



Application by North Falls Offshore Wind Farm Ltd for an Order Granting Development Consent for the North Falls Offshore Wind Farm

The Examining Authority's schedule of proposed changes to the draft Development Consent Order (dDCO)

Issued on 1 July 2025

This document sets out the Examining Authority's (ExA) proposed changes to the latest version of the Applicant's dDCO submitted at Deadline 5 of the Examination [REP5-008]. Suggested deletions of text are shown using double strike through, eg ~~abcd~~, while any changes to or insertions of text are should in bold black text, eg **abcd**.

The numbering for Articles and Requirements etc used below follows that used in the Deadline 5 version of the dDCO. The Applicant **MUST** renumber the Articles and Requirements, as necessary, when it issues its final version of the dDCO and thus remove any 'holding' numbers that have been retained to date only to assist with maintaining consistency of numbering between the various versions of the dDCo that have been submitted.

	ExA's Proposed Changes	ExA's Reasoning
Articles		
	General – is there consistency in the use of 'paragraph' and 'sub-paragraph' throughout the draft DCO?	For example, Part 2 Principal Powers 4(2) refers to paragraph (1) whereas Part 3 Requirements 4(3) refers to sub-paragraph 2. The ExA considers that consistency is necessary.
Article 2	The definition of the "noise investigation protocol" referred to in Requirement 17 needs to be inserted.	The ExA considers that consistency with the convention to define documents is necessary.



Article 2 – Interpretation	<p>ECC requests the following definition to be added:</p> <p>“the 1984 Act” means the Road Traffic Regulation Act 1984.</p>	The ExA considers this change to be reasonable because ‘1984 Act’ is referred to in Article 14 but has not been defined.
Article 6 - Application and modification of legislative provisions (f)	ECC request the deletion of ‘Essex County Council Act 1987’ and replace with ‘Essex Act 1987’	The ExA considers this change to be reasonable
Article 8 - Street Works	<p>ECC requests that for 8(1) the bullet points read as follows:</p> <p>(a) break up or open the street, or any sewer, drain or tunnel within or under it;</p> <p>(b) tunnel or bore under the street;</p> <p>(c) place and keep apparatus in the street remove or use all earth and materials in or under the street;</p> <p>(d) maintain apparatus in the street or change its position; and place and keep apparatus in or under the street;</p> <p>(e) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (d) maintain apparatus in or under the street or change its position; and</p> <p>(f) execute any works required for or incidental to any works referred to in sub-paragraphs (a)</p>	The ExA considers this change to be reasonable



	to (e).	
Schedule 1 Part 4 – Paragraph 34 Fees	(2) Any fee paid under this Schedule must be refunded to the undertaker within four weeks of the application being rejected as invalidly made.	The ExA considers this change proposed by ECC to be reasonable.
Schedule 2 Requirements		
Requirement 2 (3)	<p>“(3) Any part of Work No. 3 and any associated development the authorised development located within the following areas shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan, must be designed, installed, operated and maintained at a level which would not preclude or impede dredging:</p> <p>(a) of the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer, to a level of 22 metres below Chart Datum;</p> <p>(b) of the area shown shaded in pink and labelled Trinity – Trinity DW Buffer, to a level of 22 metres below Chart Datum; and</p> <p>(c) to the area shown cross hatched purple and labelled Sunk B – Sunk DW Buffer, to a level of 19 metres below Chart Datum.</p> <p>(4) The undertaker must not carry out wet storage or relocate any boulders or archaeological finds to or within the three areas referred to in paragraph (3).”</p>	The ExA considers this change to be reasonable and necessary.



Requirement 3 – Aviation Safety	“(3) The lights installed in accordance with sub- paragraph (1) will be operated at the lowest permissible lighting intensity level.”	Reference should be to “sub-paragraph” rather than “paragraph” to ensure consistency with the terminology used in other requirements in Schedule 2.
Requirement 5 – Substation works	“(d) external hard surfacing materials; (e) the dimensions, external colour and materials used for the buildings; (f) security fencing, height, colour and materials ;	The proposed changes would aid precision and hence enforceability.
Requirement 15 – Ground water monitoring	15.—(1) No stage of the onshore works for which a groundwater monitoring plan is required, may commence in accordance with the outline groundwater monitoring plan, must be commenced until, for that stage, a groundwater monitoring plan produced substantially in accordance with the Groundwater Risk Assessment and Monitoring Plan – Private Water Supplies and Licenced Abstractions has been submitted to and approved by the discharging authority. (2) Sub-paragraph (1) does not apply to any works or surveying and investigation necessary to inform the preparation of a groundwater monitoring plan. (3) The undertaker shall implement the Any plan approved plan under sub-paragraph (1) must be implemented as approved.	The ExA consider this change is reasonable and is consistent with Five Estuaries OWF dDCO [REP8A-004], but with updated references to Groundwater Risk Assessment and Monitoring Plan – Private Water Supplies and Licenced Abstractions [REP5-049 to REP5-052].



Requirement 17 - Control of noise during operational stage	17 (2) Prior to the commencement of operation of Work No. 11, the undertaker will consult and agree with Five Estuaries and National Grid a noise investigation protocol must to be submitted to and approved by the discharging authority. The noise investigation protocol must identify how the undertaker, Five Estuaries and National Grid will jointly investigate noise and must be substantially in accordance with the outline noise investigation protocol certified under this Order. The operation of Work No 11 must be carried out in accordance with the approved noise investigation protocol at all times .	<p>In the interests of precision and enforceability, and consistency with the approach throughout the DCO for outline plans to be developed into final plans.</p> <p>The ExA considers this change, which includes changes requested by ECC, to be reasonable and necessary.</p>
Requirement 18 – Skills and Employment Plan	“(2) The authorised development must be implemented in accordance with the approved skills and employment plan.”	The substitution of “authorised development” for “skills and employment plan” is in the interests of precision and enforceability and better reflects the purpose of the requirement.
Requirement 20 - Reuse of temporary works with the onshore works for Five Estuaries	“... (1) In the event that any temporary works which have been constructed pursuant to any development consent order that may be made by the Secretary of State in relation to Five Estuaries are proposed to be reused by the undertaker in connection with the authorised development, such reuse may must not be commenced until a written scheme which accords with paragraph (2) has been submitted	In the interests of precision and enforceability, and consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004].



	to and approved by the discharging authority. ...	
Requirement 25	"25. No The offshore works may must not be commenced until a written decommissioning programme	In the interests of precision and enforceability.
Requirements 8, 12, 15, 22, 23	<p>Requirements 8, 12, 15, 22, 23 need to include Environment Agency as a named consultee.</p> <p>Requirement 8: Insert "and Environment Agency." after "in consultation with Natural England"</p> <p>Requirement 12: Insert "and Environment Agency." after "in consultation with Natural England"</p> <p>Requirement 15: Insert "in consultation with Environment Agency." after "approved by the discharging authority"</p> <p>Requirement 22: Insert "in consultation with Environment Agency." after "approved by the discharging authority"</p> <p>Requirement 23: Insert "and Environment Agency." after "in consultation with Natural England"</p>	<p>The Environment Agency [REP5-088] states that it should be added as a named consultee in Requirements 8, 12, 14, 15, 22, 23 to ensure the discharge of details sought by each of the stated Requirements will be as effective as possible. The ExA considers that the Environment Agency should be included as named consultee in Requirements 8, 12, 15, 22 and 23:</p> <ul style="list-style-type: none"> • Code of construction practice – Requirement 8 • Ecological management plan – Requirement 12 • Groundwater monitoring – Requirement 15 • Operational Drainage Strategy - Requirement 22 • Horizontal directional drilling method statement – Requirement 23 <p>The inclusion of Environment Agency as a named consultee ensures that the EA can comment on construction practices affecting watercourses (R8, R15, R22, and R23) and enable EA to be consulted on the Ecological Management Plan due to its role</p>



		in enhancing biodiversity. The suggested change is therefore deemed necessary in these cases.
New	Galloper Recommended Route “The offshore works element of the authorised development shall not commence until receipt of written confirmation from the Maritime Coastguard Agency that the removal of the Galloper Recommended Route has been unconditionally approved by the International Maritime Organisation.”	In the interests of maritime and navigational safety. The prior removal of the Galloper Recommended Route is regarded as an essential prerequisite to the commencement of the offshore works element of the proposed development.
New	Operational Lifetime – Requirement A requirement or condition needs to be added to ensure project does not exceed the operational lifetime considered within the Environmental Statement. Amend accordingly.	Natural England has requested the DCO include this provision. The requested inclusion seems reasonable.
Schedule 8, 9 and 10– Deemed Marine Licences (DMLs)		
Part 1 – Preliminary Interpretation (2)(1). Schedule 8, 9 and 10	Part 1 – Preliminary Interpretation (2)(1). The height of Mean High-Water Springs (MHWS) is the average throughout the year, of two successive high waters, during a 24-hour period in each month when the range of the tide is at its greatest (Spring tides). Such period of time is not reflected in the Applicant’s current wording and therefore is requested to be amended.	The rationale of the MMO appears to be correct in that the period should be reflected into the definition. For accuracy and precision.



	This should be reflected elsewhere in the DCO.	
Schedule 8, 9 and 10	<p>Within the DMLs there does not appear to be any requirement to notify the MMO with regard to which build option has been chosen.</p> <p>The MMO should be notified of the selected option. Add such a requirement/condition.</p>	As Five Estuaries is yet undetermined consideration should be given for both projects to capture a requirement to co-ordinate on the onshore cable works. Including provisions for co-operation and for notification to the MMO as offshore enforcing body of the build option selected. It should be included in the interests of achieving wider ecological protection effectiveness.
<p>Part 1 – Preliminary Interpretation (2)(1).</p> <p>Schedule 8, 9 and 10</p>	<p>Part 1 - Licenced Marine Activities interpretation for DML 1 – DML 3</p> <p>“jacket foundation” meaning requires an update to make it more detailed relative to the scheme applied for. For example, jacket foundation in other NSIPs <i>means a lattice type structure constructed of steel which is fixed to the seabed at [3 or more points with steel pin piles or steel suction buckets] and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms.</i></p>	The rationale of the MMO appears to be correct in that the present definition could be better expressed.
Part 2 – Conditions – Maintenance of the authorised development DML Condition 12 (4)	The word ‘substantially’ should be removed.	For clarity and precision. And because there is no definition of ‘substantially’ to rely upon.
Part 2- Conditions – Condition 21 Pre-construction plans and documentation	Condition 21 (1) (m) should be amended to give an individual timing requirement to be submitted no later than 6 months prior to the commencement of pilling.	NE/MMO advises this condition should be amended to give an individual timing requirement to be submitted no sooner than 9 months and no later than 6 months prior to commencement of



		piling. Following NE and MMO responses the ExA notes that if documents is submitted to early, it may be rejected/require multiple updates. However, the applicant's response about creating unnecessary delays in any critical infrastructure delivery programme otherwise seem to be reasonable – the revised condition seeks to prevent such circumstances.
Schedule 8, Part 2, para 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 of this fact in writing as soon as is reasonably practicable. The undertaker must explain in writing what information was material false or misleading and must provide to the MMO the correct information."	New condition to be added to para 15, as requested by the MMO to ensure that they are notified of any false or misleading information found or used in the Application.
Schedule 8 Part 3 Condition 21 (1) (m)	This condition should be amended to give an individual timing requirement to be submitted no later than 6 months prior to commencement of piling.	Due to the need to appropriately consider in-combination impacts of other developments it is important that the Site Integrity Plan (SIP) should not be submitted too early. Natural England advises this condition should be amended to give an individual timing requirement to be submitted no sooner than 9 months and no later than 6 months prior to commencement of piling. However, the applicant's response about creating unnecessary delays in any critical infrastructure delivery programme otherwise seem to be reasonable – the



		revised condition seeks to prevent such circumstances.
Schedule 8 Part 2 Condition 25	The monitoring conditions seem to only cover benthic monitoring. Ornithological and marine mammal monitoring should also be requirements/conditions due to the potential for impact.	The ExA is mindful Natural England still noted at Deadline 5 that ornithological and marine mammal monitoring should also be requirements due to the potential for impact. In accordance with best practice.
Schedule 8 Part 2 Condition 27 and 28	Marine mammal monitoring should be included in the Condition.	<p>The ExA is mindful Natural England notes that this condition does not have provision for marine mammal monitoring. Further, the recent SoS decision for SADEP approved the following recommendation from NE and the MMO for particular impacts requiring remediation or further mitigation works.</p> <p>For reference only:</p> <p><i>(7) In the event that the reports provided to the MMO under sub-paragraph (4) identify impacts which are unanticipated and or beyond those predicted within the Environmental Statement and the Habitats Regulations Assessment an adaptive management plan to reduce effects to within what was predicted within the Environmental Statement and the Habitats Regulations Assessment, unless otherwise agreed by the MMO in writing, must be</i></p>



		<i>submitted alongside the monitoring reports submitted under subparagraph (4). This plan must be agreed by the MMO in consultation with the relevant statutory nature conservation bodies to reduce effects to an agreed suitable level for this project. Any such agreed and approved adaptive management or mitigation should be implemented and monitored in full to a timetable first agreed in writing with the MMO. In the event that this adaptive management or mitigation requires a separate consent, the undertaker shall apply for such consent. Where a separate consent is required to undertake the agreed adaptive management or mitigation, the undertaker shall only be required to undertake the adaptive management or mitigation once the consent is granted.</i>
Schedule 9 – Part 1 (1)	"Areas of Interest" means any part of those areas shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan;	The ExA considers that consistency with the convention to provide definitions is necessary.
Schedule 9 – Part 1 (5)	(j) Port of London Authority London River House Royal Pier Road Gravesend 7 Kent	The ExA considers this change is necessary and for consistency with other organisations' contact details being included in the dDCO.



	DA12 2BG Tel: 01474 562200	
Schedule 9 – Part 2, Condition 10	<p>New Requirement (as proposed to be amended for Schedule 2 Requirement 2 (3)) should be included in the DML Schedule 9 at condition 10 as sub-paragraphs (4) and (5).</p> <p>“(4) Any part of the authorised development located within the following areas shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan, must be designed, installed, operated and maintained at a level which would not preclude or impede dredging: (a) of the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer, to a level of 22 metres below Chart Datum; (b) of the area shown shaded in pink and labelled Trinity – Trinity DW Buffer, to a level of 22 metres below Chart Datum; and (c) to the area shown cross hatched purple and labelled Sunk B – Sunk DW Buffer, to a level of 19 metres below Chart Datum. (5) The undertaker must not carry out wet storage or relocate any boulders or archaeological finds to or within the three areas referred to in paragraph (4).”</p>	<p>The ExA considers this change is in the interests of precision and enforceability, and is both reasonable and necessary to ensure that any stage of the works would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Ports.</p>



Schedule 9 – Part 2, Condition 13 (3)	“(3) In undertaking activities under paragraphs (2)(a), (2)(d) , (2)(e) and (2)(f), other than in areas shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan where navigable depth may not be reduced to any extent, the undertaker must not reduce water depth by more than 5% Chart Datum unless agreed with the MMO and the MCA in writing.”	(2)(d) - cable remedial burial is equally relevant to (2)(e) – cable repairs and replacement, and should therefore be referenced. The ExA considers this change to be reasonable.
Schedule 9 – Part 2, Condition 13(4),	13 (4) An operations and maintenance plan substantially in accordance with the outline offshore operations and maintenance plan shall be submitted to the MMO for approval in consultation with the relevant SNCB, the MCA and the PLA at least six months prior to the commencement of operations. All operation and maintenance activities shall be carried out in accordance with the approved operations and maintenance plan and the approved cable specification and installation plan.	The ExA considers this change to be reasonable and necessary to ensure that the operations and maintenance would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Port of London Authority. The MCA have sought to be included as a consultee and to ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004].
Schedule 9 – Part 2, Condition 16 (8) to (14),	(8) The undertaker must ensure that a local notification to mariners is issued at least 14 days prior to the commencement of the authorised development or any relevant stage advising of the start date of the relevant Work No. and the expected vessel routes from the	The ExA considers this change to be reasonable and necessary to ensure that the Port of London Authority are notified throughout the works to include in the case of damage to, destruction or decay of the authorised development, or cable exposure, which could have the potential to give



	<p>construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA, the PLA and UK Hydrographic Office within five days of issue.</p> <p>(9) The undertaker must ensure that local notifications to mariners are updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and the notices must be supplemented with VHF radio broadcasts agreed with the MCA in accordance with the project environmental management plan approved under deemed marine licence condition 22(1)(d) and monitoring plan approved under condition 22(1)(f). Copies of all local notifications must be provided to the MMO, the PLA and UK Hydrographic Office within five days of issue, save for in the case of a notice relating to operations and maintenance, which must be provided within 24 hours of issue.</p> <p>(10) The undertaker must notify the UK Hydrographic Office of the commencement (within 14 days), progress and completion of construction (within 14 days) of the licenced activities in order that all necessary amendments to nautical and aeronautical charts are made and the undertaker must send</p>	<p>rise to unacceptable temporary or permanent impacts on navigation to and from the Port of London Authority.</p>
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	<p>a copy of such notifications to the MMO, the PLA and MCA within five days of the notification.</p> <p>(11) In case of damage to, or destruction or decay of, the authorised development seaward of MHWS or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, the MMO Local Office, the MCA, Trinity House, the Kingfisher Information Service, the PLA and the UK Hydrographic Office.</p> <p>(12) In case of exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners and inform the Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the MMO, the MCA, Trinity House, the PLA and the UK Hydrographic Office within five days.</p>	
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	<p>(13) The undertaker must notify the MMO in writing a minimum of five days in advance of the commencement of each discrete incident of cable repair, replacement, or protection replenishment activity. Such a notification must include proposed timings and a description of proposed methodologies and a copy of such notification shall be provided to the PLA.</p> <p>(14) The undertaker must ensure that the MMO, the MMO Local Office, local mariners, local fishermen's organisations and the Source Data Receipt Team at the UK Hydrographic Office, Taunton, Somerset, TA1 2DN (sdr@ukho.gov.uk) and the PLA are notified within five days of completion of each instance of cable repair, replacement or protection replenishment activity.</p>	
Schedule 9 - Part 2, 17(2)	<p>(2) The undertaker must during the period from the start of construction of the authorised development to completion of decommissioning of the authorised development seaward of MHWS keep Trinity House, and the MMO and the PLA informed in writing of progress of the authorised development seaward of MHWS including the following—...</p>	The ExA considers this change to be reasonable.



Schedule 9 – Part 2, Condition 22(1) (a) (iii)	(iii) the length, depth and arrangement of cables comprising Work Nos. 2, 3 and 4A ₂ , including cable crossings;	The ExA considers this change to be reasonable and in the interests of precision and enforceability.
Schedule 9 – Part 2, Condition 22(1)(h) (ii), (iii) & (iv)	(ii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum (excluding the areas shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan where navigable depth may not be reduced) and, in the event that any area of cable protection exceeding 5% of navigable depth is identified (in areas other than those shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan), details of any stops (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and	The ExA considers this change is in the interests of precision and enforceability, and is both reasonable and necessary to ensure that any stage of the works would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Ports.



	<p>cable laying techniques, including cable protection;</p> <p>(ii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment demonstrating compliance with condition 10(4);</p> <p>(iii) proposals for the volume and areas of cable protection to be used for each cable crossing, and proposals for timing and methodology for reporting on actual volumes and areas post construction; and</p> <p>(iii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum (excluding the areas shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan where navigable depth may not be reduced) and, in the event that any area of cable protection exceeding 5% of navigable depth is</p>	
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	<p>identified (in areas other than those shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan), details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection;</p> <p>(iv) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised development which includes a risk based approach to the management of unburied or shallow buried cables;</p> <p>(iv) proposals for the volume, depth and areas of cable protection to be used for each cable crossing, and proposals for timing and methodology for reporting on actual volumes, actual depths and areas post construction; and</p>	
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	(v) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised development which includes a risk based approach to the management of unburied or shallow buried cables;	
Schedule 9 – Part 2, Condition 22 (1) (n)	(n) a navigation and installation plan for the relevant stage which accords is substantially in accordance with the principles set out in the outline navigation and installation plan; and	The ExA considers this change is reasonable to ensure that any stage of the works would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Ports.
Schedule 9, part 2, para 22	Add in further subsection of condition 22: “No percussive piling associated with offshore substation platform foundations may take place between 25th November to 3rd January (inclusive) in any year for the protection of spawning herring unless otherwise agreed in writing with the MMO.”	To ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004] In the interests of ensuring due ecological protection.
Schedule 9, part 2	Add additional condition before Offshore Safety Management: “Site Integrity Plan —(1) No piling activities can take place until a southern north sea special area of conservation site integrity plan (“SIP”), which accords with the principles set out in the outline	To ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004] and the ExA considers it appropriate for ecological protection.



	<p>southern north sea special area of conservation site integrity plan which accords with the principles set out in the, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body. (2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (“SNS SAC”) as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme. (3) The SIP must be submitted in writing to the MMO no later than six months prior to the commencement of piling activities. (4) In approving the SIP the MMO must be determine whether the authorised scheme at the preconstruction stage, in-combination with other plans and projects, would be in line with the JNCC Guidance. (5) The approved SIP may be amended with the prior written approval of the MMO, in consultation with the relevant statutory nature conservation body, where the MMO determines that the authorised development, in-combination with other plans or projects at the pre-construction stage, is in line with the JNCC Guidance”</p>	
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Schedule 9, part 2, para 24	Add further section:- “No stage of the authorised development may commence until the MMO, in consultation with the MCA, has confirmed in writing that an emergency response co-operation plan has been prepared by the undertaker”	To ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004]. The ExA considers this is reasonable to adequately address relevant emergencies.
Schedule 9 - Part 2, 26(1)	(1) The undertaker must in discharging condition 22(1)(f) for construction submit a monitoring plan in accordance with the outline offshore in-principle monitoring plan for written approval by the MMO in consultation with the relevant SNCB and the PLA , which must contain details of proposed surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report and—...	The ExA considers this change is both reasonable and necessary to ensure that pre-construction monitoring and surveys would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Port of London Authority.
Schedule 9 - Part 2, 28(1) 28(3), 28(4) & 28(5)	(1) The undertaker must, in discharging condition 22(1)(f) in respect of post-construction monitoring, submit a post-construction monitoring plan or plans for that stage in accordance with the outline offshore in-principle monitoring plan for written approval by the MMO in consultation with the relevant SNCB and the PLA including details of proposed post-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format, content and timings for providing reports	The ExA considers this change is in the interests of precision and enforceability, and is both reasonable and necessary to ensure that post-construction monitoring would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Port of London Authority.



	<p>on the results. The survey proposals must be in accordance with the principles set out in the outline offshore in-principle monitoring plan and must specify objectives for each survey and explain how the survey will assist in either informing a useful and valid comparison with the preconstruction position and/or will enable the validation or otherwise of key predictions in the environmental statement.</p> <p>(3) The undertaker must conduct a swath bathymetric survey to IHO S44ed5 Order 1a of the installed export cable route and provide the data and survey report(s) to the MCA, the PLA and UKHO. The MMO should be notified once this has been done, with a copy of the Report of Survey also sent to the MMO.</p> <p>(4) The undertaker must carry out the surveys specified within the approved post-construction monitoring plan or plans in accordance with that plan or plans and provide the agreed reports in the agreed format, unless otherwise agreed in writing with the MMO in consultation with the relevant SNCB, and the PLA.</p>	
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	<p>(5) Within 12 weeks of completion of any cable repair or replacement works, the undertaker must undertake a post installation survey along the section of cable that has undergone repair or replacement to demonstrate the successful burial of the cable, and submit a report to the MMO in writing on its findings, and provide a copy to the PLA.</p>	
<p>Schedule 9 - Part 2, New Condition 30</p>	<p>Pre-construction, Construction and Post-construction monitoring and the local harbour authorities</p> <p>(1) The undertaker must consult the local harbour authorities on the proposed activities and programme for any pre-construction monitoring, construction monitoring, postconstruction monitoring and related reporting within the Areas of Interest no less than 20 business days before such survey work is programmed to commence. The undertaker must have regard to any request made by the local harbour authorities for reasonable amendment to the proposed activities or programme, which request must be made to the undertaker within 5 business days of receipt of the details of the proposed</p>	<p>The ExA considers this change is both reasonable and necessary to ensure that monitoring would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Ports.</p>



	<p>activities and programme.</p> <p>(2) The undertaker must notify the local harbour authorities of the final planned programme for any pre-construction monitoring, construction monitoring, postconstruction monitoring within the Areas of Interest no less than 5 business days before such survey work is programmed to begin.</p> <p>(3) The undertaker must consult the local harbour authorities on any application for marine licensing for the clearance of unexploded ordnance within or which may affect the Areas of Interest before such applications are submitted to the MMO. The undertaker must have regard to any request made by the PLA for reasonable amendment to the proposed application, which request must be made to the undertaker within 10 business days of receipt of the details of the proposed application.</p> <p>(4) The undertaker must notify the local harbour authorities of the final programme for any clearance of unexploded ordnance to be undertaken within the Areas of Interest no less than 20 business days before such disposal is programmed to begin.</p>	
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<p>Schedule 9 - Part 2, New Condition 36.</p>	<p>Remediation (1) Where, following the installation or maintenance of cables forming Work No. 3, located within the following areas shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan (a) the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer; (b) the area shown shaded in pink and labelled Trinity – Trinity DW Buffer; (c) the area shown cross hatched purple and labelled Sunk B – Sunk DW Buffer; it is identified by the undertaker (who shall notify the MMO and the local harbour authorities as soon as reasonably practicable of this fact and in any event within 2 business days) or, following inspection by a local harbour authority (and the same is notified to the undertaker as soon as reasonably practicable), that the level of any cable is such that the condition 10(4) has not been achieved or at any time following installation or maintenance the cable has moved such that the requirements of condition 10(4) are no longer being achieved, then, unless otherwise agreed in writing with the MMO and the local harbour authorities, the undertaker is required to carry out remediation works as specified in</p>	<p>The ExA considers this change is in the interests of precision and enforceability, and is both reasonable and necessary to ensure that remediation is effective and would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Ports.</p>
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	<p>the cable specification and installation plan subject to subject to sub paragraph (2) below.</p> <p>(2) Unless otherwise agreed in writing with the MMO and the local harbour authorities, the undertaker will carry out the following arrangements for the carrying out the remediation works:</p> <p>(a) the undertaker will re-bury the cable to the required specification to achieve the requirements of condition 10(4); and</p> <p>(b) following the completion of the works in sub-paragraph (2)(a), if it is identified by the undertaker or the local harbour authorities (following inspection) that the required specification is not achieved, then the undertaker will remove the cable without unreasonable delay and thereafter relay a new cable pursuant to an updated cable specification and installation plan approved by the MMO and the local harbour authorities which updated cable specification and installation plan specifically identifies and addresses why the previous cable burial was not successful, how that has been addressed and what measures are to be used in relaying the cable to prevent the failure reoccurring.</p>	
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	(3) The steps in this paragraph shall be repeated until the requirement in condition 10(4) is achieved or the cable is permanently removed from the areas referred to in paragraph 36(1).	
New	Operational Lifetime A requirement and or DML condition needs to be added to ensure project does not exceed the operational lifetime considered within the Environmental Statement. Amend accordingly.	Natural England has requested the DCO include this provision. The inclusion is reasonable. In the interests of ensuring enforceability, it is deemed necessary.
Schedule 12 – Documents to be certified		
Outline noise investigation protocol.	The documents to be certified must include the outline noise investigation protocol.	See Requirement 17 above. The ExA considers this change to be reasonable and consistent with other documents.
Deep Water Route Cable Installation Areas (Future Dredging Depths) Plan (Rev 0) [REP4-043].	PLA's amendments to Deep Water Route Plan [REP4-043] as described in PLA's [REP5-111] which includes a revised image showing additional areas to be included in green, namely: The majority of the green area will need to allow for dredging to -22m CD and the PLA could otherwise accept the 200m buffer to the south at -19m CD.	The ExA considers this change to be reasonable.
Outline Cable Specification and	At paragraph 31 in relation to the Deep Water Routes (DWR) the reference is to the cables	The ExA considers this change to be reasonable.



Installation Plan (OCSIP) [REP4-039]	being installed and maintained but in paragraph 32 the reference is only to installation. The oCSIP and CSIP must be clear that any commitments relating to the DWRs apply to both installation and maintenance.	
Outline Sediment Management Plan [REP5-042]	Outline Sediment Management Plan [REP5-042] – is there inconsistency in use of ‘export cable corridor’ and ‘offshore cable corridor’.	For example, in the Outline Sediment Management Plan [REP5-042], paragraph 4 refers to the export cable corridor (ECC), but Section 3.1 relates to the offshore cable corridor (OCC). The ExA considers that consistency is necessary.
Mitigation Documents as a whole including for ecology	Schedule of Mitigation Rev 2 [REP5-006], or any further updated document. Cable Statement [APP-262] updated to Rev 1 [REP4-015], or any further updated document.	To allow future enforceability of scheme details if required.
Installation Documents	Cable Specification and Installation Plan (Rev 1) [REP5-044] or any further updated document.	To allow future enforceability of scheme details if required.
Schedule 14 – Protective Provisions		
New	Add Protective Provisions for PLA [REP5-112, Appendix 2]	The ExA considers this change to be reasonable and necessary to ensure that Work No 3 would not give rise to any unacceptable permanent or temporary impacts on navigation to and from the Port of London Authority and to ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004].



Reinstate	Reinstate Protective Provisions for LGPL based on the form included in the versions of the dDCO up to deadline 4 (see Part 7 of Schedule 14 to the dDCO [REP3-008]).	The ExA considers this change to be reasonable and necessary to ensure that Work No 3 would not give rise to any unacceptable permanent or temporary impacts on navigation to and from London Gateway Port and to ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004].
Schedule 14, Part 4	32. (1) Before commencing construction of a specified work, the undertaker must submit to the drainage authority plans of the specified work, including an independent review and such further particulars available to it as the drainage authority may within 21 ¹⁴ days of the submission of the plans reasonably request.	The ExA considers this change requested by ECC to be reasonable to allow for the resources needed for the task.
Schedule 14, Part 6	Protective Provisions for National Highways “National Highways must provide to the undertaker an estimate of the commuted sum, calculated in accordance with FS Guidance S278 Commuted Lump Sum Calculation Method dated 18 January 2010 or any successor guidance, prior to the issue of the provisional certificate for the SRN works”	The reference to commuted sums to be added and will ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004]
Other Schedules		
Schedule 1 Part 3 Requirement 7	Provision of landscaping Amend to include survey methods requirement to maintain, and scope to replant in the event of failure.	Landscape requirements do not cover survey methods, monitoring requirements and the requirement to maintain, including the potential for replanting due to plant failures.



	Also include Natural England as consultee prior to approval of LPA.	Additionally Natural England expect to be consulted on these plans prior to their approval by the relevant Local Planning Authority (LPA). The change would be reasonable.
Schedule 1 Part 3 Requirement 12	<p>Ecological Management Plan The relevant SNCB should be included as a required consultee.</p> <p>12 (1) should be amended to state that no works “including pre-commencement clearance works” should be undertaken until a written Ecological Management Plan, as relevant to the stage of the works, has been submitted to, and approved by, the LPA following consultation with the relevant SNCB.</p>	<p>Natural England requested that the relevant SNCB be included as a required consultee on this important ecological document.</p> <p>Based on the wording here, and the interpretation of onshore commencement, clearing works could be conducted prior to the submission and approval of the final Ecological Management Plan (EMP). Which is why this provision should be amended to state that no pre commencement clearance works should be undertaken until a written EMP, as relevant to the stage of the works, has been submitted to, and approved by, the LPA following consultation with the relevant SNCB.</p>
Schedule 1 Part 3 Requirement 21	<p>Biodiversity net gain No time period is given for the duration of which the strategy should be monitored, maintained or when adaptive management measures may be implemented.</p> <p>The requirement should ensure the strategy is enforced for a period of thirty years, or for the lifetime of the development.</p>	To ensure due ecological enhancement and biodiversity net gain can take place. For overall implementation effectiveness, precision and future enforceability.



Schedule 15 (without prejudice or otherwise)	<p>Without prejudice HRA DCO Schedules (Rev 0) [REP5-065] have been provided in addition to the Applicant's DCO submitted at Deadline 6.</p> <p>The ExA requests that any relevant change by way of update warranted to [REP5-065] as well as the remainder of the DCO including having regard to the Margate Long Sands SAC and Natural England advice must also be provided by no later than Examination Deadline 7.</p>	<p>Compensation provisions had originally been provided for LBBG only. Natural England have indicated that compensation is required for other ornithological and benthic features, specifically kittiwake, guillemot and razorbill at Flamborough & Filey Coast Special Protection Area (SPA). The compensation schedule was requested by NE to updated to cover all sites where there is currently disagreement regarding an adverse effect on site integrity. The applicant has done this on a without prejudice basis, but the ExA must have the most up to date versions by Deadline 7.</p> <p>The ExA also notes that Guillemot and Kittiwake Compensation reflects the Applicant's updated position at Deadline 6 which is reflected in the DCO.</p>
Schedule 15	All references to Natural England within Schedule 15 should be amended to the 'relevant SNCB' to ensure consistency with the rest of the DCO.	For consistency and accuracy.
Schedule 15, Part 1 Para 2 Schedule 15, Part 2 Para 13 &	The wording does not include the need to provide and consult upon; terms of reference for the group, details of proposed meetings, timetable for the preparation and delivery of the Compensation Implementation and Monitoring Plan (CIMP), or a dispute resolution mechanism.	To ensure and improve overall effectiveness and enforceability.



Schedule 15, Part 3 Para 23	<p>These are elements that need to be added.</p> <p>The suggested change would also apply to any other without prejudice wording referred to by [REP5-065].</p>	
<p>Schedule 15, Part 1 Para 3 (1)</p> <p>Schedule 15, Part 2 Para 14 (1) &</p> <p>Schedule 15, Part 3 Para 24 (1)</p>	<p>The wording as drafted is confusing as it implies that compensation may be delivered through some other unknown, or undetailed, mechanism and thus the compensation within this provision may not be required.</p> <p>Amend this provision and include consideration of how to appropriately implement a provision allowing strategic compensation options. This could also be applied to other compensation schedules provided on a without prejudice basis.</p>	To ensure overall effectiveness and enforceability.
<p>Schedule 15 Part 1, Para 3</p> <p>Schedule 15, Part 2, Para 14</p> <p>Schedule 15 Part 3, Para 24</p>	<p>The list of requirements to include in the CIMP lacks enough detail when compared to similar provisions.</p> <p>Within (d) the ExA would expect to see survey methodologies, timetables for the monitoring to be conducted and reports delivered and success criteria. Within (g) we would expect to include a detailed mechanism to determine the need for any alternative compensation or adaptive management measures, along with</p>	To ensure overall effectiveness and enforceability.



	potential further monitoring and maintenance of such measures.	
Schedule 15, Part 1, para 6	Amend to 'four full' breeding seasons.	This should reflect four full breeding seasons in line with compensation requirements for other projects. Three seasons adequacy is seriously questioned. To ensure overall effectiveness and enforceability.
Schedule 15 Para 7,8,9 and 10	The compensation should be maintained until the SoS approves its decommissioning in consultation with the relevant SNCB. Therefore, amend the current wording. Also, the provision must require the approval of the SoS and consultation with the SNCB in line with the above.	The compensation 'may' be required for longer than the lifetime of the project and so should be maintained until the SoS approves its decommissioning in consultation with the relevant SNCB. In accordance with statutory responses from NE. To ensure effectiveness and enforceability.
Environmental Impact Assessment - Document Used: 7.20 Outline Offshore Operations and Maintenance Plan	The Outline Operations and Maintenance Plan should specifically set out operation and maintenance activities so it can be read as a standalone document.	To improve clarity and effectiveness.
Environmental Impact Assessment - Document Used: 7.20 Outline Offshore Operations and Maintenance Plan	<ul style="list-style-type: none"> i) The replacement or addition of scour protection around foundations for the lifetime of the project doesn't align with comments made in the DCO and/or the Benthic Appendix. Amend accordingly. ii) This plan does not align with the Cable statement [APP-262] and this 	In the interests of overall effectiveness and enforceability.



	needs to be addressed by the Applicant.	
Environmental Impact Assessment – Document Used: 2.6 Schedule of Mitigation	<p>Schedule of Mitigation and [APP-262] Cable Statement should be <u>certified under the DCO</u>.</p> <p>Further, the use of terms such as ‘where practicable’ throughout the document cause concern because listing out mitigation does not mean it is achievable and/or that there is commitment to do it.</p> <p>In addition, there is no detail to demonstrate that by undertaking the mitigation it will sufficiently minimise impacts to acceptable levels. This document needs to be updated to clarify what is/isn’t committed to by the Applicant.</p>	In the interests of seeking overall effectiveness and allowing enforceability.
Environmental Impact Assessment – Document Used: 2.6 Schedule of Mitigation	There is reliance by the Applicant on monitoring as a form of mitigation, which it is not. References to monitoring other than to test the effectiveness of mitigation measures need to be removed from the Schedule.	For overall accuracy and effectiveness.
Environmental Impact Assessment – Document Used: 2.27 Cable Statement	Document [APP-262] Cable Statement is currently overly simplified and too high level. It is not clear how this plan aligns with the other named plans and documents. Reliance on these documents alone as set out in the documents purpose could cause key commitments to not be implemented.	The ExA would welcome further clarification from the Applicant on how the plans work together, and further detail being included within the document.



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Environmental Impact Assessment	An Outline Decommissioning Plan is requested and should be reflected in the DCO wording.	An Outline Decommissioning Plan has been requested by Natural England for all other OWF NSIP applications to ensure that decommissioning is achievable and environmentally sensitive. The applicant has responded they will not submit this. The ExA notes the Examination issue is not resolved.
General DCO	All references to Natural England within the DCO is amended to relevant SNCB.	For accuracy and consistency should there be any remaining references.