



NORTH FALLS

Offshore Wind Farm

Applicant's Response to Deadline 6 submissions

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1. INTRODUCTION

1.1 Introduction

- 1.1.1 This document has been prepared by North Falls Offshore Wind Farm Limited ('the Applicant') in relation to the North Falls Offshore Wind Farm (hereinafter referred to as 'North Falls' or the 'Project').
- 1.1.2 The Examining Authority's Rule 8 letter [PD-008] confirmed that Deadline 7 for the Examination is Tuesday 15th July 2025.
- 1.1.3 This document has been prepared by the Applicant for submission at Deadline 7 on Tuesday 15th July 2025, and responds to submissions received at Deadline 6.

1.2 Purpose of the document

- 1.2.1 This document provides comments, where appropriate and relevant, on submissions that were made at Deadline 6 by all Interested Parties.

2. APPLICANT’S RESPONSE TO DEADLINE 6 SUBMISSIONS

2.1 Deadline 6 submissions where the Applicant has no comments

Table 2.1 Deadline 6 submissions where the Applicant has no comments

REF	PARTY	TITLE OF DOCUMENT	APPLICANT’S RESPONSE
REP6-083	Marine Management Organisation	Deadline 6 Submission Summary	The Applicant has provided a response to the Marine Management Organisation’s full submission REP6-082.

2.2 Applicant’s response to Cadent Gas on Withdrawal of Objection [REP6-080]

Table 2.2 Applicant’s response to Cadent Gas on Withdrawal of Objection [REP6-080]

REF	THEME	CADENT GAS COMMENT	APPLICANT’S RESPONSE
REP6-080	Withdrawal of Objection	We are writing on behalf of our client, Cadent Gas Limited (“Cadent”). Cadent is an interested party in the examination of the Order. The Promoter and Cadent have agreed the protective provisions for Cadent’s benefit and the Promoter will secure these in the Order. These protective provisions are secured in a confidential commercial agreement and the terms are addressed in that confidential commercial agreement at the Undertaker’s request. Cadent hereby withdraws its objection to the Order.	Noted.

2.3 Applicant’s response to Essex County Council and Tendring District Council on Comments on any submissions received at the previous deadline [REP6-081]

Table 2.3 Applicant’s response to Essex County Council and Tendring District Council on Comments on any submissions received at the previous deadline [REP6-081]

REF	THEME	ESSEX COUNTY COUNCIL AND TENDRING DISTRICT COUNCIL COMMENT	APPLICANT’S RESPONSE
REP6-081_a	Highways - 7.14 Outline Landscape and Ecological Management Strategy (Rev 4) (Clean) [REP5-024]	The Council welcomes the addition at para 241 setting out that planting will not compromise the visibility splay. It is the Council’s expectation that visibility that does not sit within the adopted area of the highway would be maintained by the landowner.	The Applicant notes Essex County Council’s (ECC) comments welcoming the inclusion of the additional paragraph 241 within the Outline Landscape and Ecological Management Strategy (Rev 4) [REP5-024]. The Applicant can confirm that ECCs understanding that visibility splays that do not sit within the adopted area of the highway would be maintained by the Applicant is correct.
REP 6-081_b	Highways - 9.70 Applicant’s Response to Deadline 4 Submissions (Rev 0) [REP5-056]	With regards to REP4-073_a_6, and the monitoring of employee arrival times, ECC are seeking some reassurance around management measures for those employee vehicles that arrive at accesses prior to working times (i.e. 7AM). Will the access be closed, or will early arrivals be managed to avoid waiting on the highway? It is considered likely that there is a practical way to manage this potential issue that can be agreed within the final CTMP. It is considered beneficial if a statement setting out that “The final CTMP will set out the details of how employee vehicles arriving before 7AM will be managed” was included.	The Applicant has met with ECC on 26 June 2025 to discuss ECC’s request. During this meeting the Applicant and ECC discussed ECC’s concerns and how these could be managed through the final Construction Traffic Management Plan. ECC noted that concerns related to ensuring vehicles would not need to wait on the highway to gain access (also avoiding wider associated impacts, e.g. noise) should they arrive before 7AM and gates to site be locked. It was agreed between the parties that the Applicant would include wording in an update to the OCTMP at Deadline 7 to ensure that gates are open such that vehicles can drive off the highway and park up in designated areas. The Applicant has included this updated text in the OCTMP submitted at Deadline 7 [Document Reference: 7.16, (Rev4)]. The Applicant has shared a draft version of the updated OCTMP with ECC in advance of Deadline 7, and ECC has confirmed they are content with the wording on 10 July 2025. This agreement is shown in Item 9 of Table 2.7 of the Essex County Council and Tendring District Council Statement of Common Ground being submitted at Deadline 7 [Document reference: 10.17 (Rev2)].
REP6-081_c	Public Rights of Way	As there are currently large open patches along the southern side of the Barn Lane byway, the new substation would be highly visible to the byway users. It would be	The Landscape Mitigation Plan provided in Appendix A of the Outline Landscape and Ecological Management Strategy (Rev 5) [REP6-035] and Sheet 6 of the Indicative planting cross-sections

REF	THEME	ESSEX COUNTY COUNCIL AND TENDRING DISTRICT COUNCIL COMMENT	APPLICANT'S RESPONSE
		beneficial to provide landscape screening, set at a suitable distance from the narrow byway.	at the onshore substation [REP5-035] highlights that there will be proposed tree and hedgerow planting between Barn Lane and the proposed North Falls onshore substation to the south. The proposals include the infill of any open stretches of the existing hedgerow. Shelter belt planting is also proposed to the south of the hedgerow to screen the onshore substation from byway users.
REP6-081_d	Landscape - REP5-005 - Document 2.3 Design Vision (Rev 1)	We welcome the proposal of a Joint Design Guide between North Falls and Five Estuaries projects identified in the Design Vision. Our concerns remain as to the extent and character of the proposed landscape strategy. In this we support the concerns identified by the Design Council that a wider vision for landscape is required.	The Applicant will continue to work with the Five Estuaries project team to develop a Joint Design Guide and associated landscape strategy. Consideration of how the Project's landscape mitigation and ecological enhancements integrate with the wider landscape is a key consideration during the development of the Joint Design Guide, and the final Written Landscaping Scheme secured under Requirement 7 of the Draft DCO [REP6-005] . Please also refer to the Applicant's response to Q8.0.4(iv) in the Applicant's Response to ExA's Third Written Questions (ExQ3) [9.113 (Rev 0)] and the Applicant's response to REP6-081_e below.
REP6-081_e	Landscape - REP5-025 - Document 7.14 Outline Landscape and Ecological Management Strategy (Rev 4) (Tracked)	Para 3.1 Content of the Written Landscape Scheme – could it be clarified in the OLEMS if the details of trees, woodland and hedgerows, finished ground levels and bunding, and plant details including, where possible plant schedule will also be provided as drawings to illustrate the written details. Where boundary treatments are also discussed these should also be included on the drawings for clarity. Para 230 'The Outline Landscape Strategy seeks to strengthen the existing fragmented landscape character and to knit it back into its wider landscape context, whilst strengthening ecological value and habitat connectivity'. As stated above in relation to 2.3 Design Vision (Rev 1), our concerns remain as to the extent and character of the proposed landscape strategy. In this we support the concerns identified by the Design Council that a wider vision for landscape is required.	Drawings, including where practicable those showing details of trees, woodland and hedgerows, finished ground levels and bunding, plant details and boundary treatments will be provided as part of the Written Landscaping Scheme secured under Requirement 7 of the Draft DCO [REP6-005] . Section 3.1 of the OLEMS [7.14 (Rev 6)] has been updated to confirm this, and this updated version of the OLEMS is being submitted into the Examination at Deadline 7. Section 5.54 of the Design Vision [REP5-004] identifies the network of Green Infrastructure surrounding the existing site, and the existing line of trees within the site. As shown in Section 5.5.7, the proposals seek to knit the site back into its wider landscape context using landscape elements characteristic of the surrounding area (shelter belts, hedgerows, hedgerow trees) within the site and locating them to provide maximum connectivity to existing off-site features. As noted above, consideration of how the Project's landscape mitigation and ecological enhancements integrate with the wider landscape is a key consideration during the development of the Joint Design Guide, and the final Written Landscaping Scheme secured under Requirement 7 of the Draft DCO [REP6-005] .
REP6-081_f	Landscape - REP5-035 - Document Indicative Planting Cross-sections at the Onshore Substation (Rev 2)	We welcome the revised cross-sections. Our position remains that the proposed infrastructure would have a major significant visual impact on close-to receptors for a minimum of ten years with several of the taller elements giving rise to residual moderate impacts creating the perception of an industrialised landscape.	The Indicative planting cross-sections at the onshore substation [REP5-035] identify the screening impact of vegetation at years 5, 10 and 15. These show the buildings largely screened at year 10, with the slender lighting masts being the only structure visible at year 15. The ES Chapter 30 Landscape and Visual Impact Assessment (LVIA) [APP-044] considers landscape and visual effects at year 1 and year 15. This assessment acknowledges that, for certain close proximity receptors, moderate adverse effects will remain at year 15. Please also refer to response REP4-073_b_1 in the Applicant's Response to Deadline 4 Submissions [REP5-056] and specifically the response to paragraph 216, which covers landscape effects in relation to nationally significant infrastructure projects.
REP6-081_g	Landscape - Rule 17 Letter – ExA Request for Further Information	In relation to the ExA's request that '... the Applicant provides draft National Landscape Enhancement Scheme principles and a mechanism for securing such a scheme, on a without prejudice basis, at Deadline 6.' ECC and TDC would wish to see the principles reflect any relevant sections in the Colchester Landscape Character Assessment 2024, Tendring Landscape Character Assessment 2001 (as well as the relevant part of the Suffolk Landscape Character Assessment) as well as encompassing the principles in the Essex Green Infrastructure Strategy (2020).	A draft of the 'National Landscape Enhancement Scheme principles document' (Applicant's Response to ExA's Request for further information (Rule 17) - National Landscapes) [REP6-062] was submitted into the Examination at Deadline 6. The purpose of the National Landscape Enhancement Scheme which the ExA has asked the Applicant to provide draft principles for on a 'without prejudice' basis, is to deliver benefits / enhancements related to the effects of the Project on the Suffolk and Essex Coast and Heaths National Landscape (SECHNL). The Scheme should therefore focus on projects and initiatives relating to enjoyment of the coast and coastal views from the SECHNL. The Applicant has considered the landscape character assessments relevant to the spatial scope of the SECHNL identified in the National Landscape Enhancement Scheme principles document [REP6-062] .

REF	THEME	ESSEX COUNTY COUNCIL AND TENDRING DISTRICT COUNCIL COMMENT	APPLICANT'S RESPONSE
			The projects or initiatives that will be delivered as part of the National Landscape Enhancement Scheme will be at the discretion of the Suffolk and Essex Coast and Heaths National Landscape Partnership.
REP6-081_h	Ecology	No comments further to those already provided in REP5-022, REP5-024 and REP5-040. Matters relating to BNG and long-term aftercare/management are still under discussion and not yet agreed - see rows 20, 22 and 25 of Table 2.4 Onshore Ecology of SoCG for ECC and TDC in REP5-082.	<p>The Applicant discussed outstanding BNG matters with ECC in a call on 8 July 2025, during which the Applicant confirmed that when undertaking the final BNG Assessment required by Requirement 21 of the DCO, with respect to watercourse units, the Applicant would follow the mitigation hierarchy as follows when exploring opportunities to achieve a net gain in biodiversity units:</p> <ol style="list-style-type: none"> Avoiding the need for unit loss: In the first instance the Applicant will seek to avoid or minimise the need for unit loss through seeking to reduce and avoid the need for works to watercourses during the installation of temporary haul roads along the onshore cable route. On-site habitat compensation – If residual watercourse unit loss remains following detailed design, habitat creation or enhancement of watercourses will be sought within the Order Limits of the Project. Off-site habitat compensation within Tendring district: If no opportunities are available for watercourse compensation within the Project's Order Limits, opportunities will be sought for habitat creation or enhancement of watercourses within Tendring district - if such projects exist at the time of the final BNG Assessment. Off-site habitat compensation within an adjacent district, i.e. Colchester districts: If no opportunities are available for watercourse compensation within the Tendring district's boundary, opportunities will be sought for habitat creation or enhancement of watercourses within the neighbouring Colchester district if such projects exist at the time of the final BNG Assessment. Off-site habitat compensation within Essex: If no opportunities are available for watercourse compensation within Colchester district's boundary, opportunities will be sought for habitat creation or enhancement of watercourses within Essex if such projects exist at the time of the final BNG Assessment. Off-site habitat compensation elsewhere in England: If no opportunities are available for watercourse compensation within Essex, opportunities will be sought for habitat creation or enhancement of watercourses elsewhere in England if such projects exist at the time of the final BNG assessment. <p>The above mitigation hierarchy aligns with the spatial risk multiplier within the Statutory Biodiversity Metric, prioritising on-site measures and subsequently considering off-site measures as close as possible to the site of habitat impacts.</p> <p>This accords with the approach to delivering BNG outlined in section 3 of the Biodiversity Net Gain Strategy [REP3-027].</p>
REP6-081_i	Green Infrastructure – Emerging Essex Local Nature Recovery Strategy (2025)	It is recommended that the project has consideration for the emerging Essex Local Nature Recovery Strategy (2025). The LNRS is set to be published July 2025.	The Applicant has updated Section 3.5.3 of the OLEMS at Deadline 6 [REP6-035] and the OLEMS submitted at Deadline 7 [7.14, (Rev 6)] to include reference to the Essex LNRS, which has been published in July 2025.
REP6-081_j	Green Infrastructure - REP5 –025 - 7.14 Outline Landscape and Ecological Management Strategy (Rev 4) (Tracked)	<p>The GI Team agrees with the changes in revision 4 in relation to ensure the commitment to avoid veteran trees in hedgerows and clarification that the habitats outside the onshore substation area will be subject to 10 years after care. As well as the habitats within the onshore substation area will be monitored and managed for 30 years under the BNG requirement.</p> <p>A previous correction to the reference to the Essex GI Strategy has reoccurred. On Page 53, in section 3.9 "Consideration of GI," paragraph 234 should be corrected to replace "Place Services" with "ECC":</p> <ol style="list-style-type: none"> "Table 3.2 below summarises the consideration of GI within this OLEMS, in line with the "recommendations for developers" section of the Essex GI Strategy (Places Services, Essex County Council, 2020).". Additionally, on Page 59 under section 4 "References," it should read: b. Places Services Essex County Council (2020) Essex Green Infrastructure Strategy. Available 	<p>The Applicant notes ECC's comments on the GI Strategy and is submitting an updated version of the OLEMS [7.14, (Rev 6)] at Deadline 7, correcting the references to the Essex GI Strategy (from 'Places Services' to 'Essex County Council').</p> <p>The Applicant has previously updated the OLEMS at Deadline 6 [REP6-035] to make adequate reference to the Essex GI Standards at sections 2.6 and 4 and therefore considers that no further changes in relation to this point are required.</p>

REF	THEME	ESSEX COUNTY COUNCIL AND TENDRING DISTRICT COUNCIL COMMENT	APPLICANT'S RESPONSE
		<p>It is noted that our previous comment to reference the Essex Green Infrastructure Standards (ECC, 2022) has not been incorporated. As an alternative, if the applicant does not want to include a short paragraph in section 3.9 on how the OLEMS aligns with the Essex GI Standards' nine principles, or a similar paragraph to the one included by the Five Estuaries in their Outline Landscape and Ecological Management Plan, as shown below:</p> <p><i>“2.4.6 As the mitigation proposals are further developed post consent, the process will be informed by the nine GI Standards set out in Table 1 of the Essex GI Standards Technical Guidance (Available at: https://www.essexdesignguide.co.uk/supplementary-guidance/essex-greeninfrastructure-standards) including early engagement with all relevant stakeholders, ensuring the plans maximise connectivity and enhance multi functionality and that consideration is made around the long term management and stewardship.”</i></p> <p>We recommend the following simple additions to:</p> <ol style="list-style-type: none"> Page 40 paragraph 174, second, third and fourth bullet point: <ul style="list-style-type: none"> Use of Sustainable Drainage Systems (SuDS) in line with the Essex GI Strategy (Essex County Council, 2020) and Essex GI Standards (Essex County Council, 2022); Strategic planting to ensure habitat connectivity is created with the surrounding landscape, in line with the Essex GI Strategy (Essex County Council, 2020) and Essex GI Standards (Essex County Council, 2022); Retention of trees and hedgerows where possible, in line with the Essex GI Strategy (Essex County Council, 2020) and Essex GI Standards (Essex County Council, 2022); and Page 50, paragraph 3.5.3 Additional landscape mitigation: <ul style="list-style-type: none"> Enhancement and strengthening of existing landscape character and GI, with reference to the Tendring Landscape Character Assessment, and the Essex Green Infrastructure Strategy and Standards (Essex County Council, 2022). Section 4. References: <ul style="list-style-type: none"> Essex County Council (2020) Essex Green Infrastructure Standards. Available https://www.essexdesignguide.co.uk/supplementary-guidance/essex-green-infrastructure-standards/ 	
REP6-081_k	Green Infrastructure - REP5 -035 – 9.30 Indicative planting cross-sections at the onshore substation (Rev 2)	No comment. Any previous comments still stand.	Noted.
REP6-081_l	Archaeology	With regard to the archaeological input for North Falls, the revised Outline Written Scheme of Investigation and Archaeological Mitigation Strategy has been fully updated and agreed.	Noted.
REP6-081_m	Built Heritage	No comments further to those already provided in REP5-090 and REP5-091. There remains concerns regarding construction impacts to the significance of a number of heritage assets through development within their setting.	The Applicant provided a response to REP5-090 and REP5-091 at Deadline 6, which addresses these concerns. The relevant responses can be found in Applicant's Response to Deadline 5 Submissions [REP6-060] (in response to items REP5-090_d1 and REP5-090_d2).
REP6-081_n	Flood, Surface Water and Drainage	<p>No further comments from LLFA.</p> <p>The DCO seeks to disapply s.23 of the Land Drainage Act which will be covered by the proposed drainage protective provisions (PP). Each s.23 application incurs a fee of £50 per structure/culvert. However, such fees are not reflected within the PPs and will need to be covered by any post-consent Planning Performance Agreement.</p>	<p>The Applicant notes that paragraph 38 of the protective provisions contained in Part 4 of Schedule 14 for the benefit of drainage authorities requires the Applicant to pay reasonable compensation for any costs, charges and expenses that the drainage authority incurs.</p> <p>Generally, the Applicant is willing to discuss the broad basis of a post-consent Planning Performance Agreement (PPA) with officers from both Essex County Council and Tendring District Council. Should the Applicant be awarded a DCO by the Secretary of State (Energy Security & Net Zero), the Applicant is willing to discuss such matters at that time. The Applicant would suggest that the preferred form of any PPA is jointly agreed between the Councils prior to engaging with the Applicant. The Applicant would be willing to review any proposals for a PPA prior to the Secretary of State's decision, yet the Applicant will not provide comments until after a decision on whether to grant the DCO has been made. The Applicant would request the Councils pay particular attention to any timescales within the PPA to help the Applicant maintain its project delivery programme.</p>

REF	THEME	ESSEX COUNTY COUNCIL AND TENDRING DISTRICT COUNCIL COMMENT	APPLICANT'S RESPONSE
REP6-081_o	Tourism	<p>The Councils do not agree with the assertion within the assessment in ES Chapter 32.6 (APP-046), especially for non-frequent visitors. There are no data to suggest how much non-frequent visitors are contributing to the overall picture and being non-frequent does not mean there are little impacts.</p> <p>The Councils do not agree that the applicant's conclusion that there would be negligible impacts on local tourism. As pointed out previously, the ES does not provide a comprehensive assessment on the potential impacts and the cumulative effects from other relevant NSIP projects. The overall construction periods could be a lot longer than 27 months if these projects are not aligned and constructed at the same time. This would have significant impacts on local tourism especially for day-trips and short-trips to the coastal areas. This could not be classified as Negligible (very minor, i.e. of under 5% or very short-term [a few days]) changes in levels and/or patterns of use as listed in Table 32.8 Magnitude of tourism and recreation impacts.</p> <p>The assessment largely relies on data source up to 2022, which is not up-to-date and has not taken into account the potential increase of day-trips and short-trips due to changing work pattern after the pandemic. It also under-estimates the importance of Holland-on-Sea, Frinton-on Sea and Walton-on-the Naze, which offer families an alternative option of less busy coastal experience as compared to Clacton-on-Sea during peak period. Paragraph 192 also highlight perception on traffic interruptions and delays are perceived as nuisance and could significantly deter people from visiting or returning to the area.</p> <p>With the proposed works at A120 and Bentley Road, visitors are likely to avoid using A120 altogether, it is unclear how much of the tourism-related trade will be leaked outside of Tendring district. Hence the Councils maintain the views that monitoring of the situation are crucial and that mitigations and or compensation measures must be in place to ensure that there would not be significant impact on the local tourism industry as well as the District's economy.</p>	<p>As outlined in Section 32.4.6 of ES Chapter 32 Tourism and Recreation [APP-046], the assessment described within ES Chapter 32 was based on the most up-to-date data available at the time it was completed.</p> <p>There is no indication that updating the baseline data would alter the conclusions regarding the significance of the relevant effects. Further, the assessment team is not aware of any academic literature, either published prior to or since the assessment, that would suggest that significant adverse effects on the volume or value of coastal tourism could result from offshore wind farm developments. Therefore, even if baseline visitor volume and value figures have changed, the assessment's conclusion of a non-significant effect remains valid.</p> <p>The assessment is robust and considered a range of baseline factors, including visitor types, length of stay, and the structure of the local tourism economy. This information informed the assessment of the potential magnitude of impact and receptor sensitivity, which together determined the overall significance of effects. Volume and value data were disaggregated by coastal, countryside, and urban visitor categories, and specific tourism assets within the coastal area were also considered.</p> <p>In relation to concerns about localised impacts raised by ECC, it is understood that these relate to potential impacts on tourism activity within Tendring District. Traffic impacts were identified as a potential pathway for tourism effects within the assessment. Review of the effects identified in ES Chapter 27 Traffic and Transport [APP-041] and embedded mitigation measures, were incorporated into the assessment of tourism effects. No significant transport-related effects were identified and ECC has not presented any evidence to contradict this assessment. Other potential pathways, such as noise effects on tourism assets, were also assessed and found to be negligible.</p> <p>Given the absence of significant effects no additional mitigation measures beyond those embedded in the Project have been proposed.</p> <p>Monitoring tourism impacts, as suggested by TDC, with the specific purpose of understanding whether and to what extent North Falls affects tourism activity would require well-designed, long-term, longitudinal studies to be carried out to produce robust evidence that avoids the risk of survey bias. Such monitoring activity would at a minimum require pre-construction works baseline data and count data, or business performance data, repeated during construction, and post-completion. One-off surveys of visitors and/or businesses carried out (for example) during construction, or at completion, would not be a robust method of delivering monitoring activity. They are prone to respondent bias, and lack the application of any control group or counterfactual method to enable the effects of a development to be isolated from other factors. Given the complexities involved in such approaches, the conclusion in ES Chapter 32 Tourism and Recreation [APP-046] of no significant effects, and the absence of any evidence from ECC to contradict these conclusion and support a complex monitoring scheme, the Applicant has not proposed further mitigation or compensation measures related to tourism impacts.</p> <p>The Applicant also refers to its response to Q16.0.4(i) in the Applicant's Response to ExA's Third Written Questions (ExQ3) [9.113, (Rev 0)].</p>
REP6-081_p	Skills and Employment - Applicant's Response to Deadline 4 Submissions (Rev 0) [REP5-056]	<p>The Councils maintain the view that the Outline Skills and Employment Plan (SEP) [APP 253] should be revised and strengthened to provide the necessary certainty of commitments from the applicant and as an effective guide to further develop the essential monitoring and mitigation measures required to address the potential skills, employment and supply chain impacts.</p> <p>The document states in p. 24 Ref. REP4-073_h that the applicant welcomes the suggested proposals, however, the bullet points listed should be incorporated into the Outline SEP (APP-253) while details to be further developed with partners at the detailed stage prior to discharging the relevant requirement post consent.</p> <p>Reference has been made to East of England Energy Group (EEEEGR) in the applicant's response, however, both applicants of the Five Estuaries and North Falls windfarms have not been registered as a member of EEEGR. The EEEGR is a non-profit business association representing the interests of its members from energy producers through to the supply chain, including skills providers who support the industry. Skills for Energy is one of the core programmes at EEEGR, with the main goal of ensuring ongoing diversity and volume of skilled individuals to support the current and future needs of the energy sector in the east, covering Norfolk, Suffolk, Essex as well as Cambridgeshire.</p>	<p>The Applicant notes that these requests form part of a broader set of inputs received in relation to the development of the full Skills and Employment Plan (SEP). The Applicant is maintaining a comprehensive log of all comments and proposals to ensure that feedback and requests associated with the Outline Skills and Employment Plan (OSEP) [APP-253] are fully captured and considered in the preparation of the final SEP, which will be developed post-DCO consent.</p> <p>To support this process, an Addendum to the OSEP [9.108, (Rev 1)], containing the current list of comments, is being submitted at Deadline 7. The Applicant welcomes further comments on this list as part of the ongoing consultation and the collaborative development of the SEP.</p> <p>North Falls is a 50:50 joint venture between SSE Renewables Offshore Windfarm Holdings Limited (SSER) and RWE Renewables UK Swindon Limited (RWE). RWE is a member of the East of England Energy Group (EEEEGR), with Alastair Gill from RWE serving on the EEEGR board. While SSER is not explicitly listed as an EEEGR member, it is part of Net Zero East, a regional initiative involving several EEEGR stakeholders. EEEGR was consulted during the development of the OSEP and will continue to be engaged in the SEP process.</p> <p>The Applicant remains committed to working closely with stakeholders on matters relating to the skills, employment, and supply chain impacts of North Falls, including cumulative impacts with other projects. More broadly, the Applicant is keen to support and engage with initiatives that promote skills development in the energy sector. As such, the Applicant will explore the merits</p>

REF	THEME	ESSEX COUNTY COUNCIL AND TENDRING DISTRICT COUNCIL COMMENT	APPLICANT’S RESPONSE										
		<p>The Councils have previously highlighted that there are significant skills, employment and supply chain impacts of the project itself, together with the other NSIP projects as well as strategic developments in the wider region. It is essential that the applicant is working with other partners and stakeholders in association with EEEGR to ensure that there are coordinated approach in terms of recruitment, training, skills shortage, skills retention, promotion of equality, diversity and inclusion, networking as well as sharing best practices. Both Councils would expect the applicant to commit in the Outline SEP to contribute into the Skills for Energy programme to help promote the industry as well as showcasing East of England on a national and international stage.</p> <p>Further details and information on a breakdown of anticipated workforce and labour demands for the project is also required at this stage. As we have previously highlighted, the project needs to be considered within the context of other NSIPs and strategic developments in the wider region, including neighbouring counties. There will be significant impacts on employment, skills and supply chain from this project and cumulatively from all projects in the region. In order for ECC to work to address existing identified skills, labour and supply chain shortages and in turn support the applicants with delivery of projects across the county, ECC requires this information now in order for this planning and work to take place. ECC has also been communicated with Suffolk County Council on regional skills and their approach to NSIPs responses and know that they also support this stance.</p>	<p>of contributing to the Skills for Energy programme, as outlined in the Addendum to the Outline Skills and Employment Plan [9.108, (Rev 0)].</p> <p>Information on workforce and skills breakdown is provided in Section 6 of the OSEP [APP-253]. At this stage of the project, detailed information, particularly regarding procurement decisions, is not yet available to provide a more granular forecast of workforce and labour demands. As noted in the Addendum to the Outline Skills and Employment Plan [9.108, (Rev 0)], this level of detail will be developed post-DCO consent and will inform the final SEP accordingly.</p> <p>The Applicant also refers to its response to Q16.0.4(ii), (iii) and (iv) in the Applicant’s Response to ExA’s Third Written Questions (ExQ3) [9.113, (Rev 0)].</p>										
REP6-081_q	Legal/dDCO – dDCO amendments	<p>As per ECC previous D5 submission the following amendments to the dDCO are outstanding:</p> <table><tr><th>Article</th><th>Essex County Council’s comments</th></tr><tr><td>2 - Interpretation</td><td>Addition of following definition: “the 1984 Act” means the Road Traffic Regulation Act 1984 The DCO should include the above definition as ‘1984 Act’ is referred to in Article 14 but has not been defined.</td></tr><tr><td>6 (f)</td><td>Deletion of ‘Essex County Council Act 1987’ and replace with ‘Essex Act 1987’</td></tr><tr><td>8</td><td>Street Works ECC requests that the bullet points read as follows: <div><div>a)</div><div>break up or open the street, or any sewer, drain or tunnel within or under it;</div></div><div><div>b)</div><div>tunnel or bore under the street;</div></div><div><div>c)</div><div>remove or use all earth and materials in or under the street</div></div><div><div>d)</div><div>place and keep apparatus in or under the street;</div></div><div><div>e)</div><div>maintain apparatus in or under the street or change its position; and</div></div><div><div>f)</div><div>execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (e).</div></div></td></tr><tr><td>Schedule 1 Part 4 Paragraph 34(2)</td><td>Deletion of paragraph 34(2). Paragraph 34(2) is seeking to recover fees which have been paid under paragraph 34(1) and provides for the repayment of fees within 4 weeks of rejecting an application as invalidly made. This is unreasonable. The authority will still have done the work necessary to reject the application. The relevant planning authority should not be punished financially if an applicant has incorrectly submitted an invalid application. The relevant planning authority would have already incurred the expense of reviewing the application and a refund of the fees would put a strain on the public purse. Therefore, paragraph 34(2) should be struck out of the DCO.</td></tr></table>	Article	Essex County Council’s comments	2 - Interpretation	Addition of following definition: “the 1984 Act” means the Road Traffic Regulation Act 1984 The DCO should include the above definition as ‘1984 Act’ is referred to in Article 14 but has not been defined.	6 (f)	Deletion of ‘Essex County Council Act 1987’ and replace with ‘Essex Act 1987’	8	Street Works ECC requests that the bullet points read as follows: <div><div>a)</div><div>break up or open the street, or any sewer, drain or tunnel within or under it;</div></div> <div><div>b)</div><div>tunnel or bore under the street;</div></div> <div><div>c)</div><div>remove or use all earth and materials in or under the street</div></div> <div><div>d)</div><div>place and keep apparatus in or under the street;</div></div> <div><div>e)</div><div>maintain apparatus in or under the street or change its position; and</div></div> <div><div>f)</div><div>execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (e).</div></div>	Schedule 1 Part 4 Paragraph 34(2)	Deletion of paragraph 34(2). Paragraph 34(2) is seeking to recover fees which have been paid under paragraph 34(1) and provides for the repayment of fees within 4 weeks of rejecting an application as invalidly made. This is unreasonable. The authority will still have done the work necessary to reject the application. The relevant planning authority should not be punished financially if an applicant has incorrectly submitted an invalid application. The relevant planning authority would have already incurred the expense of reviewing the application and a refund of the fees would put a strain on the public purse. Therefore, paragraph 34(2) should be struck out of the DCO.	<p>The Applicant has set out its response to each item below:</p> <ul style="list-style-type: none">• Article 2: The Applicant updated the draft DCO at Deadline 6 to include this amendment (see [REP6-005] and [REP6-006]).• Article 6(f): The Applicant updated the draft DCO at Deadline 6 to include this amendment (see [REP6-005] and [REP6-006]).• Article 8: The Applicant updated the draft DCO at Deadline 7 to include these amendments (see [6.1, (Rev 8)]).• Schedule 1 Part 4 Paragraph 34(2): The Applicant updated the draft DCO at Deadline 6 to include this amendment (see [REP6-005] and [REP6-006]).• General: The Applicant and ECC have agreed the form of protective provisions in relation to the ECC’s role as local highway authority and lead local flood authority which have been inserted into the draft DCO (see Schedule 14, Parts 4 and 8 of the draft DCO [REP6-006]).• Requirement 17(2) – Control of noise during operation stage: Please see the Applicant’s response to item REP5- 090_j6 in 7 Applicant’s Response to Deadline 5 Submissions [REP6-060]. The Applicant also addresses this point in the Applicant’s Response to the ExA’s Proposed Schedule of Changes to the dDO [9.106, (Rev 0)].
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REF	THEME	ESSEX COUNTY COUNCIL AND TENDRING DISTRICT COUNCIL COMMENT		APPLICANT'S RESPONSE
		General	ECC will require some form of protective provisions. This is currently the subject of discussions between the parties.	
		Requirement 17 (2) – Control of noise during operation stage	The DCO is to be amended to reflect a joint panel approach between North Falls, Five Estuaries and National Grid for the noise investigation protocol. Inclusion of the following provision: <i>“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 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.”</i>	
REP6-081_r	Legal/dDCO - Drainage Protective Provisions	For 3(1), the drainage authority would require 21 days instead of 14 days to request for further information. The shortened period is considered unreasonable and would not allow sufficient time for the drainage authority to consider the submission appropriately, taking into account resources and in case of annual leave. The timeframe would allow the engineer to request the necessary information instead of refusing such application as would under a S. 23 Land Drainage application due to lack of information, this will also avoid further delay of the process. The applicant of Five Estuaries has admitted that the shortened period does not reflect the agreed position between the parties and a formal request for change will be applied by the applicant to the Secretary of State to rectify the matter through a Correction Order. Therefore, ECC maintains the views that 21 days should be allowed.		The Applicant updated the draft DCO at Deadline 6 to include this amendment (see [REP6-005] and [REP6-006]).
REP6-081_s	Legal/dDCO - Phasing / Grampian Condition	The Councils maintain the position set out in our response at Deadline 4 (REP4-073) and our response to ExQ2 (REP5-091 - Q9.1.14).		Noted. The Applicant maintains its position as set out in response to item EP5-090_i in the Applicant's Response to Deadline 5 Submissions [REP6-062], item REP4-073_q in the Applicant's Response to Deadline 4 Submissions [REP5-056] and the Applicant's comments in response to item REP5-091_e2 in the Applicant's Comments on Responses to ExQ2 [REP6-061].

2.4 Applicant's response to Marine Management Organisation on Comments on any submissions received at the previous deadline [REP6-082]

Table 2.4 Applicant's response Marine Management Organisation on Comments on any submissions received at the previous deadline [REP6-082]

REF	THEME	MARINE MANAGEMENT ORGANISATION COMMENT	APPLICANT'S RESPONSE
REP6-082_a	ExQ2 - 9.0.3	The MMO is still preparing a response and will provide an update at Deadline 7.	Noted.
REP6-082_b	ExQ2 - 9.2.1	<p>The MMO will review Interested Party responses to this question at Deadline 5 and will liaise if there are any issues.</p> <p>Deadline 6 update</p> <p>The MMO has liaised with the PLA regarding their response submitted at Deadline 5. The MMO notes the concerns raised by PLA in relation to engagement with the Applicant. The MMO is aware from the response by PLA at deadline 5 [REP5-111] that the area for deeper cable burial is still not agreed.</p> <p>The MMO notes that the PLA have a number of comments regarding the Outline Navigation and Installation Plan which still need to be addressed.</p> <p>The MMO is aware that the PLA have approached the Applicant on more than one occasion to discuss the matter of Protective Provisions for the PLA and the Applicant has refused to engage with the PLA on this matter. The MMO would encourage the Applicant to engage with the PLA on this matter given the approach to the end of Examination.</p> <p>The MMO is also aware that the PLA plan to include further requirements at Deadline 6 in their submission. The MMO notes that their submission may include</p>	<p>The Applicant has engaged and continues to engage constructively with the PLA in discussions regarding its cable burial requirements and related mitigation in respect of the Deep Water Routes. In discussions, and throughout Examination, the PLA have not shown that PPs are reasonable or necessary. The Applicant has declined requests for meetings in respect of PPs only, and that is because the Applicant's position has remained that PPs are not necessary (see the Applicant's Response to the Ports' Request For Protective Provisions [REP4-044]).</p> <p>The Applicant has adequately addressed concerns of the PLA in appropriate alternative ways: by committing to not reduce depth more than the levels agreed with the PLA, and not impede or prevent dredging, in the Deep Water Route areas (Requirement 2(3)), by not reducing navigable depth at all in the DWR areas due to cable works or maintenance (Condition 13(4) and Condition 22(1)(h)(ii)), by condition requiring that PLA (as one of the local harbour authorities) are consulted with by the MMO in respect of all the mitigation plans activities that may affect PLA, (Condition 22(1)), and through a series of commitments contained in the outline Cable Specification and Installation Plan, outline Navigation and Installation Plan and outline Sediment Disposal Management Plan.</p> <p>Further updates were made to the outline CSIP, NIP and SDMP at Deadline 6 to address comments by the PLA and other ports (see [REP6-052], [REP6-040] and [REP6-050]). Further</p>

REF	THEME	MARINE MANAGEMENT ORGANISATION COMMENT	APPLICANT'S RESPONSE
		<p>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>to discussions with the PLA and Harwich Haven Authority the area for deeper burial has also been updated and extended at Deadline 6 (see [REP6-055]).</p> <p>Moreover, the Applicant has included in the dDCO submitted at Deadline 7 (Document Reference 6.1, Rev 8) conditions proposed by the PLA [REP6-090] (and which the ExA in turn also requested be included in the ExA's Schedule of Changes to the draft Development Consent Order (1 July 2025) :</p> <ul style="list-style-type: none"> - Consultation with and notifications to the PLA in relation to activities and programme relating to monitoring and UXO, see new condition 37; and - the PLA must be consulted on the operations and maintenance plan, see updated condition 13(4). <p>The Applicant has also expanded the notification requirements in respect of surveys, the progress of development, and aids to navigation, under condition 16 and 17 of Schedule 9, to include the PLA (as one of the 'local harbour authorities') of the updated dDCO.</p> <p>As a result, the Applicant has gone above and beyond that which is necessary to ensure the PLA's interests are protected. Protective Provisions are not necessary.</p>
REP6-082_c	ExQ2 - 9.2.6	<p>The MMO provided context and background to the Applicant on 15 May 2025.</p> <p>Deadline 6 update</p> <p>The MMO notes from the Applicant's Deadline 5 response that they will be updating the Outline Operations and Maintenance Plan at Deadline 6 to address the concerns raised by the MMO. The MMO welcome this and will review and provide comments at Deadline 7.</p> <p>In relation to the condition wording the MMO is largely content with condition 13 and condition 31.</p> <p>One discussion point has been sent to the Applicant to review after a meeting on 11 June 2025. This is in relation to resubmission of the O&M Plan. Generally, the O&M condition includes a provision for review and resubmission:</p> <p><i>An operations and maintenance plan in accordance with the outline offshore operations and maintenance plan and including a chemical risk assessment must be submitted to the MMO for approval in writing at least six months prior to commencement of the operation of licensed activities and must provide for review and resubmission every three years during the operational phase.</i></p> <p>The MMO notes reporting, including a review is covered within Condition 31 but if there are any changes after this review period these aren't linked to a resubmission of the O&M report as per the condition above. The MMO does not propose to include both a review and resubmission every three years in Condition 13 and the annual and 5 year consolidated review due to the onerous nature but would like confirmation that if any changes are identified this would be updated in a new version of the O&M plan.</p> <p>The MMO would highlight due to the length of the operation phase there could be a number of changes required to the plan and each plan would need approved by the MMO.</p> <p>The MMO also believes the following condition should be added to Condition 13:</p> <p><i>(5) No maintenance works whose likely effects are not assessed in the environmental statement may be carried out, unless otherwise approved in writing by the MMO.</i></p> <p>The MMO notes 'shall' is also used within condition 13(4) and this should be updated to 'must'.</p>	<p>The Applicant has updated the oOOMP at Deadline 7 so that it provides for review every 3 years as proposed by the MMO (Document Reference 7.20, Rev 3). As the O&M plan must be in accordance with the outline plan and be approved by the MMO itself, to contain it within the plan is the appropriate way to address this; bearing in mind also the point the MMO made at Q9.2.6 in [REP6-082] that the plan may need to change several times throughout the operational phase, makes it impractical to have it in a condition.</p> <p>The MMO's proposed new Paragraph (5) for Condition 13is not necessary, as this is achieved by the definition of "maintenance" which already limits such activities to the extent assessed in the environmental statement.</p> <p>As requested by the MMO, the dDCO has been updated changing the wording from "shall" to "must" in the relevant condition 13(4) / condition 12(4) of the DMLs.</p>
REP6-082_d	ExQ2 - 9.2.7	<p>The MMO provided context and background to the Applicant on 15 May 2025.</p> <p>Deadline 6 update</p> <p>The MMO discussed this further with the Applicant's engineers on 11 June 2025 to expand on the reasoning, aiming to alleviate some concerns during the post consent stage. The topic of deregulation of chemicals has been raised by our scientific advisors due to the difference in regulation between the oil and gas industry and offshore wind. All chemicals should be approved for use and all chemicals should be banded therefore it would be difficult to reach the marine environment.</p>	<p>The Applicant updated the dDCO at Deadline 6 [REP6-005] to make provision for a chemical risk register to form part of the PEMP, under condition 21(1)(d) / condition 22(1)(d) of the DMLs. Noted on the point regarding templates.</p> <p>The Applicant will continue to engage with the MMO.</p>

REF	THEME	MARINE MANAGEMENT ORGANISATION COMMENT	APPLICANT'S RESPONSE
		<p>The MMO believes that at this stage of the industry construction most contractors will have a list of chemicals that they are likely to use and there for as part of the chemical risk assessment this should be provided as early as possible. The change in process is for those chemicals that may have a pathway to the environment where we need more information to assess the impact of these should there be a spillage. The MMO would expect that this information could be provided at the same time as the submission of the PEMP.</p> <p>However, if there were any other chemicals then 10 weeks is the standard timeline to review risk assessments, make up of chemicals and carry out any modelling required and liaising between Cefas and the MMO and the Applicant. The MMO notes there are concerns in relation to ad hoc chemicals, there is a potential that we can turn around requests in a shorter period however this would be a case-by-case basis and there is no guarantee therefore we require Applicants and their contractors to think about chemical use at the early stages of the pre construction/construction period.</p> <p>The MMO notes that any ad hoc requests will likely be where something unforeseen and should not be for standard chemicals used routinely. The MMO would highlight that moving forward a number of projects will be constructing at the same time therefore it may be more difficult to accommodate ad hoc requests if all projects submit at a similar time.</p> <p>This is an interim position – the wording “unless otherwise agreed with the MMO” covers any changes that are likely to be made in the future.</p> <p>The MMO is also reviewing the request for standard templates and if we can provide any further guidance with the MMO Strategic Renewables Unit. The MMO notes this may not be possible within the Examination but will continue to liaise with the Applicant through the process.</p>	
REP6-082_e	ExQ2 - 9.2.8	<p>The MMO is aware of ongoing discussion between North Falls Offshore Wind Farm Limited and Five Estuaries Offshore Windfarm Limited regarding the disposal site characterisation. The MMO has provided further clarification in disposal site designation in its Deadline 4 response.</p> <p>Deadline 6 update</p> <p>The MMO received the shape file from the Applicant and has provided further comments on the updated Site Characterisation Report [REP4-013] in Section 5 below.</p>	Please see the Applicant's response below (REP6-082_s) in relation to the MMO's comments on the Site Characterisation Report.
REP6-082_f	ExQ2 - 9.2.9	<p>Due to resourcing issues across the MMO and Statutory Nature Conservation Bodies (SNCBs), and taking into account the Applicant's comments, there is still not agreed wording to present.</p> <p>The MMO provided context and background to the Applicant on 15 May 2025 with the potential of having a commitment to discuss this post consent during the design confirmation stage and will review the Applicant's response submitted at Deadline 5.</p> <p>Deadline 6 Update</p> <p>Discussions are still taking place between the MMO and NE in relation to the wording and worst-case piles, however there are several changes required to align with the requirement post consent below:</p> <p>(1) The writing in red are the proposed changes. The undertaker must, in discharging condition 20(1)(c) for each stage of construction, submit details (which accord with the offshore in principle monitoring plan) for approval in writing by the MMO in consultation with the relevant statutory nature conservation bodies of any proposed monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results to be 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: 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</p>	<p>The wording marked as a change (in red) in (1) is already part of the wording of the dDCO [REP6-005].</p> <p>The Applicant notes that the MMO appears to have accidentally swapped the order of (3) and (4). In any event, the Applicant has implemented the proposed changed to what MMO refers to as (3) (which in the dDCO is (4)) and updated the drafting at Deadline 7 (Document Reference 6.1, Rev 8).</p> <p>The Applicant does not agree that the change to (4) (in the dDCO as (3)) is appropriate. The purpose of the condition is that in the event that impacts are worse the Applicant may need to cease piling. The MMO's change would mean if the monitoring found <i>any</i> difference in impacts found piling would have to cease, including if impacts are <i>less</i>. It would not be appropriate to cease piling in the event that impacts are less than those already assessed by the Applicant, as those impacts would not be significant, and this would hinder rightly continuing development of the Project.</p>

REF	THEME	MARINE MANAGEMENT ORGANISATION COMMENT	APPLICANT'S RESPONSE
		<p>constructed collectively under this licence and the deemed marine licences granted under Schedules 9 and 10 of the Order</p> <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 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>	
REP6-082_g	ExQ2 - 16.01	<p>There is limited evidence to suggest that the proposed mitigation will deliver or enhance any medium- or long-term positive benefits to the fishing industry or commercial fish stocks. While the measures listed do provide mechanisms to mitigate potential negative impacts on the fishing industry and commercial fish stocks, there is no indication that they will result in positive enhancements. The implementation of Fisheries Liaison Officers and a Fisheries Liaison and Coexistence Plan may improve communication and coexistence planning, potentially fostering collaboration that could support future enhancements during remedial, maintenance, or decommissioning activities.</p> <p>Consideration should be given to the potential introduction of further fisheries management measures within Marine Protected Areas (MPAs) under Stages 3 and 4 of the assessment and management process for fishing in offshore MPAs. Chapters 11 and 14 identify MPA sites and existing fisheries management measures but do not acknowledge ongoing activities by Defra and the MMO that may lead to the introduction of new management measures in these areas in the near future.</p> <p>Stage 3 sites proposed management measures are currently undergoing public consultation, while Stage 4 sites have not received any further public updates following the call for evidence which closed in February 2024.</p> <p>The MMO notes that the proposed mitigation is in line with other wind farm projects.</p> <p>The MMO defers to NE in relation to the mitigation for the marine environment.</p>	<p>Specific reference to known restrictions on commercial fishing associated with the implementation of MPAs is made in Table 14.16 within ES Chapter 14 Commercial Fisheries [APP-028]. The information provided and accounted for in the ES is aligned with the information publicly available at the time that the ES was compiled.</p> <p>The Applicant acknowledged that the implementation of additional fishing closures in MPAs is ongoing and under continued development and that future restrictions may affect fisheries and fish ecology receptors, including receptors of relevance to the Project. The Applicant notes, however that there is no overlap between Stage 3 sites and areas of the Project known to support mobile towed gear fisheries with potential to be subject to fisheries restrictions within MPAs (i.e. demersal trawls). Whilst the Project does overlap with a Stage 4 site, as noted by the MMO, these sites have not received any further public updates following the call for evidence which closed in February 2024 and how potential management measures, if any, may be progressed, is currently unknown. As such, it is the Applicant's view that the cumulative impact assessment presented in the ES and its findings remain valid based on best currently available information.</p> <p>In this context the Applicant notes that significant impacts on fish and shellfish species and commercial fisheries receptors have not been identified as a result of the Project. In addition, consultation with the fishing industry is on-going and will continue post-consent, including as part of the already established CFWG. Where appropriate this may include discussion with regards to developments in relation to fisheries management measures in MPAs.</p> <p>The Applicant also notes that as stated by the MMO, the mitigation proposed by the Project is in line with that used for other offshore wind farm projects.</p>
REP6-082_h	Comments on Applicant's Response to Deadline 3 Submissions and Deferred Responses from Deadline 2 [REP4-027] deferred to Deadline 6 - REP3-056_g – Q9.4.3 Condition 21 Pre-construction plans and documentation	<p>The MMO is largely content with the information within the outline Cable Specification and Installation Plan. It would be beneficial to have the worst-case figures within table within the plan but notes this would be updated post consent to show the activities against the consented parameters.</p> <p>We may provide further comments at Deadline 7.</p>	<p>The Applicant notes the MMO's general support for the outline Cable Specification and Installation Plan and acknowledges the suggestion regarding inclusion of worst-case figures post consent.</p> <p>Further comments from the MMO at Deadline 7 are welcomed.</p>
REP6-082_i	Comments on Applicant's Response to the Marine Management Organisation Additional Submission [AS-051] [REP4-027] - Draft DCO DML - AS-051_h – MMO-68 - notification	<p>The MMO has provided further clarification of their position on this point during a meeting held with the Applicant on 11 June 2025. The MMO explained that the reason that 14 day notification is required is to ensure that the coastal enforcement team have enough time to prepare a desk-based assessment with the post consent Applicant lead, with an understanding of the plans and schedule of works.</p> <p>The MMO recommends that the Applicant provides the MMO local office a Gantt chart of when works are likely to be undertaken in the first instance to ensure that any compliance checks are undertaken when the works are being undertaken.</p>	<p>The Applicant acknowledged the MMO's clarification provided during the meeting on 11 June 2025 regarding the 14-day notification period and the rationale for enabling effective compliance checks.</p> <p>The Applicant updated the dDCO at Deadline 6 [REP6-005] to provide for the relevant notification period, see condition 15, condition 16, and condition 15 of the DMLs in Schedule 8, 9, 10 respectively.</p> <p>The Applicant updated the dDCO at Deadline 6 with the change to sub-paragraph (6) of the relevant condition.</p>

REF	THEME	MARINE MANAGEMENT ORGANISATION COMMENT	APPLICANT'S RESPONSE
		In addition to this the MMO requests a minor update to the condition to ensure all instances of activities are taken into account within the condition: <i>'(6) The undertaker must inform the MMO Local Office in writing at least five 14 days prior to the commencement of the licensed activities or any part of them and within five days of the completion of the each licensed activity.'</i>	The Applicant also notes the MMO's recommendation to provide a Gantt chart of planned works.
REP6-082_j	Comments on Applicant's Response to the Marine Management Organisation Additional Submission [AS-051] [REP4-027] - Draft DCO DML - AS-051_h – MMO-72 - notification	The MMO discussed this requirement further during a meeting held with the Applicant on 11 June 2025. The MMO explained that the reason that 14 day notification is required is to ensure that the coastal enforcement team have enough time to prepare a desk-based assessment within the operational phase. From current experience the MMO believes that any major cable repair work would take longer than 14 days to mobilise and for works to commence therefore does not believe this is an onerous request. The MMO believes that a notice to mariners would need to be issued to get collect their gear as well and if weather is bad this would have to be a reasonable notice. Although the MMO doesn't consult on this condition we do inform other consultees at the post consent stage such as Natural England, so they are aware of the activities taking place. If there are concerns, then unless otherwise agreed in writing could be added to the condition to allow for a reduced timeline where required.	The Applicant updated the dDCO at Deadline 6 [REP6-005] to provide for the relevant notification period, see condition 15, condition 16, and condition 15 of the DMLs in Schedule 8, 9, 10 respectively.
REP6-082_k	Comments on Applicant's Response to the Marine Management Organisation Additional Submission [AS-051] [REP4-027] - Draft DCO DML - AS-051_h – MMO-77	The MMO has provided comments on the site characterisation report in Section 5 of this document. The MMO has received an updated shape file for the disposal site designation and continues to work with the Applicant on this process and is hopeful this will be resolved for the final DML.	Please see the Applicant's response below (REP6-082_s) in relation to the MMO's comments on the Site Characterisation Report.
REP6-082_l	Comments on Applicant's Response to the Marine Management Organisation Additional Submission [AS-051] [REP4-027] - Draft DCO DML - AS-051_l – MMO-100	The MMO welcomes the updates to the Outline Fisheries Liaison and Coexistence Plan submitted at Deadline 4 and is content with these updates and this has resolved the original comments. The MMO will maintain a watching brief on any further updates.	Noted.
REP6-082_m	Comments on Applicant's Response to the Marine Management Organisation Additional Submission [AS-051] [REP4-027] - Draft DCO DML - AS-051_r – MMO-164	The MMO welcomes the commitment by the Applicant to a piling restriction to cover the Down herring spawning period from 1 November to 31 January. The MMO further discussed the wording for the final condition with the Applicant on 11 June 2025. The MMO understands the Applicant is going to update the DML at Deadline 6 to include the wording proposed in our response at Deadline 5. The MMO welcomes these updates.	The Applicant has agreed with the MMO a commitment to the relevant winter piling restriction. The Applicant updated the outline PEMP [REP6-027/028] at Deadline 6 to clarify the commitment regarding the winter piling restriction in accordance with the advice from the MMO. As the final PEMP has to be in accordance with the outline PEMP, and be approved by the MMO (see condition 21, 22, and 21 of Schedules 8, 9, and 10 respectively [REP6-005]) no further amendment/condition wording is required in the body of the DMLs.
REP6-082_n	REP4-079_e – 1.5 Comments on the Applicant's Response to Natural England's Comments on EXQ1 [REP2-054]	The MMO notes the Applicant's response and has no further comments.	Noted.
REP6-082_o	REP4-079_g - Article 5 Transfer of benefit (Para 3.1.2-3.1.8)	The MMO is still preparing a response and will provide an update at Deadline 7.	Noted.
REP6-082_p	REP4-079_i - 4.1 Comments on Applicant's Response to MMO comment regarding Underwater noise policy papers [REP3-039] (Para 4.1.1-4.1.4)	The MMO welcomes the update to the MMMP and SIP document. The MMO notes that NE still require further commitment within the DML and will continue to be part of any discussions on the wording.	Noted.
REP6-082_q	REP4-079_j - 4.2 Comments on the updated Draft Marine Mammal Mitigation Protocol (MMMP) [REP3-014 – Tracked] (Para 4.2.1-4.1.17)	The MMO welcomes the update to the MMMP and SIP document. The MMO highlights that for Dogger Bank A and Dogger Bank B piling they were able to provide further information as part of the final MMMP with detail on the design to agree an alternative soft start procedure. At this stage the guidance should be followed as standard and when the design and further information can be provided within the final MMMP post consent then this can be reviewed and amended as appropriate. This matter is still an area of disagreement. The MMO is content with the plots for Comparable Hammer Strike Energies provided in Appendix B.	The Applicant notes this comment from the MMO, and agrees the final MMMP will need to be finalised post-consent to take account of latest project design, and up to date scientific understanding at the time of construction, to inform mitigation measures. These measures will be consulted upon with the relevant Statutory Nature Conservation Bodies during the post-consent of the MMMPs, prior to submission of the final MMMPs for approval by the MMO. The Applicant welcomes the MMO's comment in respect of the Appendix B.
REP6-082_r	REP4-079_m - 5.3 Disposal Sites (Para 5.3.1-5.3.2)	The MMO has received the updated disposal site shapefile from the Applicant and is in the process of designating the site noting further information within the site characterisation report is required.	Please see the Applicant's response below (REP6-082_s) in relation to the MMO's comments on the Site Characterisation Report.
REP6-082_s	Comments on the updated Site Characterisation Report [REP4-013]	The sediment contaminant analysis for trace metals (including arsenic) appears incorrect (paragraph 35 of REP4-013). This may be due to the Action Levels (ALs) in Table 2.1 of REP-013 being incorrectly entered for all of the trace metals and	The Applicant reiterates the discussion of trace metals presented in [REP4-013] . Although 19 samples for contaminants have been collected and analysed within the original survey area, the

REF	THEME	MARINE MANAGEMENT ORGANISATION COMMENT	APPLICANT'S RESPONSE
		<p>with both AL1 and AL2 values switched. As per previous advice in which sediment sampling and analysis was reviewed (REP4-079), eight samples are greater than AL1 for arsenic and three samples are greater than AL1 for nickel, however all levels are below their corresponding AL2 and the levels in all remaining samples for metals are below AL1.</p> <p>The MMO notes that the Applicant also undertook analysis of polychlorinated biphenyls (PCBs) which has not been included in section 2.2.1.</p> <p>The MMO does not believe the edits to the site characterisation report asked for by the MMO (Section 5 of REP4-079 and via email on 24 April 2025) have taken place. Paragraph 94 (REP4-013) states that “there is no overlap of the offshore project area with open disposal sites”, but given the previous consultation the ECC will overlap with the Five Estuaries ECC (TH019) disposal site. It is stated in paragraph 89 that “within the study area, Five Estuaries, an extension to GWF [Galloper Wind Farm] being developed by RWE [RWE Renewables UK Swindon Limited], submitted a DCO application in March 2024 and concluded examination on 17 March 2025”.</p> <p>However, there is no mention of the use of the same disposal site, or amending the current disposal site, as stated by the MMO as options for the disposal site. The only other reference to Five Estuaries is in paragraph 11 in relation to the national grid connection point (see Annex I). The MMO notes that discussions with Five Estuaries were still taking place and requests that these updates are now made to the report to provide justification in the overlapping area.</p>	<p>ES and the Site Characterisation Report are based on the contaminants results of the 12 sediment samples located within the revised order limits.</p> <p>In regard to the Action Levels presented in Table 2.1, a format error caused the values to be misaligned within the table, leading to the impression that wrong action levels had been considered in the assessment. This was not the case, the assessment considered the correct action levels with the issue being restricted to the format displayed by Table 2.1, which has now been amended.</p> <p>Site Characterisation Report (Document Reference 7.26, Rev 2), submitted at Deadline 7, includes the requested amendments and presents the results for all the samples collected during the characterisation survey (including those that are now outside the order limits).</p>
REP6-082_t	Schedule 2	The MMO is preparing a response and will respond at Deadline 7.	Noted.
REP6-082_u	Schedule 8, 9 & 10 – Deemed Marine Licenses – Part 1 Definitions	<p>The MMO requests that the Applicant consider adding in extra wording in bold: <i>“commence” means the first carrying out of any licensed marine activities authorised by this marine licence, save for any operations consisting of pre-construction surveys and monitoring approved under this marine licence and the activities set out in paragraph 2(d), and “commenced” and “commencement” must be construed accordingly;</i></p> <p>The MMO notes that this definition is different to that of the DCO and questions if “design objectives” needs defining separately?:</p> <p><i>“commissioning” means the process of assuring that all systems and components of the authorised development are tested to verify that they function and are operable in accordance with the design objectives, specifications and operational requirements of the undertaker;</i></p> <p>“the Order limits”:</p> <p>The MMO requests that ‘the works plans’ is linked to a certified plan with similar wording within the definition – e.g. the works plans (offshore) or offshore Order limits plan.</p> <p>“outline navigation and installation plan” (Schedule 9 only):</p> <p>The definition for outline Navigation and installation plan in the main body DCO is slightly different as it says ..” means the plans certified” as opposed to “means the documents”. The MMO requests that these definitions are aligned.</p>	<p>The Applicant notes the MMO's points and have addressed them all by updating the dDCO/DMLs submitted at Deadline 7 (6.1 Document Reference, Rev 7), as follows:</p> <ul style="list-style-type: none"> - “commence” this change has been made; - “commissioning” the reference to ‘design objectives’ in the DMLs was erroneous and has been removed, and is consistent across dDCO / DMLs; - “the Order Limits” in the DCO, a definition has been provided of “works plans” defined as the “works plans (offshore) and works plans (onshore)”, which are certified documents. In the DMLs, “Order limits” have been updated to refer to “works plans (offshore)” which is a certified document; and - “outline navigation and installation plan” – this definition has been updated to be defined as the “document certified”.
REP6-082_v1	Schedule 8, 9 & 10 – Deemed Marine Licenses – Part 1 Details of licensed activities 2(g) - wet storage	The MMO requests that the Applicant highlights where wet storage has been assessed within the ES. Although usually of temporary in nature this should be clearly assessed, and maximum deposit figures should be within the assessments.	<p>The Project is planning for the foundations to be installed prior to the cabling being installed, and hence there is no requirement for wet storage of array cables.</p> <p>The outline Cable Specification and Installation Plan has been updated for Deadline 7 [9.53 (Rev 3)], and makes clear there will not be any wet storage for the export cable. If, at a later date, wet storage is required as part of the licensed activities, it will be within the limits of the environmental assessment for temporary disturbance effects (because, as set out in Schedule 1, Part 1 of the dDCO [REP6-005] Work Nos.1, 2, 3 and 4A (which form the works under the DMLs in Schedule 8, Schedule 9 and Schedule 10) must fall within the scope of the environmental statement)..</p>
REP6-082_v2	Schedule 8, 9 & 10 – Deemed Marine Licenses – Part 1 Details of licensed activities 3 - Para after (b) - schedule 8	The MMO notes a slight variation of the same paragraph in Schedule 9 and 10 and requests the addition of the extra wording in bold: <i>“In connection with Work No. 1 and to the extent that they do not otherwise form any part of that work, further associated development of that work within the meaning of section 115(2)</i>	In the relevant paragraph 3 of each DML in Schedule 8, 9 and 10, the “any” in “ <i>form part of any such work</i> ” is wording relevant to the DCO/DML Schedule 9, where multiple Work Nos. are contained, to ensure it covers the works individually and jointly.

REF	THEME	MARINE MANAGEMENT ORGANISATION COMMENT	APPLICANT'S RESPONSE
		<i>(development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence including—"</i>	In the DMLs Sch 8 and 10 where there's a single Work No. it should read <i>"form part of that work"</i> . Schedule 10 erroneously had the wording for several Work Nos. The Applicant has corrected Schedule 10 so that it is consistent with the wording for one Work No. / with Schedule 8 (see dDCO submitted at Deadline 7, [6.1, Rev 7]).
REP6-082_v3	Schedule 8, 9 & 10 – Deemed Marine Licenses – Part 2 - condition 12(4) - sch 8 & 10; condition 13 (4) - sch 9	"An operations and maintenance plan substantially in accordance with the outline offshore operations and maintenance plan ... The MMO notes the word substantially is used in this condition but not in any other condition within the DMLs. The MMO requests clarification of the use of this word and if it is necessary?	The Applicant has removed 'substantially' in the dDCO submitted at Deadline 7, [6.1 (Rev 7)] .
REP6-082_w	Schedule 8, 9 & 10 – Deemed Marine Licenses - Part 2 Conditions	The MMO requests that the following clause is also added to these conditions to ensure that the MMO is notified if any false or misleading information was found to be used within the Application. <i>(15) Should the undertaker become aware that any of the information on which the granting of this licence was based was materially false or misleading, the undertaker must notify the MMO local office of this fact in writing as soon as is reasonably practicable. The undertaker must explain in writing what information was materially false or misleading and must provide to the MMO the correct information.</i>	The Applicant's position is that this condition is not necessary as a result of Section 89 of the Marine and Coastal Access Act 2009, which makes it an offence to intentionally fail to disclose a material particular or to make statements based on false or misleading information. As this point is addressed in legislation to include the same as a condition under the DML is not appropriate nor necessary.
REP6-082_x	MMO Responses to London Gateway Port Limited (LGPL) submission at Deadline 5 (REP5-096)	The MMO notes the principal concerns raised by LGPL in their submission that are detailed in [REP2-041] that: <ul style="list-style-type: none"> the dDCO must contain an absolute parameter to ensure that the Applicant's cables or their protection are not laid at too shallow a depth as to preclude the use of the Deep Water Routes (DWRs) by certain vessels or interfere LGPL's statutory undertaking or its powers to dredge under the HEO; and; the methodology for carrying out the Applicant's works, in particular Work No. 3 must not give rise to unacceptable permanent or temporary impacts on navigation to and from London Gateway Port. The MMO notes that the LGPL fundamentally disagrees with the removal of Protective Provisions. The MMO note the comments made by LGPL in points 19-21 in relation to the MMO being the appropriate regulator. The MMO understands that the LGPL position that they request the right to approve plans such as the final CSIP and final NIP before they are submitted to the MMO for approval. The MMO would welcome this approach and would stress that the MMO believes the issues should be resolved at this stage as part of the consenting decision process and should be a matter of the SoS to make a decision, if there is no agreement.	The MMO as the regulator of marine activities should approve the final plans as they are part of the control mechanisms ensuring the works carried out are within the scope of the licensed activities. The Applicant has incorporated appropriate controls in the dDCO and DMLs, including but not limited to: Requirement 2(3) ensures that the cables are laid at depths to ensure no interference with relevant vessels, and condition 22(1)(h)(ii) of Schedule 9 which ensures that navigable depth may not be reduced in the DWR areas. Moreover, the Applicant has also provided that the local harbour authorities (including LGPL) must be consulted by the MMO in respect the relevant plans (CSIP, NIP, SDMP), meaning MMO will need to consult, and receive input from LGPL, prior to the final approval of the relevant plans relating to activities that may impact LGPL.
REP6-082_y	MMO Responses to Maritime and Coastguard Agency (MCA) Responses to EXQ2 submission at Deadline 5 (REP5-100)	The MMO notes the MCA's further clarifications relating to the use to the Galloper Recommended Route and the legal consequences of not formally removing it prior to the commencement of development. The MMO notes that until any formal removal or amendment is in place, any vessel operating in the area may continue to use this route as it remains an IMO adopted recommended route. The MMO also notes that the Applicant was informed of the constraints associated with the Galloper Recommended Route throughout the planning process. At the request of the navigational consultants, the MCA provided indicative timelines expected for any potential application to remove or amend the route on several occasions prior to submission. The MMO understands that the MCA are of the opinion that the DCO, if granted, should include the condition as proposed by MCA. This condition would ensure that the formal removal of the Galloper Recommended route is confirmed before commencement of any offshore construction that would directly interact with the IMO adopted route. Failing to do so would in our opinion be inconsistent with the requirements of the National Policy Statement EN-3 Section 2.8.326 and subsequently Sections 104(4) and (5) of Planning Act 2008.	In respect of the legal and policy status of the Galloper recommended route and the requirements of the National Policy Statement EN-3 Section 2.8.326 and Sections 104(4) and (5) of Planning Act 2008, the Applicant's position remains as set out in the Applicant's Position Paper on Galloper Recommended Route [REP5-071] . The Applicant maintains that the Galloper recommended route is not a "recognised sea lane essential to international navigation". However, the Applicant directs the MMO to the updated dDCO submitted at Deadline 7 (Rev 8) which includes a new DCO Requirement 30 - Galloper Recommended Route Requirement., which reflects further discussions between the Applicant and the MCA.

REF	THEME	MARINE MANAGEMENT ORGANISATION COMMENT	APPLICANT'S RESPONSE
		<p>The MMO understands the position of the MCA that although route may be considered of reduced strategic importance, it nonetheless retains its status as a recognised sea lane adopted by the International Maritime Organisation and currently in use for international navigation. The MCA is of the opinion that the condition requiring the removal of the scheme should be included in the DCO. This is necessary to ensure minimum interaction and interference with a recognised sea lane still in use for international navigation.</p> <p>The MMO would support this position and will maintain a watching brief on any potential updates.</p>	
REP6-082_z	MMO Responses to Natural England (NE) Appendix B5 submission at Deadline 5 (REP5-104)	<p>The MMO understands that further clarification is needed on the following points:</p> <ul style="list-style-type: none"> • Fine-scale model resolution and ability to predict near-field effects at the Special Area of Conservation (SAC) and Marine Conservation Zone (MCZ). • Relating predicted changes in bed shear stress and tidal current speeds to absolute baseline bed shear stress and threshold for sediment entrainment for different sediment fractions • Bed shear stress change results considered in relation to impacts on erosional and depositional processes near and on the seabed, seabed morphology, and seabed sediment composition at the key areas of interest/receptors (e.g. Margate and Long Sands Special Area of Conservation (MLS SAC), Kentish Knock East Marine Conservation Zone (KKE MCZ), nearshore, offshore sandbanks • Worst Case Scenario (WCS) impacts on the KKE MCZ due to clay disposal • WCS cable protection adjacent to MLS SAC and nearshore and consideration of confirmed WCS in terms of changes to sediment transport processes/potential • WCS sediment disposal impacts (including clay) near KKE MCZ and MLS SAC • Model results considered in the context of cumulative effects with other nearby projects <p>The MMO understands that NE considers that if this additional information, interpretation of model results and/or clarification can be provided it will address the concerns raised in this document.</p>	Noted. Where relevant the Applicant will respond to the points raised by Natural England directly.
REP6-082_aa	MMO Responses to Natural England (NE) Appendix E5 submission at Deadline 5 (REP5-106)	The MMO notes the comments made by NE in relation to [REP3-014] Draft MMMP. The MMO have provided their own comments above in section 4.4.	Noted.
REP6-082_ab	MMO Responses to Natural England (NE) Appendix F5 submission at Deadline 5 (REP5-107)	The MMO note the requests made by NE to re-submit updated in-combination assessments and re-run Population Viability Analysis (PVA) results for guillemot and razorbill at the Flamborough Filey Coast Special Protection Area (FFC SPA), however like NE, recognise the limited time available in Examination.	Noted.
REP6-082_ac	MMO Responses to Natural England (NE) Appendix H5 submission at Deadline 5 (REP5-108)	<p>The MMO notes that NE welcomes that detailed design, and surveys will be undertaken post consent/pre-construction. The MMO notes that NE considers that these should be secured within the DCO and acknowledge the suggestion made by NE that these may best sit within the Schedule for the compensatory measures.</p> <p>The MMO notes the further considerations requested by NE specific to the HRA which the MMO would hope can be resolved by the end of examination.</p>	Noted.

2.5 Applicant's response to Port of London Authority (PLA) Comments on any submissions received at the previous deadline [REP6-090]

Table 2.5 Applicant's response to Port of London Authority (PLA) Comments on any submissions received at the previous deadline [REP6-090]

REF	THEME	PLA COMMENT	APPLICANT'S RESPONSE
REP6-090_a	Outline Sediment Disposal Management Plan	The PLA welcomes the updates to the outline sediment disposal management plan ("oSDMP") at deadline 5. These updates address many of the concerns raised by the PLA in its deadline 4 response.	<p>The issue regarding disposal in areas that could migrate into the DWRs is now covered in paragraph 21 of the oSDMP [REP6-049].</p> <p>The minor typo has also been corrected in the same version.</p>

REF	THEME	PLA COMMENT	APPLICANT'S RESPONSE
		<p>Figure 3-1 which showed the disposal zone constraints, including the 'Sunk DW Buffer', the 'Trinity DW Buffer' and the 'Pilot Boarding Station Buffers' has been removed from the document and reference is now made to the Deep Water Route Cable Installation Areas (Future Dredging Depths) Plan [REP4-043]. The commitment in paragraph 21 of the oSDMP now states that "all disposal material that is created from construction activities will not be disposed of within the areas proposed for deeper burial of the export cable ("Sunk A – Sunk DW Buffers", "Sunk B – Sunk DW Buffers" and "Trinity – Trinity DW buffers") shown in in Deep Water Route Cable Installation Areas (Future Dredging Depths) Plan [REP4-043]." The PLA has no objection to this revised wording and has highlighted a minor typo that requires correction in underline.</p> <p>A similar approach, which refers to Plan REP4-043 is now taken in relation to the Pilot Boarding Station Buffers and paragraph 25 has been updated, removing the words "where possible" and making the commitment clear in relation to the pilot boarding area. This is welcomed.</p> <p>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 approach to this should be clear in the oSDMP.</p>	
REP6-090_b	Outline Cable Specification and Installation Plan	<p>The PLA shared its comments on the outline Cable Specification and Installation Plan ("oCSIP") with the Applicant prior to deadline 5. Outstanding comments include:</p> <ul style="list-style-type: none"> The oCSIP sets out the principles with which the final CSIP must accord. Given the importance of this document, the CSIP must be in strict accordance with the oCSIP. The scope of the document needs to be made clear – currently it is stated at paragraph 4 that it covers the installation and cable route preparation (there is no reference to maintenance). At paragraph 30 in relation to the DWRs the reference is to the cables being designed, installed, maintained and operated but in paragraph 31 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. It is noted that the CSIP will be submitted for approval by the Marine Management Organisation ("MMO"). Consistent with its approach to VEOWF, 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 MMO. It should be clarified if any wet storage is proposed and if it is, then the oCSIP should be updated to commit to no wet storage within the DWRs. At section 4.3 the text should be updated to make it clearer in relation to the Applicant's approach to cable protection in the DWRs and in the vicinity of the Sunk pilot boarding area. Currently the document is silent on the DWRs and states in relation to the vicinity of the Sunk pilot boarding area that "reasonable endeavours" will be made to avoid the use of cable protection. Given the implications of cable protection in terms of reduced water depths, there could be significant implications if water depths were reduced in the area where pilots were trying to board deeper draughted vessels. The PLA would recommend replicating the wording in the oNIP which is clearer on this point and would ensure that the two documents are consistent with each other Given the indicative locations for the cable crossings of North Falls, Sealink and Neuconnect but reflecting that these locations are indicative, the applicant should commit in the oCSIP at paragraph 45 to not crossing these projects within the DWRs. Again the wording in the oNIP is clearer on this point and there should be consistency across the documents. <p>Many of the commitments will be subject to a Cable Burial Risk Assessment ("CBRA") for which a meaningful one cannot be submitted to the Examination because of a pending geotechnical survey campaign and so there is uncertainty on whether the applicant can deliver these commitments. Therefore, the mechanism to review and comment on the final CSIP including CBRA is of great importance.</p>	<p>The comments on the oCSIP are noted.</p> <ul style="list-style-type: none"> The text in paragraph 32 has now been updated at Deadline 7 (Document Reference 9.53, Rev 3) to include "design, install, maintain and operate". The Applicant has included the PLA as a consultee in the process, with all comments provided by all consultees being provided for the MMO to review (the PLA must also be consulted with by the MMO in respect of the CSIP, as secured by condition 22(1)). Wet storage has been included in the oCSIP at D7 (Document Reference 9.53, Rev 3. The inclusion of deeper burial around the Sunk Pilotage Area was included at D6 s secured by Requirement 2(3) of the dDCO [REP6-005], by updating the Deep Water Route Cable Installation Areas (Future Dredging Depths) Plan [REP6-055]. Therefore, any cable protection must ensure that a navigable depth of -22m CD is maintained within the Sunk Pilotage area. Therefore, the presence of cable protection will need to maintain a minimum navigable depth of 22m CD in the required area. No further update is therefore required. Given the fact the Red Line Boundaries (RLBs) of those projects do not overlap within the DWRs, a crossing located within the DWRs could only occur if one of either North Falls or the other project has gone outside of its RLB. This means that if a crossing were in the DWRs, one of more projects would be in breach of its DCO. This commitment is therefore not required, nor can it be included in the North Falls DCO, to ensure no crossing is within the DWRs. <p>The dDCO [REP6-005] requires a cable laying plan, which includes the CBRA as part of the final CSIP, on which the PLA must be consulted (as secured by condition 22(1)(h)(ii)).</p> <p>The comments on the oNIP UXO protocol are noted, and responded to below.</p> <p>The comments on the changes to paras 17 and 19 are noted.</p>

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		<p>In relation to UXO section 13 of the oCSIP now refers to the outline Navigation and Installation Plan ("oNIP") and the protocol in Section 4.3 of the oNIP. Comments are provided on the oNIP in section 4 below.</p> <p>The PLA welcomes the updates to the document at paras 17 and 19 to include a commitment to not relocating archaeology finds and boulders within the Deep Water Routes.</p>	
REP6-090_c	Outline Navigation and Installation Plan	<p>The PLA shared its comments with the Applicant on the oNIP prior to deadline 5 and its outstanding comments include:</p> <ul style="list-style-type: none"> The NIP applies "from the start of offshore construction activities." It needs to be clear when this is i.e. is it from "commencement" see the PLA's comments on commence as set out in its Written Representation [REP2-056]. The NIP will be submitted for approval by the MMO. Consistent with its approach to VEOWF, the PLA seeks protective provisions in relation to the NIP including the undertaker obtaining the PLA's approval in writing of the NIP before it is submitted to the MMO. Fig 2.1 The Trinity DWR full extent is not clear currently due to the overlap of the Pilotage Area circles. 2.2.1 para 11. It should be clarified whether any freespan clearance is proposed as it is not currently provided for. 2.3.2 paras 15 and 16 – The projects referred to include VEOWF and SeaLink. Other known projects which could overlap with North Falls (e.g. Tarchon) should also be referenced. Table 2.3 The indicative construction programme is the high level programme for the project rather than the high level programme for offshore activities. The PLA would have expected the entries in the table to then form the basis for the various tables in section 3 (surveys, UXO, PLGR etc). Tables in section 3. It should be explained why none of the vessel details have been included in the tables Once vessel types / actual vessels are known then relevant interested parties should be provided with the details. Where commitments are being made they should be provided in the tables in the oNIP – for example, table 3.5 currently says cable joints 'tbc' but the oCSIP commits to planned field joints not being located in the DWR areas. 	<ul style="list-style-type: none"> The Applicant notes that the relevant condition 22(1)(n) of the DML under Schedule 9 [REP6-005] requires a NIP for the relevant stage of construction, before the licensed activities for that stage construction commences; as a result a NIP will always apply from commencement / the start of each stage of construction activities, including the first stage. Moreover, the Applicant has included the new DML condition 37 proposed by the PLA in the dDCO submitted at Deadline 7 [6.1, Rev 8] that sees PLA will be consulted and their input given regard (as one of the local harbour authorities) on the programme for monitoring and proposed UXO clearance. The Applicant considers this addresses the PLA's concerns in respect of 'commencement'. The Applicant's position remains that the MMO as the regulatory authority is the appropriate person to approve the NIP (and SDMP and CSIP). However, in order to address concerns of the PLA, and the other harbour authorities, the Applicant has provided for the relevant DML (Schedule 9), that the MMO must consult with the PLA (and the other harbour authorities) before approving the final NIP (see Condition 22 of Schedule 9 of the dDCO [REP6-005]). Figure 2.1 will be amended to show full extent of the Trinity DWR the next revision planned for submission at Deadline 8. Due to the cable lay methodology of minimal tension lay, the cable burial methods and the seabed profile, it is not anticipated there will be any freespans to clear over the DWRs. Furthermore, the burial depths proposed in Requirement 2(3) should be sufficient, and any further works required due to installation issues will be captured as part of the remediation works. It is not appropriate to include Tarchon given that it has not been scoped and information on route options is not available. A precise timeline cannot be provided at this stage. However, the Applicant added further details to the oNIP submitted at Deadline 6 [REP6-040] in relation to the speeds at which vessels are expected to cross the DWRs therefore providing indication of durations over the DWRs. Further vessel details have been added to oNIP submitted at Deadline 6 [REP6-040].
REP6-090_d	Schedule of Mitigation	<p>The Schedule of Mitigation [REP5-007] was updated at deadline 5 and the amendments in relation to Shipping and Navigation are set out in table 2.8. These include an embedded mitigation relating to the Deep Water Routes which reflects the updates proposed to Schedule 1, Part 3, requirement 2(3). Whilst the PLA welcomes this embedded mitigation being set out in the Schedule of Mitigation, the PLA would note that the area for deeper cable installation is not yet agreed (see section 2 of the PLA's Deadline 5 response [REP5-111]).</p>	<p>Noted.</p> <p>The Applicant points out that an updated version of 9.57 Deep Water Route Cable Installation Areas (Future Dredging Depths) Plan (Rev 1) has been submitted at Deadline 6 [REP6-055] which the Schedule of Mitigation will reflect, and in turn the Applicant's understanding is that this addresses this point of concern of the PLA in full.</p>
REP6-090_e	Applicant's Response to ExA's Second Written Questions (REP5-054) and Appendix to Applicant's Response to ExA's Second Written Questions (REP5-070)	<p>See separate document "PLA Response to the Applicant's Response to the ExA Second Written Questions."</p>	<p>The Applicant notes the PLA's submission [REP6-091] and has addressed the PLA's comments elsewhere, see below in this document "Table 2.6 Applicant's response to Port of London Authority Responses to the ExA's Second Written Questions".</p>
REP6-090_f	Applicant's Response to Deadline 4 Submission (REP5-056)	<p>The Applicant has no comments on the PLA's post hearing summaries of oral submissions. Its response to the PLA's comments on any submissions at the previous deadline are set out in table 2.1414. Given that the Applicant's response either signpost to documents that the PLA comments on elsewhere in this representation, or maintain its position in relation to Protective Provisions the PLA does not repeat its comments here.</p> <p>In relation to REP4-087_b the Applicant and the PLA have discussed further the potential impact on the PLA's navigational equipment. The PLA expects a technical paper to be submitted by the Applicant at deadline 6 which should allow the PLA to confirm that there will be no impact on its onshore equipment.</p>	<p>The discussion is formalised within document 9.94 Technical Note on the interaction of North Falls with the PLA onshore communication links submitted at Deadline 6 [REP6-067].</p>
REP6-090_g	Draft Development Consent Order - Part 3 Requirements – Requirement 2(3) has been updated to read:	<p>3) Any part of Work No. 3 and any associated development located within the following areas shown on the Deep Water Route Cable Installation Area (Future</p>	<p>The Applicant is not clear about the PLA's the comment, as the wording matches the wording in the proposed dDCO submitted at Deadline 5[REP5-008].</p>

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		<p>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: ("the Updated Requirement")</p>	<p>The Applicant presumes the relates to the PLA's Deadline 5 submission about extending the Sunk DW route beyond the sunk pilot diamond to ensure that the cable in the area around the sunk pilot diamond is sufficiently deep to prevent any limitations to shipping traffic in the area.</p> <p>The Requirement referred to as the "Updated Requirement" by the PLA has in effect been included by the updated Requirement 2(3) of the dDCO submitted at Deadline 6 [REP6-005] whereby the area of the Sunk Pilot Diamond which overlaps with the Order limits has its depths protected to 19m. This has been updated in the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan [REP6-055] and is illustrated by the area coloured blue.</p> <p>This means that the PLA's concern in respect of this point has been fully addressed.</p>
REP6-090_h1	8.2 (a) Draft Development Consent Order – Further changes to the draft DCO	<p>As per the PLA's Deadline 5 submission – Comments on submissions received at Deadline 4 [REP5-111], whilst the changes are welcomed, further changes are required to the dDCO (in addition to protective provisions for the benefit of the PLA and points previously raised by the PLA regarding the definitions of maintain and commence and transfer of benefit). These further changes are as follows:</p> <p>A. Regarding the Updated Requirement 2(3), the Requirement should reference the authorised development rather than just "Work No. 3 and any associated development" and include a sub-paragraph (4) as included in the PLA's response to ExAQ2 to read:</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>	<p>It is only Work No. 3 that can be located within the relevant area, as a result of paragraph 5 of Schedule 9. In any case, the Applicant has at the PLA's request updated to reference 'authorised development' in the dDCO submitted at Deadline 7 (Document Reference 6.1, Rev 8).</p> <p>The Applicant may not carry out wet storage or relocate any boulders or archaeological finds to the relevant areas as a result of the CSIP secured under Condition 22(1)(h) of Schedule 9 of the dDCO [REP6-005]. It is not necessary nor reasonable to duplicate the same measure of control in two places.</p>
REP6-090_h2	8.2 (b) Draft Development Consent Order – Full Mark up of the desired changes in summary.	<p>B. On the DML to assist the ExA we have annexed to this submission as Appendix 1 a full mark-up of the changes which the PLA would still wish to see. In summary:</p> <p>I. The Updated Requirement (as proposed to be amended) should be included in the DML at condition 10 as sub-paragraph (4).</p> <p>II. Condition 13(3) should also reference 2(d) which is cable remedial burial.</p> <p>III. Condition 22(i) is welcomed regarding consultation but the PLA would want final plans to be agreed with the PLA prior to submission to the MMO through protective provisions or a further amendment to the DML.</p> <p>IV. There are other instances where the PLA should be referenced as a consultee in the DML, nor are they referenced in condition 16 regarding notifications and inspections. Consistent with the PLA's representations on the VEOF the PLA would expect to be referenced in the following Conditions: 13(4), 16(8) to (14), 17(2), 22, 26(1), 28(1) 28(3) and 28(4).</p> <p>V. As currently drafted the DML only requires the NIP and the oSDMP to accord with the principles of the oNIP and oSDMP and the CSIP to accord with the oCSIP (condition 22). There is the potential therefore for the final documents to change and for those changes to detrimentally impact the Port of London either temporarily or permanently. The final documents must be in strict accordance with the relevant outline document.</p> <p>VI. Condition 22(1)(iii) should reference the length, depth and arrangement of cables comprising Work Nos. 2, 3 and 4A including cable crossings;</p> <p>VII. Condition 22(1)(h) which sets out the requirements for the CSIP needs to be updated to include the following:</p> <p><i>"a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment demonstrating compliance with condition 10(4)"</i> i.e the design parameter.</p> <p>Current limb (iii) of Condition 22(h) should be updated with the changes in red</p>	<p>I. See Applicant's response REP6-090_g above.</p> <p>II. The Applicant included reference to 2(d) in the updated dDCO at Deadline 6 [REP6-005].</p> <p>III. The Applicant's position is that the MMO as the regulator of licensed activities should approve the plans, please see response REP6-082_x above.</p> <p>IV. The Applicant has updated the dDCO at Deadline 7 (Document Reference 6.1, Rev 8) with conditions and updates proposed by the PLA [REP6-090] in respect of:</p> <ul style="list-style-type: none"> - consultation and notifications in relation to activities and programme relating to monitoring and UXO (see new condition 37); - that the PLA must be consulted on the operations and maintenance plan, see updated condition 13(4); and - the updated notification requirements in respect of surveys, the progress of development, and aids to navigation, under condition 16 and 17 of Schedule 9, in respect of the PLA (as one of the 'local harbour authorities'). <p>V. The final plans must be in accordance with the outline plans, whilst reflecting that works that they relate to are necessarily planned in detail post consent. As the PLA must now be consulted on the relevant mitigation plans by the MMO, and the fact that the dDCO and the Schedule 9 DML now strictly limits the cable works and associated activities in respect of the Deep Water Route areas (see Requirement 2(3) of the DCO, condition 13 and 22(1)(h) of Schedule 9) to ensure the PLA's interests are protected, the wording should not be updated.</p> <p>VI. to VII. These changes are not necessary as:</p> <ul style="list-style-type: none"> - Work No. 2 / 4A have no bearing on the PLA concerns relating to the Deep Water Routes. - The oCSIP (updated again at Deadline 7, (Document Reference 9.53, Rev 3)), which the final CSIP must accord with under Condition 22(1)(h), makes clear that details of cable crossings will be set out in the CSIP; and - Depth of the cable will necessarily be informed by the post-consent Cable Burial Risk Assessment (CBRA). <p>In respect of the request for 'depth' of cable protection and 'actual depths' of cable are both contained within the CSIP.</p> <p>In any case, the cable cannot be at a depth so as to impede or preclude future dredging to a depth of 22m/19m CD in the DWR areas and the Sunk Pilotage Area of concern to the PLA, as secured by Requirement 2(3), and must be in accordance with the design parameters under</p>

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		<p><i>"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;"</i></p> <p>VIII. We have added a proposed new condition 30 to deal with consultation with the local harbour authorities on the pre-construction, construction and post construction monitoring which reads:</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 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>IX. We have added a remediation provision as condition 36 which reads:</p> <p>"Remediation</p> <p>36. (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>The area shown shaded in orange and labelled Sunk A – Sunk DW Buffer;</p> <p>the area shown shaded in pink and labelled Trinity – Trinity DW Buffer;</p> <p>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</p>	<p>condition 10 as a result of that condition 10. The changes would be redundant and not necessary.</p> <p>VIII. This condition has been added to the dDCO (6.1, Rev 8) as condition 37 of Schedule 9.</p> <p>IX. As the dDCO and relevant DML of Schedule 9 each limit the cable works and maintenance in respect of the DWR areas and the Sunk Pilotage Area, a failure to adhere to such would require that the undertaker remediate the cable works to not be in breach of the licence or the DCO (committing a criminal offence).</p> <p>Moreover, the Applicant has committed to monitoring including the new condition (as condition 37 to fit the numbering of the dDCO) as proposed by the PLA which sees that PLA would be consulted and kept informed at each stage of development, to ensure that the cable remains in place as it should. As such, this new condition is a duplication of control and is not reasonable nor necessary.</p>

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		<p>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>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>the undertaker will re-bury the cable to the required specification to achieve the requirements of condition 10(4); and</p> <p>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>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>	
REP6-090_h3	Draft Development Consent Order – Protective Provisions	<p>The PLA's position remains that it should have the benefit of Protective Provisions ("PPs") and we enclose as Appendix 2, a legal opinion from Robert Walton KC responding to the Applicant's position on this issue. The legal opinion advises that:</p> <ol style="list-style-type: none"> the Applicant's principle objection to the inclusion of Protective Provisions on the ground that the DCO would not authorise any works within the PLA's jurisdictional limits is unsupported by any legal authority. It is beyond sensible argument to suggest that activities / works undertaken in the Sunk and Trinity Deep Water Routes ('DWRs') could not adversely affect the PLA's statutory undertaking in terms of the efficient operation and sustainable growth of the Port of London; there can be no in principle objection to the use of Protective Provisions simply on the basis that the PLA would need a licence if it wanted to dredge the DWRs; both the PLA and LGPL have provided examples of DCOs which do have PPs in relation to works undertaken outside the relevant statutory undertaker's jurisdictional limits, and requiring the undertaker's pre-submission approval of applications being made to third party regulators. But even if there were not directly analogous DCOs, the fact that a proposed PP might be unprecedented is of course no basis for an in principle objection to its inclusion; and PLA is right to be concerned that: <ol style="list-style-type: none"> a commitment that a final plan (e.g. the CSIP) should "accord with" its outline version (the oCSIP) does not mean that all of the provisions in the outline version will appear in the final version. Moreover I understand that many of the commitments in the oCSIP will be subject to a Cable Burial Risk Assessment ("CBRA") for which a meaningful one cannot be submitted to the Examination into the DCO because of a pending geotechnical survey campaign and so there is uncertainty on whether the applicant can deliver these commitments. Therefore, the mechanism to review and comment on the final CSIP including the CBRA is of great importance; the extent to which the PLA would have any involvement in the approval process / any subsequent amendments of any final plan is, however, unclear. Given the importance of the issues to the proper functioning and sustainable growth of the PoL it seems to me to be 	<p>The Applicant's position remains that Protective Provisions (PPs) are not necessary nor reasonable in respect of PLA's undertaking.</p> <p>It is noted that the opinion by Robert Walton KC states that it is not suggested that the PLA concerns can only by addressed by PPs. The Applicant has adequately addressed concerns of the PLA in appropriate alternative ways: including by committing to not reduce depth more than the levels agreed with the PLA, and not impede or prevent dredging, in the Deep Water Route due to cable works or maintenance (Condition 13(4) and Condition 22(1)(h)(ii)), and by condition requiring that PLA (as one of the local harbour authorities) are consulted with by the MMO in respect of all the mitigation plans activities that may affect PLA, (Condition 22(1)).</p> <p>Moreover, the Applicant has implemented the changes outlined in its response above at REP6-090_h2 (paragraph 'IV').</p> <p>As a result, the Applicant has ensured the PLA's interests are appropriately protected, and Protective Provisions are not necessary.</p>

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		<p>entirely reasonable for the PLA to want to approve the CBRA and plans before they are submitted to the MMO. As set out above, there can be no in principle objection to this being required.</p> <p>iii. there is currently no positive obligation dealing with what happens if the 22m below Chart Datum is not met. The fact that a criminal offence may have been committed is not of itself an answer to this problem. Securing an equivalent to the remediation provisions contained in the Five Estuaries PPs would be.</p> <p>iv. there is currently no certainty in relation to control over non-licensable activities, e.g. survey work ahead of any construction works in the DWRs. Such activities could adversely affect the PoL for the reasons the PLA states.</p> <p>v. the PLA needs to have notice as to who has the benefit of the DCO;</p> <p>vi. the PLA needs to be provided with copies of the as-built plans;</p> <p>vii. not including PPs that effectively replicate those contained in the current draft of the Five Estuaries Project would undermine the effectiveness of those PPs.</p> <p>e. It follows from the above that in Leading Counsel's view the Applicant's suggestion that the PLA is acting unreasonably, and that by extension it would be unreasonable for the Examining Authority to recommend / the Secretary of State to require the PPs that the PLA is seeking, is manifestly misconceived.</p> <p>The PLA's requested form of protective provisions is appended at Appendix 3</p>	
REP6-090_i	Appendix 3 Protective Provisions	<p>1. In this Part</p> <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 Dredging Depths) Plan;</p> <p>"cable specification and installation plan" means the cable specification and installation plan to be approved under condition 21(1)(h) of the deemed marine licence for the transmission assets in Schedule 9;</p> <p>"construction" includes execution, placing, altering, replacing, relaying, removal, renewal works of maintenance and decommissioning, in its application to a specified work which includes or comprises any operation, means the carrying out of that operation, and "construct" and "constructed" are to be construed accordingly;</p> <p>"commencement" for the purpose of this Part [] of Schedule 14 means the carrying out of any authorised development and survey and monitoring activities;</p> <p>"Deep Water Routes" mean the Sunk and Trinity deep water routes;</p> <p>"installation" has the same meaning as construction and 'installed' is to be construed accordingly</p> <p>"operation and maintenance plan" means the operation and maintenance plan to be approved under condition 12(4) of the deemed marine licence for the transmission assets in Schedule 9;</p> <p>"maintain" has the same meaning as in Article 2 save that it includes monitoring within the Areas of Interest and maintenance shall be construed accordingly;</p> <p>"navigation and installation plan" means the navigation and installation plan to be approved under condition 22(1)(n) of the deemed marine licence for the transmission assets in Schedule 9;</p> <p>"sediment disposal management plan" means the sediment disposal management plan to be approved under condition 22(1)(o) of the deemed marine licence for the transmission assets in Schedule 9;"</p> <p>"specified work" means Work No. 3 and any other part of the offshore works forming part of the authorised development including associated development and ancillary works (and which for this purpose includes the maintenance and decommissioning of any part of the authorised development); and "PLA" means the Port of London Authority.</p> <p>Application</p>	See the Applicant's response above.

REF	THEME	PLA COMMENT	APPLICANT'S RESPONSE
		<p>2. The following provisions, unless otherwise agreed in writing between the undertaker and the PLA, have effect, for the protection of the PLA in relation to the construction, operation and maintenance of any specified work.</p> <p>Approvals and Notice</p> <p>3. (1) The undertaker will obtain the approval in writing of the PLA on:</p> <p>(a) any cable specification and installation plan (in so far as that plan relates to any specified work within or which may affect the Areas of Interest) before any application for approval of that plan may be submitted by the undertaker in compliance with condition 22(1) of the deemed marine licence for the transmission assets in Schedule 9 and any revisions arising from such application; and</p> <p>(b) any navigation and installation plan (in so far as that plan relates to any specified work within or which may affect the Areas of Interest) before any application for approval of that plan may be submitted by the undertaker in compliance with condition 22(1) of the deemed marine licence for the transmission assets in Schedule 9 and any revisions arising from such application; and</p> <p>(c) any sediment disposal management plan (in so far as that plan relates to any specified work within or which may affect the Areas of Interest) before any application for approval of that plan may be submitted by the undertaker in compliance with condition 22(1) of the deemed marine licence for the transmission assets in Schedule 9 and any revisions arising from such application; and</p> <p>(d) any operation and maintenance plan (in so far as that plan relates to any specified work within or which may affect the Areas of Interest) before any application for approval of that plan may be submitted by the undertaker in compliance with condition 12(4) of the deemed marine licence for the transmission assets in Schedule 9 and any revisions arising from such application.</p> <p>(2) The undertaker will consult the PLA 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 PLA 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>(3) The undertaker must notify the PLA 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>(4) The undertaker will consult the PLA 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>(5) The undertaker must notify the PLA 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>(6) The undertaker will consult the PLA on the activities and programme for any specified work to be undertaken under this Order which is not covered by the cable specification and installation plan and which is within or may affect the Areas of Interest no less than 20 business days before such specified work is programmed to commence. The undertaker must have regard to any request made by the PLA for reasonable amendment to the activities or programme.</p> <p>(7) The undertaker must notify the PLA of the final method statement and programme for any for any specified work to be undertaken under this Order which is not covered by the cable specification and installation plan and which is within or may affect the Areas of Interest no less than 5 business days before such work is programmed to begin.</p> <p>Cable Specification and Installation Plan</p> <p>4. The cable specification and installation plan referred to in paragraph 3 must be informed by a cable burial risk assessment and set out for Work No.3, and in</p>	

REF	THEME	PLA COMMENT	APPLICANT'S RESPONSE
		<p>so far as it applies to the Deep Water Routes demonstrate compliance with requirement 2(3):</p> <ul style="list-style-type: none"> (a) The proposed cable installation methods and measures for management of construction risks; (b) Additional cable burial depths required or any other forms of cable protection proposed including type, volume and locations; (c) During construction of the cables and cable protection in the Areas of Interest arrangements for the consultation of the PLA in a timely manner, on such matters regarding those works as the PLA may reasonably request including arrangements for providing the PLA with a point of contact for continuing liaison and co-ordination throughout the construction of these works. (d) The proposed programme of work for cable installation and arrangements for notification of any changes to the programme to the PLA; (e) The programme and methodologies for monitoring and the arrangements for the results of these surveys or other construction evidence being made available to the PLA within 10 business days of the undertaker receiving reports of the survey results or evidence to demonstrate compliance with the depths referred to in requirement 2(3); (f) Methods and timescales to rectify any issues which may compromise the depth referred to in requirement 2(3). (g) A process (subject to paragraphs 7 and 8) and timescales for cable re-installation should the level that the cable is such that the requirements of requirement 2(3) cannot be achieved over the lifetime of the authorised development. <p>Monitoring</p> <p>If following the results of any geophysical surveys carried out using multi-beam echo sounder survey (MBES), it is confirmed that cable exposure or reduction in navigable depth has occurred within the Areas of Interest, the undertaker will notify the PLA as soon as reasonably practicable and in any event no later than 2 business days after the undertaker confirms any exposure has occurred.</p> <p>The PLA must notify the undertaker of any potential cable exposure that is identified by the PLA in the relation to the Areas of Interest as soon as reasonably practicable.</p> <p>Remediation</p> <p>Where, following the installation of cables forming Work No. 3 in relation to the Areas of Interest it is identified by the undertaker (who shall notify the PLA as soon as reasonably practicable of this fact and in any event within 2 days) or, following inspection by the PLA, it is identified by the PLA (and the same is notified to the undertaker as soon as reasonably practicable), that the level of cable is such that the requirements of requirement 2(3) has not been achieved or at any time following installation or maintenance the cable has moved such that the requirements of requirement 2(3) are no longer being achieved, then, unless otherwise agreed in writing with the PLA, the undertaker is required to carry out remediation works as specified in the cable specification and installation plan subject to paragraph (8) in relation to the Deep Water Routes.</p> <p>Unless otherwise agreed in writing with the PLA, the undertaker will carry out the following arrangements for the carrying out the remediation works:</p> <ul style="list-style-type: none"> (1) the undertaker will re-bury the cables to the required specification to achieve the requirements of requirement 2(3); and (2) Following the completion of the works in sub-paragraph (1), if it is identified by the undertaker or the PLA (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, 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. 	

REF	THEME	PLA COMMENT	APPLICANT'S RESPONSE
		<p>(3) The updated cable specification and installation plan required under sub-paragraph (2) will be submitted to the PLA for approval under paragraph 3, and the provisions of both this paragraph and paragraph 4 will apply to that updated cable specification and installation plan.</p> <p>(4) The steps in this paragraph shall be repeated until the requirements in requirement 2(3) is achieved or the cable is permanently removed from the Areas of Interest.</p> <p>Provision of as built details</p> <p>As soon as reasonably practicable following the completion of the installation of cables forming Work No. 3 and after any maintenance of the same, the undertaker must provide (on a strictly confidential basis) to the PLA as built drawings of Work No. 3 in a form and scale to be agreed between the undertaker and the PLA to show the position, depth and any cable protection installed as part of Work No 3 in relation to the Deep Water Routes provided that the PLA must not disclose (without the written consent of the undertaker) any information that has been provided by the undertaker to the PLA on a confidential basis or which is marked as commercially sensitive and must hold such information on a confidential basis only, except that the PLA may provide the information to contractors and agents acting on its behalf (including but not limited to contractors engaged to carry out dredging operations) provided that such agents and contractors are required by the PLA to treat such information as confidential.</p> <p>Indemnity</p> <p>The undertaker will pay to the PLA its proper and reasonable legal costs, professional fees and disbursements incurred in connection with reviewing the details submitted to the PLA pursuant to this Part [] of Schedule 14.</p> <p>The undertaker is responsible for and must make good to the PLA all financial costs, charges, damages losses or expenses which may be incurred reasonably or suffered by the PLA by reason of—</p> <p>(a) the construction or operation of Work no. 3, any specified work or its failure or a failure to adhere to the requirements of this Part [] of Schedule 14;</p> <p>(b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged on the construction or operation of a specified work or Work no. 3 or with any failure, and the undertaker must indemnify the PLA from and against all claims and demands arising out of or in connection with a specified work, Work no. 3 or any such failure, act or omission or any failure to adhere to the requirements of the this Part [] of Schedule 14.</p> <p>The fact that any act or thing may have been done—</p> <p>(a) by the PLA on behalf of the undertaker; or</p> <p>(b) by the undertaker, its employees, contractors or agents in accordance with plans or particulars submitted to or modifications or conditions specified by the PLA, or in a manner approved by the PLA, or under its supervision or the supervision of its duly authorised representative, does not (if it was done or required without negligence on the part of the PLA or its duly authorised representative, employee, contractor or agent) excuse the undertaker from liability under the provisions of this paragraph.</p> <p>The PLA must give the undertaker reasonable notice of any such claim or demand as is referred to in sub-paragraphs (1) and (2) and no settlement or compromise of it is to be made without the prior consent of the undertaker.</p> <p>Transfer of the benefit</p> <p>The undertaker must within 7 days after the completion of any sale, agreement or other transaction under article 5 (Benefit of the Order) in relation to which any powers, rights and obligations of the undertaker are transferred to another party, notify the PLA in writing, and the notice must include particulars of the other party to the transaction under article 5, the general nature of the transaction and details of the extent, nature and scope of the works or functions sold, transferred or otherwise dealt with.</p> <p>Disputes</p> <p>Any dispute arising between the undertaker and the PLA under this Schedule is to be escalated in the first instance to senior representatives from the PLA and the</p>	

REF	THEME	PLA COMMENT	APPLICANT'S RESPONSE
		undertaker, and the PLA and undertaker must seek to resolve the dispute through a meeting between the parties promptly and in any event within 10 business days, Where following escalation the dispute is not resolved, it is to be determined by arbitration as provided in article 42 (arbitration) of this Order.	

2.6 Applicant's response to Port of London Authority Responses to the ExA's Second Written Questions [REP6-091]

Table 2.6 Applicant's response to Port of London Authority Responses to the ExA's Second Written Questions [REP6-091]

REF	QUESTION	RESPONSE FROM PLA	APPLICANT'S RESPONSE	PLA COMMENTS ON THE APPLICANTS RESPONSE TO EXQ2	APPLICANT'S RESPONSE
REP6-091_a	Cumulative Effects - The Cumulative Effects Assessment (CEA) Summary	<p>(i) to (iii) are for the Applicant.</p> <p>(iv) Table 1.27 rightly identifies that during construction and operation of North Falls there is the potential for 'wider economic effects from disruption to shipping and navigation.' However, the Applicant's rationale relates to multiple offshore projects causing 'disruption to shipping lanes' and the Applicant limits this impact to Felixstowe and Harwich. The route of the proposed offshore cables cross the deep water routes (the Sunk and Trinity which lead to Black Deep) (the "DWR") into the Port of London. The DWR is the only approach available for larger vessels to access the Port of London.</p> <p>North Falls has the potential to cause permanent impacts to navigation and to the capacity and operation of the Port of London, if the depth of the offshore cables and those of other schemes proposed in the same area (Five Estuaries Offshore Wind Farm ("VEOWF"), Sea Link and Tarchon) prevent dredging to the required depths (-22m Chart Datum).</p> <p>There are also the shorter-term impacts associated with the construction of the schemes set out in the PLA's Written Representation [REP2-056] sections 5 to 11. This includes construction and maintenance vessels impacting access into the Port and the ability to board or land pilots – for deeper draughted vessels a small deviation to their schedule could cause a delay until the next tide approximately 12 hours later.</p> <p>As set out above and in the PLA's Written Representation, the range of impacts vary from vessel displacement and delays to placing a constraint on the size of vessel that can enter the Port of London and therefore the capacity of the Port of London</p> <p>This means that as with Felixstowe and Harwich who are referenced in Table 1.27, there could be economic impacts for the Port of London which could be far reaching.</p>	<p><u>Bullet points 1-2 of [REP4-087]:</u></p> <p>Despite updates in other plans and projects' status since the submission of these assessments (e.g. Sea Link is now undergoing examination and Five Estuaries Offshore Windfarm is waiting for its DCO decision) the outcome of the assessment remains unchanged. The assessments have considered the best available information at the time of writing and taken into account the potential for overlap between North Falls construction/operation activities and therefore it is the Applicant's position that no changes are required to Table 1.1.</p> <p><u>Bullet points: 3-4 of [REP4-087]:</u></p> <p>The Applicant clarifies that the distances are:</p> <ul style="list-style-type: none"> North Falls array area to VE array area – 0km North Falls offshore cable corridor to VE offshore cable corridor – 0km North Falls array area to VE offshore cable corridor – 0.7km <p>North Falls offshore cable corridor to VE array area – 12.9km</p> <p>While these are not all listed in Table 1.1 of REP1 059 for brevity, the purpose of this table is to determine projects which are screened in/ out of the CEA, and the Five Estuaries project is clearly screened in. The cumulative effects of all aspects of North Falls and Five Estuaries, where applicable, have been fully assessed in the ES.</p> <p><u>Bullet point: 5 of [REP4-087]:</u></p> <p>The Applicant notes that the offshore projects which were assessed in the cumulative effects assessment in ES Chapter 31 Socio-economics have been omitted from the CEA Summary [REP1 059]. An update to the CEA Summary will be provided at Deadline 6. As these were assessed in the Socio-economics assessment, shown in ES Chapter 31 Socio-economics [AS-010/011] there will be no change to the assessment conclusions.</p> <p>(i) Embedded mitigation is described in Section 15.3.4 of ES Chapter 15 Shipping and Navigation [APP- 029], The tables in the CEA summary, including Table 1.11 list additional mitigation and the SEZ is included as it was not part of the embedded mitigation when undertaking the CEA. A full list of all mitigation is</p>	<p><u>Bullet points 1-2 of [REP4-087]:</u></p> <p>Whilst the outcome may remain the same, the inputs have changed with time and it would be good practice to reflect this in the Cumulative Effects Assessment ("CEA") Summary, as well as mentioning the potential for North Falls crossing Five Estuaries (or vice versa); acknowledging that the Applicant is proposing to update the CEA Summary at Deadline 6.</p> <p><u>Bullet points: 3-4 of [REP4-087]</u></p> <p>No further comments</p> <p><u>Bullet point: 5 of [REP4-087]:</u></p> <p>The PLA note that an updated CEA Summary is to be provided at Deadline 6.</p> <p>(ii) In relation to the comments about there being two deep water routes ("DWRs") and that the oNIP prevents concurrent working, what the PLA was requesting was for the socio-economic impact to be assessed for the Port of London and mitigation measures to be set out in the same way as other ports. It is still unclear why the Port of London was initially left out of the consideration.</p> <p>The potential impacts for the Port of London are not simply based on the time it takes to lay the cables. Moreover we are not just dealing with one cable being laid. Work 3A provides for up to two cable circuits between Work No. 2 and Work No. 4A, including one or more cable crossings and cable circuits can be bundled as one cable of take the form of separate cables. The PLA understand that we are dealing with the laying of 4 cables.</p> <p>As indicated in the PLA's response to this question. North Falls has the potential to cause permanent impacts to navigation and to the capacity and operation of the Port of London, if the depth of the offshore cables and those of other schemes proposed in the same area prevent dredging to the required depths (-22m Chart Datum).</p> <p>There are also the shorter-term impacts associated with the construction of the scheme set out in the PLA's Written Representation [REP2-056] sections 5 to 11. This includes construction and maintenance vessels impacting not only access into the Port and the ability to board or land pilots – for deeper draughted vessels a small deviation to their schedule could cause a delay until the next tide approximately 12 hours later.</p> <p>Regarding the reference to one of the two DWRs being available, the Sunk DWR is deeper than the Trinity DWR so should this be unavailable during construction then this may mean that deeper draughted vessels are unable to enter or exit the Port. Furthermore, if vessels which are restricted to</p>	<p><u>Responses to Bullet points 1-2 of [REP4-087]:</u></p> <p>An updated version of 9.31 Cumulative Effects Assessment Summary has been submitted at Deadline 6 [REP6-047/REP6-048]. Further, the crossing has been acknowledged in the Export Cable Crossing Zone Plan [REP1-059]. It should be noted that whilst the crossing location is indicative, it cannot be located in the DWRs (since the boundaries of these other projects do not overlap in the DWR area), and further, if it was or within the Sunk Pilotage Area, it would be covered by Requirement 2(3) for burial depth. Therefore, the location of such a crossing would need to be agreed in a suitable location with the MCA, but will not impact port traffic.</p> <p><u>Responses to Bullet points: 3-4 of [REP4-087]</u></p> <p>Noted that there are no further comments.</p> <p><u>Responses to Bullet point: 5 of [REP4-087]:</u></p> <p>Within Chapter 31: Socio-economics [APP-045], Table 31.50 titled "Summary of projects considered for the CEA in relation to socio-economics (project screening)" lists the following proposed interconnectors and other energy transmission infrastructure with potential for cumulative effects:</p> <ul style="list-style-type: none"> NeuConnect Interconnector Nautilus Interconnector Sea Link LionLink Interconnector <p>The cumulative effects in relation to the Port of London Authority are assessed in the Further Information on Socio-Economic Impacts on Vessels to/from Tidal Thames [Document Reference 9.104], submitted at Deadline 7. This considers the other projects assessed within Chapter 15 Shipping and Navigation [APP-029].</p> <p>The offshore export cable (as defined in the Project Description [APP-019]), involves burying 2 export cable circuits. Because North Falls is an HVAC system, each circuit is a single cable i.e. North Falls will have 2 cables maximum offshore. This is the basis of the environmental assessment to which the Project is beholden for cable install. It is HVDC technology that can bundle cables, and where there may be multiple cables for a single circuit.</p> <p>The Applicant has committed to burying cables sufficiently deep such that future dredging to 22m will not be precluded in the areas requested by PLA.</p>

REF	QUESTION	RESPONSE FROM PLA	APPLICANT'S RESPONSE	PLA COMMENTS ON THE APPLICANTS RESPONSE TO EXQ2	APPLICANT'S RESPONSE
			<p>provided in the Schedule of Mitigation [document reference 2.6, Rev 2]</p> <p>(ii) The references to the ports of Felixstowe and Harwich have been made as these are indicative service ports for North Falls. With regards to the PLA comments, it should be noted that there are two deep water routes (Sunk and Trinity) into the London ports. The Outline Navigation and Installation Plan (oNIP) [REP4-011/012] prevents concurrent working across both access routes by the relevant projects (i.e. North Falls, Five Estuaries and SeaLink), thereby always giving one access route into/ exit route from the ports. Further to this, the expected time for crossing the port channels with the cable burial tool will be of the order of 1.5-2 days. Therefore, the potential socio-economic impacts on the London ports have been minimised as one route would always be open. The access routes are being discussed in ongoing meetings with the ports and the tables in the oNIP will be updated at Deadline 6.</p> <p>(iii) Not directed at the Applicant.</p>	<p>departing via the Sunk DWR cannot use it, they would have to remain on berth, as there is nowhere to stage them. This would cause additional delays to any inbound vessels due to take their berths.</p> <p>In the PLA's experience it is also not uncommon for cable laying projects to be delayed during construction due to the weather. Vessels may as best they can plan their journeys into/out of the Port of London to avoid cable laying activities at the DWRs but the laying of the cable is then delayed which has a knock on impact on the vessels journey.</p>	<p>Schedule 1, Part 3, Requirement 2(3) of the DCO [REP6-005] has been updated to reflect this. The Applicant position is that this resolves any long-term issues of concern to the PLA in respect of future dredging.</p> <p>Short term impacts will be managed by the oNIP [REP6-040]. Any impact on the Sunk DW from cable installation will be short term in nature (anticipated a couple of days). The oNIP includes a requirement to add notification procedures in agreement with Interested Parties which include the PLA. This will facilitate advanced notice of operations to PLA allowing for forward planning in liaison with the Applicant.</p> <p>The requirement for HAZOPs is also secured through the oNIP [REP6-040]. These will include discussions of contingency plans in the event that delays occur including due to adverse weather.</p> <p>Due to locations, the majority of cable lay operations for windfarms take place in summer months. This is due to the duration of time needed to install 60km of export cables. The planning of the installation most important, ensuring weather windows are sufficiently wide. As mentioned above, the oNIP [REP6-040] includes communications protocols with Interested Parties, so that liaison of timings can take place.</p> <p>The PLA (as one of the local harbour authorities) must also be consulted with on the final NIP by the MMO under Condition 22(1) of Schedule 9, and the PLA (as one of the local harbour authorities) must be notified under condition 16 of Schedule 9 in respect of activities in the relevant DWR area.</p> <p>Lastly, the Applicant has included in the dDCO submitted at Deadline 7 (Document Reference 6.1, Rev 8) new condition 37 of Schedule 9 proposed by PLA that required their consultation on the programme for monitoring during all phases and UXO clearance.</p> <p>Taken together, the provisions in the oNIP and dDCO/DML ensure that the points of concerns of the PLA in respect of short-term, and long- term impacts in terms of navigation / access of vessels in the DWR area have been addressed.</p>
REP6-091_b	Cumulative Effects - Offshore Cumulative Effects Assessment Plan		An updated version of the Offshore Cumulative Effects Assessment Plan is presented in the Appendix to Applicant's Response to ExA's Second Written Questions (ExQ2), submitted at Deadline 5 [Document Reference 9.82, (rev 0)]. The Applicant notes that the PLA requested the Offshore Cumulative Effects Assessment Plan show the Five Estuaries cable corridor (as opposed to the North Falls cable corridor).	The update to Offshore Cumulative Effects Assessment Plan is welcomed by the PLA.	Noted.
REP6-091_c	Development Consent Order - Articles Part 2 - Principal Powers - Article 2 – (Interpretation) definition of commence	<p>(i) The PLA is not content to solely rely on the updated mitigation measures submitted at Deadline 4 as set out in its submissions at that deadline [REP4-044] for the reasons set out in the PLA's response to Q9.4.1 below.</p> <p>As noted below the PLA is concerned with, among other matters, pre-construction surveys and monitoring.</p>	<p>(i) Question not addressed to the Applicant.</p> <p>(ii) The PLA's point in relation to the drafting definition of "commence" only arises in the event there are Protective Provisions as it relates specifically to how "commence" would be defined in any such Protective Provisions. The Applicant's understanding</p>	<p>(ii) The Applicant response is the wrong way round. The issue with the definition of commence arises if the PLA do not get protective provisions, not if the PLA do get protective provisions.</p> <p>The PLA acknowledges that Schedule 9 has been updated which requires consultation with the PLA on certain documents before activities commence.</p>	The Applicant has addressed this in full by adding the new condition proposed by the PLA which covers the monitoring etc., see condition 37 of dDCO submitted at Deadline 7 [6.1, (Rev 8)] . The Applicant understands this issue is now fully resolved.

REF	QUESTION	RESPONSE FROM PLA	APPLICANT'S RESPONSE	PLA COMMENTS ON THE APPLICANTS RESPONSE TO EXQ2	APPLICANT'S RESPONSE
		<p>These surveys are not necessarily licensable activities and the documents which the Applicant is relying on in mitigation, namely the outline navigation and installation plan ("oNIP"), the outline cable specification and installation plan ("oCSIP") and the outline sediment disposal plan ("oSDMP") collectively referred to as "the Mitigation Plans", are only required to be approved in the Deemed Marine Licence – Transmission Assets (Schedule 9) of the dDCO [REP4-004] ("DML") pre construction which is not the same as being required to be approved before pre-construction surveys and monitoring commence.</p> <p>The definition of commence needs to apply to pre construction surveys and monitoring and approval of the Mitigation Plans in relation to such works need to be submitted and approved prior to commencement of pre-construction surveys and monitoring.</p> <p>In addition, the oNIP states it applies "from the start of offshore construction activities." It is not clear when this is as it is not defined and the oNIP states at paragraph 11 that the "installation and maintenance activities considered in this NIP include: Surveys (where they are considered to involve RAM vessels as defined in Section 2.3)." Any surveys which do not involve RAM vessels are therefore not covered by the oNIP.</p> <p>(ii) Is addressed to the Applicant.</p> <p>The PLA's position remains that this can be dealt with through protective provisions but in the absence of protective provisions the definition of maintenance needs to be amended to remove the ability to alter and adjust.</p>	<p>of the wider concern is that PLA is requesting to be consulted in relation to relevant pre construction surveys and monitoring. The pre construction surveys and monitoring relevant to the DWRs form part of the Outline CSIP [REP4 039] and Outline NIP [APP-259]. The Transmission assets DML, Schedule 9, Condition 22(1) has been updated at Deadline 5 (dDCO Rev.6) so that the PLA must be consulted by the MMO in respect of the final CSIP and NIP (and sediment disposal management plan), which must be in accordance with the outline plans, before their approval.</p>	<p>The definition of commence needs to apply to pre construction surveys and monitoring and approval of the Mitigation Plans in relation to such works need to be submitted and approved prior to commencement of pre-construction surveys and monitoring.</p> <p>The NIP is to apply "from the start of offshore construction activities." It needs to be clear when this is i.e. is it from "commencement" as defined in the dDCO which would be of concern to the PLA.</p>	
REP6-091_e	Development Consent Order - Articles Part 2 - Principal Powers - Article 5 - Benefit of the Order	<p>(i) The PLA are not satisfied with the Deadline 4 updated mitigation measures Please refer to the PLA's response to Q9.4.1. As stated, the PLA has specific comments on the mitigation measures which are being discussed with the Applicant. The additional measures "secured" in these documents do not, however, appropriately address the PLA's concerns on their own. Full details of the PLA's concerns are set out in response to Q9.4.1 which includes the PLA's concerns regarding Article 5. In the absence of protective provisions, the drafting amendment set out below is suggested:-</p> <p>The insertion of a new subparagraph (10) as follows, "<i>The undertaker must within 7 days after the completion of any sale, agreement or other transaction under article 7 (Benefit of the Order) in relation to which any powers, rights and obligations of the undertaker are transferred to another party, notify the PLA in writing, and the notice must include particulars of the other party to the transaction under article 7, the general nature of the transaction and details of the extent, nature and scope of the works or functions sold, transferred or otherwise dealt with</i>".</p> <p>(ii) Is addressed to the Applicant.</p>	<p>(i) Question not directed at the Applicant</p> <p>(ii) Please refer to the Applicant's response to Q9.0.1. The dDCO has been updated at Deadline 5 (dDCO Rev. 6) addressing the concerns of the PLA and protecting its interests.</p> <p>As those updated DCO provisions would continue to apply in the event of a Transfer of Benefit under Article 5, no drafting amendments are required.</p>	<p>(ii) There are no changes dealing with transfer of benefit under Article 5. If the benefit is transferred then the PLA would wish to be advised of the name of the transferee so that the PLA is clear who will be discharging the conditions and addressing the PLA's concerns.</p>	<p>The Applicant's position is that the dDCO and the DML in Schedule 9 as relevant to the PLA include provisions to notify the PLA in the event of activities affecting the PLA (and the other local harbour authorities) – see condition 16 and 17 of the DML in Schedule 9, which has been expanded in its update at Deadline 7 [6.1, (Rev 8)]. Moreover, the PLA (as a local harbour authority) must be consulted on, per condition 22(1)(h) and new condition 37 proposed by the PLA and included in the updated dDCO.</p> <p>In the event of a transfer/grant of benefit of article 5 of activities/works that may affect the PLA, the transferee would be bound by these provisions. .</p>
REP6-091_f	Development Consent Order - Schedule 1 Part 3 – Requirements - Requirement 2	Please refer to the PLA's response to Q9.4.1. The drafting of new requirement 2(3) is not agreed. As	The Applicant has since Deadline 4 met with LGPL and received further proposed updates to the drafting from LGPL. The Applicant has considered	The changes are welcome. The Requirement should reference the authorised development rather than just "Work	It is only Work No. 3 that can be located within the relevant area, as a result of paragraph 5 of Schedule 9.

REF	QUESTION	RESPONSE FROM PLA	APPLICANT'S RESPONSE	PLA COMMENTS ON THE APPLICANTS RESPONSE TO EXQ2	APPLICANT'S RESPONSE
	(3) – Offshore design parameters	<p>stated in the response to Q9.4.1 the Requirement should be amended as follows:</p> <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 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> <p>As set out in the PLA comments on deadline 4 submissions the area for deeper cable burial has not yet been agreed.</p>	the LGPL's requests and made further updates to Requirement 2(3) in the dDCO Rev. 6 submitted at Deadline 5.	<p>No. 3 and any associated development and include sub-paragraph (4) in the PLA's response.</p> <p>As set out in the PLA comments the area for deeper cable burial has not yet been agreed.</p>	<p>In any case, the Applicant has at the PLA's request updated to reference 'authorised development' in the dDCO submitted at Deadline 7 [6.1, (Rev 8)].</p> <p>The Applicant updated the Deep Water Route Cable Installation Areas (Future Dredging Depths) Plan at Deadline 6 [REP6-055] to make the area around the sunk pilot diamond (shown coloured blue on that plan) protected from having its depth reduced to any less than -22m by Work No. 3 (see Requirement 2(3) [REP6-005]).</p> <p>This, in effect, gives the same protection as the proposal by PLA, as the area around the sunk pilot diamond extends further than the areas proposed by PLA.</p>
REP6-091_g	Development Consent Order - 9.2 Schedules 8, 9 and 10 – Deemed Marine Licence under the 2009 Act - Depths in the Deep Water Routes	<p>The amendments made are not acceptable. Please refer to the PLA's comments on the submissions received at Deadline 4, Paragraph 11.2 (b) to (h) which sets out the changes the PLA required to the DML.</p> <p>Please refer to the PLA's comments on the submissions received at Deadline 4, Paragraph 11.2 (b) to (h) which sets out the changes the PLA required to the DML.</p>	It is not clear to the Applicant what the PLA means by 'wishing to secure parity' with the VE DML. The Applicant has made further updates to the dDCO and Schedule 9 DML at Deadline 5 which address a number of the comments made by PLA. The Applicant proposes that PLA set out the points in respect of which it thinks there is 'disparity' with justification as to why the changes are reasonable and necessary in the context of North Falls (as opposed to simply for the sake of 'parity').	The need for changes to the DML consistent with VEOWF was raised at the ISH and the PLA indicated that this was a starting point and were happy to discuss. The Applicant has, however, refused to engage to move this matter on. The PLA has included with its Deadline 6 submission a full mark-up of the DML that it would wish to see in order for its interests to be properly protected. The changes are not simply for the sake of parity.	<p>It is not accurate to say that the Applicant has refused to engage with the matters raised by PLA on the wording of the DCO and the DML. . The Applicant has made a series of changes to the dDCO and DML at Deadlines 5, 6 and 7 to address matters raised by the PLA.</p> <p>The Applicant has addressed concerns of the PLA by committing to not reduce depth more than the levels agreed with the PLA, and not impede or prevent dredging, in the Deep Water Route and Sunk Pilotage areas (Requirement 2(3)), by not reducing navigable depth at all in the these areas due to cable works or maintenance (Condition 13(4) and Condition 22(1)(h)(ii)), and by condition requiring that PLA (as one of the local harbour authorities) are consulted with by the MMO in respect of all the mitigation plans activities that may affect PLA, (Condition 22(1)).</p> <p>Moreover, the Applicant has included in the dDCO submitted at Deadline 7 (Document Reference 6.1, Rev 8) conditions proposed by the PLA [REP6-090]:</p> <ul style="list-style-type: none"> - consultation and notifications in relation to activities and programme relating to monitoring and UXO (see new condition 37); - that the PLA must be consulted on the operations and maintenance plan, see updated condition 13(4); and - the updated notification requirements in respect of surveys, the progress of development, and aids to navigation, under condition 16 and 17 of Schedule 9, in respect of the PLA (as one of the 'local harbour authorities').

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REP6-091_h	<p>Development Consent Order - Schedule 14 – Protective Provisions</p> <p>Protective provisions sought by the Port of London Authority and the changes to the protective provisions sought by London Gateway Port Limited</p>	<p>(i) The core purpose of protective provisions is to prevent serious detriment arising to statutory undertakings from exercise of DCO powers. This is exactly what the PLA is seeking to achieve through its protective provisions.</p> <p>There is the potential for significant impact on the Port of London which is the largest Port in the Country. The PLA has actively engaged with the examination process and has commented on the oNIP, the oCSIP and the oSDMP, with the production of the latter documents as a result of the PLA's engagement in the examination process. The PLA has also engaged with the Applicant over the area required for deeper cable burial and has set out the changes that are required to that plan that is to become a certified document. The PLA has an important role in ensuring that the cables are installed and maintained at a depth that do not cause long term detrimental impacts on the Port of London and that the oNIP, the oCSIP, the oSDMP are fit for their intended purpose.</p> <p>The PLA has specific comments on the Mitigation Plans which are being discussed with the Applicant. The additional measures "secured" in these documents do not, however, appropriately address the PLA's concerns on their own for the following reasons:</p> <p>1. There is scope for the final Mitigation Plans to change</p> <p>Outline documents have now been submitted to the examination and whilst the PLA has no objection to this, given the important matters that the CSIP, NIP and SDMP will deal with and that these are being relied upon to mitigate the PLA's concerns, it is deeply concerning that as currently drafted the DML only requires the NIP and the SDMP to accord with principles of the oNIP and oSDMP and the CSIP to accord with the oCSIP (condition 22). There is the potential therefore for the final documents to change and for those changes to detrimentally impact the Port of London either temporarily or permanently. We would invite the ExA to include a requirement for the final documents to be in strict accordance with the relevant outline document.</p> <p>The PLA is not referenced as a consultee in the DML and there is no reference to the consultation of local harbour authorities in the preamble to condition 22(1) nor that final plans should be agreed with local harbour authorities prior to submission to the MMO.</p> <p>Condition 23(4) of the DML requires the licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 22, unless otherwise agreed in writing by the MMO with no reference to further consultation with the local harbour authorities.</p> <p>Protective Provisions in line with those agreed by Five Estuaries Offshore Wind Farm Limited ("VEOWFL") would mean that the PLA is at least consulted on final drafts before being submitted to the MMO for final approval. Given the importance of these documents the PLA (as per the representations made on VEOWF)</p>	<p>The Applicant notes that none of questions (i) – (iv) are directed to it.</p>		<p>The Applicant notes that PLA provided no further response.</p>

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		<p>would want to be able to approve these prior to submission to the MMO and any updates.</p> <p>The PLA and other ports can provide important input as they have done so to date and importantly will have had oversight of other overlapping schemes such as VEOWF. The PLA and the other ports ensure, therefore, that the cumulative effects are being properly considered</p> <p>2. There is no positive obligation regarding remediation if the cable depth is not met or if the cable moves, nor updates to the CSIP if burial to the required depth is not achieved.</p> <p>The VEOWF Protective Provisions agreed by VEOWFL included the following:</p> <p>"Remediation</p> <p>119. Where, following the installation of cables forming Work No. 2(c) in relation to the Area of Interest it is identified by the undertaker (who shall notify the PLA as soon as reasonably practicable of this fact) and in any event within 2 business days) or, following inspection by the PLA, it is identified by the PLA (and the same is notified to the undertaker as soon as reasonably practicable), that the level of cable is such that the paragraph 116 (a) has not been achieved or at any time following installation or maintenance the cable has moved such that the requirements of paragraph 116 (a) are no longer being achieved, then, unless otherwise agreed in writing with the PLA, the undertaker is required to carry out remediation works as specified in the cable specification and installation plan subject to paragraph 120 in relation to the Deep Water Routes.</p> <p>120. Unless otherwise agreed in writing with the PLA, the undertaker will carry out the following arrangements for the carrying out the remediation works:</p> <p>(1) the undertaker will re-bury the cables to the required specification to achieve the requirements of paragraph 116(a); and</p> <p>(2) Following the completion of the works in sub paragraph (1), if it is identified by the undertaker or the PLA (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 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 undertaker will consult the PLA on the draft updated cable specification and installation plan required under sub-paragraph (2) and the provisions of both this paragraph and paragraph 117 will apply to that updated cable specification and installation plan .</p> <p>(4) The steps in this paragraph shall be repeated until the requirement in paragraph 116(a) is achieved or the cable is permanently removed from the Area of Interest.</p>			

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		<p>In the absence of protective provisions there needs to be a Requirement and a condition in the DML to deal with the above.</p> <p>If the PLA is also not being consulted on the design which could be a requirement of the protective provisions the Requirement should be amended as follows:</p> <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 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><u>(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)."</u></p> <p>3. The PLA's concerns are wider than cable burial and include pre-commencement and post construction monitoring and survey work</p> <p>As is common with the installation of cables a number of pre-construction activities including pre construction surveys and monitoring may need to be carried out in order to obtain more information to inform for example, the final cable route and burial depth or to allow for the installation of the cable on the chosen route (e.g. boulder clearance, UXO clearance etc). These surveys are not necessarily licensable activities and the oNIP applies from the 'start of offshore construction activities' which is not clear as to when this is and it only relates to surveys where they are considered to involve RAM vessels.</p> <p>The PLA would want to at least be consulted on any surveys or monitoring (pre and post construction) and any pre-construction activities that affect the DWR because a survey vessel may pass slowly over the DWR or even stop to place/remove monitoring equipment which could affect shipping. Equally restrictions on how the pre-construction activity can be undertaken may need to be proposed e.g. a boulder or archaeological finds cannot be relocated to or within a DWR but must instead be removed.</p> <p>These surveys are not necessarily licensable activities and to the extent that the various mitigation plans deal with surveys, the final plans are only required to be approved in the DML pre construction.</p> <p>Section 3.1 of the oCSIP provides information on UXO clearance but there needs to be a commitment to not relocating UXO within the DWR</p> <p>The VEOF agreed Protective Provisions included the following:</p>			

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		<p>"Consultation and Notice</p> <p>115...</p> <p>(2) The undertaker will consult the PLA on the proposed ac vi es and programme for any pre construc on monitoring, construc on monitoring, post construc on monitoring and related repor ng within the Area 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 PLA for reasonable amendment to the or programme, which request must be made to the undertaker within 5 business days of receipt of the details of the proposed ac vi es and programme.</p> <p>(3) The undertaker must notify the PLA of the final planned programme for any survey work to be undertaken under this Order within the Area of Interest no less than 5 business days before such survey work is programmed to begin.</p> <p>(4) The undertaker will consult the PLA on any application for marine licensing for the disposal of unexploded ordnance within the Area 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>(5) The undertaker must notify the PLA of the final programme for any clearance of unexploded ordnance to be undertaken within the Area of Interest no less than 20 business days before such disposal is programmed to begin.</p> <p>(6) The undertaker will consult the PLA on the ac vi es and programme for any specified work to be undertaken under this Order which is not covered by the cable specification and installation plan and which is within the Area of Interest no less than 20 business days before such specified work is programmed to commence. The undertaker must have regard to any request made by the PLA for reasonable amendment to the ac vi es or programme.</p> <p>(7) The undertaker must notify the PLA of the final method statement and programme for any for any specified work to be undertaken under this Order which is not covered by the cable specification and installation plan and which is within the Area of Interest no less than 5 business days before such work is programmed to begin."</p> <p>In addition, the agreed remediation provision for VEOWF set out above under point 2 requires that where post installation of the cable it is identified by the undertaker that the required depth has not been achieved the undertaker is to notify the PLA as soon as reasonably practicable of this fact and in any event within 2 business days. Equally should the PLA discover that the cable is not at the required depth it must notify the undertaker.</p> <p>4. Ensuring that the PLA has notice of who has the benefit of the DCO in the event of a transfer of the benefit or any part</p>			

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		<p>The Protective Provisions ensure that the PLA is advised where there is any sale, agreement or other transaction under article 7 (Benefit of the Order) in relation to which any powers, rights and obligations of the undertaker are transferred to another party. This ensures that the PLA knows who they should be approaching should there be any concerns with how works are being undertaken or with the level of cable following installation or maintenance. The VEOWF Protective Provision included the following:</p> <p>The undertaker must within 7 days after the completion of any sale, agreement or other transaction under article 7 (Benefit of the Order) in relation to which any powers, rights and obligations of the undertaker are transferred to another party, notify the PLA in writing, and the notice must include particulars of the other party to the transaction under article 7, the general nature of the transaction and details of the extent, nature and scope of the works or functions sold, transferred or otherwise dealt with.</p> <p>5. Ensuring that the PLA has as built plans</p> <p>Protective provisions can provide that following the completion of the installation of the cables affecting the DWR and after any maintenance of the same, the undertaker provides to the PLA as built drawings to show the position, depth and any cable protection installed.</p> <p>Absent Protective Provisions there would need to be a Requirement or a condition in the DML to secure the above.</p> <p>6. Ensuring that any cost or losses which the PLA are put to as a consequence of the Scheme are met by the undertaker.</p> <p>Protective provisions can ensure that the PLA's proper and reasonable legal costs, professional fees and disbursements incurred in connection with reviewing the details submitted to the PLA; and that the undertaker is responsible for and must make good to the PLA all financial costs, charges, damages losses or expenses which may be incurred reasonably or suffered by the PLA by reason of—</p> <ul style="list-style-type: none"> (i) the construction or operation of the authorised development or its failure or a failure to adhere to the requirements of the protective provisions; (ii) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged on the construction or operation of the authorised development. <p>7. Failure to include Protective Provisions is inconsistent with VEOWF and undermines the mitigations secured by the PLA in VEOWF</p> <p>Protective Provisions have been included in the VEOWF DCO and to not have similar protective provisions or at least a suite of enforceable Requirements and conditions in the Deemed Martine Licence which mirror those Protective Provisions completely undermines the mitigation measures</p>			

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		<p>secured by the PLA for the VEOWF, if North Falls is not under the same controls.</p> <p>The Protective Provisions enable the PLA to ensure that there is consistency across the projects and proper co-ordination.</p> <p>8. Ensuring Impacts on the PLA Navigation Equipment do not arise.</p> <p>The PLA raised concerns in its Relevant Representation about the potential impacts of the vessels required to undertake the horizontal directional drilling at landfall interfering with the PLA's radio link and lowering its reliability [RR-272]. At this stage this matter has not been resolved, and the PLA maintains its position that this matter could be addressed through protective provisions.</p>			
		<p>(ii) The northern approaches for deeper draughted vessels into the Port of London (i.e the DWRs through which deeper draughted vessels must pass through to get into the Port of London) and the Port of London (the largest port in the UK) accounted for 12% of all UK major port tonnage traffic handled in 2023.</p> <p>The Order Limits also include the Sunk Pilot Diamond and pilotage is compulsory for large vessels within the London Pilotage District. The approaches and boarding and landing of pilots takes place in the general vicinity of the Sunk Pilot Diamond rather than at a specific point.</p> <p>The PLA would emphasise the importance of the Port of London and that it is only through protective provisions that the PLA will have certainty that the design and installation of the cables in the Export Cable Corridor will not have a detrimental long term impact on the UK's largest port. The PLA also has navigational equipment within the Order limits and the seaward approaches for the Port of London are also situated with the Order Limits.</p> <p>The seaward approaches are of relevance to the Port Marine Safety Code and the Guide to Good Practice on Port Marine Operations - section 2.3.1 stating that "<i>the Organisation Harbour Authority will discharge its general and specific statutory duties in respect of the conservancy of the harbour and its seaward approaches</i>".</p>			
		<p>(iii) The PLA is not suggesting that it is a regulator nor that it needs to "control" the seaward approaches to the Port of London, but it would wish to approve key documents that will control the delivery of the authorised works in the DWRs ahead of approval by the MMO. The MMO will be the final approver of the plans and details.</p>			
		<p>(iv) It is naturally the case that the majority of DCO's that the PLA has been involved in relate to projects located within the Port of London Act 1968 limits. It is also natural that there are a limited number of exceptions to this and there has until VEOWF been no projects advanced through the DCO process which specifically affect the DWRs.</p> <p>The Thanet Offshore Windfarm Extension Development Consent Order was outside the PLA's statutory limits</p>			

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		<p>but as the PLA had fundamental concerns about the extension (which ultimately led to the refusal of the application) no discussions took place regarding protective provisions for the PLA. The impact of the proposed project on marine navigation, shipping and ports was the principal issue generating most attention and contention from interested and other parties throughout the examination. The Examining Authority ("ExA") and the Secretary of State agreed with the PLA and other interested parties that the Applicant had failed to demonstrate sufficient mitigation of risks to safety of navigation to make them As Low As Reasonably Practicable ("ALARP"). The concerns included the effect of the project on navigational safety of shipping traffic in immediately adjacent waters, the resilience of facilities and services accessed by that traffic, and in this context, the degree to which the proposed development was policy compliant.</p> <p>The London Gateway Harbour Empowerment Order ("HEO") included protective provisions for the benefit of the PLA and not all of the area affected by the HEO is within the jurisdictional limits of the Port of London yet the protective provisions provide that they apply whether in or out of the PLA's jurisdictional limits. Naturally some of the protective provisions are tied to specific works but that is no different to here. The PLA only have concern with certain works but that is not a factor of its jurisdictional limits but its operations.</p> <p>North Falls is the second project to come forward under a Development Consent Order that impacts on the DWR's into the Port of London. VEOWF was the first. The decisions made in relation to protective provisions for VEOWF and North Falls could therefore have implications for future schemes including Sea Link which is being brought forward through a DCO and has just been accepted for examination.</p>			
REP6-091_i	<p>Development Consent Order - Schedule 14 – Protective Provisions</p> <p>The protective provisions sought by the Port of London Authority</p> <p>Q9.4.3</p>	<p>For the river Thames the PLA is the Statutory Harbour Authority ("SHA") and the Order Limits for the made DCOs on the river Thames are wholly within the PLA's area of jurisdiction. The PLA's jurisdiction as SHA does not include the Order Limits for the Proposed Development.</p> <p>As noted above, however, the Order Limits include the DWRs through which deeper draughted vessels must pass through to get into the Port of London; whilst outside the jurisdiction of the Port of London Act 1968 the DWRs form part of the seaward approaches within which the PLA have to discharge its general and specific statutory duties as noted by the Port Marine Safety Code and the Guide to Good Practice on Port Marine Operations.</p> <p>The Order Limits also include the Sunk Pilot Diamond. Pilotage is compulsory for large vessels within the London Pilotage District and the PLA is responsible for the piloting of vessels entering the Port of London, utilising the Sunk Pilot Diamond to discharge this function.</p> <p>In addition, the PLA is responsible for the navigational equipment located within the Order Limits.</p>	<p>(i)-(ii) Not directed at the Applicant.</p> <p>(iii) The Applicant cannot speak to the reasoning for the approach taken by another project. To achieve consistency with another project is not in of itself a reason to include the same provisions. The Applicant has committed to ensure that there would be no interference with the Deep Water Routes now or in future by securing commitments in respect of the cable burial, and related mitigation commitments to ensure water depths in the relevant areas are safeguarded via the CSIP and SDMP, and to manage concurrent working under the NIP.</p> <p>At Deadline 5 the Applicant has provided further updates to the DCO and relevant DML in Schedule 9 to ensure the ports will be consulted on the relevant plans, see Schedule 1, Part 3, Requirement 2(3), Schedule 9, Conditions 13(3)-(4), 16(15), 22(1), 22(1)(h), and 23(4) (Document Reference 6.1 dDCO Rev. 6). Any PPs would add an additional unnecessary and excessive layer of control, as well as inappropriate for all the reasons set out in the Applicant's Response to the Ports' Request For Protective Provisions [REP4-044].</p>	<p>(iii) The PLA has explained at length above why the current mitigation measures do not give it sufficient protection and has responded to the updates to the dDCO provided at deadline 5 and the relevant DML in Schedule 9 of the dDCO. To add to the concerns previously expressed at deadline 5 the PLA note that in response to Q15.0.9 the Applicant has stated that they require geotechnical information from surveys planned later this year before the Cable Burial Risk Assessment ("CBRA") can be conducted. Therefore the key commitments made in the oCSIP are still subject to the results of the CBRA which will not be available until after the examination closes. Clay is known to be present within the DWRs which can slow cable laying and or require proactive pre trenching to guarantee achievement cable burial depths.</p> <p>In particular statements such as "All reasonable endeavours will be made to avoid the use of cable protection in the vicinity of the Sunk pilot boarding area so as to not reduce the navigable depth in this area." (Para 40 of the oCSIP) are still subject to considerable uncertainty and could have significant impact on global trade to the Port of London.</p> <p>Included as an Appendix to the PLA's Comments on Deadline 5 Submissions is a legal opinion from Robert Walton KC which supports the PLA's position that the Applicant's suggestion that the PLA is acting unreasonably, and that by extension it would be unreasonable for the</p>	<p>Whilst the final burial depths are not known, the Project has committed to deeper burial of the cable in the key areas of vessel transiting into the tidal Thames area. These are covered in Requirement 2(3) of the dDCO [REP6-005]. These include all areas within the 2 DWRs and the area around the sunk pilot diamond, called the Sunk Pilotage Area. These ensure the navigable depth in the critical areas is maintained, irrespective of the final burial depths identified in the CBRA.</p>

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		(ii) The preferred form of protective provisions preferred by the PLA is Appended at Appendix 1 and those included by VEOWFL at the close of the examination are included at Appendix 2. (iii) Is for the Applicant		Examining Authority to recommend / the Secretary of State to require the protective provisions that the PLA is seeking, is manifestly misconceived.	
REP6-091_j	Development Consent Order - Socio-economic Effects - Port of London Authority - Temporary Impacts Q16.0.6		<p>(i) In [REP2-056] the Port of London Authority (PLA) raised concerns that North Falls may cause economic disbenefits to the port and disagreed with the Applicant's conclusion in ES Chapter 31 Socio Economics [APP-045] that the potential economic impacts of the Project would be concentrated on the ports of Felixstowe and Harwich, with all other ports being scoped out of the assessment. The PLA noted that, to accommodate existing and predicted future vessel sizes, it needs to safeguard access via the deep water routes (DWRs) for vessels with a draught of 20m. They noted that, in the event that it is not possible for vessels of this size to enter the port via the DWRs, it would limit the quantum of trade within the Port. It should be noted that there are two deep water routes (Sunk and Trinity) into the London ports. The Outline Navigation and Installation Plan (oNIP) [REP4-011] prevents concurrent working across both access routes by the relevant projects (i.e. North Falls, Five Estuaries and SeaLink), thereby always giving one access route into the ports. Further to this, the expected time for crossing the port channels with the cable burial tool will be of the order of 1.5-2 days. Therefore, the potential socio-economic impacts on the London ports have been mitigated as one route would always be open. The access routes are being discussed in ongoing meetings with the ports and the tables in the oNIP will be updated at Deadline 6.</p> <p>(ii) The assessment was carried out based on a typical burial rate required to achieve a notional depth. The crossings of the Sunk DW route is circa 1400m long, and the crossing of the Trinity is circa 2100m long. Based on a cable lay rate of circa 150 450m/hr, the length of time taken to cross even the longest routes is a few hours. Cable burial will be added to the final NIP, but is expected to be of the order of 50-150m/hr. Therefore, the length of time expected to cross the longest crossing (Trinity) is expected to be less than a couple of days.</p> <p>If, after ground investigations, it is found that burial tools cannot achieve the required depth on their own, the assumed volumes of material allow for dredging to take place in the vicinity. This would mean construction of a trench to allow the cable to sit at the required depth below the future seabed depth. This is around 2m and depends on the outcomes of the CBRA, and the volumes required are captured by the environmental assessment. If dredging was needed, this would be an episodic task, as it would mean the filling of a hopper that has a discrete volume. This material would need disposing prior to continuing, and hence there would be flexibility to work with the ports and authorities to schedule tasks based on vessel</p>	<p>Response to (i) and (ii):</p> <p>Question (i) is "to what extent the socio economic assessment in Environmental Statement Chapter 31 [APP-045] considered the concerns raised by the Port of London Authority (PLA) [REP2-056], regarding temporary impacts, resulting from cable laying and repair, pre and post construction surveys and interactions with third party schemes (simultaneous operations)". The answer is Chapter 31 hasn't considered these concerns and goes on to note perceived mitigation. As noted with the cumulative assessment the impacts should have been considered as significant effects.</p> <p>In term of the reference to one of the two DWRs always being open, the Sunk DWR is deeper than the Trinity DWR, so should this become unavailable during construction then this may mean that deeper draughted vessels are unable to enter or exit the Port on a given day. There is also concern re maintaining the ability to board or land pilots.</p> <p>Vessels come to the Port of London from significant distances and the PLA is managing multiple vessels entering and exiting the Port of London spread over 70 separate independently run terminals</p> <p>As noted against question 7.04 the potential impacts for the Port of London are not simply based on the time it takes to lay the cables. North Falls has the potential to cause temporary impacts associated with the construction of the schemes as set out in the PLA's Written Representation [REP2-056] sections 5 to 11.</p> <p>When it comes to the time period and programming for the laying of the cables as noted above, we are dealing with more than one cable and the time periods have the potential to be delayed or for programming to change not least due to the weather. There is a need, therefore, for continuous engagement with the PLA to be secured through protective provisions. Moreover as noted in point (ii) ground investigations may necessitate dredging to achieve the required depths. Clay is known to be present within the DWRs which can slow cable laying and or require proactive pre trenching to guarantee achievement cable burial depths so the points made in response to (ii) re the potential need for dredging could be highly likely. It is disingenuous to suggest that the time period for this aspect of the works is a mere 1.5-2 days.</p> <p>It might be possible for vessels scheduling to be changed to avoid programmed works but if that programme changes the rescheduling of the works needs to respect the rescheduled passage of vessels given the delay agreed to already, the volume of vessels and good handled by the Port of London and the vast distances often travelled by these vessels.</p> <p>No comment is made by the Applicant regarding how pre and post construction surveys and interactions with third party schemes (simultaneous operations) could impact the Port of London.</p>	<p>The impact on the PLA is provided in a new document [Further Information on Socio-Economic Impacts on Vessels to/from Tidal Thames [9.104, Rev 0] to be submitted at Deadline 7. It includes the mitigation provided to minimize impacts on the PLA.</p> <p>The time period for cable lay only is 1.5-2 days. The comments around additional delays are noted. These are responded to in Q15.0.4 of the Applicant's responses to ExQ3 submitted at D7. That response includes the commitments made in the oNIP [REP6-039] to ensure that HAZOPs are carried out, which will include contingency planning, and communication with Interested Parties is undertaken.</p> <p>Dredging has been included the necessary volumes and impacts within the Environmental Assessment if dredging is necessitated by the outputs of the ground investigations.</p> <p>Pre and post survey operations are covered by the concurrent working parts of the oNIP [REP6-039]. The impacts of these are therefore covered by mitigation measures secured within the DCO.</p> <p>The Applicant has also added new condition proposed by the PLA which covers the monitoring etc., see condition 37 of dDCO submitted at Deadline 7 [6.1, Rev 8].</p>

REF	QUESTION	RESPONSE FROM PLA	APPLICANT'S RESPONSE	PLA COMMENTS ON THE APPLICANTS RESPONSE TO EXQ2	APPLICANT'S RESPONSE
			movements. The exact duration would depend on the size of the dredging vessels available for construction.		
REP6-091_k	Development Consent Order - Socio-economic Effects Port of London Authority - Permanent Impacts Q16.0.7		<p>It should be noted that the cable crossing locations known at this time are stated in the Export Cable Crossing Zone Plan [REP1-059].</p> <p>By comparing the red-line boundaries (RLBs) of the various projects, it should be clear that there are to be no crossings within the DWRs (the RLBs of the projects do not overlap in these areas), and the intention of the Export Cable Crossing Zone Plan is to show that any crossing of Five Estuaries would take place away from the Sunk Pilot Diamond due to water depth reasons. Therefore, there would be no impacts from crossings on the ability of a 20m draft vessel to access port.</p> <p>The crossing zones shown Export Cable Crossing Zone Plan are indicative because all projects which the Applicant is crossing are still in development stages and hence have not got a fixed location of their infrastructure on the seabed. Therefore, the Export Cable Crossing Zone Plan assumes that the cables being crossed could be anywhere within the indicated zone. It should be noted that the zone extends outside the respective project boundaries as the grade-in/grade-out distances (to bring the cable to the seabed) need to be considered. As the cable location could be anywhere within the boundary, the Applicant may need protection to extend beyond that to allow for the grading in/out of the Applicant's cable and associated protection.</p>	<p>The PLA is concerned that the Applicant will not commit to no cable crossings in the DWR. What is shown in the export cable crossing zone plan is indicative. The PLA has requested on more than one occasion for the Applicant to commit to no crossings in the DWR. If as the Applicant is saying it is clear that there are to be no crossings within the DWR's and away from the Sunk Pilot Diamond then the Applicant should be able to provide this commitment.</p> <p>The Applicant's position is contrary to the position set out in the oNIP (S3.1.6) which states:</p> <p><i>"There is an expectation that cable crossings will be required, most notably with the export cables for Five Estuaries, Sealink and Neuconnect. The indicative zones for such crossings has been shown in the Export Cable Crossing Zone Plan [REP1 059], which shows they will be outside of the DWR areas. As with cable burial or protection, any cable crossings in proximity to the DWRs will be designed so as to again ensure dredging is not restricted within the DWR areas defined in 9.57 Deep Water Route Cable Installation Areas (Future Dredging Depths) and the CSIP."</i></p> <p>For the first time the Applicant is saying "It should be noted that the zone extends outside the respective project boundaries as the grade-in/grade-out distances (to bring the cable to the seabed) need to be considered. As the cable location could be anywhere within the boundary, the Applicant may need protection to extend beyond that to allow for the grading in/out of the Applicant's cable and associated protection." This highlights the need for the areas for deeper cable burial that are to be shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan to be agreed without delay.</p>	<p>As part of the planning process, any project can only install its cable within its prescribed red line boundary. Therefore, in the case of SeaLink and Neuconnect, the respective cable can only be placed within their RLB. However, to allow for asset protection, there is a required stand-off distance to prevent damage to the cable being crossed. Due to the developmental stage of the respective projects, the exact cable location is not known within their proposed RLB. Therefore, the cables could be laid at the edge of the boundaries, and North Falls needs to allow for this.</p> <p>That said, neither the Neuconnect or SeaLink RLBs are within typical grade-in/grade out distanced of the DWRs (typically a few hundred meters). Therefore, there is no impact on the DWRs from the crossing of Sealink and Neuconnect. For the closest cable (Neuconnect), the distance to the Sunk Pilotage area is approximately 3000m and approximately 5500 m to the nearest DWR, the Trinity DWR (as the crow flies). Therefore, the indicative locations presented in 9.57 Deep Water Route Cable Installation Areas (Future Dredging Depths) [REP6-055] are fixed and sufficiently far away to not result in any impacts to the DWRs.</p> <p>For Five Estuaries, the RLBs have significantly more overlap. Again, as the specific locations of cables are not known yet, the exact locations of cable crossings cannot be identified.</p>

2.7 Applicant's response to Suffolk County Council's Comments on any submissions received at the previous deadline [REP6-092]

Table 2.7 Applicant's response to Suffolk County Council's Comments on any submissions received at the previous deadline [REP6-092]

REF	SCC REF	SECTION	SCC'S COMMENT	APPLICANT'S RESPONSE
REP6-092_a	1a	Position Statement on various issues relating to National Landscapes (Rev 0) [REP5-068] - Compliance with Duty (Paragraph 1)	SCC refers the Applicant to [REP5-116] where SCC recommends the inclusion of viewpoint assessments from areas which indicate greater visibility of the substation from the DVNL within the 2km study area. This point has been made in representations from previous deadlines including [REP1-074], [REP2-059] and [REP4-094]. For it to be	The Applicant has provided further detail on the likely visibility of the proposed onshore substation from within the Dedham Vale National Landscape in response to questions raised at ISH1 and ISH2. Please refer

REF	SCC REF	SECTION	SCC'S COMMENT	APPLICANT'S RESPONSE
			<p>determined whether the DVNL is affected, and whether any measures undertaken in accordance with the duty to be considered reasonable, proportionate, appropriate and sufficient, the extent of the impacts on the DVNL must be assessed.</p> <p>As a matter of clarification, SCC would like to make the point that it is not saying that simple visibility of the development from within the DVAONB is necessarily an adverse effect (i.e. mere intervisibility is not necessarily to be regarded as harmful) and that what matters is the nature and extent of any visual impacts, which is a matter for assessment and professional judgment. SCC notes that at ISH1 the Applicant drew a distinction between visibility and visual impacts (as set out in its Post Hearing Submissions in [REP4-026], item 3.1). Where the visual effects are assessed, even after any proposed mitigation such as landscape planting/screening, to result in some detrimental effects on the special qualities or natural beauty indicators of the DVAONB then those effects will be a residual adverse effect on the DVAONB and there will be a failure to conserve the natural beauty of the DVAONB. It is that consequence which then gives rise to the statutory Duty in relation to Protected Landscapes.</p> <p>SCC's concern is that the information thus far provided by the Applicant provides an insufficient assessment of the visual impacts of the substation proposal on the DVAONB (by not including an assessment of more relevant views on the Essex Way south west of the selected VP8).</p> <p>SCC would also make the point that it does not agree that the Secretary of State could be satisfied that the statutory Duty would be discharged if they found that there were minor adverse impacts on the DVAONB that are not 'significant effects' in EIA terms. SCC has already made detailed representations on why it is a false equivalence to treat the EIA test of 'likely significant effects' as a threshold (or yardstick) for judging whether the objective of seeking to further the purpose of conserving and enhancing the natural beauty of a Protected Landscape is met or not, as set out in section 3.3 of [REP4-096], and in paras 21, 23, and 52-53 of Appendix B of [REP4-094].</p>	<p>to pages 10-12 of Applicant's Response to Actions List for ISH1 and ISH2 [REP4-036].</p> <p>In respect of SCC's comments on the application of the duty under section 85A of the CRoW Act (Duty), the Applicant refers to its Position Statement on various issues relating to National Landscapes [REP5-068] and notes that section 85(A1) of the Countryside and Rights of Way Act 2000 (CRoW Act) states:</p> <p><i>'In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.'</i></p> <p>It is not a 'failure to conserve' that gives rise to the Duty but the act of a relevant authority exercising or performing any functions <i>in relation to, or so as to affect</i> land in a National Landscape in England.</p> <p>The Applicant also refers to its response to REP5-116_e1 in the Applicant's Response to Deadline 5 Submissions [REP6-060] which expressly notes that the Applicant has not submitted that effects on the National Landscapes that are not significant in EIA terms are irrelevant to a consideration of the Duty.</p> <p>However, in line with the Applicant's oral submissions at Issue Specific Hearing 2 [REP4-034], the Duty is an obligation on a relevant authority to seek to further the purpose of conserving and enhancing the natural beauty of the relevant National Landscape. It is not a requirement to conserve or enhance the natural beauty of the relevant National Landscape or even a requirement that the relevant authority must further the purpose of the conservation and enhancement of the relevant National Landscape.</p> <p>Further, the Duty must be considered alongside (and does not override) other statutory duties, such as those under the Planning Act 2008, and relevant policy relating to the need for renewable energy.</p> <p>The Applicant maintains that the actions taken by the Applicant (such as giving due consideration to National Landscapes during the site selection process and removing the northern part of the original offshore array) means that it has complied with the Duty as properly construed and that the Secretary of State can be confident that the Duty can be discharged in relation to determination of the DCO Application for the Project.</p>
REP6-092_b	1b	Position Statement on various issues relating to National Landscapes (Rev 0) [REP5-068] - Cumulative Effects Assessment (Paragraph 3)	Please see SCC's comments on item 1 regarding its concerns on the cumulative effects assessment of the DVNL in relation to Norwich to Tilbury. SCC is in agreement with the Applicant that there is insufficient information at this stage to include Tarchon Interconnector in the CEA. SCC welcomes the Applicant's approach in updating its assessments should more information on the project be made public.	<p>Noted.</p> <p>Please also refer to the Applicant's Response to Deadline 4 Submissions [REP5-056], point REP4-094_g, with regards to cumulative effects.</p>
REP6-092_c	1c	Position Statement on various issues relating to National Landscapes (Rev 0) [REP5-068] - Application of the Duty (Paragraph 4)	<p>SCC submits that the Applicant misunderstands SCC's position regarding its interpretation of the application of the duty. SCC does not claim that "every development that is located outside of, but visible from, a National Landscape must provide some form of financial contribution to the National Landscape regardless of its impact." As noted above, SCC does not suggest that visibility alone is the test of whether the duty is engaged. It is necessary to consider the nature and extent of any visual impacts to determine whether a development 'affects' a National Landscape. If those visual impacts are such that they result in adverse effects on the special qualities or natural beauty indicators of a National Landscape, they will 'affect' the National Landscape and there will be a failure to conserve that National Landscape.</p> <p>In such circumstances it is then necessary to consider what, if any, actions the person subject to the duty has taken to seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape. If that person is the promoter of the project, it is necessary to consider what measures they have either taken, or could reasonably be expected to take to, fulfil the duty. If it would not, in the particular</p>	<p>Please see the Applicant's response to item REP6-092_a above in respect of its position on when the Duty is engaged.</p> <p>The Applicant agrees that, once the Duty is engaged, it is necessary to consider what measures a relevant authority has taken to fulfil the Duty. It is not, however, as SCC has stated, also immediately necessary to consider what measures a relevant authority <i>could be expected to take</i> to fulfil the duty. That consideration is only relevant if the measures already taken by the relevant authority are not sufficient to enable the relevant authority to discharge the Duty.</p> <p>As stated in various previous responses, the Applicant maintains that the actions taken by the Applicant (such as giving due consideration to the Suffolk and Essex Coast and Heaths National Landscape (SECHNL) and the Dedham Vale National Landscape (DVNL) during the site selection process and removing the northern part of the original offshore array) means that it has complied with the Duty as properly construed and that the</p>

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			<p>circumstances, be reasonable to expect the project itself to be changed or further mitigated, it is then necessary to consider whether measures can be reasonable be taken to offset (or compensate) for the failure to conserve the National Landscape. Those measures could be the undertaking of improvement/enhancement actions within the National Landscape or they could be the making of a financial contribution to fund the undertaking of such actions by others. Any measures should be proportionate to the impacts on the National Landscape, having regard to the advice in EN-1 and the Defra guidance.</p> <p>SCC notes that the Applicant has frequently framed the test of what may be required to satisfy the duty by reference to the phrase 'appropriate, reasonable, and proportionate' (which is taken from the Defra guidance). SCC acknowledges that these are relevant factors to be considered, but it is important not to lose sight of the additional requirement in para 5.10.8 of EN-1 that the Secretary of State needs to be satisfied that what is done by way of measures to satisfy the duty is 'sufficient, appropriate, and proportionate.' In SCC's view what is 'sufficient' is inextricably connected with whether the measures in question allow the duty to be discharged.</p> <p>SCC does not consider that the duty requires that the relevant authority "must further" the purposes of affected designated landscapes. SCC has always accepted that the duty is to 'seek to further' the purpose of conserving and enhancing the natural beauty of the designated landscapes but, as the Defra guidance indicates, the duty is an 'active' duty and so the person subject to it must take some actions by way of seeking to achieve the desired outcome. The nature of those actions will be informed by the effects that the project has on the designated landscape and it would be reasonable to expect that more would sought to be achieved where the project fails to conserve and/or enhance the protected landscape than in other cases.</p> <p>In the case of the SECHNL, the proposal has been assessed to give rise to negative impacts on the landscape's special qualities and no measures seeking to conserve or enhance the natural beauty of the SECHNL have been proposed. Therefore, SCC considers that the proposal cannot be said to give a relevant authority a basis for concluding that, as matters stand, sufficient has been done to satisfy the duty.</p> <p>With regard to the CNP policy presumption in EN-1, SCC has set out detailed representations on its position in full answer to ExQ1 14.1.5 in Annex 1 of [REP2 059] and in paras 29-31 of Appendix B to [REP4-094]. It is clear in para 4.2.7 of EN-1 that the policy presumption is only to be applied "following" the "normal consideration" of the case, including any impacts (and so cannot be relied on to diminish or downplay those impacts). It is also clear in para 4.2.10 of EN-1 that all relevant "legal requirements" must be met in a case involving CNP, and that necessarily includes compliance the statutory duty in relation to designated landscapes. The CNP presumption cannot be relied on to 'water down' or otherwise side-step the statutory requirements of the duty.</p>	<p>Secretary of State can be confident that the Duty can be discharged in relation to determination of the DCO Application for the Project.</p> <p>The Applicant refers to its response to item 11 in the Applicant's Position Statement on various issues relating to National Landscapes [REP5-068] in relation to SCC's comments on the application of the term 'sufficient' in the context of the Duty.</p> <p>The Applicant agrees that the Duty is an active duty to <u>seek to further</u> the purpose of conserving and enhancing the natural beauty of the relevant National Landscape or AONB and does not require that the relevant authority <u>must further</u> those purposes.</p> <p>The Applicant disagrees with SCC's statement that it would be '<i>reasonable to expect</i>' that '<i>more would sought to be achieved</i>' if a project '<i>fails to conserve or enhance</i>' the relevant National Landscape or AONB.</p> <p>The Applicant submits that this expectation steps outside the scope of the actual requirements of the Duty and relies on the irrelevant outcome of whether a project 'fails' to conserve or enhance the relevant National Landscape. As reiterated in the Applicant's response to item REP6-092_a above, the Duty is not a duty to conserve or enhance.</p> <p>The Applicant maintains that actions taken in respect of the SECHNL and DVNL described above means that it has complied with the Duty as properly construed and that the Secretary of State is able discharge the Duty in respect of the Project. The Applicant rejects SCC's suggestion that measures taken to date are not sufficient to discharge the Duty.</p> <p>The Applicant rejects any suggestion by SCC that the Applicant is relying on the application of the Critical National Priority (CNP) infrastructure policy presumption in favour of the Project to side-step the statutory requirements of the Duty. As set out in its response to item 4 of its Position Statement on various issues relating to National Landscapes [REP5-068], the Applicant submits that CNP policy is relevant when determining whether the measures proposed as part of the Project to avoid and reduce impacts on the statutory purposes of the National Landscape are appropriate, reasonable and proportionate and whether it would be appropriate, reasonable and proportionate to require any further measures.</p>
REP6-092_d	1d	Position Statement on various issues relating to National Landscapes (Rev 0) [REP5-068] - Phasing Restriction (Paragraph 5)	Please see SCC's response to Q9.1.17 of ExQ2 [REP5-117], SCC's response to Action points for ISH1 and ISH2 [REP4-095], Appendices A and B of [REP4-094] and SCC's comments on the Applicant's response to ExQ2 included in this document for SCC's position on the points made by the Applicant.	The Applicant maintains its position in respect of the proposed phasing requirement as expressed in various previous responses and refers to further responses on this topic in its response to Q9.1.5 in the Applicant's Response to ExA's Third Written Questions (ExQ3) [9.99, (Rev 0)] .
REP6-092_e	1e	Position Statement on various issues relating to National Landscapes (Rev 0) [REP5-068] - Application of the Duty (Paragraph 6)	SCC welcomes the Applicant's recognition that it is a relevant authority and so itself subject to the duty. As stated during ISH 2 and within SCC's corresponding written summary [REP4-096], SCC considers that there may be differences between what is required to discharge the Duty depending on whether it is a duty placed only on the decision maker or also on the project promoter. One difference may arise from the fact that one party is the project promoter and so had control over the design choices throughout the evolution of the project that result in the submitted application. By contrast, the other party, as the decision maker, is limited to considering the submitted application (and not the merits of some different application that is not before the decision maker). Thus, the former had more scope than the latter in designing the scheme so as to address its impacts on the National Landscapes. In addition, the promoter of a project also has more flexibility to propose changes to a project post-submission or to propose additional mitigation or offsetting measures, including by engaging with stakeholders. Whilst the decision maker can require changes to a project before giving approval and/or can impose further restrictions by the imposition of requirements in any made DCO, the decision maker only has a regulatory function to discharge and so is more limited in how they can seek to further the statutory purpose	<p>The Applicant notes SCC's submissions on circumstances in which it considers that there may be difference between what is required for a project promoter and the Secretary of State (as relevant authorities) to discharge the Duty.</p> <p>It is not clear whether SCC considers that this applies to the discharge of the Duty in respect of the Project and SCC has made no arguments confirming this or identifying specific aspects of measures taken by the Applicant to date which it considers that the Secretary of State cannot rely on in order to discharge the duty when deciding whether to grant the DCO.</p> <p>As outlined in its response to item 6 in the Applicant's Position Statement on various issues relating to National Landscapes [REP5-068], the Applicant's position remains that the actions taken by the Applicant outlined in the responses above (such as giving due consideration to the DVNL and SECHNL during the site selection process and removing the northern part of the original offshore array) can be relied on by both the Applicant as project promoter and the Secretary of State as decision maker in relation to both parties' obligation to discharge the Duty. In summary, the Secretary of State</p>

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			<p>than the promoter of the project who is responsible for formulating the project and any measures that might support it.</p> <p>Whilst SCC notes that the Applicant states that it 'took into account' the duty 'when developing its proposals for the Project', it is to be noted that the duty took effect from 26 December 2023, and the Project 's statutory consultation was completed in July 2023 [APP-215]. Until the most recent submissions from the Applicant at Deadline 5 it was not apparent to SCC that the Applicant did accept that it was a relevant authority and subject to the duty. It is therefore not clear to SCC how/when the duty was taken into account by the Applicant during the formulation of its proposals. SCC would be grateful to be pointed to any references in the application material that would shed light on this point. In any event, the duty requires more than that it is simply taken into account. It requires the person subject to the duty to 'seek to further' the statutory purpose. That is clearly more onerous than the previous 'have regard' duty that the new duty replaced.</p> <p>On the question of whether pre-application design choices made by the Applicant should be taken into account, this is responded to under item 9</p>	<p>can discharge the Duty by satisfying itself, in the determination of the DCO Application, that the Applicant has done so.</p> <p>The Applicant submits that the Project has been designed sensitively with reference to the SECHNL and DVNL and refers to the various actions taken by the Applicant to reduce impacts on the relevant National Landscapes (such as reducing the size of the offshore array), and consideration of the relevant National Landscapes (such as during the Applicant's site selection process) during that process. The Applicant refers SCC to ES Chapter 29 Seascape, landscape and Visual Impact Assessment [APP-043] which discusses the decision to reduce the size of the offshore array and related outcomes and ES Chapter 4 Site Selection and Assessment of Alternatives [APP-018] which outlines the site selection process for the cable corridor and onshore substation location and how these elements were designed with reference to the SECHNL and DVNL.</p> <p>As stated in various previous responses, these are the ways in which the Applicant sought to further the purposes of the relevant National Landscapes to enable it and the Secretary of State to discharge the Duty. The Applicant notes that that SCC itself has confirmed that it is not suggesting that the scale of the North Falls project needs to be reduced further in order for the Duty to be complied with (see [REP4-096]).</p>
REP6-092_f	1f	Position Statement on various issues relating to National Landscapes (Rev 0) [REP5-068] - Application of Duty (Paragraph 9)	<p>The reason behind SCC's position as summarised by the Applicant is the interpretation of the duty proposed by SCC in this document and elsewhere, including [REP4-094], based on the wording of the duty and relevant policy and guidance.</p> <p>It is SCC's understanding that the application was largely if not entirely settled in its present form before the Applicant became subject to the duty in December 2023. By that date the Applicant had already undertaken both its non-statutory and statutory consultations, and the project did not materially change thereafter. Steps taken by the Applicant during the earlier formulation of the project to minimise effects on any National Landscapes were not steps taken in order to discharge the duty.</p> <p>Whilst SCC does not say that such prior steps can never have any relevance to the question of compliance with the duty, the duty arises in this case because the project as now formulated 'affects' the National Landscape, and it is because of those effects (as set out in the SLVIA) of the proposal that is now the subject of the DCO application that the Applicant is under a duty to seek to further the statutory purpose. Those effects are the residual effects of the project, after design choices on the location of the array area(s) and the dimensions of the WTGs have already been made. Any benefits resulting from those choices cannot be said to have any effect in diminishing the adverse effects of the residual effects (precisely because they are residual effects). It is those residual effects which impact on the National Landscape and so it is those residual effects which need to be considered when assessing whether the Applicant has put forward sufficient, appropriate, and proportionate measures to seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape.</p> <p>The reason behind SCC's position as summarised by the Applicant is that the reduction of negative effects caused by changes to the proposed development are already accounted for in the Applicant's assessments. It would then be 'double counting' to rely on the changes to the application which reduced negative effects to discharge the duty since these changes have already been accounted for during the assessments, the results of which inform what is appropriate, reasonable and proportionate to discharge the duty. The results of the assessments are the starting point on account of the duty's intrinsic link to the effects of the proposed development on designated landscapes.</p> <p>The duty applies when a relevant authority performs or exercises a function 'in relation to, or so as to affect' a designated landscape. EN-1 and the relevant guidance makes it clear that changes to the size and scale of the proposed development are relevant insofar as they affect considerations of what extent of measures undertaken to comply with the duty are considered appropriate, proportionate, sufficient and reasonable. However, such changes do not in themselves also serve as measures applicable to the discharge of the duty. They are measures which mitigate the effects of a previous iteration of the proposed development, not the final iteration to be presented to the Secretary of State. These measures have already been accounted for when deciding to what extent the proposed development will negatively affect the SECHNL. The adverse effects of the current iteration of the project, which SCC considers to be substantial due</p>	<p>The Applicant rejects these submissions and respectfully submits that SCC's position in this regard is based on a series of misinterpretations of the scope of the Duty.</p> <p>As noted in the Applicant's response to REP6-092_a above, it is incorrect to state that the Duty arises in the circumstances of the Project because the Project 'as formulated' affects the relevant National Landscape.</p> <p>Section 85A of the CRoW Act clearly states (and SCC notes further on in its submissions) that the Duty applies to a relevant authority exercising or performing any functions <i>in relation to, or so as to affect</i> land in National Landscape in England.</p> <p>The SECHNL and DVNL were key considerations for the Applicant when considering and developing the alignment of the cable corridor and the extent of the offshore array as set out in ES Chapter 29 Seascape, landscape and Visual Impact Assessment [APP-043] and ES Chapter 4 Site Selection and Assessment of Alternatives [APP-018]. These design choices which informed the environmental impact assessments within the Environmental Statement supporting the DCO Application are clear examples of a relevant authority (i.e. the Applicant) exercising or performing its functions (i.e. designing and developing a project to deliver electricity generating infrastructure) in relation to land in a National Landscape in England. Further, the Applicant refers to its response to item 9 in the Applicant's Position Statement on various issues relating to National Landscapes [REP5-068] and reiterates that there is nothing in the drafting of the Duty or in relevant guidance or policy that supports the position that the obligation on a relevant authority to comply with the Duty 'resets' once the impact (if any) of a development on the relevant National Landscape has been assessed.</p> <p>The Applicant is not aware of any policy in the Overarching National Policy Statement for Energy (EN-1) (DESNZ, 2024) which supports SCC's statement that changes to the size and scale of projects cannot serve as measures which can be considered in the discharge of the Duty and fundamentally disagrees with SCC's statement that these types of measures are simply mitigation measures for a previous iteration of the relevant project. As noted above, the Applicant submits that the decision to reduce the size of the offshore array for the Project, for example, is clear evidence that the SECHNL was a key consideration in the development of the Project and can therefore be relied on by the Applicant and the Secretary of State in the discharge of the Duty.</p> <p>The Applicant refers to its responses to item REP5-117_b in the Applicant's Comments on Responses to ExQ2 [REP6-061] and its response to Q9.1.5(iii) in the Applicant's Response to ExA's Third Written Questions</p>

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			<p>to the medium scale of change found on several special qualities of the SECHNL, are the 'effect' on the SECHNL arising from the function of consenting this DCO. It is therefore in relation to the adverse effects on the SECHNL found in the Applicant's assessments that the SoS must be able to discharge the duty. Accordingly, SCC considers that measures should be proposed to comply with the duty for the current iteration of the proposed development.</p> <p>The function which would be performed by the Secretary of State is enacting the DCO as it is presented, subject to the Secretary of State's power to require changes to be made to the proposal or for additional requirements to be imposed. It is within that function that the SoS must be able to discharge the duty.</p>	<p>(ExQ3) [9.99, (Rev 0)] which address the specific sections of EN-1 which SCC has previously identified as relevant to the application of the Duty.</p> <p>Accordingly, the Applicant disagrees with SCC's conclusion (and the submissions advanced on the basis of that conclusion) that the various actions taken by the Applicant to reduce impacts on the relevant National Landscapes (such as reducing the size of the offshore array), and consideration of the relevant National Landscapes (such as during the Applicant's site selection process) cannot be considered because they were undertaken before the submission of the DCO Application. As stated above, the Applicant notes that SCC itself has confirmed that it is not suggesting that the scale of the North Falls project needs to be reduced further in order for the Duty to be complied with (see [REP4-096]).</p> <p>As noted above in response to item REP6-092_e, the Applicant's position is that the Secretary of State can discharge the Duty by satisfying itself, in the determination of the DCO Application, that the Applicant has also satisfied the Duty.</p>
REP6-092_g	1g	Position Statement on various issues relating to National Landscapes (Rev 0) [REP5-068] - Discharge of Duty (Paragraph 10)	<p>SCC reiterates its position that the proposed development will negatively affect multiple special qualities of the SECHNL, many of which will experience a medium scale of change, without any measures proposed to positively affect the natural beauty of the SECHNL. SCC's position is not that the duty requires additional measures "regardless of impact"; rather, the duty requires additional measures which are proportional to the level of effect on relevant designated landscapes. A financial contribution proportionate to the level of effect of the project on the relevant National Landscapes would meet the relevant criteria found in relevant policy and guidance. At no point has SCC claimed that a financial contribution is necessary in all cases where developments affect designated landscapes. As stated in its LIR [REP1-074], SCC proposed the option of financial contribution due to the logistical simplicity it provides for the Applicant given the late stage of the application. The Applicant is free to propose alternative measures to allow the duty to be discharged.</p> <p>It is not SCC's place to detail the quantum of such measures. This burden lies with the relevant authorities for the purposes of the duty in relation to this application, which includes the Applicant. SCC has recommended at previous deadlines that the Applicant engage with the SECHNLP to agree what measures should be undertaken by the Applicant to allow for the duty to be discharged. SCC notes that the Applicant has not provided justification for its position that it would not be reasonable, appropriate, proportionate and sufficient to undertake additional compensatory measures.</p> <p>Measures undertaken to comply with the duty must be 'realistically achievable' on account of the wording of "must seek to further". If an agent seeks an outcome, then that outcome must be in some sense realistically achievable, otherwise the agent cannot be said to have sought that outcome. SCC has acknowledged that the duty does not require the purposes of affected designated landscapes actually be furthered, but the wording of the duty clearly requires relevant authorities to take reasonable steps that are realistically available to seek to achieve the desired outcome.</p>	<p>The Applicant maintains its position that the Applicant has discharged the Duty in respect of the Project and that the Secretary of State can be confident that the Duty can be discharged when determining the DCO Application without the need to impose additional compensatory measures or requirements.</p> <p>To be clear, the Applicant submits that, in circumstances where it considers that the measures it has undertaken to date are sufficient to discharge the Duty (in respect of both the Applicant and the Secretary of State), it follows that it would not be reasonable or appropriate to provide additional measures such as a financial contribution.</p> <p>The Applicant maintains its position as set out in response to item 10 in the Applicant's Position Statement on various issues relating to National Landscapes [REP5-068] in relation to SCC's submissions on the requirement that any additional measures imposed must be 'realistically achievable'.</p>
REP6-092_h	1h	Position Statement on various issues relating to National Landscapes (Rev 0) [REP5-068] - Discharge of Duty (Paragraph 12)	Whilst SCC accepts that decisions made in relation to the duty will be made on a case-by-case basis, SCC considers that some useful parallels can be drawn from the London Luton Airport Expansion DCO decision, as set out in its earlier representations.	The Applicant maintains its position as set out in response to item 12 of the Applicant's Position Statement on various issues relating to National Landscapes [REP5-068].
REP6-092_i	1i	Position Statement on various issues relating to National Landscapes (Rev 0) [REP5-068] - Scope of the Duty (Paragraph 13)	See position within SCC's response to item 10 in relation to interpreting the duty.	The Applicant refers to its response to REP6-092_e above.
REP6-092_j	1j	Position Statement on various issues relating to National Landscapes (Rev 0) [REP5-068] - Application of the Duty (Paragraph 14)	SCC has stated in previous submissions (such as [REP5-116]) that there remain unassessed zones of theoretical visibility in the DVNL within the 2km study area which suggest greater visibility than the assessed viewpoint from within the DVNL. SCC therefore queries how the Applicant is confident that there will be no impact on the DVNL resulting from the proposed development.	The Applicant has provided further detail on the likely visibility of the proposed onshore substation from within the Dedham Vale National Landscape in response to questions raised at ISH1 and ISH2. Please refer to pages 10-12 of Applicant's Response to Actions List for ISH1 and ISH2 [REP4-036].
REP6-092_k	1k	Position Statement on various issues relating to National Landscapes (Rev 0) [REP5-068] - Application of the Duty (Paragraph 15)	SCC has stated its position on the New Forest Judgement during ISH 2 and within SCC's corresponding written summary [REP4-096].	The Applicant maintains its position as set out in response to item 15 of the Applicant's Position Statement on various issues relating to National Landscapes [REP5-068].

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REP6-092_I	2a	Applicant's Response to ExA's Second Written Questions (ExQ2) (Rev 0) [REP5-054] - Other matters relating to dDCO requirements (Q9.1.13)	<p>(ii)</p> <p>SCC considers that where there are adverse impacts on an environmental resource, an applicant should follow the mitigation hierarchy (as defined in the glossary in EN-1). In this regard, in relation to a National Landscape, SCC sees no reason why the mitigation hierarchy should not be followed whether the impacts are significant or non-significant in EIA terms. This would see the avoidance of adverse effects being prioritised ahead of either mitigation or compensation. The purpose of the phasing requirement is, in essence, avoidance, in the sense that harm to the National Landscape is not justified (and so should be avoided) until it is clear that the benefits of providing clean power to the Grid are certain of delivery.</p> <p>SCC understands that connection agreements may be subject to change, as could be the case for the Applicant were Norwich to Tilbury's development consent delayed or refused. There can be no presumption, when a decision is made on the present application, that a separate project (not yet the subject of any application) will be consented. SCC is not privy to the details of the Applicant's connection agreement with NESO and so does not know by what date NESO is required to provide a Grid connection for the Applicant, or what arrangements are in place were NESO to fail their statutory obligation imposed by the connection agreement. Once a DCO is made, the Applicant would be entitled to implement it according to its terms, irrespective of whether by doing so that would entail harming the SECHNL, making the phasing restriction necessary for the project to follow the requirements of the mitigation hierarchy. Such a scenario involves harming a National Landscape without the benefits of clean energy being delivered despite such harm being avoidable until it is deemed necessary once the project's connection point is determined. It is presently unknown what alternative connection arrangements would be sought were Norwich to Tilbury refused consent, nor the feasibility of such arrangements, making it possible for the WTGs to be installed for a significant period of time without a Grid connection.</p> <p>There are relevant factual differences, relating to the works needed for the respective Grid connections, between this application and the Sheringham Shoal and Dudgeon Offshore Windfarm Extension Project. The magnitude of the works in need of development consent for the two projects is drastically different in terms of the EACN being part of a large electricity transmission DCO whilst Norwich Main substation merely required works which could be dealt with in a standalone application. It should be noted that the EACN does not yet exist, meaning there are greater possibilities for changes in its delivery which could cause delays.</p> <p>SCC made the point in its own answer to this question [REP5-117] that the Applicant is not in a position to make a judgement about the outcome of a future DCO examination.</p> <p>(iii)</p> <p>The proposed, and rejected, phasing condition for the Triton Knoll Offshore Wind Farm is not comparable to the one proposed by SCC in this examination. The context in that case (in 2013) did not include the new statutory duty on relevant authorities in relation to designated landscapes. The condition proposed by SCC only covers offshore, rather than onshore, works, which in this case affect a National Landscape. In turn, the justifications behind the two proposed conditions share little similarity. In the case of Triton Knoll OWF, the Examining Authority proposed the phasing condition based on concerns over the impacts of subsequent applications necessary to deliver the project. In this examination, SCC has not based its justification for the proposed phasing condition on concerns about the impacts of another project; rather, it is based on the imperative to avoid unjustified harm in relation to designated landscapes arising from the WTGs of the North Falls application. Therefore, SCC does not consider its proposed phasing condition to be liable for rejection on the same grounds as the one proposed for the Triton Knoll OWF.</p> <p>(iv)</p> <p>The Secretary of State is expected to make a decision on the North Falls application by January 2026. According to the Applicant's timeline for offshore construction works ([APP-019], table 5.23), offshore construction is not intended to commence until year 4, which will presumably be 2029. Even if it is the case that the Applicant is required "to order a large number of long lead items at considerable cost prior to March 2027" (the earliest date the Applicant expects a decision to be made on Norwich to Tilbury) in relation to its offshore construction activities, that is a commercial decision that the</p>	<p>(ii)</p> <p>Please refer to the Applicant's response to Q9.1.5(iv) in the Applicant's Response to ExA's Third Written Questions (ExQ3) [Document ref: 9.99, (rev 0)] which address SCC's submissions in respect of the proposed phasing restriction and the application of the mitigation hierarchy.</p> <p>In respect of SCC's comments on the East Anglian Connection Node (EACN) and the Applicant's connection agreement with NESO, the Applicant refers to its response to Q7.0.6 and Q9.1.13(ii) in the Applicant's Response to ExA's Second Written Questions (ExQ2) [REP5-054] and its response to Q9.1.5(ii) in the Applicant's Response to ExA's Third Written Questions (ExQ3) [Document ref: 9.99, (rev 0)]. The Applicant notes that the agreement currently provides for a connection date in 2030 for the Project. The significance of the connection agreement is that NESO is required to provide a connection for the Project which can be via the East Anglian Connection Node or via an alternative as NESO sees fit.</p> <p>The Applicant's also refers to its response to Q9.1.5(ii) in the Applicant's Response to ExA's Third Written Questions (ExQ3) [Document ref: 9.99, (rev 0)] in respect of SCC's submission that plans for EACN may change.</p> <p>The Applicant submits that the Sheringham Shoal and Dudgeon Offshore Windfarm Extension Project remains a useful comparison and refers to the Applicant's response to Q9.1.5(viii) in the Applicant's Response to ExA's Third Written Questions (ExQ3) [Document ref: 9.99, (rev 0)] for further consideration of this point.</p> <p>(iii)</p> <p>The Applicant maintains its position that the Grampian condition considered and rejected by the Examining Authority in the the Triton Knoll Offshore Wind Farm Order is relevant precedent in consideration of the proposed requirement for the reasons set out in its response to Q9.1.13(iii) in the Applicant's Response to ExA's Second Written Questions (ExQ2) [REP5-054].</p> <p>As stated, the Secretary of State granted development consent for the Triton Knoll Offshore Wind Farm in July 2013. The DCO application for the proposed development concerned the offshore array elements only and did not include export cabling or onshore grid connection infrastructure. Those elements were eventually consented as part of the Triton Knoll Electrical System in September 2016.</p> <p>The proposed Grampian condition stated that no works on the Triton Knoll Offshore Wind Farm (i.e. offshore elements) shall commence until the Secretary of State had confirmed in writing that all necessary consents for the connection (i.e onshore elements comparable with the EACN connection for the Project) had been granted.</p> <p>Accordingly, the Applicant considers that, as originally submitted, the Grampian condition considered in the Triton Knoll Offshore Wind Farm Order has a similar effect to the phasing restriction proposed by SCC and is therefore relevant in the consideration of that restriction.</p> <p>The Applicant also notes that the landscape and visual effects of the wind farm was a key concern that informed the consideration of the proposed Grampian condition which is comparable to SCC's justification for the phasing restriction which is primarily based on concerns about harm to the SECHNL caused by the visual effects of the Project.</p> <p>(iv)</p> <p>The Applicant refers to its response to Q9.1.5(ix) in the Applicant's Response to ExA's Third Written Questions (ExQ3) [Document ref: 9.99, (rev 0)].</p> <p>(v)</p> <p>The Applicant disagrees with this position and refers to its response to Q9.1.13(v) in the Applicant's Response to ExA's Second Written Questions (ExQ2) [REP5-054].</p>

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			<p>Applicant is prepared to make at a time when it simply will not know whether (or when) Norwich to Tilbury will be consented.</p> <p>SCC remains puzzled by the Applicant's insistence that the proposed phasing requirement would "create a significant delay" and make the project's 2030 delivery "unachievable". If, as the Applicant states, the Applicant is willing to make significant financial investments prior to the consent of the EACN, it is willing to tolerate the risk of its connection point being refused consent or otherwise delayed. The proposed phasing requirement does not alter this level of risk, which is evidently tolerable for the Applicant, since the requirement itself merely requires notification of the development consent of the Applicant's connection point. If there is no real risk that the EACN will not be delivered, then there will be no prejudice to the project by the imposition of the phasing requirement (because the Applicant will have no difficulty in meeting it).</p> <p>(v)</p> <p>SCC submits that its reasons given in [REP4-095] and [REP5-117] justify its position that the proposed phasing requirement meets the relevant requirement tests. Nor would any precedent arising from the proposed requirement cause delays for future projects on account of the requirement itself not being a source of delay. If anything, it would be the delay of unconsented Grid connections which delay the delivery of future projects. Such a scenario would occur without the presence of a phasing requirement.</p> <p>(vi)</p> <p>SCC considers that, unlike in the case of Hinkley Point C, the proposed phasing requirement for North Falls would not delay delivery of the project as stated in response to (iv). In addition, the Examining Authority and Secretary of State in that case were not asked to consider imposing a phasing condition/requirement on construction of any element of the project until such time as a Grid connection had been consented. The Examining Authority's discussion of a Grid connection (in paras 4.397-4.400 of their report) was in the context of whether the Hinkley Point C project should have consent withheld. The circumstances are therefore materially different.</p>	<p>The Applicant also refers to its response to Q9.1.5(ix) in the Applicant's Response to ExA's Third Written Questions (ExQ3) [Document ref: 9.99, (rev 0)] which provides further detail about the risk of delay to construction arising from the proposed phasing requirement. The Applicant submits that a decision to impose the proposed phasing requirement could set adverse precedent that exposes other wind farm projects to similar risks.</p> <p>(vi)</p> <p>The Applicant disagrees with this submission.</p> <p>The Applicant notes that it identified in its initial response to Q9.1.13(vi) in the Applicant's Response to ExA's Second Written Questions (ExQ2) [REP5-054] that an equivalent Grampian condition which would restrict commencement of the works for the Hinkley Point C project until the Hinkley Point C Connection project was granted development consent was not considered by the Secretary of State or the Examining Authority. However, a Grampian condition to impose a phasing requirement for the construction of the proposed electricity generating station was rejected by the Examining Authority. The Secretary of State did not deviate from that position.</p> <p>The Applicant maintains that the Hinkley Point C project application (and subsequent Hinkley Point C Connection project application) is comparable to the Project and its proposed connection to the grid via the EACN for the reasons listed in its initial response to Q9.1.13(vi).</p>
REP6-092_m	3a	Applicant's Response to Deadline 4 Submissions (Rev 0) [REP5-056] -Applicant's Response to Suffolk County Council comments on submissions received at Deadline 3	<p>Whilst SCC appreciates the detail added to this technical note at deadline 5, SCC remains unclear on the reasoning process that has allowed a series of medium scale of change effects on the special qualities to then be said to come to a low magnitude of impact. In particular, the Applicant has not specified how it has combined judgements about, scale of change, geographical extent, duration and reversibility of impact in order to come to its conclusions for each impacted special quality. In the SLVIA Methodology [APP-170], it is stated that scale of change is often the "dominant factor" in making judgements on magnitude of effect. It is not clear to SCC that this has been carried forward into this technical note and the Applicant has not specified why this is the case.</p> <p>The statement from SCC's RR as quoted by the Applicant is making a point about the EIA assessment of effects, and SCC has not suggested that in EIA terms there is a 'likely significant effect'. However, that does not carry with it any implication that SCC is satisfied with the methodology used to assess the effects on the special qualities of the SECHNL or with the further explanation subsequently provided by the Applicant in [REP3-044]. SCC's concern has arisen from a lack of methodological transparency in the Applicant's assessment which SCC considers critical to understand the extent of the impacts on the SECHNL.</p>	<p>Table 29.21 of ES Chapter 29 Seascape, Landscape and Visual Impact Assessment (SLVIA) [APP-043] and the Assessment of the Special Qualities of the Suffolk and Essex Coast and Heaths National Landscape and Suffolk Heritage Coast – Technical Note [REP5-038] provide an assessment of effects on the SECHNL.</p> <p>As noted in both of these assessments, the scale of change on certain special qualities is judged to be medium, although other special qualities will be subject to a smaller scale of change or will be entirely unchanged.</p> <p>The geographical extent of the change will be small, in the context of this large designation. The most affected areas will be along the coast within around 40km of the Offshore Above-sea Development, between Bawdsey Manor and Orford Ness. This will affect a very localised area of the coastal edge, in the context of this large-scale designation. Effects will also be limited to days with clear weather. When arriving at an overall judgement on the magnitude of change, and as noted at paragraph 26 and 27 of Special Qualities of the Suffolk and Essex Coast and Heaths National Landscape and Suffolk Heritage Coast – Technical Note (Rev 1) [REP5-038] the technical note: <i>"The magnitude of change to these special qualities will be low. The methodology for the assessment is set out in ES Appendix 29.1 SLVIA Methodology [APP-170]. Magnitude of change is assessed by combining judgements about the scale, geographical extent, duration and reversibility of the impact, in accordance with Guidelines for Landscape and Visual Impact Assessment, 3rd Edition ('GLVIA3'). A medium scale of effect can combine with a smaller geographical extent to produce a low magnitude of change. It is accepted that National Landscapes should be considered 'as a whole'. However, GLVIA3 does require consideration of geographical extent, and it would not be appropriate to treat the impact as if it were occurring across the entirety of the geographical area of the SECHNL."</i></p> <p>The Applicant maintains that the methodology informing ES Chapter 29 SLVIA [APP-043] is robust and that this explanation clearly sets out how that methodology was applied to reach the reported conclusions in relation to magnitude of change.</p>

REF	SCC REF	SECTION	SCC'S COMMENT	APPLICANT'S RESPONSE
REP6-092_n	4a	Request for further Information [PD-014] - National Landscape Enhancement Scheme	<p>SCC welcomes the ExA's decision to request that the Applicant provides draft National Landscape Enhancement Scheme principles and a mechanism for securing such a scheme, on a without prejudice basis. SCC would like to reiterate its position that the measures proposed in this document should be proportionate to the type and scale of development as it affects the National Landscape, reasonably related to the identified residual adverse effects, and sufficient to allow for the discharge of the statutory duty by both the Applicant and by the Secretary of State.</p> <p>SCC has engaged with the Applicant to organise a meeting with the SECHNLP regarding the draft National Landscape Enhancement Scheme principles following deadline 6.</p>	<p>Noted.</p> <p>A meeting was held on 3 July 2025 between the Applicant, SECHNLP and SCC to discuss the without prejudice draft National Landscape Enhancement Scheme principles set out in the Applicant's Response to ExA's Request for further information (Rule 17) - National Landscapes [REP6-062]. Natural England were invited to this meeting, but were unavailable to join. The Applicant will consider the feedback received during this meeting and any further feedback received at Deadline 7, including from Natural England who were unable to attend the meeting, and if appropriate submit an updated version of Applicant's Response to ExA's Request for further information (Rule 17) - National Landscapes [REP6-062] at Deadline 8.</p> <p>The Applicant agrees with SCC that any measures proposed in the without prejudice draft National Landscape Enhancement Scheme (NLES) principles should be sufficient, appropriate and proportionate to the type and scale of development as it affects the relevant National Landscape and should be related to any identified residual adverse effects to the National Landscape as a result of the Project that the NLES is seeking to address.</p>

2.8 Applicant’s response to Executors of the late Charles Tabor Post hearing submissions including written summaries of oral submissions made at the hearings **[REP6-093]**

Table 2.8 Applicant’s response to Executors of the late Charles Tabor Post hearing submissions including written summaries of oral submissions made at the hearings **[REP6-093]**

REF	THEME	EXECUTORS OF THE LATE CHARLES TABOR COMMENT	APPLICANT'S RESPONSE
REP6-093	Written Summary of oral submission made at the Compulsory Acquisition Hearing on the 17th June 2025	<p>As mentioned, my client, the Executors of Charles Tabor, has engaged with the applicant for a number of years but we are now at a 'sticking point' with regards to the substation Heads of Terms, specifically on the matter of a retained right of way.</p> <p>Since the property has been in the ownership of Charles Tabor, the farm has always used the land which is subject to the potential Heads of Terms/Option Agreement, as an access point between the land at Holly Lodge Farm (to the east) and the land to the west. The reason being is that it is impossible to move the combine harvester to the off-lying land via the public road network due to restriction in width and height. This would also apply to other specialist farm machinery such as root crop harvesters when the land is let to a third-party grower, as it has been recently.</p> <p>Whilst we acknowledge that the Applicant has offered a 5 metre right of way as a minimum, my client must have a minimum of 10 metres to allow them to continue to access the farmland as they have done so for many years prior to now.</p> <p>As the Applicant suggested during the Compulsory Acquisition Hearing, a 5 metre Right of Way would cause unnecessary inefficiencies going forward caused by needing to take off the header and re-attaching it over such short distance. Furthermore, it would also require my client to drive over standing crop when entering the field being accessed to the west, to then re-attach the header, as opposed to entering a field and commencing harvesting on entry.</p> <p>This may seem a rather small matter; however, we must remind ourselves that we are in a position where we are engaging with the Applicant to enter into a voluntary agreement to sell the subject property to the Applicant to deliver its project. Should my client be selling this land to another third party, they would be reserving the exact same right of way as we are requesting here.</p> <p>Looking at this matter holistically, the length of the right of way is approximately 390 metres long. In terms of the 5 metre Right of Way, this would equate to an area extending to 0.48 acres (0.19 hectares). Therefore, should the right of way be 10 metres wide, we are ultimately in disagreement over 0.48 acres (0.19 hectares). When reviewing the Applicant's Design Vision document submitted at deadline 5, and specifically figure 20 titled "Outline Landscape Strategy Master Plan", it would appear the most suitable area for a right of way would be along the northern boundary of the landscape area which, if sufficient for a minimum of a 5 metre right of way then it would be perfectly sufficient for a minimum of a 10 metre right of way.</p> <p>I stand by my comments during the hearing that I disagree with the Applicants comment about 'they cannot provide a wider right of way than 5 metres because of the land required for landscaping and ecological enhancement'. There is certainly sufficient area to allocate an additional 0.48 acres of ecological enhancement area, if required.</p>	<p>The Applicant acknowledges the submission made by the Executors of the Late Charles Tabor and their request for a minimum reserved access width of 10 metres.</p> <p>The Applicant refers to section 3.6 of the Applicant's Response to Actions List for CAH1 [REP6-069] which sets out the constraints associated with accommodating the landowner's request and why the Applicant can only commit to a minimum 5-metre width at this time.</p> <p>The Applicant recognises the landowner's concerns and while acknowledging that a minimum width of 5-metres will result in some operational inefficiencies, it will nonetheless still enable continued access for agricultural purposes.</p> <p>The Applicant refers to its response to Q6.0.2 in the Applicant's Response to ExA's Third Written Questions (ExQ3) [9.113, (Rev 0)] for further details on this point.</p> <p>The Applicant continues to seek a resolution to this point and issued updated Heads of Terms on 26 June 2025, as set out within the Land Rights Tracker submitted at Deadline 6 [REP6-042]. These updated terms include additional wording intended to provide a compensation package should the Applicant ultimately not be able to accommodate the landowner's requested access width.</p>

2.9 Applicant's response to Sir Bernard Jenkin Non-IP submission Responses to any further information requested by the ExA [REP6-094]

Table 2.9 Applicant's response to Sir Bernard Jenkin Non-IP submission Responses to any further information requested by the ExA [REP6-094]

REF	THEME	SIR BERNARD JENKIN'S COMMENT	APPLICANT'S RESPONSE
REP6-094	Introduction	<p>This submission is made in response to the ExA's request to the applicant for further information under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended).</p> <p>I am writing as an interested party. I would like to draw the ExA's attention to the inextricable relationship between the North Falls and Five Estuaries offshore wind farms, and the associated onshore transmission infrastructure, specifically the proposed Norwich to Tilbury project. These projects must be assessed collectively, not in isolation, as the environmental impact of enabling infrastructure falls heavily on the same protected and culturally significant landscapes.</p>	<p>The Applicant submits that the Project, Five Estuaries Offshore Wind Farm and Norwich to Tilbury project (which includes the EACN) are separate projects which should be assessed separately. Please refer to the Applicant's Common Response 008 in the Applicant's Responses to Relevant Representations Received from members of the public [REP1-048].</p> <p>The Applicant refers to various responses and other documents submitted to this Examination (including the Cumulative Effects Assessment Summary [REP3-040] and the Applicant's oral submissions at ISH1 in response to item 3.8 (Cumulative Effects) [REP4-026] which outline the reliable and robust nature of its cumulative effect assessment of the Project with other developments in the vicinity including the Five Estuaries Offshore Wind Farm and Norwich to Tilbury project.</p>
REP6-094_a	Connections in Tendring	<p>It is a matter of record that were it not for the need to connect North Falls and Five Estuaries, there would be no need for the Norwich to Tilbury project to pass through Tendring. This is clearly implied in the Strategic Options Backcheck and Review1, which notes (Section 15.4.7) that:</p> <p><i>"Only EAS 2 and EAS 3 provide the ability to the contracted Essex Coast Generation Group... by allowing for a new coastal substation."</i></p> <p>Thus, Tendring is being subjected to transformative infrastructure not for local benefit, but purely as a facilitative corridor for other projects.</p>	<p>The Applicant was not involved in the preparation of the Norwich to Tilbury Strategic Options Back Check and Review (National Grid, April 2024) and is therefore not in a position to comment on this statement.</p>
REP6-094_b	National Grid has states that harm to the DEDHAM Vale AONB is unavoidable	<p>It is important to note that National Grid has explicitly acknowledged the impossibility of avoiding landscape harm to the Dedham Vale Area of Outstanding Natural Beauty (AONB) under Option EAS2, stating (Section 12.2.1):</p> <p><i>"It is considered unlikely that all of the impacts could easily be mitigated, and significant residual effects are therefore possible."</i></p> <p>Furthermore, Section 15.2.6 reiterates:</p> <p><i>"It is unlikely that all of the impacts could easily be mitigated. Significant residual effects are therefore possible."</i></p> <p>This is consistent with prior consultations (CPRSS), which found that attempting to circumvent the AONB may cause greater harm due to a longer route affecting more communities and features.</p>	<p>The Applicant notes that no part of the Project is located within a National Landscape and submits that the Project's onshore substation has no impact on the Dedham Vale National Landscape. Please refer to the Applicant's response to item 1 in the Applicant's Position Statement on various issues relating to National Landscapes [REP5-068] and section 30.5.3.2 of ES Chapter 30 Landscape and Visual Impact Assessment [APP-044].</p>
REP6-094_c	The Duty to "Further the Purpose" Cannot Be Met	<p>Given the magnitude of harm acknowledged by National Grid, it is not plausible that the project could meet the legal test to "further the purpose" of conserving and enhancing the landscape under Section 85 of the Countryside and Rights of Way Act 2000 (as amended by the Levelling Up and Regeneration Act 2023).</p> <p>The Dedham Vale will be subject to:</p> <ul style="list-style-type: none"> Trenching and tunnelling for underground cables over sections up to 500 metres wide, as stated in environmental assessments (Section 12.2.3), impacting Ancient Woodland and irreplaceable habitats. The setting together with historic and culturally important views in to and out from the Vale will be irrevocably harmed. The experience of visitors to the Vale will be dominated by the need to drive alongside pylons to the North and to pass beneath them to the South to gain entry <p>These cumulative impacts are directly contrary to the Management Plan objectives of the Suffolk and Essex Coast and Heaths National Landscape.</p>	<p>These works are not proposed as part of the Project and the Applicant understands that the representation is referring to works comprising the Norwich to Tilbury project. Accordingly, the Applicant is not in a position to comment on this submission.</p>
REP6-094_d	The Proposed Substation at Ardleigh Is Fundamentally Unsuitable	<p>The siting of a major new substation at Ardleigh, directly adjacent to the Dedham Vale AONB would cause unavoidable and irreparable harm to the landscape.</p> <p>Section 12.2.4 of the Backcheck Review attempts to soften the impacts through route refinement and "detailed assessment." However, even it concedes that:</p> <p><i>"There is the potential for residual significant effects."</i></p> <p>It is clear that this location is inappropriate and incompatible with national planning policy as section 2.9.12 of the current NPS EN-5 states:</p> <p><i>"In nationally designated landscapes... even residual impacts may well make an overhead line proposal unacceptable in planning terms."</i></p> <p>There is also a further requirement in NPS EN-5 to avoid such impacts altogether. Section 2.9.19 makes clear that National Grid must:</p> <p><i>"Seek to avoid altogether internationally and nationally designated areas of the highest amenity, cultural or scientific value by the overall planning of the system connections."</i></p>	<p>The Applicant refers to its response to Q3.0.2 in the Applicant's Response to ExA's Third Written Questions (ExQ3) [Document ref: 9.99, (rev 0)].</p>

REF	THEME	SIR BERNARD JENKIN'S COMMENT	APPLICANT'S RESPONSE
		<p>Furthermore, the newly revised draft NPS EN-5 (2024) extends this expectation by emphasising that undergrounding or offshore alternatives must be properly weighed in any nationally designated landscape, and that even where full avoidance is not possible, the highest level of mitigation and justification must be demonstrated. The expectation of protection is further strengthened by Section 85 of the Countryside and Rights of Way Act 2000, as amended by Section 245 of the Levelling-up and Regeneration Act 2023, which imposes a statutory duty on public authorities and decision-makers:</p> <p><i>“to seek to further the purpose of conserving and enhancing the natural beauty of National Landscapes.”</i></p> <p>Therefore, to proceed with infrastructure at Ardleigh would not only contravene planning policy, it would also violate statutory obligations under primary legislation.</p> <p>Therefore, the substation must be relocated to a site that does not directly compromise the Dedham Vale AONB or its setting.</p> <p>As a consequence of this planning constraint, the Norwich to Tilbury corridor itself must be reconsidered. Previously discounted alternatives such as HVDC undergrounding and offshore routeing (e.g. ESO Option 88) given meaningful weight. HVDC, in particular, would very significantly reduce impact when compared to AC, through a far smaller footprint and elimination of pylons, making it a clear opportunity to deliver essential transmission infrastructure without breaching protected landscape designations.</p>	

2.10 Applicant’s Response to T Fairley and Sons Ltd Post hearing submissions including written summaries of oral submissions made at the hearings [REP6-095]

Table 2.10 Applicant’s Response to T Fairley and Sons Ltd Post hearing submissions including written summaries of oral submissions made at the hearings [REP6-095]

REF	THEME	T FAIRLEY AND SONS LTD’S COMMENT	APPLICANT’S RESPONSE
REP6-095_a	Landscaping	<p>My client currently has the attached plan (see first attachment) annexed to the joint Heads of Terms which shows the Option Area immediately adjoining the boundary of the residential property, yard, and buildings. Whilst we have been informed that it is not the intention of the Applicant and Five Estuaries to exercise the Option over the area shaded pink around the residential property, you can understand why we have to assume worst case scenario when being asked to sign up to a legal agreement, which allows the Applicant and Five Estuaries to jointly exercise an option over land in line with the attached plan.</p> <p>This will have a detrimental impact on the enjoyment of the residential property, future change of use opportunities and implications on the retained farmland, caused by the tree belts along Ardleigh Road. Furthermore, should the attached be exercised, it would be impossible to access and maintain the ditch to the east of Normans Farm land, which is fundamental for land drainage. This, in turn, would have a long-term impact on the farming of the land.</p> <p>As touched on during the hearing, the Applicants landscaping proposals is our client’s preferred proposal (see second attachment) in comparison to Five Estuaries. We therefore request that the Heads of Terms, which are prepared jointly between the Applicant and Five Estuaries, are amended to reflect the Applicants landscaping proposals.</p> <p>Such a request was made in 2024, but the Applicant and Five Estuaries did not make the necessary changes, hence why we are now in this position.</p> <p>We also request for greater engagement on the Landscape Design, given the significant impact this has on my client’s property.</p>	<p>Option Area</p> <p>For clarity, the Applicant confirms that the land referred to by T Fairley & Sons Ltd within their submission does not form part of the Applicant’s Order Land but is within the Order Land of the Five Estuaries Offshore Wind Farm (‘VEOWF’). As part of a collaborative approach between the Applicant and VEOWF, tripartite Heads of Terms for an Option Agreement were progressed in order to avoid separate land agreements. This approach was adopted to streamline and simplify engagement, enable the landowner to negotiate only one agreement (rather than two) and ensure consistency in the acquisition of land and rights necessary for the delivery of the co-located substation. Consequently, land identified for VEOWF’s landscaping purposes has been included within the voluntary agreement and will remain so for as long as it forms part of VEOWF’s landscaping proposals. The Applicant understands the landowner’s concerns regarding the potential impact on drainage arising from VEOWF’s potential landscaping proposals. The Applicant alongside VEOWF has jointly appointed an independent drainage contractor to assess existing drainage and ditches and identify appropriate solutions should the landscaping extend to these areas. The drainage contractor met with the landowner in May 2025 to discuss these matters and engagement remains ongoing.</p> <p>Landscaping</p> <p>The Applicant confirms that it is engaging with the landowner on the design of the co-located substations including the landscaping proposals. The Applicant wrote to the landowner on 10 June 2025 regarding development of an Onshore Substations Design Guide (‘Design Guide’), which is being developed jointly by the Applicant and VEOWF. The Design Guide will establish a framework which will inform the detailed design of the proposed co-located onshore substations including landscaping. A first draft of the Design Guide is to be issued to the landowner for their review and comment. This is currently scheduled for July 2025; however, timings are under review and may be subject to change. As part of this process the Applicant has extended an invitation to the landowner for a meeting to discuss the draft and any feedback they may have. Following this engagement a second draft will be prepared and circulated for further comment and feedback. The Applicant remains committed to engagement with the landowner and having due regard to their feedback.</p>
REP6-095_b	Injurious Affection	<p>With the above matters considered, it is unreasonable that my client should be put in a position where it is unable to claim injurious affection for the devaluation on its retained residential property, which will be within close proximity of the substations. Our client owns the residential property, yard and buildings and which has been in the family and business ownership for a significant period and has enjoyed it’s situation, being integral to</p>	<p>The Applicant refers to its previous response on this matter as set out within section 3.6 of the Applicant’s Response to Actions List for CAH1 [REP6-069]. The Applicant also refers to the Land Rights Tracker submitted at Deadline 6 [REP6-042] which outlines the status of negotiations in respect of the Heads of Terms (‘HoTs’), including the issuance of updated terms</p>

REF	THEME	T FAIRLEY AND SONS LTD'S COMMENT	APPLICANT'S RESPONSE
		<p>the wider farm. Should the Applicant and Five Estuaries proposals be approved and the Option exercised in line with the attached Option Plan, or even part of, the enjoyment of living in the property would be diminished, thus affecting the value of the property.</p> <p>The current drafting of the Heads of Terms suggest that my client is not able to claim injurious affection if entering into a voluntary agreement. We accept this this will be available to my client should compulsory powers be exercised, but it is my client's intention to avoid the compulsory purchase route and enter into a voluntary agreement, subject to the terms being fair and reasonable.</p> <p>Whilst we are in negotiations for a voluntary agreement, our client should not be in a position where part of the sale proceeds of the land is used to mitigate the devaluation of our client's retained residential property, yard, and buildings. We strongly request that this matter, which is currently being discussed with the Applicant, is taken seriously and that our proposals (which were sent to the Applicant on 2nd June 2025) are agreed to.</p>	<p>on 20 June 2025 which sought to address the landowner's concerns regarding injurious affection.</p> <p>Following the issuance of updated terms, the Applicant received a response from the landowner's representative on 26 June 2025 indicating that no further amendments were proposed on the HoTs for the voluntary agreement save for a couple of points of clarification. The Applicant responded to the landowner's representative on these points on 27 June 2025.</p> <p>On this basis, the Applicant considers that the outstanding point related to injurious affection have been addressed and awaits confirmation from the landowner's representative that the HoTs are now agreed.</p>

2.11 Applicant's response to Network Rail Infrastructure Limited Additional Submissions - Accepted at the Discretion of the Examining Authority [AS-053]

Table 2.11 Applicant's response to Network Rail Infrastructure Limited Additional Submissions - Accepted at the Discretion of the Examining Authority [AS-053]

REF	THEME	NETWORK RAIL COMMENT	APPLICANT'S RESPONSE
AS-053_a	Network Rail's Written Statement for the Compulsorily Acquisition Hearing on 17 June 2025. - Compulsory Acquisition of Network Rail's land - 1-5"	<p>Network Rail has prepared the following statement for the compulsorily acquisition hearing on 17 June 2025 and kindly requests the Examining Authority to read out this statement in respect of agenda item CAH Part 2.</p> <p>Compulsory Acquisition of Network Rail's land</p> <ol style="list-style-type: none"> Under the book of reference, the Applicant seeks to acquire new rights over plots 4-010, 4-011, 4-013 and 4-014. In respect of Plots 4-010 and 4-011, Network Rail is the unregistered freehold owner of plot 4-010 upon which railway tracks sit. Network Rail take access of Plot 4-011 (arable land) to maintain and renew lineside fencing for the benefit of this plot (pursuant to section 68 of Railways Clauses Consolidation Act 1845). These plots therefore form part of the operational railway. In respect of the other two plots, Network Rail is the freehold owner of plot 4-013, which consists of an accommodation overbridge which is 12ft wide. Network Rail (or its contractors) use this bridge annually to conduct a visual inspection and at risk-based frequency, a detailed exam. Network Rail has a right over plot 4-014 pursuant to a Deed of Release and Grant dated 8 June 2020. The plot is an access track which leads to the accommodation bridge situated on plot 4 013. The freehold owner of the land adjacent to this plot is the authorised user of this accommodation bridge. Plots 4-013 and 4-014 will be used for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development as set out in schedule 5 of the draft DCO. In addition, under schedule 7 of the draft order, the Applicant may take temporary possession over these two plots. 	<p>The Applicant notes Network Rail's statement and confirms agreement with their factual points numbered 1 – 5. In respect of point 5, the Applicant wishes to clarify that these plots are for operational and maintenance access purposes as set out within paragraph 5.7.3.5 of ES Chapter 5 Project Description [APP-019].</p>
AS-053_b	Option for an easement - 6-8	<ol style="list-style-type: none"> Under the draft DCO, Plots 4-010 and 4-011 are required for the cable route as set out in schedule 5 of the draft DCO. In order for Network Rail to be comfortable with the works under the Order taking place, Network Rail have requested the Applicant to enter into an option agreement for a deed of easement for the right install and maintain the ducts and cabling. The option agreement 	<p>The Applicant notes Network Rail's submission and confirms that the areas of disagreement listed accurately reflected the status of negotiations on the Heads of Terms for a voluntary agreement at the time the submission was made. The Applicant has since agreed and received signed Heads of Terms from Network Rail on 10 July 2025. The Land Rights Tracker will be updated to reflect this revised position and will be submitted at Deadline 8.</p>

REF	THEME	NETWORK RAIL COMMENT	APPLICANT'S RESPONSE
		<p>and deed of easement are currently the only property agreements which are in the process of being entered into. However, the heads of terms have not yet been agreed and therefore the easement has not been able to be drafted in a final form.</p> <p>The main area of disagreement in the heads of terms are:</p> <p>a) Lift and Shift provisions;</p> <p>b) Termination (notice of termination); and</p> <p>c) The consideration amount.</p> <p>Network Rail's position is that a notice period of 6 months for termination and the lift and shift provisions is acceptable and is the standard notice period provided for similar schemes. The Applicant, on the other hand, is requesting a longer time period for both provisions. The consideration for the easement is also currently being negotiated</p>	
AS-053_c	Property Agreement - 9	Network Rail also require its existing rights to be retained and a property agreement to be entered into for the use of the accommodation bridge to carry out the works set out in the draft DCO. As well as compliance with any clearance conditions.	The Applicant agrees with Network Rail's statement and confirms that Network Rail's existing rights in connection with the use of the accommodation bridge will not be fettered by the Applicant's proposals. The Applicant further confirms that use of the bridge, including any associated conditions are being addressed through ongoing negotiations as part of the voluntary property agreement.
AS-053_d	Asset Protect Agreement - 10 - 14	<p>In addition to the property agreement, Network Rail also require the Applicant to enter into some form of assessment protection agreement(s), which could be one or all of the following:</p> <p>a) Asset Protection Agreement (APA);</p> <p>b) Basic Asset Protection Agreement (BAPA); or</p> <p>c) Structures Agreement</p> <p>11. Asset Protection Agreements are required when proposed works have the potential to impact the railway. Generally, these are proposals in close proximity to the railway, or on the railway property itself. The agreements allow Network Rail to support an applicant to mitigate and manage the railway risk appropriately. In order to establish the appropriate type of Asset Protection Agreement, Network Rail would need the scope of works, and in particular clarity on those elements where there is a potential to impact the railway. To support this assessment, Network Rail would require:</p> <p>a) b) c) d) e) A completed Initial Enquiry Questionnaire (IEQ) – used to obtain some basic details to gather an insight on scope and how a proposal may impact the railway (or whether indeed the proposal has the potential to impact the railway or not). A short one page summary of the proposal. This should include details of the entity promoting the proposal and carrying out the works. A set of annotated drawings that depicts the proposal and shows the location, and in particular the relationship to the railway. These should include where possible: i. ii. An annotation of the different type of potential railway risks Relationship to the railway e.g. distance (estimated) to the railway boundary and / or railway tracks and / or overhead electrification lines. Overview of the programme, key milestones and / or aspirations. Fee for the Asset Protection Agreement</p> <p>For complex proposals with complex railway interfaces, Network Rail would advise entering into feasibility BAPAs to provide a mechanism to explore the steps above and inform the most appropriate contractual route to support the proposal. 12. Network Rail requested the Applicant on 22 May 2025 to make an application to Network Rail's Asset Protection team (ASPRO) and provide the relevant details. To date ASPRO have not received the respective information and Network Rail's surveyor has not received a response to his follow up emails or phone calls. The latest communication being on Friday 13 June 2025. 13. Without the information mentioned above, ASPRO is unable to carry out a detailed assessment of the works to determine what asset protection agreement(s) are required. Network Rail would therefore like to reserve the right to produce additional and further grounds of concern when further details of the Scheme and its effects on Network Rail's land are available. 14. Whilst Network Rail, in principle do not object to the Scheme, it does need to object to acquisition of land and new rights without relevant agreements in place, to ensure there is no detrimental impact on the Accommodation</p>	<p>The requirement for a BAPA is understood, and the Applicant is compiling the information required to enter into a BAPA. This work is ongoing and will be submitted at the earliest opportunity.</p> <p>Paragraph 47(7) of the protective provisions for the benefit of Network Rail included in Part 5 of Schedule 14 of the draft DCO requires the Applicant to enter into an asset protection agreement prior to carrying out any works. Sufficient protection is therefore already provided to Network Rail to enable the mitigation and management of any railway risk. The Applicant notes that an APA/BAPA is required under the protective provisions even in a scenario where the Applicant needs to exercise its compulsory acquisition powers due to the voluntary property agreement not being in place.</p>

REF	THEME	NETWORK RAIL COMMENT	APPLICANT'S RESPONSE
		Bridge or the operation of the Railway and that the safety of the Railway is maintained during the construction, operational and decommissioning phases of the Scheme.	
AS-053_e	Protective Provisions and Framework Agreement - 15 -16	<p>15. In order to capture the above, Network Rail and the Applicant are negotiating the protective provisions and framework agreement, however without an agreed form of heads of terms for the property agreement, the framework agreement and protective provisions cannot be finalised. Network Rail is hopeful that an agreement can be reached with the Applicant but until such time, to safeguard Network Rail's interests and the safety and integrity of the operational railway, Network Rail objects to the Order.</p> <p>16. Network Rail would like to remind the Examining Authority that Network Rail is under a statutory duty to protect the operational railway and associated railway infrastructure and therefore without the relevant agreements and protective provisions in place, Network Rail's objection will need to be sustained. Nevertheless, Network Rail would like to continue to seek an agreement with the Applicant before the close of the examination and is willing to provide any further detail which the Examining Authority requires.</p>	<p>As set out in section 3.3 of the Applicant's Response to Actions List for CAH1 [REP6-069], the protective provisions require the technical details to be approved by Network Rail prior to carrying out any works that may affect railway property. The Applicant's position is that the protective provisions are sufficient and will ensure there is no serious detriment to Network Rail's undertaking.</p> <p>The Applicant will continue to negotiate the voluntary property agreement with Network Rail. However, a restriction on the use of compulsory acquisition powers is not necessary to protect Network Rail's undertaking and would result in a material impediment to the delivery of the Project.</p>



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