



N O R T H F A L L S

Offshore Wind Farm

Applicant's Response to the ExA's Proposed Schedule of Changes to the dDCO

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1. INTRODUCTION

- 1.1 This document has been prepared by North Falls Offshore Wind Farm Limited ('the Applicant') to respond to the Examining Authority's ('ExA') Schedule of Changes to the Draft Development Consent Order [**PD-019**], in relation to the North Falls Offshore Wind Farm (herein referred to as 'North Falls' or the 'Project').

2. COMMENTS ON PROPOSED SCHEDULE OF CHANGES

	ExA's Proposed Changes	ExA's Reasoning	Applicant response												
Articles															
General	General – is there consistency in the use of 'paragraph' and 'sub-paragraph' throughout the draft DCO?	For example, Part 2 Principal Powers 4(2) refers to paragraph (1) whereas Part 3 Requirements 4(3) refers to sub-paragraph 2. The ExA considers that consistency is necessary.	<p>The Applicant has used the approach recommended for Orders and Schedules in the most recent version of Statutory Instrument Practice.¹</p> <table border="1"> <thead> <tr> <th>Instrument</th><th>First division (numbered 1, 2, 3 etc)</th><th>Second division (numbered (1), (2), (3) etc)</th><th>Third division (lettered (a), (b), (c) etc)</th></tr> </thead> <tbody> <tr> <td>Order in Council, Order of Council or Order</td><td>article</td><td>paragraph</td><td>sub-paragraph</td></tr> <tr> <td>Schedule</td><td>paragraph</td><td>sub-paragraph</td><td>paragraph</td></tr> </tbody> </table> <p>The Applicant reviewed the draft DCO and made amendments to the draft DCO submitted at Deadline 7 to ensure consistency (see [Document ref: 6.1, (rev 8)]).</p>	Instrument	First division (numbered 1, 2, 3 etc)	Second division (numbered (1), (2), (3) etc)	Third division (lettered (a), (b), (c) etc)	Order in Council, Order of Council or Order	article	paragraph	sub-paragraph	Schedule	paragraph	sub-paragraph	paragraph
Instrument	First division (numbered 1, 2, 3 etc)	Second division (numbered (1), (2), (3) etc)	Third division (lettered (a), (b), (c) etc)												
Order in Council, Order of Council or Order	article	paragraph	sub-paragraph												
Schedule	paragraph	sub-paragraph	paragraph												
Article 2	The definition of the “noise investigation protocol” referred to in Requirement 17 needs to be inserted.	The ExA considers that consistency with the convention to define documents is necessary.	The Applicant does not agree that “noise investigation protocol” needs to be defined as this is referring to the final document to be prepared and submitted for approval pursuant to Requirement 17. This is similar to the reference to “landscaping scheme” in Requirement 7 or “ecological management plan” in Requirement 12. It is only the outline versions of any management plans that are defined by reference to a certified document.												
Article 2 – Interpretation	ECC requests the following definition to be added: “the 1984 Act” means the Road Traffic Regulation Act 1984.	The ExA considers this change to be reasonable because ‘1984 Act’ is referred to in Article 14 but has not been defined.	The Applicant updated the draft DCO at Deadline 6 to include this amendment (see [REP6-005] and [REP6-006]).												
Article 6 - Application and modification of legislative provisions (f)	ECC request the deletion of ‘Essex County Council Act 1987’ and replace with ‘Essex Act 1987’	The ExA considers this change to be reasonable	The Applicant updated the draft DCO at Deadline 6 to include this amendment (see [REP6-005] and [REP6-006]).												
Article 8 - Street Works	ECC requests that for 8(1) the bullet points read as follows:	The ExA considers this change to be reasonable	The Applicant updated the draft DCO at Deadline 7 to include these amendments (see [Document ref: 6.1, (rev 8)]).												

¹ The National Archives, *Statutory Instrument Practice* (5th edition) (November 2017), Table A, p. 12. [Available at: [StatutoryInstrumentPractice_5th_Edition.pdf](#); Accessed: 10 July 2025].

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	<p>(a) break up or open the street, or any sewer, drain or tunnel within or under it;</p> <p>(b) tunnel or bore under the street;</p> <p>(c) place and keep apparatus in the street remove or use all earth and materials in or under the street;</p> <p>(d) maintain apparatus in the street or change its position; and place and keep apparatus in or under the street;</p> <p>(e) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (d). maintain apparatus in or under the street or change its position; and</p> <p>(f) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (e).</p>		
Schedule 1 Part 4 – Paragraph 34 Fees	(2) Any fee paid under this Schedule must be refunded to the undertaker within four weeks of the application being rejected as invalidly made.	The ExA considers this change proposed by ECC to be reasonable.	The Applicant updated the draft DCO at Deadline 6 to include this amendment (see [REP6-005] and [REP6-006]).
Schedule 2 Requirements			
Requirement 2 (3)	<p>“(3) Any part of Work No. 3 and any associated development the authorised development located within the following areas shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan, must be designed, installed, operated and maintained at a level which would not preclude or impede dredging:</p> <p>(a) of the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer, to a level of 22 metres below Chart Datum;</p> <p>(b) of the area shown shaded in pink and labelled Trinity – Trinity DW Buffer, to a level of 22 metres below Chart Datum; and</p> <p>(c) to the area shown cross hatched purple and labelled Sunk B – Sunk DW Buffer, to a level of 19 metres below Chart Datum.</p>	The ExA considers this change to be reasonable and necessary.	<p>The Applicant updated the draft DCO at Deadline 7 to include the amendment to (3) (see [Document ref: 6.1, (rev 8)]).</p> <p>The Applicant may not carry out wet storage or relocate boulders or archaeological finds to or within these areas as a result of the oCSIP [Document ref: 9.53, (rev 3)], which is secured by Condition 22(1)(h) of the DML in Schedule 9.</p> <p>It is not necessary nor reasonable to duplicate the same measure of control in two places.</p>

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	(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)."		
Requirement 3 – Aviation Safety	"(3) The lights installed in accordance with sub -paragraph (1) will be operated at the lowest permissible lighting intensity level."	Reference should be to "sub-paragraph" rather than "paragraph" to ensure consistency with the terminology used in other requirements in Schedule 2.	The Applicant updated the draft DCO at Deadline 7 to include this amendment (see [Document ref: 6.1, (rev 8)]).
Requirement 5 – Substation works	"(d) external hard surfacing materials; (e) the dimensions, external colour and materials used for the buildings; (f) security fencing, height, colour and materials ;	The proposed changes would aid precision and hence enforceability.	The Applicant updated the draft DCO at Deadline 7 to include these amendments (see [Document ref: 6.1, (rev 8)]).
Requirement 15 – Ground water monitoring	15.—(1) No stage of the onshore works for which a groundwater monitoring plan is required, may commence in accordance with the outline groundwater monitoring plan, must be commenced until, for that stage, a groundwater monitoring plan produced substantially in accordance with the Groundwater Risk Assessment and Monitoring Plan – Private Water Supplies and Licenced Abstractions has been submitted to and approved by the discharging authority. (2) Sub-paragraph (1) does not apply to any works or surveying and investigation necessary to inform the preparation of a groundwater monitoring plan. (3) The undertaker shall implement the Any plan approved plan under sub-paragraph (1) must be implemented as approved.	The ExA consider this change is reasonable and is consistent with Five Estuaries OWF dDCO [REP8A-004], but with updated references to Groundwater Risk Assessment and Monitoring Plan – Private Water Supplies and Licenced Abstractions [REP5-049 to REP5-052].	The Applicant updated the draft DCO at Deadline 7 to include these amendments with one minor change (see [Document ref: 6.1, (rev 8)]). The Applicant has amended the reference to the 'outline groundwater monitoring plan' to the 'outline groundwater monitoring and mitigation plan' to align with the title of the relevant plan appended to the Groundwater Risk Assessment and Monitoring Plan – Private Water Supplies and Licenced Abstractions [REP5-049] to [REP5-052] at Appendix D.
Requirement 18 – Skills and Employment Plan	"(2) The authorised development must be implemented in accordance with the approved skills and employment plan."	The substitution of "authorised development" for "skills and employment plan" is in the interests of precision and enforceability and better reflects the purpose of the requirement.	The Applicant considers that this proposed amendment does not reflect the purpose of the requirement as it is the details of the plan that must be implemented. The Applicant refers to the Schedule of Changes to the dDCO submitted at Deadline 2 [REP2-013] and its response to Q9.2.5 in the Applicant's Response to Written Questions (ExQ1) [REP2-020]. Sub-paragraph (2) of requirement 18 was amended at Deadline 2 to remove reference to 'details' to address a concern raised by the ExA at Q9.2.5 of the Examining Authority's written questions and requests for information (ExQ1) [PD-009]. The purpose of sub-paragraph (2) of the requirement is to require that the skills and employment plan approved under sub-paragraph (1) is implemented as approved.

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			<p>Accordingly, the Applicant proposes to make the following amendment and has updated the draft DCO at Deadline 7 accordingly (see [Document ref: 6.1, (rev 8)]):</p> <p><i>(2) The skills and employment plan must be implemented as approved—in accordance with the approved skills and employment plan.</i></p> <p>This amendment mirrors the structure adopted for other similar sub-paragraphs such as requirements 21(2), 22(3) and 24(3).</p>
Requirement 20 - Reuse of temporary works with the onshore works for Five Estuaries	“... (1) In the event that any temporary works which have been constructed pursuant to any development consent order that may be made by the Secretary of State in relation to Five Estuaries are proposed to be reused by the undertaker in connection with the authorised development, such reuse may must not be commenced until a written scheme which accords with paragraph (2) has been submitted to and approved by the discharging authority. ...”	In the interests of precision and enforceability, and consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004].	The Applicant updated the draft DCO at Deadline 7 to include these amendments (see [Document ref: 6.1, (rev 8)]).
Requirement 25	“25. No The offshore works may must not be commenced until a written decommissioning programme”.	In the interests of precision and enforceability.	The Applicant updated the draft DCO at Deadline 7 to include these amendments (see [Document ref: 6.1, (rev 8)]).
Requirements 8, 12, 15, 22, 23	<p>Requirements 8, 12, 15, 22, 23 need to include Environment Agency as a named consultee.</p> <p>Requirement 8: Insert “and Environment Agency.” after “in consultation with Natural England.”</p> <p>Requirement 12: Insert “and Environment Agency.” after “in consultation with Natural England.”</p> <p>Requirement 15: Insert “in consultation with Environment Agency.” after “approved by the discharging authority.”</p> <p>Requirement 22: Insert “in consultation with Environment Agency.” after “approved by the discharging authority.”</p> <p>Requirement 23: Insert “and Environment Agency.” after “in consultation with Natural England.”</p>	<p>The Environment Agency [REP5-088] states that it should be added as a named consultee in Requirements 8, 12, 14, 15, 22, 23 to ensure the discharge of details sought by each of the stated Requirements will be as effective as possible. The ExA considers that the Environment Agency should be included as named consultee in Requirements 8, 12, 15, 22 and 23:</p> <ul style="list-style-type: none"> • Code of construction practice – Requirement 8 • Ecological management plan – Requirement 12 • Groundwater monitoring – Requirement 15 • Operational Drainage Strategy - Requirement 22 • Horizontal directional drilling method statement – Requirement 23 <p>The inclusion of Environment Agency as a named consultee ensures that the EA can comment on construction practices affecting watercourses (R8, R15, R22, and R23) and enable EA to be consulted on the Ecological Management Plan due</p>	The Applicant updated the draft DCO at Deadline 7 to include these amendments (see [Document ref: 6.1, (rev 8)]).

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		to its role 7 in enhancing biodiversity. The suggested change is therefore deemed necessary in these cases.	
New	Galloper Recommended Route “The offshore works element of the authorised development shall not commence until receipt of written confirmation from the Maritime Coastguard Agency that the removal of the Galloper Recommended Route has been unconditionally approved by the International Maritime Organisation.”	In the interests of maritime and navigational safety. The prior removal of the Galloper Recommended Route is regarded as an essential prerequisite to the commencement of the offshore works element of the proposed development.	The Applicant updated the draft DCO at Deadline 7 to include a new Requirement 30 for the Galloper recommended route, the wording of which reflects comments from the MCA and is understood to be agreed between the Applicant and the MCA (see [Document ref: 6.1, (rev 8)]).
New	Operational Lifetime – Requirement A requirement or condition needs to be added to ensure project does not exceed the operational lifetime considered within the Environmental Statement. Amend accordingly.	Natural England has requested the DCO include this provision. The requested inclusion seems reasonable.	The Applicant does not consider a requirement limiting the operational lifetime of the Project is required. Such a requirement would be unusual in the context of offshore wind farm DCOs (e.g. there is no such requirement contained in the two most recently made OWF DCOs for Rampion 2 and Mona). The Applicant set out its position on this point at Deadline 4 in the Applicant's Response to Deadline 3 Submissions and Deferred Responses from Deadline 2 [REP4-027], specifically in response to the MMO's REP3-056_n.
Schedule 8, 9 and 10– Deemed Marine Licences (DMLs)			
Part 1 – Preliminary Interpretation (2)(1). Schedule 8, 9 and 10	Part 1 – Preliminary Interpretation (2)(1). The height of Mean High-Water Springs (MHWS) is the average throughout the year, of two successive high waters, during a 24-hour period in each month when the range of the tide is at its greatest (Spring tides). Such period of time is not reflected in the Applicant's current wording and therefore is requested to be amended. This should be reflected elsewhere in the DCO.	The rationale of the MMO appears to be correct in that the period should be reflected into the definition. For accuracy and precision.	The Applicant notes the ExA's comment and the MMO's proposed change. The Applicant will consider and provide an update at Deadline 8.
Schedule 8, 9 and 10	Within the DMLs there does not appear to be any requirement to notify the MMO with regard to which build option has been chosen. The MMO should be notified of the selected option. Add such a requirement/condition.	As Five Estuaries is yet undetermined consideration should be given for both projects to capture a requirement to co-ordinate on the onshore cable works. Including provisions for co-operation and for notification to the MMO as offshore enforcing body of the build option selected. It should be included in the interests of achieving wider ecological protection effectiveness.	The Applicant does not agree this is reasonable or necessary for the MMO to undertake its role as offshore enforcing body or in the interests of achieving wider ecological protection effectiveness. If build option 3 is progressed the relevant DML (schedule 10) will be discharged and the MMO with therefore be engaged. Also note that coordination with Five Estuaries is limited to, and only relevant for, onshore works and build options 1 and 2, not build option 3.
Part 1 – Preliminary Interpretation (2)(1). Schedule 8, 9 and 10	Part 1 - Licenced Marine Activities interpretation for DML 1 – DML 3 “jacket foundation” meaning requires an update to make it more detailed relative to the scheme applied for. For example, jacket foundation in other NSIPs <i>means a lattice type structure constructed of</i>	The rationale of the MMO appears to be correct in that the present definition could be better expressed.	The Applicant updated the draft DCO at Deadline 7 to include these amendments (see [Document ref: 6.1, (rev 8)]).

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	<i>steel which is fixed to the seabed at [3 or more points with steel pin piles or steel suction buckets] and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms.</i>		
Part 2 – Conditions – Maintenance of the authorised development DML Condition 12 (4)	The word 'substantially' should be removed.	For clarity and precision. And because there is no definition of 'substantially' to rely upon.	The Applicant updated the draft DCO at Deadline 7 to include these amendments (see [Document ref: 6.1, (rev 8)]).
Part 2- Conditions – Condition 21 Pre-construction plans and documentation	Condition 21 (1) (m) should be amended to give an individual timing requirement to be submitted no later than 6 months prior to the commencement of piling.	NE/MMO advises this condition should be amended to give an individual timing requirement to be submitted no sooner than 9 months and no later than 6 months prior to commencement of 9 piling. Following NE and MMO responses the ExA notes that if documents is submitted to early, it may be rejected/require multiple updates. However, the applicant's response about creating unnecessary delays in any critical infrastructure delivery programme otherwise seem to be reasonable – the revised condition seeks to prevent such circumstances.	The requirement to submit the SIP no later than 6 months prior to the commencement of piling is already secured in the DMLs at condition 22(1) (of schedules 8 and 10) and condition 23(1) (of schedule 9). As such the Applicant does not consider that an amendment to condition 21(1)(m) is required.
Schedule 8, Part 2, para 15	"Should the undertaker become aware that any of the information on which the granting of this licence was based was materially false or misleading, the undertaker must notify the MMO of this fact in writing as soon as is reasonably practicable. The undertaker must explain in writing what information was material false or misleading and must provide to the MMO the correct information."	New condition to be added to para 15, as requested by the MMO to ensure that they are notified of any false or misleading information found or used in the Application.	The Applicant does not consider this addition would be appropriate or necessary. This matter is covered by s 89 of the MCAA 2009 which makes it an offence to make statements based on false or misleading information, and to intentionally fail to disclose material information. It would be duplicative of legislative provisions and unnecessary to include a condition in the DMLs. The Applicant notes that such a condition is not included in the DCOs as made by the SoS for Rampion 2 or Mona.
Schedule 8 Part 3 Condition 21 (1) (m)	This condition should be amended to give an individual timing requirement to be submitted no later than 6 months prior to commencement of piling.	Due to the need to appropriately consider incombination impacts of other developments it is important that the Site Integrity Plan (SIP) should not be submitted too early. Natural England advises this condition should be amended to give an individual timing requirement to be submitted no sooner than 9 months and no later than 6 months prior to commencement of piling. However, the applicant's response about creating unnecessary delays in any critical infrastructure delivery programme otherwise seem to be reasonable – the 10 revised condition seeks to prevent such circumstances.	The requirement to submit the SIP no later than 6 months prior to the commencement of piling is already secured in the DMLs at condition 22(1) (of schedules 8 and 10) and condition 23(1) (of schedule 9). As such the Applicant does not consider that an amendment to condition 21(1)(m) is required.
Schedule 8 Part 2 Condition 25	The monitoring conditions seem to only cover benthic monitoring. Ornithological and marine mammal monitoring should also be	The ExA is mindful Natural England still noted at Deadline 5 that ornithological and marine mammal monitoring should	Monitoring for benthic, ornithological, and marine mammal impacts is covered by the outline offshore in-principle monitoring plan (IPMP) (Document Ref: 7.10 (rev 2)) which is secured by condition 21(1)(j) of the DML, as well as condition 25 (pre-construction monitoring and surveys),

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	requirements/conditions due to the potential for impact.	also be requirements due to the potential for impact. In accordance with best practice.	condition 26 (construction monitoring) and condition 27 (post-construction monitoring).
Schedule 8 Part 2 Condition 27 and 28	Marine mammal monitoring should be included in the Condition.	<p>The ExA is mindful Natural England notes that this condition does not have provision for marine mammal monitoring. Further, the recent SoS decision for SADEP approved the following recommendation from NE and the MMO for particular impacts requiring remediation or further mitigation works.</p> <p>For reference only:</p> <p>(7) In the event that the reports provided to the MMO under sub-paragraph (4) identify impacts which are unanticipated and or beyond those predicted within the Environmental Statement and the Habitats Regulations Assessment an adaptive management plan to reduce effects to within what was predicted within the Environmental Statement and the Habitats Regulations Assessment, unless otherwise agreed by the MMO in writing, must be 11 submitted alongside the monitoring reports submitted under subparagraph (4). This plan must be agreed by the MMO in consultation with the relevant statutory nature conservation bodies to reduce effects to an agreed suitable level for this project. Any such agreed and approved adaptive management or mitigation should be implemented and monitored in full to a timetable first agreed in writing with the MMO. In the event that this adaptive management or mitigation requires a separate consent, the undertaker shall apply for such consent. Where a separate consent is required to undertake the agreed adaptive management or mitigation, the undertaker shall only be required to undertake the adaptive management or mitigation once the consent is granted.</p>	As above.
Schedule 9 – Part 1 (1)	"Areas of Interest" means any part of those areas shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan;	The ExA considers that consistency with the convention to provide definitions is necessary.	The Applicant updated the draft DCO at Deadline 7 to include these amendments (see [Document ref: 6.1, (rev 8)]).
Schedule 9 – Part 1 (5)	(j) Port of London Authority London River House Royal Pier Road Gravesend 7 Kent DA12 2BG Tel: 01474 562200	The ExA considers this change is necessary and for consistency with other organisations' contact details being included in the dDCO.	<p>The Applicant updated the draft DCO at Deadline 7 to include these amendments (see [Document ref: 6.1, (rev 8)]).</p> <p>The Applicant has also updated the draft DCO with placeholders and invites the other local harbour authorities to provide their contact details for the purposes of the notification requirements under condition 16 and 17 of Schedule 9.</p>

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Schedule 9 – Part 2, Condition 10	<p>New Requirement (as proposed to be amended for Schedule 2 Requirement 2 (3)) should be included in the DML Schedule 9 at condition 10 as sub-paragraphs (4) and (5).</p> <p>“(4) Any part of the authorised development located within the following areas shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan, must be designed, installed, operated and maintained at a level which would not preclude or impede dredging: (a) of the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer, to a level of 22 metres below Chart Datum; (b) of the area shown shaded in pink and labelled Trinity – Trinity DW Buffer, to a level of 22 metres below Chart Datum; and (c) to the area shown cross hatched purple and labelled Sunk B – Sunk DW Buffer, to a level of 19 metres below Chart Datum. (5) The undertaker must not carry out wet storage or relocate any boulders or archaeological finds to or within the three areas referred to in paragraph (4).”</p>	<p>The ExA considers this change is in the interests of precision and enforceability, and is both reasonable and necessary to ensure that any stage of the works would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Ports.</p>	<p>On (4) it is not considered necessary to include as a condition of the DMLs what is already a Requirement in the DCO.</p> <p>On (5) please see response in respect of “Requirement 2 (3)” above.</p>
Schedule 9 – Part 2, Condition 13 (3)	<p>“(3) In undertaking activities under paragraphs (2)(a), (2)(d), (2)(e) and (2)(f), other than in areas shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan where navigable depth may not be reduced to any extent, the undertaker must not reduce water depth by more than 5% Chart Datum unless agreed with the MMO and the MCA in writing.”</p>	<p>(2)(d) - cable remedial burial is equally relevant to (2)(e) – cable repairs and replacement, and should therefore be referenced. The ExA considers this change to be reasonable.</p>	<p>The Applicant updated the draft DCO at Deadline 6 to include these amendments (see [REP6-005]).</p>
Schedule 9 – Part 2, Condition 13(4),	<p>13 (4) An operations and maintenance plan substantially in accordance with the outline offshore operations and maintenance plan shall be submitted to the MMO for approval in consultation with the relevant SNCB, the MCA and the PLA at least six months prior to the commencement of operations. All operation and maintenance activities shall be carried out in accordance with the approved operations and maintenance plan and the approved cable specification and installation plan.</p>	<p>The ExA considers this change to be reasonable and necessary to ensure that the operations and maintenance would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Port of London Authority. The MCA have sought to be included as a consultee and to ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004].</p>	<p>The Applicant has updated the draft DCO at Deadline 7 to include consultation of local harbour authorities in respect of the OOMP to the extent it relates to the relevant DWR areas (now referred to as Areas of Interest per PLA request) (see [Document ref: 6.1, (rev 8)]).</p>
Schedule 9 – Part 2, Condition 16 (8) to (14),	<p>(8) The undertaker must ensure that a local notification to mariners is issued at least 14 days prior to the commencement of the authorised development or any relevant stage advising of the</p>	<p>The ExA considers this change to be reasonable and necessary to ensure that the Port of London Authority are notified throughout the works to include in the case of damage to, destruction or decay of the authorised</p>	<p>The dDCO was updated at Deadline 6 [REP6-005] with new condition 16(15), which sees that PLA (as one of the local harbour authorities) are provided the notices under condition 16(12)-(14).</p>

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	<p>start date of the relevant Work No. and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA, the PLA and UK Hydrographic Office within five days of issue.</p> <p>(9) The undertaker must ensure that local notifications to mariners are updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and the notices must be supplemented with VHF radio broadcasts agreed with the MCA in accordance with the project environmental management plan approved under deemed marine licence condition 22(1)(d) and monitoring plan approved under condition 22(1)(f). Copies of all local notifications must be provided to the MMO, the PLA and UK Hydrographic Office within five days of issue, save for in the case of a notice relating to operations and maintenance, which must be provided within 24 hours of issue.</p> <p>(10) The undertaker must notify the UK Hydrographic Office of the commencement (within 14 days), progress and completion of construction (within 14 days) of the licenced activities in order that all necessary amendments to nautical and aeronautical charts are made and the undertaker must send a copy of such notifications to the MMO, the PLA and MCA within five days of the notification.</p> <p>(11) In case of damage to, or destruction or decay of, the authorised development seaward of MHWS or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, the MMO Local Office, the MCA, Trinity House, the Kingfisher Information Service, the PLA and the UK Hydrographic Office.</p> <p>(12) In case of exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners and inform the Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to</p>	<p>development, or cable exposure, which could have the potential to give rise to unacceptable temporary or permanent impacts on navigation to and from the Port of London Authority.</p>	<p>The dDCO has, in response to the PLA's request [REP6-090], been updated at Deadline 7 (Document Reference 6.1, Rev 8) so that the relevant condition 16(15) of Schedule 9 requires notification of PLA (as one of the local harbour authorities) in respect of other notices required under condition 16(8)-(11) as requested, to the extent it relates to the DWR areas (now referred to as Areas of Interest per PLA request).</p>

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	<p>the MMO, the MCA, Trinity House, the PLA and the UK Hydrographic Office within five days.</p> <p>(13) The undertaker must notify the MMO in writing a minimum of five days in advance of the commencement of each discrete incident of cable repair, replacement, or protection replenishment activity. Such a notification must include proposed timings and a description of proposed methodologies, and a copy of such notification shall be provided to the PLA.</p> <p>(14) The undertaker must ensure that the MMO, the MMO Local Office, local mariners, local fishermen's organisations and the Source Data Receipt Team at the UK Hydrographic Office, Taunton, Somerset, TA1 2DN (sdr@ukho.gov.uk) and the PLA are notified within five days of completion of each instance of cable repair, replacement or protection replenishment activity.</p>		
Schedule 9 - Part 2, 17(2)	(2) The undertaker must during the period from the start of construction of the authorised development to completion of decommissioning of the authorised development seaward of MHWS keep Trinity House, and the MMO and the PLA informed in writing of progress of the authorised development seaward of MHWS including the following—...	The ExA considers this change to be reasonable.	The dDCO has, in response to the PLA's request [REP6-090] , been updated at Deadline 7 (Document Reference 6.1, Rev 8) so that the relevant condition 17 of Schedule 9 requires keeping the PLA (as one of the local harbour authorities) informed to the extent development relates to the DWR areas, (now referred to as Areas of Interest at the request of PLA).
Schedule 9 – Part 2, Condition 22(1) (a) (iii)	(iii) the length, depth and arrangement of cables comprising Work Nos. 2, 3 and 4A, including cable crossings;	The ExA considers this change to be reasonable and in the interests of precision and enforceability.	<p>The Applicant considers these amendments are not necessary.</p> <p>The depth of the cables will be determined post consent via the cable burial risk assessment (CBRA).</p> <p>The cable crossings are covered in the oCSIP, which is secured in the DMLs.</p>
Schedule 9 – Part 2, Condition 22(1)(h) (ii), (iii) & (iv)	(ii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum (excluding the areas shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan where navigable depth may not be reduced) and, in the event that any area of cable protection exceeding 5% of navigable depth is identified (in areas other than those shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation	The ExA considers this change is in the interests of precision and enforceability, and is both reasonable and necessary to ensure that any stage of the works would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Ports.	<p>The suggested changes (including those to 22(1)(a)(iii) above) are not considered to be necessary for the following reasons:</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

	ExA's Proposed Changes	ExA's Reasoning	Applicant response
	<p>Area (Future Dredging Depths) Plan), details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection;</p> <p>(ii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment demonstrating compliance with condition 10(4);</p> <p>(iii) proposals for the volume and areas of cable protection to be used for each cable crossing, and proposals for timing and methodology for reporting on actual volumes and areas post construction; and</p> <p>(iii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum (excluding the areas shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan where navigable depth may not be reduced) and, in the event that any area of cable protection exceeding 5% of navigable depth is identified (in areas other than those shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan), details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection;</p> <p>(iv) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised development which includes a risk based approach to the management of unburied or shallow buried cables;</p> <p>(iv) proposals for the volume, depth and areas of cable protection to be used for each cable</p>		<p>- Depth of the cable will necessarily be informed by the post-consent Cable Burial Risk Assessment (CBRA).</p> <p>In respect (iv), the request for 'depth' of cable protection (which is inaccurate as it would be the 'height' of it), 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 reduce the depth to less than 22m/19m CD in the DWR areas of concern to the PLA, as secured by Requirement 2(3), and must be in accordance with the design parameters under condition 10 as a result of that condition 10.</p>

	ExA's Proposed Changes	ExA's Reasoning	Applicant response
	<p>crossing, and proposals for timing and methodology for reporting on actual volumes, actual depths and areas post construction; and</p> <p>(v) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised development which includes a risk based approach to the management of unburied or shallow buried cables;</p>		
Schedule 9 – Part 2, Condition 22 (1) (n)	(n) a navigation and installation plan for the relevant stage which accords is substantially in accordance with the principles set out in the outline navigation and installation plan; and	The ExA considers this change is reasonable to ensure that any stage of the works would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Ports	The Applicant updated the draft DCO at Deadline 7 to include these amendments (see [Document ref: 6.1, (rev 8)]).
Schedule 9, part 2, para 22	<p>Add in further subsection of condition 22:</p> <p>“No percussive piling associated with offshore substation platform foundations may take place between 25th November to 3rd January (inclusive) in any year for the protection of spawning herring unless otherwise agreed in writing with the MMO.”</p>	To ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004] In the interests of ensuring due ecological protection.	The Applicant considers this commitment is appropriately made in the outline Project Environmental Management Plan (oPEMP) rather than the DMLs. The oPEMP was updated at Deadline 6 to include this commitment (Document Ref: 7.6 (rev 2) [REP6-027/028]).
Schedule 9, part 2	<p>Add additional condition before Offshore Safety Management:</p> <p>“Site Integrity Plan —(1) No piling activities can take place until a southern north sea special area of conservation site integrity plan (“SIP”), which accords with the principles set out in the outline southern north sea special area of conservation site integrity plan which accords with the principles set out in the, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.</p> <p>(2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (“SNS SAC”) as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.</p>	To ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004] and the ExA considers it appropriate for ecological protection.	<p>The Applicant considers these amendments are not necessary as they are already covered by the DML and/or oSIP.</p> <p>On point (1), condition 22(1)(m) already conditions that the licenced construction activities cannot commence until the SIP (in accordance with the oSIP) has been submitted to the MMO in consultation with the SNCB, and others where driven / part-driven piling is proposed to be used.</p> <p>On point (3), condition 23(1) already requires submission of the SIP at least six months prior to commencement.</p> <p>Regarding points (2), (4) and (5) the Applicant considers this is appropriately covered in the SIP. The SIP provides the appropriate flexibility to adapt to evolving guidance and technology, which would be restricted if these matters were secured in the DML.</p>

	ExA's Proposed Changes	ExA's Reasoning	Applicant response
	<p>(3) The SIP must be submitted in writing to the MMO no later than six months prior to the commencement of piling activities.</p> <p>(4) In approving the SIP the MMO must be determine whether the authorised scheme at the preconstruction stage, in-combination with other plans and projects, would be in line with the JNCC Guidance.</p> <p>(5) The approved SIP may be amended with the prior written approval of the MMO, in consultation with the relevant statutory nature conservation body, where the MMO determines that the authorised development, in combination with other plans or projects at the pre-construction stage, is in line with the JNCC Guidance”.</p>		
Schedule 9, part 2, para 24	<p>Add further section:-</p> <p>“No stage of the authorised development may commence until the MMO, in consultation with the MCA, has confirmed in writing that an emergency response co-operation plan has been prepared by the undertaker”</p>	To ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004]. The ExA considers this is reasonable to adequately address relevant emergencies.	The Applicant considers this amendment is not necessary. This drafting was included in an earlier draft of the DCO and was removed at DL4 at the request of the MCA [REP4-004/005].
Schedule 9 - Part 2, 26(1)	(1) The undertaker must in discharging condition 22(1)(f) for construction submit a monitoring plan in accordance with the outline offshore in-principle monitoring plan for written approval by the MMO in consultation with the relevant SNCB and the PLA , which must contain details of proposed surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report and—...	The ExA considers this change is both reasonable and necessary to ensure that pre-construction monitoring and surveys would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Port of London Authority.	The Applicant has ensured that the PLA will be consulted with in respect of monitoring by including in the dDCO as updated at Deadline 7 (Document Reference 6.1, Rev 8) a new condition 37 (to fit numbering of DML) proposed by the PLA [REP6-090], see response below in respect of “Schedule 9 - Part 2, New Condition 30”.
Schedule 9 - Part 2, 28(1), 28(3), 28(4) & 28(5)	(1) The undertaker must, in discharging condition 22(1)(f) in respect of post-construction monitoring, submit a post-construction monitoring plan or plans for that stage in accordance with the outline offshore in-principle monitoring plan for written approval by the MMO in consultation with the relevant SNCB and the PLA including details of proposed post-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in accordance with the principles set out in the outline	The ExA considers this change is in the interests of precision and enforceability, and is both reasonable and necessary to ensure that post-construction monitoring would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Port of London Authority.	The Applicant has ensured that the PLA will be consulted with in respect of monitoring by including in the dDCO as updated at Deadline 7 (Document Reference 6.1, Rev 8) a new condition 37 (to fit numbering of DML) proposed by the PLA [REP6-090], see response below in respect of “Schedule 9 - Part 2, New Condition 30”.

	ExA's Proposed Changes	ExA's Reasoning	Applicant response
	<p>offshore in-principle monitoring plan and must specify objectives for each survey and explain how the survey will assist in either informing a useful and valid comparison with the preconstruction position and/or will enable the validation or otherwise of key predictions in the environmental statement.</p> <p>(3) The undertaker must conduct a swath bathymetric survey to IHO S44ed5 Order 1a of the installed export cable route and provide the data and survey report(s) to the MCA, the PLA and UKHO. The MMO should be notified once this has been done, with a copy of the Report of Survey also sent to the MMO.</p> <p>(4) The undertaker must carry out the surveys specified within the approved post-construction monitoring plan or plans in accordance with that plan or plans and provide the agreed reports in the agreed format, unless otherwise agreed in writing with the MMO in consultation with the relevant SNCB, and the PLA.</p> <p>(5) Within 12 weeks of completion of any cable repair or replacement works, the undertaker must undertake a post installation survey along the section of cable that has undergone repair or replacement to demonstrate the successful burial of the cable, and submit a report to the MMO in writing on its findings, and provide a copy to the PLA.</p>		
Schedule 9 - Part 2, New Condition 30	<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 preconstruction 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</p>	The ExA considers this change is both reasonable and necessary to ensure that monitoring would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Ports.	The Applicant updated the draft DCO at Deadline 7 with this new condition (but numbered condition 37 to fit the DML provision numbering) (Document Reference 6.1, Rev 8).

	ExA's Proposed Changes	ExA's Reasoning	Applicant response
	<p>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>		
Schedule 9 - Part 2, New Condition 36.	<p>Remediation</p> <p>(1) Where, following the installation or maintenance of cables forming Work No. 3, located within the following areas shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan</p> <p>(a) the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer;</p> <p>(b) the area shown shaded in pink and labelled Trinity – Trinity DW Buffer;</p> <p>(c) the area shown cross hatched purple and labelled Sunk B – Sunk DW Buffer; it is identified by the undertaker (who shall notify</p>	<p>The ExA considers this change is in the interests of precision and enforceability, and is both reasonable and necessary to ensure that remediation is effective and would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Ports.</p>	<p>As the dDCO and relevant DML of Schedule 9 each limit the cable works and maintenance in respect of the DWR areas (referred to as 'Areas of Interest' at PLA request), 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 37 (to fit current numbering) 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>

	ExA's Proposed Changes	ExA's Reasoning	Applicant response
	<p>the MMO and the local harbour authorities as soon as reasonably practicable of this fact and in any event within 2 business days) or, following inspection by a local harbour authority (and the same is notified to the undertaker as soon as reasonably practicable), that the level of any cable is such that the condition 10(4) has not been achieved or at any time following installation or maintenance the cable has moved such that the requirements of condition 10(4) are no longer being achieved, then, unless otherwise agreed in writing with the MMO and the local harbour authorities, the undertaker is required to carry out remediation works as specified in the cable specification and installation plan subject to subject to sub paragraph (2) below.</p> <p>(2) Unless otherwise agreed in writing with the MMO and the local harbour authorities, the undertaker will carry out the following arrangements for the carrying out the remediation works:</p> <p>(a) the undertaker will re-bury the cable to the required specification to achieve the requirements of condition 10(4); and</p> <p>(b) following the completion of the works in sub-paragraph (2)(a), if it is identified by the undertaker or the local harbour authorities (following inspection) that the required specification is not achieved, then the undertaker will remove the cable without unreasonable delay and thereafter relay a new cable pursuant to an updated cable specification and installation plan approved by the MMO and the local harbour authorities which updated cable specification and installation plan specifically identifies and addresses why the previous cable burial was not successful, how that has been addressed and what measures are to be used in relaying the cable to prevent the failure reoccurring.</p> <p>(3) The steps in this paragraph shall be repeated until the requirement in condition 10(4) is achieved or the cable is permanently</p>		

	ExA's Proposed Changes	ExA's Reasoning	Applicant response
	removed from the areas referred to in paragraph 36(1).		
New	Operational Lifetime A requirement and or DML condition needs to be added to ensure project does not exceed the operational lifetime considered within the Environmental Statement. Amend accordingly.	Natural England has requested the DCO include this provision. The inclusion is reasonable. In the interests of ensuring enforceability, it is deemed necessary.	The Applicant does not consider a requirement limiting the operational lifetime of the Project is required. Such a requirement is not ordinarily included in DCOs for offshore wind farms (e.g. there is no such operational limitation in the two most recently made DCOs for Rampion 2 and Mona OWFs). The Applicant has set out its position on this point at deadline 4 in the Applicant's Response to Deadline 3 Submissions and Deferred Responses from Deadline 2, specifically in response to the MMO's REP3-056_n.
Schedule 12 – Documents to be certified			
Outline noise investigation protocol.	The documents to be certified must include the outline noise investigation protocol.	See Requirement 17 above. The ExA considers this change to be reasonable and consistent with other documents.	<p>The Applicant considers that the proposed amendment is not appropriate.</p> <p>The Applicant does not intend for the outline onshore substations tripartite noise investigations protocol (set out at section 6 of the Onshore substations operational noise and the outline noise complaints protocol [REP5-036]) to be a certified outline document. Section 6 has been produced to demonstrate how the final protocol could work in order to provide information at this stage in the process.</p> <p>The final protocol will be jointly produced by all of the undertakers who obtain DCO consent. National Grid has not yet made an application for development consent for the Norwich to Tilbury project and the Applicant therefore does not consider that the outline onshore substations tripartite noise investigations protocol can be reasonably be certified as it still needs to be considered in another DCO Examination.</p> <p>Certifying this iteration of the outline onshore substations tripartite noise investigations protocol would prevent any changes arising from the Norwich to Tilbury DCO Examination being properly incorporated. This is likely to result in inconsistency across the three projects which is an outcome contrary to the objectives of collaboration on this point.</p> <p>The Applicant notes that this document was not listed as a certified document in the final draft DCO submitted in the Five Estuaries Offshore Wind Farm Examination (see [REP8A-004] in the Five Estuaries Examination Library).</p>
Deep Water Route Cable Installation Areas (Future Dredging Depths) Plan (Rev 0) [REP4-043].	PLA's amendments to Deep Water Route Plan [REP4-043] as described in PLA's [REP5-111] which includes a revised image showing additional areas to be included in green, namely:	The ExA considers this change to be reasonable.	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) of dDCO [REP6-005]).

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	The majority of the green area will need to allow for dredging to -22m CD and the PLA could otherwise accept the 200m buffer to the south at -19m CD.		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 (even if not using the colour green).
Outline Cable Specification and Installation Plan (OCSIP) [REP4-039]	At paragraph 31 in relation to the Deep Water Routes (DWR) the reference is to the cables being installed and maintained but in paragraph 32 the reference is only to installation. The oCSIP and CSIP must be clear that any commitments relating to the DWRs apply to both installation and maintenance.	The ExA considers this change to be reasonable.	The Outline Cable Specification and Installation Plan has been updated at Deadline 7 (Document Ref: 9.53 (rev 3) to address this point.
Outline Sediment Management Plan [REP5-042]	Outline Sediment Management Plan [REP5- 042] – is there inconsistency in use of 'export cable corridor' and 'offshore cable corridor'.	For example, in the Outline Sediment Management Plan [REP5-042], paragraph 4 refers to the export cable corridor (ECC), but Section 3.1 relates to the offshore cable corridor (OCC). The ExA considers that consistency is necessary.	The Applicant updated the Outline Sediment Disposal Management Plan at Deadline 6 [REP6-049] and this update was made.
Mitigation Documents as a whole including for ecology	Schedule of Mitigation Rev 2 [REP5-006], or any further updated document. Cable Statement [APP-262] updated to Rev 1[REP4-015], or any further updated document.	To allow future enforceability of scheme details if required.	The Applicant does not agree that the Schedule of Mitigation should be certified in the DCO. The Schedule of Mitigation sets out the various mitigation measures committed to which are secured in other various documents and plans. These documents and plans are certified in Schedule 12 and secured in the DCO. Therefore it would be an unnecessary duplication to also certify the Schedule of Mitigation. In respect of the Cable Statement, please see the Applicant's response to "Environmental Impact Assessment - Document Used: 7.20 Outline Offshore Operations and Maintenance Plan" and "Environmental Impact Assessment – Document Used: 2.6 Schedule of Mitigation" below.
Installation Documents	Cable Specification and Installation Plan (Rev 1) [REP5-044] or any further updated document.	To allow future enforceability of scheme details if required.	The outline Cable Specification and Installation Plan is included in Schedule 12 Part 3 of the DCO.
Schedule 14 – Protective Provisions			
New	Add Protective Provisions for PLA [REP5- 112, Appendix 2]	The ExA considers this change to be reasonable and necessary to ensure that Work No 3 would not give rise to any unacceptable permanent or temporary impacts on navigation to and from the Port of London Authority and to ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004].	The Applicant's position remains that PPs are not necessary nor reasonable and if PPs are to be imposed, that should only be as an alternative (and not in addition to) the suite of other control measures already committed to and contained in the dDCO and DML and associated control plans. 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)), and by condition requiring that PLA are consulted

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			<p>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/amendments 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'). <p>As a result, the Applicant has committed to and secure appropriate mitigation such that there would not be any unacceptable permanent or temporary impacts on navigation to or from the relevant ports.</p> <p>The Applicant has provided Protective Provisions (PPs) on a without-prejudice basis at Deadline 7 (Document Reference 9.111, Rev 0).</p>
Reinstate	Reinstate Protective Provisions for LGPL based on the form included in the versions of the dDCO up to deadline 4 (see Part 7 of Schedule 14 to the dDCO [REP3-008]).	The ExA considers this change to be reasonable and necessary to ensure that Work No 3 would not give rise to any unacceptable permanent or temporary impacts on navigation to and from London Gateway Port and to ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004].	See the response above.
Schedule 14, Part 4	32. (1) Before commencing construction of a specified work, the undertaker must submit to the drainage authority plans of the specified work, including an independent review and such further particulars available to it as the drainage authority may within 21 44 days of the submission of the plans reasonably request.	The ExA considers this change requested by ECC to be reasonable to allow for the resources needed for the task.	The Applicant updated the draft DCO at Deadline 6 to include this amendment (see [REP6-005] and [REP6-006]).
Schedule 14, Part 6	Protective Provisions for National Highways "National Highways must provide to the undertaker an estimate of the commuted sum, calculated in accordance with FS Guidance S278 Commuted Lump Sum Calculation Method dated 18 January 2010 or any successor guidance, prior to the issue of the provisional certificate for the SRN works"	The reference to commuted sums to be added and will ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004]	The Applicant confirms that this text was included in the draft DCO at Deadline 4 (see [REP4-004] and [REP4-005]).

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Other Schedules			
Schedule 1 Part 3 Requirement 7	<p>Provision of landscaping</p> <p>Amend to include survey methods requirement to maintain, and scope to replant in the event of failure.</p> <p>Also include Natural England as consultee prior to approval of LPA.</p>	<p>Landscape requirements do not cover survey methods, monitoring requirements and the requirement to maintain, including the potential for replanting due to plant failures.</p> <p>Additionally Natural England expect to be consulted on these plans prior to their approval by the relevant Local Planning Authority (LPA). The change would be reasonable.</p>	<p>The Applicant considers that the proposed amendments are not necessary.</p> <p>The Outline Landscape and Ecological Management Strategy (OLEMS) [Document ref: 7.14, (rev 6)] sets out survey methods and monitoring requirements and the requirement to replant. This type of information is detailed and therefore best captured in an outline plan rather than in the text of the Requirement.</p> <p>Section 3.11.2 of the OLEMS sets out the Applicant's approach to longer term management which states that habitats created as part of the landscaping within the onshore substation works area will be subject to a 30-year management and maintenance period, to ensure habitats created can contribute towards BNG targets. All other reinstated habitats will be subject to the 10-year aftercare period only, which will ensure the establishment of reinstated habitats is successful. The specific details of the 30-year management and monitoring period for created habitats will be detailed in the Project's final BNG Assessment Report, submitted post-consent and secured through DCO Requirement</p> <p>As drafted in the draft DCO submitted at Deadline 6 [REP6-005], Requirement 7(1) states that the written landscaping scheme and associated work programme for Work No. 11 must be prepared in accordance with the OLEMS and will therefore include the details set out above. The Applicant submits that these details are, therefore, already secured by Requirement 7(1) and do not need to be additionally inserted into Requirement 7.</p> <p>As drafted in the draft DCO submitted at Deadline 6 [REP6-005], the written landscaping scheme and associated work programme must be submitted to and approved by the discharging authority in consultation with the relevant SNCB (currently Natural England). The Applicant submits that Natural England is therefore already a listed consultee for the relevant documents.</p>
Schedule 1 Part 3 Requirement 12	<p>Ecological Management Plan</p> <p>The relevant SNCB should be included as a required consultee.</p> <p>12 (1) should be amended to state that no works "including pre-commencement clearance works" should be undertaken until a written Ecological Management Plan, as relevant to the stage of the works, has been submitted to, and approved by, the LPA following consultation with the relevant SNCB.</p>	<p>Natural England requested that the relevant SNCB be included as a required consultee on this important ecological document.</p> <p>Based on the wording here, and the interpretation of onshore commencement, clearing works could be conducted prior to the submission and approval of the final Ecological Management Plan (EMP). Which is why this provision should be amended to state that no pre commencement clearance works should be undertaken until a written EMP, as relevant to the stage of the works, has been submitted to, and approved by, the LPA following consultation with the relevant SNCB.</p>	<p>The Applicant updated the draft DCO at Deadline 6 to list 'the relevant SNCB' as a consultee for the ecological management plan required under Requirement 12(1) (see [REP6-005] and [REP6-006]).</p> <p>The Applicant considers that the inclusion of 'pre-commencement works' in the text of Requirement 12(1) is not necessary or appropriate.</p> <p>Requirement 12(3) states that pre-commencement works must only take place in accordance with the relevant details set out in the outline landscape and ecology management strategy (OLEMS) as certified (see [Document re: 7.14, (rev 6)]).</p> <p>The OLEMS is a detailed document which has been subject to an extensive review period during the DCO Application and Examination process. The</p>

	ExA's Proposed Changes	ExA's Reasoning	Applicant response
			<p>Applicant has made various amendments to this document to reflect comments and input from local planning authorities, Natural England and other interested parties. The OLEMS, in conjunction with the obligation under Requirement 12(3) provides sufficient environmental protection for pre-commencement works.</p> <p>Further, it is common to allow developers to conduct pre-commencement or site preparation works prior to the finalisation of the final ecological management plan provided that appropriate protections (such as the one set out in Requirement 12(3)). This practice minimises risk of delay to project and construction timeframes as it ensures that pre-commencement works can take place outside any seasonal constraints.</p> <p>The Applicant notes that the Five Estuaries Offshore Wind Farm draft DCO [REP8A-004] contains a similar obligation at Requirement 10(3).</p>
Schedule 1 Part 3 Requirement 21	<p>Biodiversity net gain</p> <p>No time period is given for the duration of which the strategy should be monitored, maintained or when adaptive management measures may be implemented.</p> <p>The requirement should ensure the strategy is enforced for a period of thirty years, or for the lifetime of the development.</p>	To ensure due ecological enhancement and biodiversity net gain can take place. For overall implementation effectiveness, precision and future enforceability.	<p>The Applicant considers that this amendment is not necessary or appropriate.</p> <p>Requirement 21(1) states that Work No. 11 and Work No. 12 must not be commenced until a biodiversity net gain assessment (which must accord with the outline biodiversity net gain strategy) in relation to that stage has been submitted to and approved by the discharging authority in consultation with the relevant SNCB.</p> <p>The Biodiversity Net Gain Strategy [REP3-027] is a certified document in the draft DCO.</p> <p>Section 4.5 of the Biodiversity Net Gain Strategy [REP3-027] sets out the approach to delivery of Biodiversity Net Gain (BNG) in the post-consent stage including conducting a post-consent BNG assessment (per Requirement 21(1)) culminating in a BNG Assessment Report with relevant calculations, a description of the approach to off-site mitigation and use of biodiversity credits (if required) and details of the proposed management and monitoring of the BNG provision.</p> <p>The Biodiversity Net Gain Strategy [REP3-027] also states that habitat created which contribute to BNG will be subject to a Habitat Management and Monitoring Plan which will ensure that management and monitoring of any created habitats takes place for 30 years from the completion of the habitat creation.</p> <p>Requirement 21(2) requires that the biodiversity net gain assessment must be implemented as approved by the discharging authority in consultation with the relevant SNCB. The discharging authority and the relevant SNCB will therefore need to be satisfied that the final biodiversity net gain assessment includes suitable provision for the monitoring and maintenance of any habitats created. The Applicant submits that this is a more appropriate approach to delivering BNG and that, therefore, the requested</p>

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			detail is already adequately secured through the BNG Strategy and Requirement 21. Failure to comply with an approved plan is automatically an offence under s161(1)(b) of the Planning Act 2008 and therefore further reference to enforcement in the Requirement itself is unnecessary.
Schedule 15 (without prejudice or otherwise)	<p>Without prejudice HRA DCO Schedules (Rev 0) [REP5-065] have been provided in addition to the Applicant's DCO submitted at Deadline 6.</p> <p>The ExA requests that any relevant change by way of update warranted to [REP5-065] as well as the remainder of the DCO including having regard to the Margate Long Sands SAC and Natural England advice must also be provided by no later than Examination Deadline 7.</p>	<p>Compensation provisions had originally been provided for LBBG only. Natural England have indicated that compensation is required for other ornithological and benthic features, specifically kittiwake, guillemot and razorbill at Flamborough & Filey Coast Special Protection Area (SPA). The compensation schedule was requested by NE to updated to cover all sites where there is currently disagreement regarding an adverse effect on site integrity. The applicant has done this on a without prejudice basis, but the ExA must have the most up to date versions by Deadline 7.</p> <p>The ExA also notes that Guillemot and Kittiwake Compensation reflects the Applicant's updated position at Deadline 6 which is reflected in the DCO.</p>	<p>Schedule 15 of the draft DCO (Document Ref: 6.1 (rev 8)) was updated at Deadline 6 to include compensation schedules for Kittiwake and Guillemot in addition to LBBG. The Applicant's position on RTD and Razorbill remains that compensation is not necessary and as such it continues to provide its compensation case on a <i>without prejudice</i> basis (see Document Ref: 9.73 (rev 2)).</p> <p>The Applicant's position is that the Project will have no adverse effect on the integrity of the Margate and Long Sands SAC. The Applicant has provided a compensation proposal for the MLS SAC at Deadline 7 on a <i>without prejudice</i> basis (see Document Ref: 9.73 (rev 2)).</p>
Schedule 15	All references to Natural England within Schedule 15 should be amended to the 'relevant SNCB' to ensure consistency with the rest of the DCO.	For consistency and accuracy.	All references in the draft DCO Schedule 15 are to the relevant SNCB. (see Document Ref: 6.1 (rev 8)).
<p>Schedule 15, Part 1 Para 2</p> <p>Schedule 15, Part 2 Para 13 &</p> <p>Schedule 15, Part 3 Para 23</p>	<p>The wording does not include the need to provide and consult upon; terms of reference for the group, details of proposed meetings, timetable for the preparation and delivery of the Compensation Implementation and Monitoring Plan (CIMP), or a dispute resolution mechanism.</p> <p>These are elements that need to be added.</p> <p>The suggested change would also apply to any other without prejudice wording referred to by [REP5-065].</p>	To ensure and improve overall effectiveness and enforceability.	The Applicant has updated the draft DCO (see [Document ref: 6.1, (rev 8)]) and the Without Prejudice HRA DCO schedules (see [Document ref: 9.73 (rev 2)]) at Deadline 7 to include these amendments
<p>Schedule 15, Part 1 Para 3 (1)</p> <p>Schedule 15, Part 2 Para 14 (1) &</p> <p>Schedule 15, Part 3 Para 24 (1)</p>	<p>The wording as drafted is confusing as it implies that compensation may be delivered through some other unknown, or undetailed, mechanism and thus the compensation within this provision may not be required.</p> <p>Amend this provision and include consideration of how to appropriately implement a provision allowing strategic compensation options. This could</p>	To ensure overall effectiveness and enforceability.	The Applicant considers the drafting is appropriate. The legal duty to ensure the compensation is secured in accordance with the requirements of the Habitats Regulations sits with the Secretary of State. The flexibility in the current drafting is considered appropriate given the Marine Recovery Fund is still under consultation and strategic compensation generally is an evolving area.

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	also be applied to other compensation schedules provided on a without prejudice basis.		
Schedule 15 Part 1, Para 3 Schedule 15, Part 2, Para 14 Schedule 15 Part 3, Para 24	The list of requirements to include in the CIMP lacks enough detail when compared to similar provisions. Within (d) the ExA would expect to see survey methodologies, timetables for the monitoring to be conducted and reports delivered and success criteria. Within (g) we would expect to include a detailed mechanism to determine the need for any alternative compensation or adaptive management measures, along with potential further monitoring and maintenance of such measures.	To ensure overall effectiveness and enforceability.	The Applicant has updated the draft DCO (see [Document ref: 6.1, (rev 8)]) and the Without Prejudice HRA DCO schedules (see [Document ref: 9.73 (rev 2)]) at Deadline 7 to include reference to survey methodologies in paragraph 3(2)(d) of Part 1 of Schedule 15 (and the equivalent paragraphs of the other parts of the Schedule). The Applicant considers timetables for monitoring to be conducted and reports to be delivered is covered by (f), and success criteria is covered by (e). Regarding (g), the Applicant considers the current drafting is sufficient as the Applicant has updated the outline CIMPs at Deadline 6 to include more detail on adaptive management (see [REP6-013/014, REP6-017/018, REP6-021/022 and REP6-025/-026]).
Schedule 15, Part 1, para 6	Amend to 'four full' breeding seasons.	This should reflect four full breeding seasons in line with compensation requirements for other projects. Three seasons adequacy is seriously questioned. To ensure overall effectiveness and enforceability.	The Applicant maintains its position that three breeding seasons is the appropriate implementation timeframe prior to commencement of development.
Schedule 15 Para 7,8,9 and 10	The compensation should be maintained until the SoS approves its decommissioning in consultation with the relevant SNCB. Therefore, amend the current wording. Also, the provision must require the approval of the SoS and consultation with the SNCB in line with the above.	The compensation 'may' be required for longer than the lifetime of the project and so should be maintained until the SoS approves its decommissioning in consultation with the relevant SNCB. In accordance with statutory responses from NE. To ensure effectiveness and enforceability.	The Applicant's position is that a condition on this basis is not required, for the reasons set out in response to ExQ3 10.0.5 as set out in the Applicant's Response to ExA's Third Written Questions (ExQ3) [Document ref 9.113 (rev 0)]. Without prejudice to the Applicant's position as set out above, the Applicant's preferred condition wording is: <i>The compensation measures implemented in accordance with the [xxx] CIMP must not be decommissioned without written approval of the Secretary of State in consultation with the relevant SNCB.</i>
Other Documents			
Environmental Impact Assessment - Document Used: 7.20 Outline Offshore Operations and Maintenance Plan	The Outline Operations and Maintenance Plan should specifically set out operation and maintenance activities so it can be read as a standalone document.	To improve clarity and effectiveness.	The Applicant considers the outline OOMP [REP6-037] appropriately sets out operation and maintenance activities and considers changes are not required. The Applicant has previously responded to Natural England on this point.
Environmental Impact Assessment - Document Used: 7.20 Outline Offshore	i) The replacement or addition of scour protection around foundations for the lifetime of the project doesn't align with	In the interests of overall effectiveness and enforceability.	i) The Applicant notes that the comment appears to be a comment raised by Natural England in their Relevant Representation, which the Applicant has responded to, see NE-69 of Applicant's Response to Relevant Representations from Natural England [REP1-044]. It is not clear what

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Operations and Maintenance Plan	<p>comments made in the DCO and/or the Benthic Appendix. Amend accordingly.</p> <p>ii) This plan does not align with the Cable statement [APP-262] and this needs to be addressed by the Applicant.</p>		<p>'Benthic Appendix' refers to. The only appendix to ES Chapter 10 Benthic and Intertidal Ecology [APP-024] is the ES Appendix 10.1 Benthic and Intertidal Ecology Survey Report [APP-094] which is not relevant here.</p> <p>ii) The issue in respect of the Cable Statement (CS) is also not clear to the Applicant. The CS was last updated at Deadline 4 [REP4-015] to reference the updated oCSIP (which has been updated again at Deadline 7, Document Reference 9.53, Rev 3). The CS does not need to reference, nor align with the outline OOMP, as the outline OOMP does not have a limit on scour protection (only cable protection, which is consistent).</p>
Environmental Impact Assessment – Document Used: 2.6 Schedule of Mitigation	<p>Schedule of Mitigation and [APP-262] Cable Statement should be <u>certified under the DCO</u>.</p> <p>Further, the use of terms such as 'where practicable' throughout the document cause concern because listing out mitigation does not mean it is achievable and/or that there is commitment to do it.</p> <p>In addition, there is no detail to demonstrate that by undertaking the mitigation it will sufficiently minimise impacts to acceptable levels. This document needs to be updated to clarify what is/isn't committed to by the Applicant.</p>	In the interests of seeking overall effectiveness and allowing enforceability.	<p>The Applicant does not agree that the Schedule of Mitigation should be certified in the DCO. The Schedule of Mitigation sets out the various mitigation measures committed to which are secured in other various documents and plans. These documents and plans are certified in Schedule 12 and secured in the DCO. Therefore, it would be an unnecessary duplication to also certify the Schedule of Mitigation.</p> <p>The cable statement was provided with the Application in accordance with Regulation 6 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP 2009 Regs), to provide "details of the <u>proposed</u> route and method of installation for any cable", which the Cable Statement fulfils.</p> <p>The Cable Statement is not referred to anywhere in the dDCO or DMLs (Document Reference 6.1, Rev 8). This is because relevant mitigation in respect of the cable works is secured by a combination of other methods, documents and DCO requirements and DML conditions. Where relevant, those documents and plans are certified in Schedule 12 of the dDCO.</p>
Environmental Impact Assessment – Document Used: 2.6 Schedule of Mitigation	There is reliance by the Applicant on monitoring as a form of mitigation, which it is not. References to monitoring other than to test the effectiveness of mitigation measures need to be removed from the Schedule.	For overall accuracy and effectiveness.	The Applicant does not agree and has previously responded to Natural England's relevant representations on this point in the Applicant's Response to Relevant Representations from Natural England (Rev 0) (Document Ref: 9.1 [REP1-044]).
Environmental Impact Assessment – Document Used: 2.27 Cable Statement	Document [APP-262] Cable Statement is currently overly simplified and too high level. It is not clear how this plan aligns with the other named plans and documents. Reliance on these documents alone as set out in the documents purpose could cause key commitments to not be implemented.	The ExA would welcome further clarification from the Applicant on how the plans work together, and further detail being included within the document.	<p>The Cable Statement is of sufficient detail to fulfil the requirement under the APFP 2009 Regs. The Cable Statement need not be more detailed as details in respect of the cable works is provided in various other documents which are secured and relied on under the DCO, e.g. outline CSIP which is certified under Schedule 12, and secured by Condition 21 / 22 / 21 of each of the DMLs in Schedule 8, 9 and 10 respectively, or the outline OOMP which is certified under Schedule 12, and secured by Condition 12 / 13 / 12 respectively.</p> <p>Provisions in respect of cable works must necessarily be contained in different plans and documents because the cable works form different parts</p>

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			of the authorised development, and will be different onshore and offshore, and different for different phases of the development.
Environmental Impact Assessment	An Outline Decommissioning Plan is requested and should be reflected in the DCO wording.	An Outline Decommissioning Plan has been requested by Natural England for all other OWF NSIP applications to ensure that decommissioning is achievable and environmentally sensitive. The applicant has responded they will not submit this. The ExA notes the Examination issue is not resolved.	<p>The Applicant does not consider it would be helpful or appropriate to submit an outline decommissioning plan at this stage in the process, and that the appropriate approach is for an outline decommissioning plan to be submitted prior to commencement for works, as required in the draft DCO.</p> <p>The Applicant responded on this point at deadline 4 in the Applicant's responses to deadline 3 submissions and deferred responses from deadline 2 (Document Ref: 9.42 [REP4-027]), in response to the MMO, and the Applicant's responses to Natural England's deadline 3 submissions (Document Ref: 9.43 [REP4-028]).</p> <p>The Applicant also notes that the recently granted DCO for the Mona offshore wind farm has not been required to submit an outline decommissioning plan pre-consent.</p>
General DCO	All references to Natural England within the DCO is amended to relevant SNCB.	For accuracy and consistency should there be any remaining references.	The Applicant updated the draft DCO at Deadline 6 to include this amendment (see [REP6-005] and [REP6-006]).



HARNESSING THE POWER OF NORTH SEA WIND

North Falls Offshore Wind Farm Ltd

A joint venture company owned equally by SSE Renewables and RWE.

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North Falls Offshore Wind Farm Limited Registered Address: Windmill Hill Business Park, Whitehill Way, Swindon, Wiltshire, SN5 6PB, United Kingdom
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