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

15 July 2025

Dear Wendy McKay,

Planning Act 2008, Proposed North Falls Offshore Wind Farm Project Order Deadline 7 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 7.



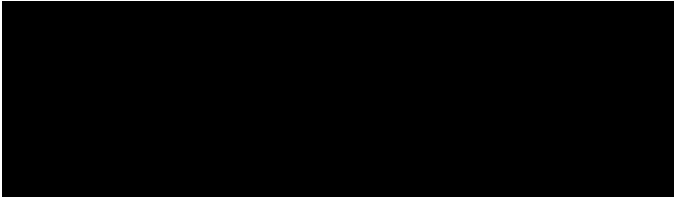
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seas and coasts



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

Yours Sincerely,

A large black rectangular box redacting the signature of the Marine Licensing Case Officer.

Marine Licensing Case Officer

A black rectangular box redacting the email address of the Marine Licensing Case Officer.

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1. MMO Responses to Examining Authority's (ExA) Questions (ExQ2) Deferred to Deadline 7 [PD-013]

1.1 MMO Responses to ExA Questions

1.1.1 The MMO provided responses to the ExA questions at Deadline 5. Several responses were deferred to Deadline 7 which are included in Table 1 below. 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 ExA Questions (ExQ2)

ExQ2	Question to:	Question:	MMO Response
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.</p> <p>(i) 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>(ii) Can MMO clarify their position in relation to the Rampion 2 decision and confirm that the same</p>	<p>Deadline 7 Response</p> <p>(i) The MMO considers that the use of the term "includes" is intended as a non-exhaustive list. The MMO is of the opinion that such flexibility does not extend to the transfer of the DML as Article 72 of the Marine and Coastal Access Act 2009 (MCAA) already provides for this statutory procedure. Respectfully the MMO is of the opinion that Section 120(4) and Part 1 of Schedule 5 limits what the Order can contain providing a deeming provision only for the marine licence and such conditions.</p> <p>(ii) The MMO did not provide comments on PA2008 Schedule 5 and 6 in relation to this matter within the Rampion 2 Examination. The MMO acknowledges</p>

ExQ2	Question to:	Question:	MMO Response
		<p>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>(iii) 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>(iv) 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>(v) 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>	<p>the Rampions 2 Decision letter but remains of the opinion that the provision set out in the Planning Act only allows for the marine licence to be deemed, once deemed the Planning Act does not sufficiently provide the Secretary of State with the virus to transfer/vary the marine licence in the same manner as set out in Article 72 of MCAA. Respectfully the MMO is still of the opinion that the transfer provision for marine licensing should remain in MCAA.</p> <p>(iii) The MMO is still of the opinion that Schedule 6 of the Planning Act 2008 (paragraph 2(13) and 5 (6)) sets out that the deemed marine licence is separate from the DCO and as such may not be modified via a non-material change procedure. It remains the MMO's view that the transfer of the marine licence should follow the established procedure in Article 72 of MCAA.</p> <p>(iv) Question not addressed to the MMO.</p> <p>(v) Whilst 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 the MMO remains of the opinion that this does not fully mitigate the procedural duplication and burden previously referred to. There remains regulatory uncertainty across the</p>

ExQ2	Question to:	Question:	MMO Response
			<p>overall marine licencing framework. The MMO has concerns that our enforcement capabilities maybe delayed/compromised should transfers occur without our involvement.</p> <p>The MMO is of the opinion that all our concerns and difficulties could be avoided by retaining the existing procedure for transfer as set out in Article 72 of MCAA which could be established through minimal changes to each marine licence.</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>Deadline 6 Response</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 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</p>

ExQ2	Question to:	Question:	MMO Response
			<p>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> <p>Deadline 7 Update</p> <p>The MMO has provided further comments below in section 5.</p>
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>Deadline 6 Response</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>

ExQ2	Question to:	Question:	MMO Response
			<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 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>

ExQ2	Question to:	Question:	MMO Response
			<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> <p>Deadline 7 Update</p> <p>The MMO welcomes the clarifications of the content of the final OOMP in response to feedback from the MMO [AS-051] in Section 1.2 of the updated document [REP6-037].</p>
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>Deadline 6 Response</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>The writing in red are the proposed changes.</p> <p>(1) The undertaker must, in discharging condition 20(1)(c) for each stage of construction, submit details (which accord</p>

ExQ2	Question to:	Question:	MMO Response
			<p>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 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

ExQ2	Question to:	Question:	MMO Response
			<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 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</p>

ExQ2	Question to:	Question:	MMO Response
			<p>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 wording that would allow for this notification as part of the condition.</p> <p>Deadline 7 Update</p> <p>The MMO notes the stage of the examination and has no further update, and this is unlikely to be updated before the end of Examination. The MMO would welcome comments within the IPMP if a condition cannot be agreed.</p>

2. MMO Responses to ExA Questions (ExQ3) [PD-016]

2.1 MMO Responses to ExA Questions

2.1.1 The MMO has provided responses to the ExA third written questions in Table 2 below. The MMO will review the comments on any unagreed matters and provide comments at Deadline 8. 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) and in our closing statement to be submitted at Deadline 8.

Table 2: MMO Responses to Examining Authority's Questions (ExQ3)

ExQ3	Question to:	Question:	MMO Response
9. Draft Development Consent Order (DCO)			
9.0 Articles Part 2 – Principal Powers			
<u>Q9.0.3</u>	Applicant, MMO	Article 5 (Benefit of the Order) The ExA note the MMO seek a Deadline 7 response on this matter. The reason for any requested change needs to be properly reasoned.	Please see comments in Table 1 above.
10. Ecology/Biodiversity/BNG/HRA			
<u>Q10.0.7</u>	NE MMO NatureScot RSPB Essex Wildlife Trust Tendring Council The Applicant	Report on the Implications for European Sites (RIES) The ExA notes that the Report on the Implications for European Sites (RIES) was published 1 July 2025. The ExA requests that the series of questions featuring within the RIES are answered by the relevant parties. The questions within the RIES detail to whom each question is asked. All responses must be submitted by no later than Examination Deadline 7 which is 15 July 2025.	Please see Section 8 of this document below for comments.
15. Navigation & Shipping			
<u>Q15.0.7</u>	HHA, PLA, LGPL, MCA & MMO	Outstanding concerns on plans relating to Shipping and Navigation Are there any outstanding concerns that have not been addressed by the Applicant in the following documents: <ul style="list-style-type: none"> Site Characterisation Report [REP4-014] 	The MMO has provided comments on the documents in Section 7.-7.7 and Section 9 of this document. The MMO notes that there are a number of outstanding

ExQ3	Question to:	Question:	MMO Response
		<ul style="list-style-type: none"> • Supporting Information on Offshore Additional Mitigation [REP4-041] • Deep Water Route Cable Installation Areas [REP4-043] • Outline Navigation and Installation Plan [REP5-028] • Outline Sediment Disposal Management Plan [REP5-042] • Cable Specification and Installation Plan [REP5-044] 	<p>issues and has provided some comments on the PLA's submission in Section 10.1 & 10.2 of this document.</p> <p>The MMO will review other responses to this question and may provide further comments at Deadline 8.</p>

3. MMO Comments on ExA Schedule of Changes to draft Development Consent Order (PD-019)

3.1 MMO Comments on ExA Schedule of Changes to draft Development Consent Order

3.1.1 The MMO has provided comments on the Schedule of Changes in Table 3 below.

Table 2: MMO Responses to Examining Authority's Questions (ExQ3)

Section	ExA's Proposed Changes	ExA's Reasoning	MMO Comments
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: (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.</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.	The MMO has no concerns with this update.
New	<p>Operational Lifetime – Requirement</p> <p>A requirement or condition needs to be added to ensure project does not exceed</p>	Natural England has requested the DCO include this provision.	The MMO welcomes this requirement.

	the operational lifetime considered within the Environmental Statement. Amend accordingly.	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. This should be reflected elsewhere in the DCO.	The rationale of the MMO appears to be correct in that the period should be reflected into the definition. For accuracy and precision.	The MMO welcomes this change.
Schedule 8, 9 and 10	Within the DMLs there does not appear to be any requirement to notify the MMO with regard to which build option has been chosen. The MMO should be notified of the selected option. Add such a requirement/condition.	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.	The MMO welcomes this and will review any condition provided by the Applicant.
Part 1 – Preliminary Interpretation	Part 1 - Licenced Marine Activities interpretation for DML 1 – DML 3	The rationale of the MMO appears to be correct in that the	The MMO welcomes this change.

(2)(1). Schedule 8, 9 and 10	“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>	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.	The MMO welcomes this removal.
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 piling.	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	The MMO notes this is updated within the SIP document [REP5-015].

		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.	The MMO welcomes this condition.
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	The MMO notes this is updated within the SIP document [REP5-015].

		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.	The MMO would welcome these updates and is happy to review conditions or provide wording to the Applicant.
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. 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</i></p>	<p>The MMO welcomes an update for additional marine mammal monitoring and will review any updated conditions and provide comments.</p> <p>The MMO notes the Applicant does not agree that an adaptive management condition should be on the DML as this is covered within the IPMP. The MMO welcomes the updates to the IPMP but believes this should be a condition so all parties are clear of the process should impacts be greater than predicted.</p>

		<p><i>Assessment, unless otherwise agreed by the MMO in writing, must be 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></p>	
Schedule 9 – Part 1 (1)	<p>"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</p>	<p>The ExA considers that consistency with the convention to provide definitions is necessary.</p>	<p>Please see comments in Section 10.1 & 10.2 on the updates requested by the PLA.</p>

	Dredging Depths) Plan;		
Schedule 9 – Part 1 (5)	(j) Port of London Authority London River House Royal Pier Road Gravesend Kent DA12 2BG Tel: 01474 562200	The ExA considers this change is necessary and for consistency with other organisations' contact details being included in the dDCO.	The MMO welcomes this update.
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:</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</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.	Please see comments in Section 10.1 & 10.2 on the updates requested by the PLA.

	<p>purple and labelled Sunk B – Sunk DW Buffer, to a level of 19 metres below Chart Datum.</p> <p>(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>Schedule 9 – Part 2, Condition 13 (3)</p>	<p>“(3) In undertaking activities under paragraphs (2)(a), (2)(d), (2)(e) and (2)(f), other than in areas</p> <p>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.”</p>	<p>(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.</p>	<p>Please see comments in Section 10.1 & 10.2 on the updates requested by the PLA.</p>
<p>Schedule 9 – Part 2, Condition 13(4),</p>	<p>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.</p>	<p>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].</p>	<p>Please see comments in Section 10.1 & 10.2 on the updates requested by the PLA.</p>

<p>Schedule 9 – Part 2, Condition 16 (8) to (14),</p>	<p>(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 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>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</p>	<p>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 rise to unacceptable temporary or permanent impacts on navigation to and from the Port of London Authority.</p>	<p>Please see comments in Section 10.1 & 10.2 on the updates requested by the PLA.</p>
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	<p>activities in order that all necessary amendments to nautical and aeronautical charts are made and the undertaker must send 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</p> <p>or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably</p> <p>practicable and no later than 24 hours following the undertaker becoming aware of any such damage,</p> <p>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</p> <p>following identification of a potential cable exposure, notify mariners and inform the Kingfisher</p> <p>Information Service of the location and extent of exposure. Copies of all notices must be provided to</p> <p>the MMO, the MCA, Trinity House, the PLA and the UK Hydrographic Office within five</p>		
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	<p>days.</p> <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.	Please see comments in Section 10.1 & 10.2 on the updates requested by the PLA.
Schedule 9 – Part 2,	<p>(iii) the length, depth and arrangement of cables comprising Work Nos. 2, 3 and 4A;= including cable crossings;</p>	The ExA considers this change to be reasonable and in the	Please see comments in Section 10.1 & 10.2 on the updates requested by the PLA.

Condition 22(1) (a) (iii)		interests of precision and enforceability.	
Schedule 9 – Part 2, Condition 22(1)(h) (ii), (iii) & (iv)	<p>(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 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>(ii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment demonstrating compliance with</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.	Please see comments in Section 10.1 & 10.2 on the updates requested by the PLA.

	<p>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 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>		
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	<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> <p>(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;</p>		
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.	Please see comments in Section 10.1 & 10.2 on the updates requested by the PLA.
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	To ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004] In the interests of ensuring due ecological protection.	The MMO welcomes this update.

	otherwise agreed in writing with the MMO.”		
Schedule 9, part 2	<p>Add additional condition before Offshore Safety Management:</p> <p>“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 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</p>	To ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004] and the ExA considers it appropriate for ecological protection.	The MMO welcomes this update.

	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”		
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.	The MMO welcomes this update.
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.	Please see comments in Section 10.1 & 10.2 on the updates requested by the PLA.
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	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	Please see comments in Section 10.1 & 10.2 on the updates requested by the PLA.

	<p>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 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> <p>(5) Within 12 weeks of completion of any</p>	<p>permanent impacts on navigation to and from the Port of London Authority.</p>	
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	<p>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 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</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>Please see comments in Section 10.1 & 10.2 on the updates requested by the PLA.</p>

	<p>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>		
<p>Schedule 9 - Part 2, New Condition 36.</p>	<p>Remediation</p> <p>(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</p> <p>(a) the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer;</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>	<p>Please see comments in Section 10.1 & 10.2 on the updates requested by the PLA.</p>

	<p>(b) the area shown shaded in pink and labelled Trinity – Trinity DW Buffer;</p> <p>(c) the area shown cross hatched purple and labelled Sunk B – Sunk DW Buffer;</p> <p>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 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</p>		
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	<p>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> <p>(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).</p>		
New	<p>Operational Lifetime</p> <p>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.</p>	<p>Natural England has requested the DCO include this provision. The inclusion is reasonable. In the interests of ensuring enforceability, it is deemed necessary.</p>	<p>The MMO welcomes this change and can review any condition.</p>

Other Schedules			
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.	The MMO welcomes this update.
Environmental Impact Assessment - Document Used: 7.20 Outline Offshore Operations and Maintenance Plan	<p>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.</p> <p>This plan does not align with the Cable statement [APP-262] and this needs to be addressed by the Applicant</p>	In the interests of overall effectiveness and enforceability.	The MMO will maintain a watching brief on this document.
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</p>	In the interests of seeking overall effectiveness and allowing enforceability.	The MMO would welcome these updates.

	levels. This document needs to be updated to clarify what is/isn't committed to by the Applicant.		
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.	The MMO will maintain a watching brief on this document.
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.	The MMO would welcome this and notes that this is still a disagreement between the Applicant and MMO. The MMO has asked for a commitment to review the document prior to submission to the Secretary of State but as there is no commitment register this is not secured.
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.	The MMO welcomes this change.

4. Comments on Applicant's Response to the Marine Management Organisation's Responses to EXQ2 [REP6-061]

4.1 General comments

4.1.1 The MMO has no further comments. The MMO responses which were deferred to Deadline 7 are detailed above in Section 1.

5. Comments on Applicant's Response to Deadline 5 Submissions [REP6-060]

5.1 General comments

5.1.1 The MMO notes the Applicant's response and comments. The MMO provided further comments at Deadline 6 and await responses from the Applicant.

6. Comments on .8 Outline Site Integrity Plan for the Southern North Sea Special Area of Conservation (Rev 1) (Tracked) [REP5-015]

6.1 General comments

6.1.1 The MMO welcomes the update to Table 1.2.

6.1.2 The MMO welcomes the inclusion of '*then North Falls will be in a position (from a programme execution perspective) to implement such measures*', as financial and timescales is not enough justification to prevent using the measures.

6.1.3 The MMO notes NE requests further commitment at this stage. This is not the type of mitigation to be used but more a commitment within the DML to state that the mitigation will be fully reviewed.

6.1.4 The MMO proposes the following wording is updated in Condition 22(1)(g), this has widely been accepted by NE and other Developers during Examination:

g) in the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol (in accordance with the outline marine mammal mitigation protocol), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant SNCB and which must include details of noise reduction methods through project design (primary measures) and/or, deployment of noise mitigation systems or noise abatement systems (secondary measures) that will be utilised to manage sounds from those piling activities and such protocol must include full details and justification for the mitigation chosen or excluded for deployment;

6.1.5 The MMO believes this could alleviate the concerns and provides commitment that the document will include these requirements post consent.

7. Comments on Applicant's Deadline 6 Submissions

7.1 7.6 Outline Project Environmental Management Plan (Rev 2) (Tracked) [REP6-028]

7.1.1 The MMO welcomes the updates to Section 7.2.3 Boulder Clearance and asks the Applicant if reference to no boulders within the Deep Water Route should also be included?

7.1.2 The MMO welcomes the update to 7.3.1 Winter piling restriction.

7.2 7.7 Draft Marine Mammal Mitigation Protocol (Rev 3) (Tracked) [REP6-030]

7.2.1 Please see comments relating to the SIP in Section 6 of this document. The same comments in relation to NAS are relevant for this document.

7.2.2 The MMO welcomes the updates Plate 1.2 to ensure it matches the text regarding soft-start and ramp up procedures, and to make clear that piling will only continue after a break if there are no marine mammals present.

7.3 7.10 Offshore In-Principle Monitoring Plan (Rev 1) (Tracked) [REP-032]

7.3.1 The MMO welcomes the updates to this document and defers to NE in relation to any outstanding issues.

7.4 7.20 Outline Offshore Operations and Maintenance Plan (Rev 2) (Tracked) [REP6-038]

7.4.1 The MMO welcomes the updates to this document.

7.5 7.24 Outline Navigation and Installation Plan (Rev 3) (Tracked) [REP6-040]

7.5.1 The MMO defers to MCA and the interested parties in relation to this plan.

7.6 7.26 Site Characterisation Report (Rev 2) (Tracked)

7.6.1 The MMO are aware the Applicant has updated the Site Characterisation Report and will be submitting the updated version at Deadline 7. The MMO will review and provide comments at Deadline 8.

7.7 9.52 Outline Sediment Disposal Plan (Rev 2) (Tracked) [REP6-050]

7.7.1 The MMO welcomes the updates to this document.

7.8 9.53 Cable Specification and Installation Plan (Rev 2) (Tracked) [REP6-052]

7.8.1 The MMO welcomes the updates to this document and defers to interested parties on any other information required in this document.

8. Comments on Report on Implications for European Sites (RIES) [PD-020]

Southern North Sea SAC

8.1 ID 3.2.1 Disturbance of harbour porpoise

RIES Q17: To NE, EWT and MMO Please review the applicant's amendments to the Outline SIP and Draft MMMP submitted at Deadline 5 and provide comment. Are you content with the applicant's wording in respect of NAS? If you have concerns, please expand. Does this document address your concerns regarding AEol?

- 8.1.1 The MMO welcomes the update to the SIP document and has provided comments in Section 6 of this document, with further comments in response to ExA schedule of changes and NE's comments in Section 3 and 10.3 onwards respectively.
- 8.1.2 The MMO notes the MMMP has been updated for Deadline 6 and has provided comments in Section 7.2 of this document.
- 8.1.3 The MMO has suggested a further commitment within the DML in Section 6.1.4 of this document.
- 8.1.4 The MMO defers to NE in relation to Adverse Effect on Integrity, but notes that NAS will likely be required as standard to ensure no AEol.

8.2 ID 3.2.2 Mitigation measures – MMMP and Working in Proximity to Wildlife Plan

RIES Q18: To applicant, EWT, local authorities: Please confirm whether it has been agreed the Outline PEMP contains the necessary guidance and procedures in respect of marine mammal collision and that a separate Working in Proximity to Wildlife Plan is not deemed necessary.

- 8.2.1 The MMO defers to NE as the SNCB in relation to this question.

9. Comments on the updated Cable Specification and Installation Plan [REP6-051] and the updated disposal site location

9.1 MMO comments on the updated Cable Specification and Installation Plan [REP6-051]

- 9.1.1 The MMO notes that the Applicant does not appear to have included an Electromagnetic Field (EMF) Attenuation in the CSIP outline which is necessary to provide a discussion around EMF fields emitted by the proposed subsea export cables, with reference to field strength in the context of EMF-sensitive fish receptors. The discussion would benefit from the inclusion of some examples of thresholds or limits of detection for electro-sensitive fish receptors, to put the manufacturer's predicted field strengths into context. The discussion should also cite sources relating to the EMF-sensitivities of pelagic, demersal and diadromous migratory fish species and incorporate that the known effects of EMF on elasmobranchs and other EMF-sensitive species are inconclusive as there is a lack of robust evidence. The Applicant should ensure that a suitable Electromagnetic Field (EMF) Attenuation Study is included in the CSIP to ensure that EMF effects on fisheries receptors have been appropriately discussed.
- 9.1.2 The Applicant does not define what their target burial depth is within the CSIP. The MMO believes it would be helpful to know what the target cable burial depth is to understand the potential effects of EMF on sensitive species. The MMO recommends the Applicant considers aiming for a cable burial depth of >1.5 metres (m) (subject to local geology) to reduce the potential effects of EMF on sensitive species e.g., elasmobranchs. The MMO notes that Chapter 5 of the Environmental Statement (ES) [APP-019] states '*A minimum depth of 0.6m for cable burial or cable protection where burial is not achieved to reduce the impacts of electromagnetic fields*'. The MMO requests the Applicant states their target burial depth within the CSIP and discuss this depth in the context of EMF field strengths and potential impacts to fish in their EMF attenuation study.
- 9.1.3 The MMO notes that in Section 3.2, paragraph 14, 15 and 16 are almost identical to each other (they include the same statements) so there is a lot of repetition in Section 3.2 – this could be written more succinctly and avoid confusion over the repetition, the MMO notes these are only minor comments and understands there may not be enough time to make these amendment.
- 9.1.4 In line with best practice for the marine environment the Applicant should make a commitment to minimise the use of plastics in the marine environment, this would include consideration of avoiding plastics used in the construction of the offshore wind farm (e.g. fronded concrete mattresses or plastic gabion baskets etc.). This is to prevent the release of plastics from the construction, operation and maintenance of the offshore wind farm in line with the OSPAR task for the release of hazardous substances from offshore renewables to which the UK is a contracting party. This should be reflected in the CSIP post consent and include an assessment of impact if plastics are used.

9.2 MMO comments on the updated disposal site location

9.2.1 The MMO is content with the updates to the sediment contaminant analysis for trace metals, inclusion of polychlorinated biphenyls (PCBs) and the updates to the Site Characterisation Report regarding the disposal site as requested at Deadline 5 [REP5-098].

9.2.2 A revised disposal site has been prepared for the Five Estuaries Export Cable Corridor (ECC) (TH019) disposal site to include the ECC for North Falls. The MMO has requested a new disposal site for the array area.

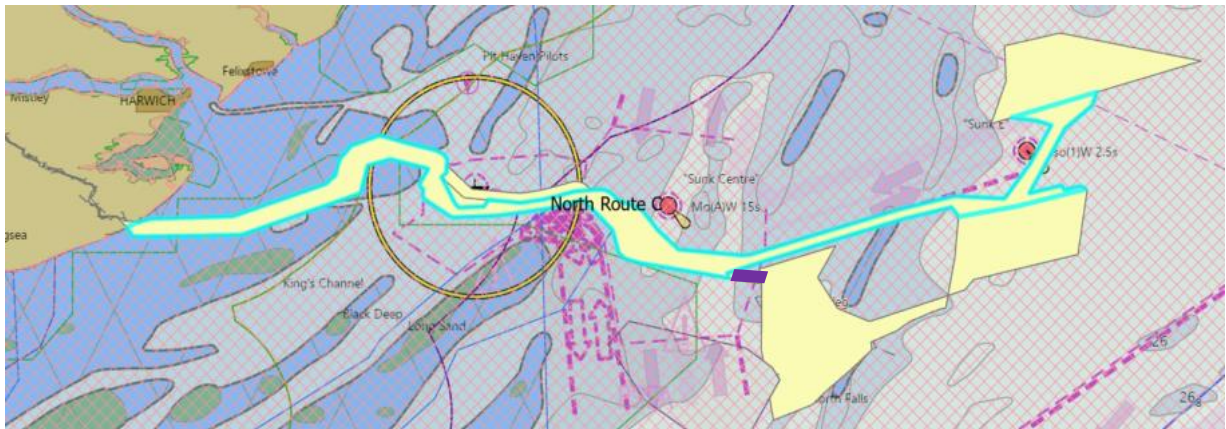


Figure 1. Five Estuaries ECC (TH019) disposal site in yellow bounded by a light blue highlight, and the proposed North Falls Offshore Windfarm disposal site area is yellow.

9.2.3 In Figure 2 the area in the middle of the ECC shows an unhighlighted yellow area that is to be included in the Five Estuaries (TH019) disposal site for use with either construction project. The MMO notes that the section in Purple was not included in the shape file for the ECC and therefore has not been included. The MMO will continue discussions on if this area should be included in the ECC or the Array area.

9.2.4 The new area for a combined disposal site overlaps DCO/2019/00008 Five Estuaries Array (TH018) and Cable Corridor (TH019) but not entirely, as well as the array area for Galloper OWF (TH057) in the North – dark areas not highlighted in pale blue (Figure 2).



Figure 2 DCO/2019/00008 Five Estuaries Array (TH018) and Cable Corridor (TH019) and Galloper OWF (TH057) in the North - dark blue areas not highlighted in pale blue, yellow areas are additional North Falls sites requiring designation.

9.2.5 The MMO is currently designating the updated Five Estuaries ECC (TH019) area. The yellow area in for the Array area is also being designated as we would expect a new area to be included for the array (bottom yellow area under the ECC).

9.2.6 The area in the North Falls shape file provided that goes past land fall on the Essex coast has not been included in the designated area for the Five Estuaries ECC (TH019) disposal site (Figure 3).



Figure 3. Area of North Falls shapefile past Essex land fall not anticipated to be included in the disposal area for Five Estuaries ECC (TH019) extension.

9.2.7 The MMO requests that the following is updated to the DML so that confirmation of designation and use of these sites can be confirmed by the MMO, due to the timescales this won't be provided prior to the end of Examination but the MMO will provide this to the Applicant via email as soon as possible.

Part 1, Details of licensed marine activities, Paragraph 2(a)

*(a) the deposit **at sea at disposal site reference provided in writing by the MMO** within the extent of the Order limits seaward of MHWS of the substances and articles specified in paragraph 4 below and in Work Nos. 2 to 4A of up to 6,309,638 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable installation preparation and excavation of drilling pits for trenchless installation techniques;*

Part 2 Condition

*(4) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, vessels or cables and drilling mud is disposed of **at disposal site reference provided in writing by the MMO within the extent of the** within the Order limits seaward of MHWS.*

10. MMO Responses to Interested Party (IP) Submissions at Deadline 6

10.1 MMO Responses to Port of London Authority (PLA) Comments on any submission received at the previous deadline [REP6-090]

- 10.1.1 It is noted that the PLA welcome the updates to the Outline Sediment Disposal Management Plan ("oSDMP") at Deadline 5. The MMO understands the only outstanding matter relates to ensuring that any disposal material should also not be placed in areas that could migrate into either the deep-water routes or the pilot boarding area. The MMO agrees that this approach should be clear in the oSDMP.
- 10.1.2 The MMO notes the outstanding comments shared by the PLA on the outline Cable Specification and Installation Plan ("oCSIP"). The MMO has provided their own comments above in Section 5. The MMO understands that consistent with their approach to Five Estuaries Offshore Wind Farm, the PLA seeks protective provisions in relation to the CSIP including the undertaker obtaining the PLA's approval in writing of the CSIP before it is submitted to the PLA. The MMO would welcome this, we believe that this issue should be resolved at the consenting stage and not at the post consent stage and if an agreement cannot be met then it is for the SoS to clearly set out their decision on this matter, so the MMO is fully aware of the requirements post consent on this matter.
- 10.1.3 The MMO acknowledges the outstanding comments raised by the PLA regarding the Outline Navigation and Installation Plan [REP5-029]. The MMO hopes these comments will be resolved by the end of examination.
- 10.1.4 The MMO understands that the PLA maintains their position in relation to Protective Provisions as detailed in the PLA's Deadline 4 submissions [REP4-056]. The MMO hopes this to be resolved by the end of examination.
- 10.1.5 The MMO understands that Applicant has submitted a technical paper in relation to the PLA's navigational equipment. The PLA is to provide confirmation that there will be no impact on its onshore equipment. The MMO will review PLA's comments and provide any comments as necessary.

Appendix 1

- 10.1.6 The MMO has reviewed Appendix 1 PLA mark-up of the Schedule 9 Deemed Marine Licence (DML) for Transmission Assets made by the PLA.

Part 1

- 10.1.7 The MMO has no comments on these inclusions.

Part 2

- 10.1.8 Condition 10(4) & (5) – the MMO has no concerns with this inclusion.
- 10.1.9 Condition 13(3) & (4), Condition 16(8) to (14) and Condition 17(2) – the MMO has no concerns with this inclusion, other than to if a decision is required this should be made at the consenting stage. A decision on what is included within the O&M plan in relation to the outstanding disagreements between PLA and the Applicant is a matter for the SoS to decide and not to be discussed and agreed post consent through a document.
- 10.1.10 Condition 22(1)(a)(iii) – the MMO has no concerns with this inclusion.

- 10.1.11 Condition 22(1)(h)(ii) – As set out in 8.1.X above the MMO has no concerns with this inclusion subject to an overall decision on the disagreement at the consenting stage.
- 10.1.12 Condition 22(1)(h)(iv) – the MMO has no concerns with this inclusion.
- 10.1.13 Condition 22(1)(n) – the MMO welcomes the inclusion of ‘in accordance with’ however does not agree with the wording ‘substantial’ within the condition and understands that this is a drafting disagreement between the PLA and MMO.
- 10.1.14 Condition 26(1), (4) & (5), Condition 27(1), (3) & (4) and Condition 28(1) and (3) – the MMO has no concerns with this inclusion.
- 10.1.15 Condition 29 – the MMO has no concerns with this inclusion.
- 10.1.16 Condition 30 – The MMO questions if 20 days is enough notice for the Applicant to make any changes. The MMO receives the monitoring document as part of Condition 22(1)(f) 6 months prior to the start of the surveys (Condition 23(2)) and will open a consultation on this document. The PLA and local harbour authorities (LHA) can be part of this consultation. By the time 20 working days come it is likely that the MMO will have approved the document, and it is unlikely that any changes can be incorporated within the document prior to the monitoring taking place. The MMO feels it would be more efficient if the PLA and LHA review this document prior to submission to the MMO or as part of the consultation process of the document.
- 10.1.17 Condition 30 – The MMO does not believe that paragraph 3 and 4 of the condition is required. Unexploded ordnance is subject to a separate marine licence and therefore a full consultation will take place at the time of the marine licence application process. The MMO does not believe this inclusion meets the five tests.
- 10.1.18 Condition 36 (Remediation) – The MMO believes that this condition can be made simpler. As part of the monitoring requirements the burial depth will be recorded so Condition 28(1)(b) could be updated to include burial depth and along with Condition 28(5), these could both be approved in consultation with the PLA. Therefore, the MMO requests the following updates which sets out the required burial depth at this stage and a variation would have to be applied for if this was not possible:

Deep Water Route Cable Installation

- (1) Cables must be buried to the depths within paragraph 10(4)
- (2) Should the reporting within paragraph 28(1)(b) or 28(5) show the cable has not been buried to the parameters in paragraph 10(4) reburial must occur until this depth is achieved.
- (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:

10.2 MMO Responses to Port of London Authority (PLA) Responses to the ExA's Second Written Questions [REP6-091]

- 10.2.1 The MMO notes that the PLA maintain their position in relation to Q9.2.1 that the amendments made to 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 are not acceptable. The MMO provided further comments on this question at Deadline 6.

10.2.2 The MMO notes there are still areas of disagreements between the Applicant and the PLA. The MMO will maintain a watching brief for a resolution to these concerns.

10.3 MMO Responses to Natural England (NE) Appendix B6 submission at Deadline 6 (REP6-085)

10.3.1 The MMO notes that NE queries why UXO clearance is no longer considered in the CSIP and whether key benthic mitigation measures can still be implemented, as was previously included. NE also advise that clarification is needed regarding the location of the Section 4.3.

10.3.2 The MMO acknowledges that NE advises that the Applicant should identify where the Deep Water Route boulders may be relocated and welcome this confirmation.

10.3.3 The MMO notes that NE would welcome clarification on the implications of the deleted text *“Additionally, in the intertidal any cable remedial protection methods will be buried.”*. NE seeks further information on the Water Column Sediment (WCS) parameters and location for cable protection in nearshore shallow water. The MMO also notes that NE advises that the WCS nearshore cable protection parameters and location should be considered in the context of the recent hydrodynamic model results.

10.4 MMO Responses to NE Appendix E6 submission at Deadline 6 (REP6-086)

10.4.1 Regarding the Draft Marine Mammal Mitigation Protocol (MMMP) [REP5-013], the MMO acknowledges that NE maintains their original position that Noise Abatement Systems (NAS) should not be considered as an ‘additional mitigation’ but rather it should be the default mitigation strategy for reduction of noise at source, in line with the latest Defra Policy (2025). The MMO notes that NE has referred the Applicant to the upcoming Defra document (due to be published in summer) which will offer the clarification on the requirements of NAS and further clarification on the term ‘Best Endeavours’.

The MMO considers that the likelihood of there being ‘no satisfactory alternative’ to piling without NAS for offshore wind developments going forward will be low. Taken with the best endeavours expectation, this means that applications that do not propose to use any form of noise reduction method may only be accepted in exceptional circumstances, where the applicant can prove that the inability to secure NAS is outside of their control or that costs are so exceptionally high to render the project financially unviable. Similarly, if a developer proposes a minimal amount of noise reduction, or if their justifications for not using NAS are weak, there is a high chance they will be asked to explore other methods and therefore could face delays in consenting. Conversely, developers who have secured the greatest possible noise reductions are less likely to face delays in consenting. Noise mitigation technologies with more robust evidence are likely to face smoother consenting journeys with regard to noise related matters, as environmental impacts can be better estimated.

10.4.2 With regards to Marine Mammal Assessment Clarifications [REP5-069], the MMO notes that NE has referred the Applicant to the newly published paper on Interim Population Consequences of Disturbance Model (iPCoD) modelling: (Van Geel et al., 2025)

10.4.3 The MMO notes that NE, having reviewed several iPCoD modelling reports, is largely in agreement with the conclusions detailed in their response of the above iPCoD modelling paper. NE considers any population decline, due to cumulative impacts of multiple developments, to be potentially significant, warranting further investigation.

10.4.4 The MMO notes that considering the limitations of the iPCoD modelling (mentioned above), as well as the outcomes of the Dose Response Curve (DRC) assessment which suggests significant effects for harbour porpoises and seals, NE advises that NAS is necessary. Hence, NE advises that the statement on NAS (included in the MMMP and SIP) should be revised and reworded (please see NE's comment on the MMMP). The MMO has proposed a condition in Section 6.1.4 of this document that provides more commitment to the inclusion of NAS within the MMMP post consent.

10.4.5 In relation to the Outline Site Integrity Plan for the Southern North Sea Special Area of Conservation (SNS SAC) [REP5-015] NE notes that the Applicant has made a commitment to only pile one monopile a day without noise reduction within the winter season (October to March inclusive). The MMO notes that NE considers that this commitment needs to be revised given that it is highly unlikely that piling without noise reduction would be permitted to go ahead. Thus, NE advise that a new assessment should be conducted for monopile piling with noise reduction. The MMO has

10.5 MMO Responses to NE Appendix G6 submission at Deadline 6 (REP6-087)

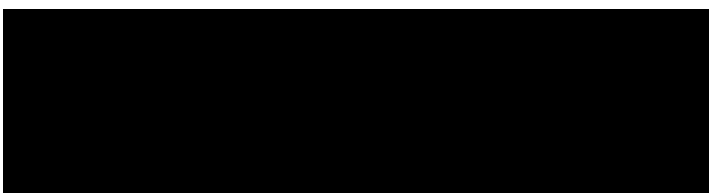
10.5.1 The MMO notes that NE has provided a paper by Rhodes et al., which is a Review of methods used to calculate scale of artificial nesting structures proposed as a compensation measure for Kittiwake mortality at offshore wind farms, for the Applicant's review. The MMO will maintain a watching brief should anything be required for the DML.

10.6 MMO Responses to NE Appendix H6 submission at Deadline 6 (REP6-088)

10.6.1 The MMO has reviewed NE's Lesser Black Backed Gull Compensation Site Advice on the Applicant's Deadline 5 Documents and note that the Habitats Regulations Assessment (HRA) assesses impacts on Gedgrave Marshes which based on a November 2024 site visit and desk-based information. Conclusions of no Likely Significant Effect (LSE) or Adverse Effect on Integrity (AEoI) are based on a precautionary approach considering the site is functionally linked to the Special Protection Area (SPA)/Ramsar bird features. Therefore, NE considers that whilst this is not an evidence-based conclusion, the impact assessment does assume that the area is functionally linked for construction, maintenance, and monitoring. In addition, [REP- 064_b] in doc [REP5- 055 9.69] confirms that baseline surveys will be undertaken post consent/pre-construction.

10.6.2 The MMO notes that NE advises that the fence installation and maintenance activities for the adjacent Royal Society for the Protection of Birds (RSPB) Wader Project have not been considered in the assessment. NE advise that if installation and maintenance activities could be carried out in September and October (only extending into November if absolutely necessary) then this would avoid the most sensitive periods for overwintering as well as breeding species.

Yours Sincerely,

A large black rectangular redaction box covering the signature area.

Marine Licensing Case Officer

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Marine Licensing Case Manager [REDACTED]@marinemanagement.org.uk

11. References

van Geel NCF, Benjamins S, Marmo B, Nabe-Nielsen J, Wittich A, Risch D, Todd VLG and Wilson B (2025) Suitability of assessing population-level impacts from construction of a single wind farm – a case study on North Sea harbour porpoises. *Front. Mar. Sci.* 12:1539143. [REDACTED].