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

24 June 2025

Dear Wendy McKay,

Planning Act 2008, Proposed North Falls Offshore Wind Farm Project Order Deadline 6 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 (DCO) 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. Schedule 8 includes the deemed marine licence for generation assets. Schedule 9 includes the deemed marine licence for transmission assets, and Schedule 10 includes the deemed marine licence for the offshore converter station element for the transmission assets, should that infrastructure be required.

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 6.



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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,

A large black rectangular redaction box covering the signature area.

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1. MMO Responses to Examining Authority’s (ExA) Questions (ExQ2) Deferred to Deadline 6

1.1 MMO Responses to Examining Authority’s (ExA) Questions (ExQ2)

1.1.1 The MMO provided responses to the Examining Authority’s questions at Deadline 5. Several responses were deferred to Deadline 6 which are included in Table 1 below. The MMO has also provided further clarification to several questions following a meeting with the Applicant held on 11 June 2025. The MMO hopes that for the most part any issues will be resolved, and parties will be able to reach an agreement before the end of examination, anything not agreed will be reflected in the Statement of Common Ground (SoCG) submitted at Deadline 8.

Table 1: MMO Responses to Examining Authority’s Questions (ExQ2)

ExQ2	Question to:	Question:	MMO Response
General and Cross-topic Questions			
Draft Development Consent Order			
Articles Part 2 – Principal Powers			
9.0.3	The Applicant, MMO	<p>Article 5 - Benefit of the Order</p> <p>The applicant’s post hearing summary [REP4-034] includes reference to paragraph 6.23 of the Rampion 2 Decision Letter. The MMO Deadline 4 submissions [REP4-079] acknowledge that decision. However, they assert at 3.1.3 that, as a matter of law, a DCO cannot transfer the benefit of a DML as proposed and draw support from sub-sections 120(3) and 120(4) and Part 1 Schedule 5 PA2008. The ExA notes that sub-section 120(4) sets out that: “The provision that may be made under subsection (3) includes in particular provision for or relating to any of the matters listed in Part 1 of Schedule 5”. That schedule at 30A and 30B includes reference to marine licences but does not specifically mention the transfer of the benefit of such licences. How should this part of the Act be interpreted given the reference to “includes” in section 120(4). Does it render the inclusion of dDCO Article 5 unlawful? Can MMO clarify their position in relation to the Rampion 2 decision and confirm that the same submissions were made</p>	The MMO is still preparing a response and will provide an update at Deadline 7.

ExQ2	Question to:	Question:	MMO Response
		<p>in that case. If not, please identify any differences. Is the MMO asserting that the SoS's decision in that case to retain the equivalent of Article 5 was unlawful?</p> <p>The MMO [REP3-056] Table 1 refers to Schedule 6 paragraph 2(13) and paragraph 5(6) PA2008. The MMO is requested to further explain why, as a matter of law, these provisions preclude the transfer of the benefit of a DML.</p> <p>The applicant is requested to respond to the points made in relation to Schedule 6 PA2008 and indicate whether it accepts that the transfer of the benefit of the Order/DML represents a change to the DCO within the scope of Schedule 6.</p> <p>In the light of the applicant's response to Deadline 3 submissions [REP4-027] does the MMO agree that that there would not be any unnecessary duplication of process, as Article 5 expressly disapplies sections 72(7) and (8) of the 2009 Act; that Article 5(9) carves out the ability for the MMO to amend the DML to correct the name of the undertaker to the name of the transferee or lessee and the Article 5 procedure does not impact the MMO's enforcement capabilities. If not, please explain why?</p>	
Schedules 8, 9 and 10 – Deemed Marine Licences under the 2009 Act			
9.2.1	MMO, MCA, PLA, and London Gateway Port Limited	<p>Depths in the Deep-Water Routes</p> <p>The question of the permissible water depth reduction was discussed at the ISH2. The dDCO (Rev 5) [REP4-004] has been amended at Condition 12 (3) of Schedules 8 and 10 and Condition 13 (3) of Schedule 9 to include further wording in respect of the water depth not being reduced by more than 5% Chart Datum when carrying out maintenance activities. Please confirm if the amendments now made are acceptable and address the concerns raised.</p>	<p>The MMO will review Interested Party responses to this question at Deadline 5 and will liaise if there are any issues.</p> <p>Deadline 6 update</p> <p>The MMO has liaised with the PLA regarding their response submitted at Deadline 5. The MMO notes the concerns raised by PLA in relation to engagement with the Applicant. The MMO is aware from the response by PLA at</p>

ExQ2	Question to:	Question:	MMO Response
			<p>deadline 5 [REP5-111] that the area for deeper cable burial is still not agreed.</p> <p>The MMO notes that the PLA have a number of comments regarding the Outline Navigation and Installation Plan which still need to be addressed.</p> <p>The MMO is aware that the PLA have approached the Applicant on more than one occasion to discuss the matter of Protective Provisions for the PLA and the Applicant has refused to engage with the PLA on this matter. The MMO would encourage the Applicant to engage with the PLA on this matter given the approach to the end of Examination.</p> <p>The MMO is also aware that the PLA plan to include further requirements at Deadline 6 in their submission. The MMO notes that their submission may include DML updates and the MMO is currently reviewing the proposed updates. The MMO is content for the PLA to be included as a consultee within the DML and is reviewing the more detailed proposed DML updates internally.</p> <p>The MMO believes the ongoing issue is for the SoS to decide on and that the MMO should not be in a position post consent to resolve this matter through a plan and the DCO/DML should be updated accordingly. The MMO will provide further comments at Deadline 7 after reviewing all Deadline 6 submissions.</p>

ExQ2	Question to:	Question:	MMO Response
9.2.6	The Applicant	In the MMO's additional submission [AS-051], the MMO comments on the wording of Conditions 12 (4) of Schedule 8 and 10 and Condition 13 (4) of Schedule 9 in respect of the Outline Offshore Operations and Maintenance Plan. Please confirm if the wording proposed by the MMO can be agreed and the conditions amended.	<p>The MMO provided context and background to the Applicant on 15 May 2025.</p> <p>Deadline 6 update</p> <p>The MMO notes from the Applicant's Deadline 5 response that they will be updating the Outline Operations and Maintenance Plan at Deadline 6 to address the concerns raised by the MMO. The MMO welcome this and will review and provide comments at Deadline 7.</p> <p>In relation to the condition wording the MMO is largely content with condition 13 and condition 31.</p> <p>One discussion point has been sent to the Applicant to review after a meeting on 11 June 2025. This is in relation to resubmission of the O&M Plan. Generally, the O&M condition includes a provision for review and resubmission:</p> <p><i>An operations and maintenance plan in accordance with the outline offshore operations and maintenance plan and including a chemical risk assessment must be submitted to the MMO for approval in writing at least six months prior to commencement of the operation of licensed activities and must provide for review and resubmission every three years during the operational phase.</i></p> <p>The MMO notes reporting, including a review is covered within Condition 31 but if there are any changes after this review period these aren't</p>

ExQ2	Question to:	Question:	MMO Response
			<p>linked to a resubmission of the O&M report as per the condition above. The MMO does not propose to include both a review and resubmission every three years in Condition 13 and the annual and 5 year consolidated review due to the onerous nature but would like confirmation that if any changes are identified this would be updated in a new version of the O&M plan.</p> <p>The MMO would highlight due to the length of the operation phase there could be a number of changes required to the plan and each plan would need approved by the MMO.</p> <p>The MMO also believes the following condition should be added to Condition 13:</p> <p><i>(5) No maintenance works whose likely effects are not assessed in the environmental statement may be carried out, unless otherwise approved in writing by the MMO.</i></p> <p>The MMO notes 'shall' is also used within condition 13(4) and this should be updated to 'must'.</p>
9.2.7	The Applicant	<p>Chemicals</p> <p>The MMO set out their position on chemicals in section 4 of their comments on submissions received at the previous deadline [REP3-056]. The applicant is requested to further clarify their position regarding the changes that have been sought by the MMO as set out in [AS-051] to Condition 19</p>	<p>The MMO provided context and background to the Applicant on 15 May 2025.</p> <p>Deadline 6 update</p> <p>The MMO discussed this further with the Applicant's engineers on 11 June 2025 to expand on the reasoning, aiming to alleviate</p>

ExQ2	Question to:	Question:	MMO Response
		(2) of Schedule 8 and 10 and Condition 20 (2) of Schedule 9.	<p>some concerns during the post consent stage. The topic of deregulation of chemicals has been raised by our scientific advisors due to the difference in regulation between the oil and gas industry and offshore wind. All chemicals should be approved for use and all chemicals should be bundled therefore it would be difficult to reach the marine environment.</p> <p>The MMO believes that at this stage of the industry construction most contractors will have a list of chemicals that they are likely to use and there for as part of the chemical risk assessment this should be provided as early as possible. The change in process is for those chemicals that may have a pathway to the environment where we need more information to assess the impact of these should there be a spillage. The MMO would expect that this information could be provided at the same time as the submission of the PEMP.</p> <p>However, if there were any other chemicals then 10 weeks is the standard timeline to review risk assessments, make up of chemicals and carry out any modelling required and liaising between Cefas and the MMO and the Applicant. The MMO notes there are concerns in relation to ad hoc chemicals, there is a potential that we can turn around requests in a shorter period however this would be a case-by-case basis and there is no guarantee therefore we require Applicants and their contractors to think about</p>

ExQ2	Question to:	Question:	MMO Response
			<p>chemical use at the early stages of the pre-construction/construction period.</p> <p>The MMO notes that any ad hoc requests will likely be where something unforeseen and should not be for standard chemicals used routinely. The MMO would highlight that moving forward a number of projects will be constructing at the same time therefore it may be more difficult to accommodate ad hoc requests if all projects submit at a similar time.</p> <p>This is an interim position – the wording “unless otherwise agreed with the MMO” covers any changes that are likely to be made in the future.</p> <p>The MMO is also reviewing the request for standard templates and if we can provide any further guidance with the MMO Strategic Renewables Unit. The MMO notes this may not be possible within the Examination but will continue to liaise with the Applicant through the process.</p>
9.2.8	MMO	<p>Designation of Disposal Sites</p> <p>Please provide an update on the designation of disposal sites with the allocated reference numbers to be included in the DML’s at Condition 19 (5) of Schedules 8 and 10 and Condition 20 (5) of Schedule 9.</p>	<p>The MMO is aware of ongoing discussion between North Falls Offshore Wind Farm Limited and Five Estuaries Offshore Windfarm Limited regarding the disposal site characterisation. The MMO has provided further clarification in disposal site designation in its Deadline 4 response.</p> <p>Deadline 6 update</p> <p>The MMO received the shape file from the Applicant and has provided further comments on</p>

ExQ2	Question to:	Question:	MMO Response
			the updated Site Characterisation Report [REP4-013] in Section 5 below.
9.2.9	MMO and the Applicant	<p>Post Construction Monitoring</p> <p>Please provide an update as to the ongoing discussions in respect of Condition 27 (2)(a) of Schedules 8 and 10 and Condition 28 (2) (a) of Schedule 9 relating to post construction monitoring and whether it is anticipated that an agreement will be reached before the end of the examination.</p>	<p>Due to resourcing issues across the MMO and Statutory Nature Conservation Bodies (SNCBs), and taking into account the Applicant's comments, there is still not agreed wording to present.</p> <p>The MMO provided context and background to the Applicant on 15 May 2025 with the potential of having a commitment to discuss this post consent during the design confirmation stage and will review the Applicant's response submitted at Deadline 5.</p> <p>Deadline 6 Update</p> <p>Discussions are still taking place between the MMO and NE in relation to the wording and worst-case piles, however there are several changes required to align with the requirement post consent below:</p> <p>(1) The writing in red are the proposed changes. The undertaker must, in discharging condition 20(1)(c) for each stage of construction, submit details (which accord with the offshore in principle monitoring plan) for approval in writing by the MMO in consultation with the relevant statutory nature conservation bodies of any proposed monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results to be</p>

ExQ2	Question to:	Question:	MMO Response
			<p>carried out during the construction of the authorised scheme. The monitoring proposals must specify each monitoring proposal's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.</p> <p>(2) The construction monitoring plan must include:</p> <ol style="list-style-type: none"> 1. No changes (b) where piled foundations are to be employed, unless otherwise agreed by the MMO in writing, details of proposed monitoring of the noise generated by the installation of the first four piled foundations of each piled foundation type to be constructed collectively under this licence and the deemed marine licences granted under Schedules 9 and 10 of the Order <p>(3) The undertaker must carry out the surveys specified within the approved construction monitoring plan or plans in accordance with that plan or plans, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in</p>

ExQ2	Question to:	Question:	MMO Response
			<p>writing by the MMO in consultation with the relevant SNCB.</p> <p>(4) The results of the initial underwater sound measurements monitored in accordance with sub-paragraph (2)(b) must be provided to the MMO within six weeks of the installation of the first four piled foundations. If, in the reasonable opinion of the MMO in consultation with the SNCB the monitoring carried out pursuant to condition 26(2)(b) above shows impacts significantly in excess different to those assessed in the environmental statement and or there has been a failure of the mitigations set out in the marine mammal mitigation protocol, all piling activity must cease until either contingency measures approved within the marine management mitigation protocol have been implemented or an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.</p> <p>In relation to the six-week timescale - if it is identified while compiling the report that there has been a larger impact or the mitigation has failed, we would need to know prior to receiving the report to ensure changes are implemented for the remaining piling. The MMO is continuing discussions with the Applicant and NE on</p>

ExQ2	Question to:	Question:	MMO Response
			wording that would allow for this notification as part of the condition.
O			
Socio-economic Effects			
16.01	MMO	<p>Commercial Fisheries – sufficiency of mitigation For commercial fisheries, could the Marine Management Organisation (MMO) advise: Has the mitigation shown in ES Chapter 14 Commercial Fisheries [APP-028] Table 14.4 and ES Chapter 11 Fish and Shellfish Ecology [APP-025] Table 11.3 been designed sufficiently to enhance where reasonably possible any potential medium and long-term positive benefits to the fishing industry, commercial fish stocks and the marine environment? Whether there are any additional mitigation measures and/or safeguards necessary, to include project alone and cumulative effects?</p>	<p>There is limited evidence to suggest that the proposed mitigation will deliver or enhance any medium- or long-term positive benefits to the fishing industry or commercial fish stocks. While the measures listed do provide mechanisms to mitigate potential negative impacts on the fishing industry and commercial fish stocks, there is no indication that they will result in positive enhancements.</p> <p>The implementation of Fisheries Liaison Officers and a Fisheries Liaison and Coexistence Plan may improve communication and coexistence planning, potentially fostering collaboration that could support future enhancements during remedial, maintenance, or decommissioning activities.</p> <p>Consideration should be given to the potential introduction of further fisheries management measures within Marine Protected Areas (MPAs) under Stages 3 and 4 of the assessment and management process for fishing in offshore MPAs.</p> <p>Chapters 11 and 14 identify MPA sites and existing fisheries management measures but do not acknowledge ongoing activities by Defra and the MMO that may lead to the introduction of new management measures in these areas in</p>

ExQ2	Question to:	Question:	MMO Response
			<p>the near future.</p> <p>Stage 3 sites proposed management measures are currently undergoing public consultation, while Stage 4 sites have not received any further public updates following the call for evidence which closed in February 2024.</p> <p>The MMO notes that the proposed mitigation is in line with other wind farm projects.</p> <p>The MMO defers to NE in relation to the mitigation for the marine environment.</p>

2. Comments on Applicant's Response to Deadline 3 Submissions and Deferred Responses from Deadline 2 [REP4-027] deferred to Deadline 6

2.1 REP3-056_g – Q9.4.3 Condition 21 Pre-construction plans and documentation

2.1.1 The MMO is largely content with the information within the outline Cable Specification and Installation Plan. It would be beneficial to have the worst-case figures within table within the plan but notes this would be updated post consent to show the activities against the consented parameters.

2.1.2 We may provide further comments at Deadline 7.

3. Comments on Applicant's Response to the Marine Management Organisation Additional Submission [AS-051] [REP4-027]

Draft DCO DML

3.1 AS-051_h – MMO-68 - notification

3.1.1 The MMO has provided further clarification of their position on this point during a meeting held with the Applicant on 11 June 2025. The MMO explained that the reason that 14 day notification is required is to ensure that the coastal enforcement team have enough time to prepare a desk-based assessment with the post consent Applicant lead, with an understanding of the plans and schedule of works.

3.1.2 The MMO recommends that the Applicant provides the MMO local office a Gantt chart of when works are likely to be undertaken in the first instance to ensure that any compliance checks are undertaken when the works are being undertaken.

3.1.3 In addition to this the MMO requests a minor update to the condition to ensure all instances of activities are taken into account within the condition:

*'(6) The undertaker must inform the MMO Local Office in writing at least ~~five~~ 14 days prior to the commencement of the licensed activities **or any part of them** and within five days of the completion of ~~the~~ **each** licensed activity.'*

3.2 AS-051_h – MMO-72 - notification

3.2.1 The MMO discussed this requirement further during a meeting held with the Applicant on 11 June 2025. The MMO explained that the reason that 14 day notification is required is to ensure that the coastal enforcement team have enough time to prepare a desk-based assessment within the operational phase.

3.2.2 From current experience the MMO believes that any major cable repair work would take longer than 14 days to mobilise and for works to commence therefore does not believe this is an onerous request. The MMO believes that a notice to mariners would need to be issued to get collect their gear as well and if weather is bad this would have to be a reasonable notice. Although the MMO doesn't consult on this condition we do inform other consultees at the post consent stage such as Natural England, so they are aware of the activities taking place.

3.2.3 If there are concerns, then unless otherwise agreed in writing could be added to the condition to allow for a reduced timeline where required.

3.3 AS-051_h – MMO-77

3.3.1 The MMO has provided comments on the site characterisation report in Section 5 of this document. The MMO has received an updated shape file for the disposal site designation and continues to work with the Applicant on this process and is hopeful this will be resolved for the final DML.

3.4 AS-051_I – MMO-100

3.4.1 The MMO welcomes the updates to the Outline Fisheries Liaison and Coexistence Plan submitted at Deadline 4 and is content with these updates and this has resolved the original comments. The MMO will maintain a watching brief on any further updates.

3.5 AS-051_r – MMO-164

3.5.1 The MMO welcomes the commitment by the Applicant to a piling restriction to cover the Down herring spawning period from 1 November to 31 January. The MMO further discussed the wording for the final condition with the Applicant on 11 June 2025. The MMO understands the Applicant is going to update the DML at Deadline 6 to include the wording proposed in our response at Deadline 5. The MMO welcomes these updates.

4. Comments on Applicant's Response to the Marine Management Organisation's comments on any submissions received at the previous deadline [REP5-056]

4.1 REP4-079_e – 1.5 Comments on the Applicant's Response to Natural England's Comments on EXQ1 [REP2-054]

4.1.1 The MMO notes the Applicant's response and has no further comments.

4.2 REP4-079_g - Article 5 Transfer of benefit (Para 3.1.2-3.1.8)

4.2.1 The MMO is still preparing a response and will provide an update at Deadline 7.

4.3 REP4-079_i - 4.1 Comments on Applicant's Response to MMO comment regarding Underwater noise policy papers [REP3-039] (Para 4.1.1-4.1.4)

4.3.1 The MMO welcomes the update to the MMMP and SIP document.

4.3.2 The MMO notes that NE still require further commitment within the DML and will continue to be part of any discussions on the wording.

4.4 REP4-079_j - 4.2 Comments on the updated Draft Marine Mammal Mitigation Protocol (MMMP) [REP3-014 – Tracked] (Para 4.2.1-4.1.17)

4.4.1 The MMO welcomes the update to the MMMP and SIP document.

4.4.2 The MMO highlights that for Dogger Bank A and Dogger Bank B piling they were able to provide further information as part of the final MMMP with detail on the design to agree an alternative soft start procedure. At this stage the guidance should be followed as standard and when the design and further information can be provided within the final MMMP post consent then this can be reviewed and amended as appropriate. This matter is still an area of disagreement.

4.4.3 The MMO is content with the plots for Comparable Hammer Strike Energies provided in Appendix B.

4.5 REP4-079_m - 5.3 Disposal Sites (Para 5.3.1-5.3.2)

4.5.1 The MMO has received the updated disposal site shapefile from the Applicant and is in the process of designating the site noting further information within the site characterisation report is required.

5. Comments on the updated Site Characterisation Report [REP4-013]

5.1 Comments

- 5.1.1 The sediment contaminant analysis for trace metals (including arsenic) appears incorrect (paragraph 35 of REP4-013). This may be due to the Action Levels (ALs) in Table 2.1 of REP-013 being incorrectly entered for all of the trace metals and with both AL1 and AL2 values switched. As per previous advice in which sediment sampling and analysis was reviewed (REP4-079), eight samples are greater than AL1 for arsenic and three samples are greater than AL1 for nickel, however all levels are below their corresponding AL2 and the levels in all remaining samples for metals are below AL1.
- 5.1.2 The MMO notes that the Applicant also undertook analysis of polychlorinated biphenyls (PCBs) which has not been included in section 2.2.1.
- 5.1.3 The MMO does not believe the edits to the site characterisation report asked for by the MMO (Section 5 of REP4-079 and via email on 24 April 2025) have taken place. Paragraph 94 (REP4-013) states that “there is no overlap of the offshore project area with open disposal sites”, but given the previous consultation the ECC will overlap with the Five Estuaries ECC (TH019) disposal site. It is stated in paragraph 89 that “within the study area, Five Estuaries, an extension to GWF [Galloper Wind Farm] being developed by RWE [RWE Renewables UK Swindon Limited], submitted a DCO application in March 2024 and concluded examination on 17 March 2025”.
- 5.1.4 However, there is no mention of the use of the same disposal site, or amending the current disposal site, as stated by the MMO as options for the disposal site. The only other reference to Five Estuaries is in paragraph 11 in relation to the national grid connection point (see Annex I). The MMO notes that discussions with Five Estuaries were still taking place and requests that these updates are now made to the report to provide justification in the overlapping area.

6. MMO Additional Comments on the Draft Development Consent Order (dDCO) (Rev 6) [REP5-008]

6.1.1 The MMO has reviewed the dDCO submitted at deadline 5 and has the following comments to make in Table 2.

Table 2: Additional comments on Draft DCO and DMLs

Issue		MMO Response
Schedule 2		
5	<p>Article 5 - Benefit of the Order</p> <p>The applicant's post hearing summary [REP4-034] includes reference to paragraph 6.23 of the Rampion 2 Decision Letter. The MMO Deadline 4 submissions [REP4-079] acknowledge that decision. However, they assert at 3.1.3 that, as a matter of law, a DCO cannot transfer the benefit of a DML as proposed and draw support from sub-sections 120(3) and 120(4) and Part 1 Schedule 5 PA2008. The ExA notes that sub-section 120(4) sets out that: "The provision that may be made under subsection (3) includes in particular provision for or relating to any of the matters listed in Part 1 of Schedule 5". That schedule at 30A and 30B includes reference to marine licences but does not specifically mention the transfer of the benefit of such licences. How should this part of the Act be interpreted given the reference to "includes" in section 120(4). Does it render the inclusion of dDCO Article 5 unlawful?</p> <p>Can MMO clarify their position in relation to the Rampion 2 decision and confirm that the same submissions were made in that case. If not, please identify any differences. Is the MMO asserting that the SoS's decision in that case to retain the equivalent of Article 5 was unlawful?</p> <p>The MMO [REP3-056] Table 1 refers to Schedule 6 paragraph 2(13) and paragraph 5(6) PA2008. The MMO is requested to further explain why, as a matter of law, these provisions preclude the transfer of the benefit of a DML.</p>	The MMO is preparing a response and will respond at Deadline 7.

Issue		MMO Response
	<p>The applicant is requested to respond to the points made in relation to Schedule 6 PA2008 and indicate whether it accepts that the transfer of the benefit of the Order/DML represents a change to the DCO within the scope of Schedule 6.</p> <p>In the light of the applicant's response to Deadline 3 submissions [REP4-027] does the MMO agree that that there would not be any unnecessary duplication of process, as Article 5 expressly disapplies sections 72(7) and (8) of the 2009 Act; that Article 5(9) carves out the ability for the MMO to amend the DML to correct the name of the undertaker to the name of the transferee or lessee and the Article 5 procedure does not impact the MMO's enforcement capabilities. If not, please explain why?</p>	
Schedule 8, 9 & 10 – Deemed Marine Licenses – Part 1 Definitions		
Definitions	<p>“commence” means the first carrying out of any licensed marine activities authorised by this marine licence, save for pre-construction surveys and monitoring approved under this marine licence and the activities set out in paragraph 2(d), and “commenced” and “commencement” must be construed accordingly;</p>	<p>The MMO requests that the Applicant consider adding in extra wording in bold:</p> <p><i>“commence” means the first carrying out of any licensed marine activities authorised by this marine licence, save for any operations consisting of pre-construction surveys and monitoring approved under this marine licence and the activities set out in paragraph 2(d), and “commenced” and “commencement” must be construed accordingly;</i></p>
	<p><i>“commissioning” means the process of assuring that all systems and components of the authorised development are tested to verify that they function and are operable in accordance with the design objectives, specifications and operational requirements of the undertaker;</i></p>	<p>The MMO notes that this definition is different to that of the DCO and questions if “design objectives” needs defining separately?</p>
	<p><i>“the Order limits”</i></p>	<p>The MMO requests that ‘the works plans’ is linked to a certified plan with similar wording</p>

Issue		MMO Response
		within the definition – e.g. the works plans (offshore) or offshore Order limits plan.
	<i>“outline navigation and installation plan” (Schedule 9 only)</i>	The definition for outline Navigation and installation plan in the main body DCO is slightly different as it says ..” means the plans certified” as opposed to “means the documents ”. The MMO requests that these definitions are aligned.
Schedule 8, 9 & 10 – Deemed Marine Licenses – Part 1 Details of licensed activities		
2(g)	wet storage	The MMO requests that the Applicant highlights where wet storage has been assessed within the ES. Although usually of temporary in nature this should be clearly assessed, and maximum deposit figures should be within the assessments.
3	Para after (b) – schedule 8	The MMO notes a slight variation of the same paragraph in Schedule 9 and 10 and requests the addition of the extra wording in bold: <i>“In connection with Work No. 1 and to the extent that they do not otherwise form any part of that work, further associated development of that work within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence including—”</i>
Schedule 8, 9 & 10 – Deemed Marine Licenses - Part 2 Conditions		
	Maintenance of authorised development	

Issue		MMO Response
12(4) - sch 8 & 10 13 (4) - sch 9	<i>“An operations and maintenance plan substantially in accordance with the outline offshore operations and maintenance plan ...”</i>	The MMO notes the word substantially is used in this condition but not in any other condition within the DMLs. The MMO requests clarification of the use of this word and if it is necessary?
	Notifications and Inspections	
15 16 – Sch 9	New condition	<p>The MMO requests that the following clause is also added to these conditions to ensure that the MMO is notified if any false or misleading information was found to be used within the Application.</p> <p><i>(15) Should the undertaker become aware that any of the information on which the granting of this licence was based was materially false or misleading, the undertaker must notify the MMO local office of this fact in writing as soon as is reasonably practicable. The undertaker must explain in writing what information was materially false or misleading and must provide to the MMO the correct information.</i></p>

7. MMO Responses to Interested Party (IP) Submissions at Deadline 5

7.1 MMO Responses to London Gateway Port Limited (LGPL) submission at Deadline 5 (REP5-096)

7.1.1 The MMO notes the principal concerns raised by LGPL in their submission that are detailed in [REP2-041] that:

- the dDCO must contain an absolute parameter to ensure that the Applicant's cables or their protection are not laid at too shallow a depth as to preclude the use of the Deep Water Routes (DWRs) by certain vessels or interfere LGPL's statutory undertaking or its powers to dredge under the HEO; and;
- the methodology for carrying out the Applicant's works, in particular Work No. 3 must not give rise to unacceptable permanent or temporary impacts on navigation to and from London Gateway Port.

7.1.2 The MMO notes that the LGPL fundamentally disagrees with the removal of Protective Provisions.

7.1.3 The MMO note the comments made by LGPL in points 19-21 in relation to the MMO being the appropriate regulator. The MMO understands that the LGPL position that they request the right to approve plans such as the final CSIP and final NIP before they are submitted to the MMO for approval. The MMO would welcome this approach and would stress that the MMO believes the issues should be resolved at this stage as part of the consenting decision process and should be a matter of the SoS to make a decision, if there is no agreement.

7.2 MMO Responses to Maritime and Coastguard Agency (MCA) Responses to EXQ2 submission at Deadline 5 (REP5-100)

7.2.1 The MMO notes the MCA's further clarifications relating to the use to the Galloper Recommended Route and the legal consequences of not formally removing it prior to the commencement of development.

7.2.2 The MMO notes that until any formal removal or amendment is in place, any vessel operating in the area may continue to use this route as it remains an IMO adopted recommended route.

7.2.3 The MMO also notes that the Applicant was informed of the constraints associated with the Galloper Recommended Route throughout the planning process. At the request of the navigational consultants, the MCA provided indicative timelines expected for any potential application to remove or amend the route on several occasions prior to submission.

7.2.4 The MMO understands that the MCA are of the opinion that the DCO, if granted, should include the condition as proposed by MCA. This condition would ensure that the formal removal of the Galloper Recommended route is confirmed before commencement of any offshore construction that would directly interact with the IMO adopted route. Failing to do so would in our opinion be inconsistent with the requirements of the National Policy Statement EN-3 Section 2.8.326 and subsequently Sections 104(4) and (5) of Planning Act 2008.

7.2.5 The MMO understands the position of the MCA that although route may be considered of reduced strategic importance, it nonetheless retains its status as a recognised sea lane adopted by the International Maritime Organisation and currently in use for international navigation. The MCA is of the opinion that the condition requiring the removal of the scheme should be included in the DCO. This is necessary to ensure minimum interaction and interference with a recognised sea lane still in use for international navigation.

7.2.6 The MMO would support this position and will maintain a watching brief on any potential updates.

7.3 MMO Responses to Natural England (NE) Appendix B5 submission at Deadline 5 (REP5-104)

7.3.1 The MMO understands that further clarification is needed on the following points:

- Fine-scale model resolution and ability to predict near-field effects at the Special Area of Conservation (SAC) and Marine Conservation Zone (MCZ).
- Relating predicted changes in bed shear stress and tidal current speeds to absolute baseline bed shear stress and threshold for sediment entrainment for different sediment fractions
- Bed shear stress change results considered in relation to impacts on erosional and depositional processes near and on the seabed, seabed morphology, and seabed sediment composition at the key areas of interest/receptors (e.g. Margate and Long Sands Special Area of Conservation (MLS SAC), Kentish Knock East Marine Conservation Zone (KKE MCZ), nearshore, offshore sandbanks
- Worst Case Scenario (WCS) impacts on the KKE MCZ due to clay disposal
- WCS cable protection adjacent to MLS SAC and nearshore and consideration of confirmed WCS in terms of changes to sediment transport processes/potential
- WCS sediment disposal impacts (including clay) near KKE MCZ and MLS SAC
- Model results considered in the context of cumulative effects with other nearby projects

7.3.2 The MMO understands that NE considers that if this additional information, interpretation of model results and/or clarification can be provided it will address the concerns raised in this document.

7.4 MMO Responses to Natural England (NE) Appendix E5 submission at Deadline 5 (REP5-106)

7.4.1 The MMO notes the comments made by NE in relation to [REP3-014] Draft MMMP. The MMO have provided their own comments above in section 4.4.

7.5 MMO Responses to Natural England (NE) Appendix F5 submission at Deadline 5 (REP5-107)

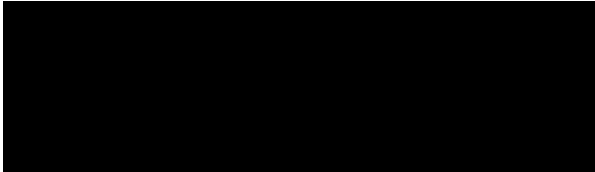
7.5.1 The MMO note the requests made by NE to re-submit updated in-combination assessments and re-run Population Viability Analysis (PVA) results for guillemot and razorbill at the Flamborough Filey Coast Special Protection Area (FFC SPA), however like NE, recognise the limited time available in Examination.

7.6 MMO Responses to Natural England (NE) Appendix H5 submission at Deadline 5 (REP5-108)

7.6.1 The MMO notes that NE welcomes that detailed design, and surveys will be undertaken post consent/pre-construction. The MMO notes that NE considers that these should be secured within the DCO and acknowledge the suggestion made by NE that these may best sit within the Schedule for the compensatory measures.

7.6.2 The MMO notes the further considerations requested by NE specific to the HRA which the MMO would hope can be resolved by the end of examination.

Yours Sincerely,



Marine Licensing Case Officer



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