk

Copies provided to:

Marine Licensing Senior Case Manager –  _____@marinemanagement.org.uk

Marine Licensing Case Manager -  _____@marinemanagement.org.uk

6. References

Gill., A., Bremner, J., Vanstaen, K., Blake, S., Mynott, F., Lincoln, S. (2025) Limited Evidence Base for Determining Impacts (Or Not) of Offshore Wind Energy Developments on Commercial Fisheries Species. *Fish and Fisheries*, 2025:26;155-170