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(Email only)

MMO Reference: DCO/2022/00001
Planning Inspectorate Reference: EN010121
Identification Number: 20049449

22 January 2025

Dear Robert Jackson,

Planning Act 2008, Floatation Energy, Proposed Morecambe Offshore Windfarm Generation Assets

Deadline 3 Submission

On 27 June 2024, the Marine Management Organisation (the “MMO”) received notice under section 56 of the Planning Act 2008 (the “PA 2008”) that the Planning Inspectorate (“PINS”) had accepted an application made by Morecambe Offshore Windfarm Ltd (the “Applicant”) for determination of a development consent order for the construction, maintenance and operation of the proposed Morecambe Offshore Windfarm (the “DCO Application”) (MMO ref: DCO/2022/00001; PINS ref: EN010121).

The DCO Applicant seeks authorisation for the construction, operation and maintenance of Morecambe Offshore Generation Assets. The proposal is located 30 kilometres (km) from the Lancashire coast, England. The windfarm Agreement for Lease area awarded by The Crown Estate spans 125 km squared (km²). The proposed windfarm site development area has been reduced to approximately 87km². All project infrastructure will be located within the 87km² windfarm site. The project consists of up to 35 Wind Turbine Generators (WTG), UP TO TWO Offshore substations (OST), their associated foundations and platform link cables. Inter-array cables. Scour protection around foundations and subsea cable protection where required.

One Deemed Marine Licence (DML) is included in the draft DCO. The DML relates to offshore (WTG) and Associated Infrastructure and Associated Development.

As a marine licence has been deemed within the draft DCO, the MMO is the delivery body responsible for post-consent monitoring, variation, enforcement, and revocation of provisions relating to the marine environment. As such the MMO has an interest in ensuring that provisions drafted in a deemed marine licence enable the MMO to fulfil these obligations.



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

Yours faithfully

[Redacted Signature]

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1. Responses to Examiner’s Questions (ExQ1)

1.1 The MMO has reviewed the Examiner’s Questions and provided responses in the below Table 1.

Table 1. MMO response ExQ1

ExQ1	Question	MMO response
General and Cross-topic Questions (GEN)		
1GEN1	National Planning Policy Framework A replacement National Planning Policy Framework was published on 12 December 2024. All parties are invited to make any comments they wish as to how any changes within this document affect the consideration of the Proposed Development.	The MMO notes that the replacement National Planning Policy Framework was published on 12 December 2024 and will respond with comments at Deadline 4.

Design, parameters and other details of the Proposed development		
1GEN10	<p>Decommissioning dates</p> <p>Table 5.1 of the Applicant's response to Actions from PM and ISH1 [REP1-086] sets out the distances and expected decommissioning dates for various windfarms in the vicinity. This indicates that the Barrow OWF is due to be decommissioned "by 2030".</p> <p>In their WR the Ørsted IPs [REP1-112] indicate that they are not aware of any requirement for additional consents or licences to continue operating this development beyond 2030.</p> <p><u>To Barrow Offshore Wind Limited</u></p> <p>Could Barrow Offshore Wind Limited please set out its understanding of the timing of its decommissioning processes, providing evidence to support this. The draft SoCG between the Applicant and the Ørsted IPs [REP1-073] indicates that the Applicant believes that a new Marine Licence would be required post 2030.</p> <p><u>To the MMO</u></p> <p>c) Could the MMO please confirm its understanding of the Marine Licensing situation concerning this site, with particular reference to any end date or decommissioning requirements?</p>	<p>The MMO has reviewed its internal systems as well as the Public Register and wishes to make the following comments regarding 1GEN10.</p> <p>The MMO is aware of the following Marine Licence applications related to Barrow Offshore Wind Farm:</p> <p>A. Barrow Offshore Wind Farm (OWF) Array Operation & Maintenance (L/2016/00297/4 or MLA/2016/00149/3). Licence end date: 01 July 2026.</p> <p>B. Barrow Offshore Wind Farm Rock Placement (L/2018/00287/1 or MLA/2018/00208). Licence end date: 31 December 2019</p> <p>C. Barrow Offshore Wind Farm (OWF) Operational Marine Licence for Export Cable Repair and Remediation (L/2015/00281/1 or MLA/2015/00077). Licence end date: 01 April 2030.</p> <p>D. Barrow Offshore Wind Farm Operational Marine Licence - Array Cable Repair (L/2014/00214/4 or MLA/2014/00155/3). Licence end date: 01 May 2026.</p> <p>The MMO attended a meeting with Barrow Offshore Wind Limited on 15 January 2025 to discuss 1GEN10. The MMO notes that the Barrow Offshore Wind Limited is aware that it currently holds two active licences with the MMO (L/2016/00297/4 and L/2015/00281/1). The MMO and Barrow Offshore Wind Limited both agreed within this meeting that should works be required post 2030, then a new Marine Licence application</p>

		will be submitted. A new licence would be submitted for any decommissioning activities.
Environmental Statement (General)		
1GEN20	<p>European Protected Species Licensing</p> <p>The Applicant's response to Actions from PM and ISH1 [REP1-086] paragraph 24 notes that the regulations surrounding EPS licensing are due to be updated at the end of 2024. Can NE advise on the scope of these changes and highlight potential matters that could have implications for the consenting process.</p>	<p>The MMO notes this question is directed to NE. However, these comments are likely in relation to the UXO and the EPS licence that will be required is provided by the MMO in consultation with NE.</p> <p>The MMO would highlight that there a DEFRA policy paper has been published in relation to underwater noise and UXO. Once this is published either NE or the MMO will provide these into the examination.</p>
Need and assessment		
1GEN21	<p>Application of s104 of the PA2008</p> <p>In paragraph 171 of the revised Planning, Development Consent and Need Statement [REP1-010] the Applicant states "NPS EN-5 sets out Policies concerning electricity transmission distribution systems. It is, therefore, not relevant to the Project". However, NPS EN-5 is referenced in both ES Chapters 15 (paragraph 15.20, [REP1-034]) and 19 (paragraph 19.28, [REP1-040]).</p> <p>a) Having regard to the elements of offshore wind infrastructure identified within paragraph 2.8.4 of NPS EN-3, all parties are invited to give their views as to whether, for the purposes of sections 104(2)(a) or 104(3) of the PA2008, NPS EN-5 should be considered as 'relevant national policy' or whether it should be considered to be an 'other matter' for the purposes of section 104(2)(d) of the PA2008.</p> <p>b) Should any party hold the view that it should be regarded for the purposes of sections 104(2)(a) or 104(3) of the PA2008, they are</p>	<p>The MMO is reviewing this question and will provide a response in due course.</p>

	asked to explain why they hold that view and identify any matters that should be particularly taken into account, providing references as necessary.	
2. Biodiversity, Ecology and Marine Processes (BEM)		
Marine Sediment and Water Quality		
1BEM20	<p>Disposal of sandwave material</p> <p>In the MMO's RR [RR-047] at paragraph 4.3.10 it says that the Applicant "... most likely would have to apply to the MMO to designate the area as a disposal site ...". In its response at RR-047-53 [PD1-011], the Applicant argues that this is unnecessary as "... the removal of and disposal of inert material is included as associated development ..." and is therefore authorised within the Order limits.</p> <p>The MMO's D2 response [REP2-035] says that it is currently in the process of designating disposal sites and states that "sites should be secured within the DML. Once this has been completed the MMO will inform the Applicant and request that this is updated in the DML as part of the Examination process."</p> <p>At what point in the Examination does the MMO envisage being in a position to inform the Applicant?</p>	<p>The MMO is reviewing this point with our scientific advisors and will provide an update at Deadline 4.</p> <p>If disposal sites are not approved within the Examination process the MMO will work with the Applicant to ensure there is a mechanism within the DML to confirm disposal sites post consent should this be required. However, that this only happens occasionally and believes disposal sites will be designated so updates can be made to the DML.</p>
Fish and Shellfish ecology		
1BEM24	<p>Mitigation: timing of works</p> <p>The MMO [REP2-035] has indicated that whilst an Underwater Sound Management Strategy [REP2-026] has been provided, a condition limiting piling during the cod spawning period is still necessary and will supply updated wording 'in due course'.</p> <p>Can the MMO confirm when the revised wording will be available.</p>	<p>The MMO is reviewing this point with our scientific advisors and will provide an update at Deadline 4.</p> <p>In relation to the specific condition the MMO has not agreed on this wording however the main aim is to ensure the seasonal restrictions are on the face of the DML. The MMO understands that if these were stand-alone conditions then a variation would be required therefore is looking at the flexibility of linking these conditions to the UWSMS. A sample condition is below however this is not the final</p>

		<p>agreed MMO wording and we have not discussed this with the Applicant. Therefore, changes to this condition will be required.</p> <p><i>Underwater Sound Management Strategy</i></p> <ol style="list-style-type: none"> 1. — <i>No piling associated with the authorised development may be undertaken between XX to XX inclusive, unless otherwise agreed in writing by the MMO.</i> 1. <i>If activities are deemed necessary in this period and to confirm any additional mitigation requirements an underwater sound management strategy for those activities, which accords with the outline underwater sound management strategy, must be submitted to and approved in writing by the MMO in consultation with the relevant statutory nature conservation body.</i> 2. <i>The underwater sound management strategy must be submitted to the MMO no later than six months prior to the commencement of the relevant activities unless otherwise agreed in writing by the MMO.</i> 3. <i>The piling activities must be carried out in accordance with the approved underwater sound management strategy, unless otherwise agreed in writing by the MMO.</i>
Marine Mammals		
1BEM40	<p>Piling activity in the Irish Sea</p> <p>Annex 1, Table 2 of the MMO D2 representation highlights that the proposed Morecambe OWF piling duration is assumed to be 37</p>	<p>The MMO will review the Applicants response and provide comments at Deadline 4.</p>

	days (assuming 1 foundation per day). The assumption is 35 days each for the larger Morgan and Mona schemes. Explain why Morecambe has a longer piling duration than the two larger schemes.	
1BEM42	<p>Draft Marine Mammals Mitigation Protocol (dMMMP): soft-start procedures: breaks in piling</p> <p>Section 3.1.4 of the dMMMP [APP-149] deals with breaks in piling and permits a reduced soft-start procedure provided that there are no marine mammals within the monitoring area.</p> <p>At paragraph 3.1.2 of it RR [RR-047], the MMO says that “If a watch has been kept during the piling operation, the Marine Mammal Observer or Passive Acoustic Monitoring Operative should be able to confirm the presence or absence of marine mammals, and it may be possible to commence the soft-start immediately. However, if there has been no watch, the complete pre-piling search and soft-start procedure should be undertaken ...” in accordance with the guidance, requesting that the guidance be adhered to.</p> <p>The Applicant’s response at RR-047-27 [PD1-011] notes that “the wording proposed by the Applicant has previously been agreed for other offshore windfarm projects, including Dogger Bank A and Dogger Bank B ... finalisation of wording ... would be undertaken post-consent ...”.</p> <p>Could the Applicant and the MMO jointly consider whether the wording of the dMMMP, particularly paragraph 143, needs updating, and if so, could it please be so updated?</p>	The MMO and the Applicant are discussing this and will provide an update at Deadline 4.
Offshore Ornithology		
1BEM51	<p>Use of alternative ways of working and technology to reduce effects</p> <p>Paragraph 2.8.214 of NPS EN-3 encourages alternative ways of working and use of technology to be employed to avoid environmental impacts. For example, construction vessels may be rerouted to avoid disturbing seabirds. Paragraph 37 of the outline Vessel Traffic Management Plan (oVTMP) [REP2-022] references</p>	The MMO wishes to defer to Natural England on the location and details of the routes. Generally, if the routes are agreed pre-consent then this would be added within the outline plan and this is enforceable post consent. If the routes are not known then an agreed process should be included in the outline plan and the MMO would approve this

	<p>minimising impacts on seabirds once ports are known but provides limited information in section 7 regarding how routes to the site would be determined to minimise seabird disturbance.</p> <p>a) Could the Applicant please explain how seabird disturbance would be considered within the route selection process, amending any documents as necessary to ensure it would be secured.</p> <p>b) Can NE and MMO comment on any necessary measures that should be secured relating to vessel movements to ensure that impacts are minimised.</p>	<p>document post consent. It should be clear that the MMO would not want to be in a position where this could not be agreed post consent and would welcome further discussions with both NE and the Applicant.</p>
5. Commercial Fisheries (CF)		
1CF3	<p>In Principle Monitoring Plan - Landings Data and Monitoring</p> <p>Paragraph 13.302 of ES Chapter 13 [APP-050] states that the IPMP includes for the monitoring of commercial fisheries data pre, during and post construction. Paragraph 39 of the IPMP states that this is likely to be managed outwith of the IPMP. Table 2.5 of the IPMP [APP-148] states that monitoring would be carried out for a minimum period of 5 years and does not include monitoring during or following decommissioning. Assuming an approximate construction period of 2.5 years, it is assumed that pre and post construction monitoring would therefore equate to approximately 1.25 years each. Please also see ExQ1GEN11Error! Reference source not found.</p> <p><u>To the Applicant:</u></p> <p>a) Can the Applicant explain why a commitment to monitoring landings data is proposed to sit outwith the IPMP and, if so, how would this be secured?</p> <p>b) Rather than sit outwith of the IPMP, could the IPMP and/ or the oFLCP be amended to secure this and if not, why not?</p> <p>c) Can the Applicant explain why monitoring of landings data is not proposed during or post decommissioning given the potential impact of activities during decommissioning have been assessed as being the same as those during construction? To address this</p>	<p>The MMO is reviewing this point with our scientific advisors and will provide an update at Deadline 4.</p>

	<p>can the IPMP be amended to make clear monitoring would be carried out during and post decommissioning and for how long?</p> <p><u>Other IPs:</u></p> <p>d) Do any other IPs have any comments or views on how the commitment to monitoring should be secured?</p> <p>e) Is monitoring on landing data sufficient?</p> <p>f) Could NE confirm whether 1.25 years of data would be sufficient to evaluate the effect of the construction and operation of the proposed development on the fisheries resources at or near the site, or whether a longer post construction monitoring period is necessary.</p> <p>g) Should monitoring be extended to include during and post decommissioning activities and if so, can other IPs explain with reasons how long it is considered such monitoring would be required following completion of the works?</p>	
7. Draft Development Consent Order [REP2-002] (DCO)		
1DCO1	<p>Transfer of benefit of Order</p> <p>Without concluding on the matter, in order to ensure that the MMO is satisfied as to the drafting of Article 7, could it provide a revised draft of Article 7, and also set out any other associated changes to the dDCO it would consider appropriate, were the SoS to conclude that they did not wish to include transfer of the benefit of the DML within the Order.</p>	The MMO is reviewing this point and will provide an update at Deadline 4.
Schedule 6- Deemed Marine Licence		
1DCO7	<p>Pre-construction plans and documentation (Schedule 6, Part 2, condition 9(1)(c))</p> <p>Could the Applicant and NE provide an update on any progress made regarding the timescales included in the dML conditions for approval of pre-construction documentation and agreement of documents, where 4 months can remain and those where 6 months can be accepted.</p>	The MMO notes this condition is directed to NE and the Applicant, the MMO is also in discussions with the Applicant and NE and although the position remains that 6 months is a more appropriate discharge period, is hopeful of agreement during examination.

1DCO8	<p>Micrositing</p> <p>a) Within condition 9(1)(a)(ii) should there be a maximum limit for micrositing within the two lines of orientation? If so, what should this be?</p> <p>b) Should this be allowed to be varied by consent, and if so, who should grant this consent, and should there be any limits on variation?</p>	<p>a) The MMO understand MCA highlighted in REP2-034 that they would be content with micro-siting distances of 50m for micro-siting and 5m for tolerance.</p> <p>b) The MMO notes anything can be varied within a DML, it is up to the MMO to consult any relevant parties on a variation.</p> <p>The MMO will provide further comments once reviewing the Applicant and other interested parties comments.</p>
1DCO9	<p>Schedule 6, Condition 9(k) - Fisheries Liaison and Co-existence Plan (FLCP)</p> <p>To the Applicant:</p> <p>a) The Applicant's response to the NFFO Relevant Representation ([PD1-011], RR-059-02) states that the FLCP is secured in Schedule 6 Condition 9(1)(k), which would be approved by the MMO with consultation with the fishing industry. However, the pretext within Condition 9(1) only references approval by the MMO in consultation with the relevant statutory nature conservation body, Trinity House and the MCA. Can the Applicant amend the drafting so as to include reference to representatives of the fishing industry? If not, at what stage and how would the fishing industry be consulted on the final FLCP as indicated? How would this be secured?</p> <p>Other IPs:</p> <p>b) Do the parties have any comments on the drafting of Condition 9(1)(k) or the scope and content of the oFLCP at this stage?</p>	<p>The MMO maintains a watching brief on this response.</p>
Schedule 8 – Documents to be Certified		
1DCO11	<p>Documents to be Certified</p> <p>It has been noted that while the Applicant has renumbered the tracked versions of the documents submitted at D1 with an extra .1, for example the D1 tracked version of the HRA without prejudice derogation case [REP1-014] is now 4.11.1, this does not tally with the list of documents to be certified at Schedule 8 of the</p>	<p>The MMO welcomes this request. The MMO would request that this Schedule is split into 3 parts:</p> <p>Part 1 — Documents Forming The Environmental Statement to be Certified</p>

	<p>dDCO where document 4.11.1 is currently shown as the outline Compensation Implementation and Monitoring Plan.</p> <p>Could the Applicant please ensure that all documents in Schedule 8 are correctly referenced. This should be updated with each submission of a dDCO.</p>	<p>Part 2 — Examination Documents Forming Part of the Environmental Statement to be Certified</p> <p>Part 3 — Other Documents to be Certified</p> <p>This is to ensure it is clear which documents were added during examination.</p>
8. Habitats Regulations Assessment (HRA)		
1HRA28	<p>Cumulative effects relating to Invasive Non-Native Species (INNS)</p> <p>The Applicant's assessment for INNS cumulatively with the M&MTA project focuses on the impact of vessels (such as ballast water) but does not consider the potential stepping stone effect of introduced hard standing from the M&MTA project. This could enable propagation of species from the shore to the site. Can NE and the MMO provide commentary on the risk of such propagation, the likelihood of a significant effect relating to INNS and any measures required to avoid or minimise such effects.</p>	<p>The MMO defers to Natural England regarding Cumulative effects relating to Invasive Non-Native Species (INNS) mentioned in 1HRA28 however, will review if there are any other general comments from our scientific advisors.</p>
1HRA29	<p>Co-ordination/communication between projects during construction to minimise effects</p> <p>The Applicant's 'Report on Interrelationships with Other Infrastructure Projects - Revision 01 (Volume 9)' [REP1-078] explains why the Applicant considers that a legal obligation to co-ordinate with other developments in the Irish Sea could impede delivery of the Morecambe OWF. Paragraph 86 of the report concludes that opportunities for coordination would be explored where relevant and in respect of project timescales as these develop further. In the absence of a legal obligation, explain what formal mechanisms exist to ensure that there would be meaningful engagement around coordination and that it would happen in a timely fashion. The ExA is particularly concerned about</p>	<p>The MMO is reviewing this point and will provide an update at Deadline 4.</p>

	<p>mechanisms to minimise the impact of noise on marine receptors at a cross project level.</p> <p><u>To Mona Offshore Wind Ltd and Morgan Offshore Wind Limited</u></p> <p>a) These IPs are invited to make comments in relation to the above and to point to any provisions set out within their respective applications which would provide such co-ordination.</p> <p><u>To the Applicant, Mona Offshore Wind Ltd and Morgan Offshore Wind Limited</u></p> <p>b) While noting the issues identified in paragraph 43, should one (or more) of the other projects not proceed, could this be resolved by ensuring that any secured co-ordination was only relevant for those projects under implementation?</p> <p><u>To NE and MMO</u></p> <p>c) Would a mechanism to ensure co-ordination of OWF construction activities assist in reducing the cumulative effect of the Proposed Development with other projects and, if yes, do NE and MMO have examples of how such a mechanism would function and be secured?</p>	
1HRA38	<p>Ecosystem effects due to ocean stratification</p> <p>The RR from the RSPB [RR-073] references the ecosystem impact of water column stratification on prey availability. The Applicant's comments on WR at D2 item WR-112-11 [REP2-027] suggests that this issue may have been resolved in SoCG discussions with MMO.</p> <p>a) Is the RSPB able to provide specific evidence to demonstrate that such an effect is likely for example, the provision of the Isaksson et al (2023) reference, where relevant?</p> <p>b) The Applicant's response to RR item RR-073-16 [PD1-011] responds to the RSPB comments, cross referencing ES Chapter 12 [REP1-032]. Neither of the cross-referenced sections of text explicitly address stratification.</p> <p>c) Can the MMO confirm that it is satisfied with the Applicant's approach to consideration of water column stratification?</p>	<p>The MMO confirms that it is satisfied with the Applicant's approach to consideration of water column stratification.</p>

	d) Could the Applicant please address this point (it is noted that ES Chapter 7 [REP2-008] does include reference to stratification).	
10. Seascape, Landscape and Visual (SLV)		
1SLV6	<p>Detailed array layout</p> <p>Under condition 9(1) of Part 2 of Schedule 6 of the dDCO [REP2-002], the Applicant needs the consent of the MMO, following consultation with the relevant statutory nature conservation body, Trinity House and the MCA, for the detailed array layout.</p> <p>a) Could the MMO please explain how its internal procedures would ensure that its consideration of the layout would take account of seascape, landscape and visual effects from coastal regions (including inland locations with a view of the Application site) as considered within the ES, particularly as it is noted in the SoCG with the MMO [REP1-060] that the MMO defers to other parties in respect of seascape, landscape and visual impact assessment.</p> <p>b) Does the Applicant, or any other IP, consider that there is a case for widening those bodies the MMO needs to consult to include relevant planning authorities falling within the Zone of Theoretical Visibility to ensure that any harm is minimised in line with paragraph 2.8.351 of NPS EN-3?</p>	<p>The MMO wishes to note that if consent is granted for this application, appropriate post consent returns would be set up on our case management system to ensure consultation with the relevant statutory nature conservation body, Trinity House and the MCA for the detailed array layout.</p> <p>In relation to SLV the MMO would be open to other parties being consulted such as the relevant planning authorities.</p>

2. Comments on PD1-011 Applicant's response to Relevant Representations from Marine Management Organisation

2.1 General Comments

2.1.1 The MMO provided comments on the Applicant's comments at Deadline 1 (REP1-096) and 2 (REP2-035). After discussions with the Applicant the MMO notes it wasn't quite clear what was closed and what remained open at Deadline 2. Table 2 below has been updated to highlight which issues are closed. The MMO notes the Applicant will respond to all relevant comments at Deadline 3, to assist the ExA at Deadline 4 only open/new issues will be included in the response.

Table 2: MMO Response to Applicants Pre-Examination Procedural Deadline Submission

Applicant's Reference	Relevant Representation Comment	Applicant's Response	MMO's Deadline 3
RR-047-01	Planning Act 2008, bp Alternative Energy Investments Ltd, Proposed Morgan Offshore Windfarm Generation Assets Order This document comprises the Marine Management Organisation's ("MMO") initial comments in respect of the above Development Consent Order application ("DCO Application") in the form of a relevant representation. This is without prejudice to any future representation the MMO may make about the DCO Application throughout the Examination process. This is also without	The Applicant notes this response. Please also note that the Development Consent Order (DCO) Application seeks authorisation for the construction, operation and maintenance of Morecambe Offshore Windfarm Generation Assets and not the proposed Morgan Offshore Windfarm Generation Assets, as described in the Marine Management Organisation (MMO) response.	The MMO considers this matter closed and would suggest to the Applicant that unless there are any future amendments to the details required a response to the covering letter is not required at each deadline.

	<p>prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.</p>		
RR-047-02	<p>The MMO was established by the Marine and Coastal Access Act 2009 (the “2009 Act”) to make a contribution to sustainable development in the marine area and to promote clean, healthy, safe, productive and biologically diverse oceans and seas.</p>	<p>The Applicant notes this response.</p>	<p>The MMO considers this matter closed.</p>
RR-047-03	<p>The responsibilities of the MMO include the licensing of construction works, deposits and removals in English inshore and offshore waters and for Northern Ireland offshore waters by way of a marine licence. Inshore waters include any area which is submerged at mean high water spring (“MHWS”) tide. They also include the waters of every estuary, river or channel where the tide flows at MHWS tide. Waters in areas which are closed permanently or intermittently by a lock or other artificial means against the regular action of the tide are included,</p>	<p>The Applicant notes this response.</p>	<p>The MMO considers this matter closed.</p>

	where seawater flows into or out from the area.		
RR-047-04	In the case of NSIPs, the Planning Act 2008 (the “2008 Act”) enables DCO’s for projects which affect the marine environment to include provisions which deem marine licences. As a prescribed consultee under the 2008 Act, the MMO advises developers during pre-application on those aspects of a project that may have an impact on the marine area or those who use it. In addition to considering the impacts of any construction, deposit or removal within the marine area, this also includes assessing any risks to human health, other legitimate uses of the sea and any potential impacts on the marine environment from terrestrial works.	The Applicant notes this response.	The MMO considers this matter closed.
RR-047-05	Where a marine licence is deemed within a DCO, the MMO is the delivery body responsible for post-consent monitoring, variation, enforcement and revocation of provisions relating to the marine environment. As such, the MMO has a keen interest in ensuring that provisions drafted in a deemed marine licence (“DML”) enable the MMO to fulfil these obligations.	The Applicant notes this response.	The MMO considers this matter closed.

	Further information on licensable activities can be found on the MMO's website here. Further information on the interaction between the Planning Inspectorate and the MMO can be found in our joint advice note 11 Annex B here.		
RR-047-06	On the 28 June the MMO received notice under Section 56 of the Planning Act 2008 (the "PA 2008") that the Planning Inspectorate ("PINS") had accepted an application made by bp Alternative Energy Investments Ltd, (the "Applicant") for a DCO Application (MMO ref: DCO/2022/00001 PINS ref: EN010121). The DCO Application includes a draft development consent order (the "DCO") and an Environmental Statement (the "ES"). The draft DCO includes, at Schedule 6 draft Deemed Consent under Part 4 (Marine Licensing) of the Marine and Coastal Access Act 2009 (the "Deemed Marine Licence") (DML). The DCO Application seeks authorisation for the construction, operation and maintenance of Morecambe Offshore Windfarm Generation Assets located approximately 30 kilometres (km) from the Lancashire coast; comprising of up to 35 wind turbine	Noted, please also note that the Applicant here is Morecambe Offshore Windfarm Ltd and not bp Alternative Energy Investments Ltd (bp) as described, and the DCO Application seeks authorisation for the construction, operation and maintenance of Morecambe Offshore Windfarm Generation Assets.	The MMO considers this matter closed.

	generators, all associated array area infrastructure and all associated development (“the “Project”). Please find the MMO comments below.		
RR-047-07	Morecambe Offshore Windfarm Generation Assets is a proposed offshore windfarm located approximately 30 kilometres (km) from the Lancashire coast, England.	The Applicant notes this response.	The MMO considers this matter closed.
RR-047-08	The windfarm Agreement for Lease area awarded by The Crown Estate spans 125 km2. The proposed windfarm site development area has been reduced to approximately 87km2. All project infrastructure will be located within the 87km2 windfarm site. The project consists of up to 35 Wind Turbine Generators (WTGs), up to two Offshore substations (OST), their associated foundations and platform link cables. Inter-array cables. Scour protection around foundations and subsea cable protection where required.	The Applicant notes this response.	The MMO considers this matter closed.
RR-047-09	One DML is included in the draft DCO. The DML relates to offshore (WTG) and Associated Infrastructure and Associated Development.	The Applicant notes this response.	The MMO considers this matter closed.

Draft DCO

RR-047-10	MMO has reviewed the draft DCO and provided comments below. MMO are currently undertaking a detailed review and will produce further comments on the DCO at Deadline 1 and during the course of the examination.	The Applicant notes this response and looks forward to receiving further comments on the draft DCO and Deemed Marine Licence (DML) at Deadline 1.	The MMO has reviewed the updated DCO/DML and has provided additional comments in this letter in Section 3.2
RR-047-11	The MMO requests that the details of licensed marine activities of the DML should include exact coordinates.	Noted. The revised draft DML submitted as part of the Draft DCO at Procedural Deadline A has added exact coordinates.	The MMO notes that Action Point 12 relates to coordinates but is content that this comment is closed and any further discussions will be in relation to Action Point 12 of the Issue Specific Hearing 2.
RR-047-12	Section 2(d) states: 'the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation' The MMO notes that geophysical surveys may require a separate licence. If so the wording in 2(d) must be clear that such activities are excluded from this licence	The Applicant notes that the removal of sediment samples was included in section 2 in error and, as such, this has been deleted in the revised draft DML submitted at Procedural Deadline A.	The MMO Will review the Applicant comments at Deadline 3 and provide any further response in due course.
RR-047-13	Section 8 states: "With respect to any condition which requires the licensed activities be carried out in accordance with the details, plans or schemes approved under this licence, the approved details, plans or schemes are taken to include any amendments that	The Applicant considers that this additional text is not required as it is secured by paragraph 9(1) of Part 1 (Licensed marine activities of Schedule 6 (Deemed Marine Licence under the 2009 Act: Morecambe Offshore Windfarm	The MMO advised an update would be provided at Deadline 3, the MMO is still reviewing this and will provide any update to the Applicant as soon as possible and will update the ExA at each deadline.

	<p>may subsequently be approved in writing by the MMO”</p> <p>MMO recommends that the following be included in addition: “subsequent to the first approval of those plans, protocols or statements provided it has been demonstrated to the satisfaction of the MMO that the subject matter of the relevant amendments do not give rise to any materially new or materially different environmental effects to those assessed in the environmental information.”</p>	<p>Generation Assets) to the draft DCO (APP-012).</p>	
RR-047-14	<p>Details of the marine license activities 9(1) states: “Any amendments to or variations from the approved details, plans or schemes must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given where it has been demonstrated to the satisfaction of the MMO that it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.”</p> <p>Due to a lack of regulatory certainty and risk of applying lower standards than those approved in the environmental statements the above</p>	<p>The Applicant does not consider that the wording proposed in paragraph 9(1) of Part 1 (Licensed marine activities of Schedule 6 (DML under the 2009 Act: Morecambe Offshore Windfarm Generation Assets) to the draft DCO (APP-012) lacks regulatory certainty or risks applying a lower standard than those approved in the Environmental Statement (ES). The proposed condition reflects the wording used in the environmental impact assessment process (of ‘likely’ significant effects). Additionally, the wording of paragraph 9(1) proposed by the</p>	<p>The MMO advised an update would be provided at Deadline 3, the MMO is still reviewing this and will provide any update to the Applicant as soon as possible and will update the ExA at each deadline.</p>

	<p>wording should be amended to the following:</p> <p>“Any amendments to or variations from the approved details, plans or schemes must be in accordance with the principles and assessments set out in the environmental statements. Such agreement may only be given where it has been demonstrated to the satisfaction of the MMO that it will not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.”</p>	<p>Applicant reflects the wording used in other offshore wind precedents, including the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024, the East Anglia ONE North Offshore Wind Farm Order 2022, the East Anglia TWO Offshore Wind Farm Order 2022, the Norfolk Vanguard Offshore Wind Farm Order 2022 and the Norfolk Boreas Offshore Wind Farm Order 2021.</p>	
RR-047-15	<p>The MMO requests that the conditions include a sediment sampling plan.</p>	<p>As noted in the Sediment Disposal Site Characterisation Report (APP-024), the Applicant plans to designate the entirety of the windfarm site as a disposal area. The Sediment Disposal Site Characterisation Report (APP-024) includes details on sampling that was carried out during the pre-application process. No further sampling is considered to be required.</p> <p>As such, the Applicant does not consider that a DML condition is required.</p>	<p>The ongoing discussion on this point is related to disposal sites and the designation of these and what is required to be updated within the DML. The MMO is discussing this with the Applicant and will provide an update to the ExA in due course.</p>
RR-047-16	<p>The MMO requests that a reporting condition in relation to ‘Reporting of Impact Pile Driving/Detonation of</p>	<p>Noted. The Applicant has added a new condition 19 (Marine Noise Registry) in the DML</p>	<p>Please see comments in Section 3.2 below in relation to the updated condition wording.</p>

	Explosives' for reporting to the Marine Noise Registry is included.	submitted with the updated draft DCO at Procedural Deadline A. As unexploded ordnance clearance and detonation of explosives are not licensable activities for the purposes of the application, the proposed reporting condition is only in relation to pile driving.	
RR-047-17	<p>Condition 2(3) states: "No maintenance works authorised by this licence may be carried out until an offshore operation and maintenance plan substantially in accordance with the outline offshore operation and maintenance plan has been submitted to and approved by the MMO in writing"</p> <p>The MMO notes that whilst it is helpful that the maintenance plan must be approved by the MMO, it does not indicate that the maintenance works should be undertaken in accordance with this. The MMO request that the additional wording is included for confirmation: "All maintenance works must be carried out in accordance with the approved operations and maintenance plan unless otherwise agreed in writing by the MMO."</p>	Noted. This has been added (with a minor change to refer to the 'offshore operation and maintenance plan' to reflect the document title) as a new subparagraph (4) to Condition 2 of the DML submitted with the updated draft DCO at Procedural Deadline A.	The MMO has provided further amendments to this condition in Section 3.2.13

RR-047-18	<p>Condition 7(6) states: “The undertaker must ensure that any rock material used in the construction of the authorised project is from a recognised source, free from contaminants and containing minimal fines.”</p> <p>The MMO requests the following is included in addition: “Details of the source of the rock materials to be used must be submitted to the MMO at least six weeks prior to the commencement of the licenced activity. The licenced activity [or specific activity] must not commence until written approval is provided by the MMO”</p>	<p>The Applicant does not consider that condition 7(6) requires to be updated.</p> <p>The wording of condition 7(6) reflects the wording used in other offshore wind precedents, including the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024, the East Anglia ONE North Offshore Wind Farm Order 2022, the East Anglia TWO Offshore Wind Farm Order 2022, the Norfolk Vanguard Offshore Wind Farm Order 2022 and the Norfolk Boreas Offshore Wind Farm Order 2021.</p>	<p>The MMO is still reviewing these comments.</p>
RR-047-19	<p>Condition 7(10) states:</p> <p>“All dropped objects which may reasonably be expected to cause a hazard in the marine environment must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident. On receipt of the Dropped Object Procedure Form the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO</p>	<p>The Applicant does not consider that condition 7(10) requires to be updated.</p> <p>Noting that the MMO’s preferred wording has been included in several offshore wind DMLs, the Applicant considers that the wording proposed by the MMO is too wide. It places an unnecessary burden on the Applicant to report even minor, immaterial instances of dropped objects. The Applicant considers a pragmatic and proportionate approach must be</p>	<p>The MMO is still discussing this condition with the MCA.</p>

	<p>may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so."</p> <p>The MMO requests condition 7(10) is amended to the following: "(1) The undertaker must report all dropped objects to the MMO using the dropped object procedure form as soon as reasonably practicable and in any event within 24 hours of becoming aware of an incident. (2) On receipt of the dropped Object Procedure Form, the MMO may require, acting reasonably, the undertaker to carry out relevant surveys. The undertaker must carry out surveys in accordance with the MMO's reasonable requirements and must report the results of such surveys to the MMO. Receipt of such survey results, the MMO may, acting reasonably, require the undertaker to remove specific obstructions from the seabed. The undertaker must carry out removals of specific obstructions from the seabed in accordance with the MMO's reasonable requirements and at its own expense."</p>	<p>taken and only considers dropped objects which may reasonably be expected to cause a hazard in the marine environment to be those to which the MMO's dropped objects procedure should apply.</p>	
RR-047-20	<p>The MMO does not consider that condition 8 Force majeure is necessary as it duplicates section 86 of the 2009 Act. The defence</p>	<p>Condition 8 (force majeure) serves a slightly different purpose to section 86 of the Marine and Coastal Access Act</p>	<p>The MMO welcomes the update to the condition, further comments have been provided in Section 3.2.18.</p>

	<p>under Section 86 of MCAA has two limbs, and in the event that the undertaker fails to notify the appropriate licensing authority, in this case the MMO, within a reasonable time of their actions (Section 86(2) “matters”) the defence cannot be relied upon in the event of any enforcement action. Therefore, the MMO recommends that this condition should be removed.</p> <p>In the event that you maintain that the proposed provision does not duplicate Section 86 MCAA and instead introduces a reporting requirement which did not previously exist, the MMO require that it should be made clear that this provision is in addition to Section 86 and its requirements. If this is included the follow paragraph must also be included:</p> <p>“The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.”</p>	<p>2009. Condition 8 imposes a duty on the undertaker to notify the MMO of the circumstances of such a deposit. This ensures that the MMO is provided with that information. Section 86 of the 2009 Act does not contain any such duty. It simply acts as a defence in the event a person is charged with an offence. The Applicant has added a new subparagraph (2) to include the wording proposed by the MMO in the version of the DML submitted with the updated draft DCO at Procedural Deadline A.</p>	
RR-047-21	<p>The MMO requests that the inclusion of archaeological reports in within condition 9. The correct statutory historical body should be included as well as details of what the report should include.</p>	<p>Condition 9(1)(f) (pre-construction plans and documentation) requires the submission and approval of an offshore archaeological Written Scheme of Investigation (WSI)</p>	<p>The MMO is discussing this with Historic England to ensure they are content.</p>

		(in accordance with the outline offshore WSI (APP-154)). This includes archaeological reports (sub-paragraph (vii)) and also makes provision for Historic England to be notified (sub-paragraph (vi)). The Applicant does not consider that any further text is needed.	
RR-047-22	<p>Condition 13 states:</p> <p>“The undertaker must provide the following information in writing to the MMO— (a) the name, function, company number (if applicable), registered or head office address (as appropriate) of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and (b) each week during the construction of the authorised project a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.”</p> <p>The MMO suggests the condition 13(1) is amended to the following for clarity: “The undertaker must provide the name, address and function of any agent, contractor or subcontractor that will carry out any licenced activity listed in this license on behalf of the undertaker to the</p>	The Applicant has amended condition 13 to reflect the wording that the MMO has proposed, subject to other amendments made for consistency with the existing text of condition 13. This has been incorporated in the version of the DML submitted with the updated draft DCO at Procedural Deadline A.	The MMO Considers this matter closed – noting further minor updates have been requested in Section 3.1.16.

	<p>MMO in writing no less than 24 hours before the agent, contractor or subcontractor carries out any licensed activity.</p> <p>Any changes to the name and function of the specified agent, contractor or subcontractor that will carry out the specified licenced activities must be notified to the MMO in writing prior to the agent, contractor or subcontractor carrying out the licensed activity.</p> <p>The undertaker must ensure that a copy of this licence and any subsequent revisions or amendments has been provided to any agents, contractors or subcontractors that will carry out the licensed activity on behalf of the undertaker prior to them carrying out any licensed activity.”</p>		
RR-047-23	<p>The provisions under article 7 Benefit of the Order are of concern to the MMO. The MMO requests that any reference to the MMO and DML should be removed from this article for transfer of the benefit of the DCO.</p>	<p>Article 7 of the draft DCO (APP-012) contains provisions for the transfer or lease of the provisions under the DCO. As set out in the Explanatory Memorandum (APP-013), these provisions are based on the Model Provisions, and the drafting has developed through the inclusion of a similar article</p>	<p>Further comments have been provided in Section 3.2.</p>

		<p>in many offshore wind farm development consent orders.</p> <p>Following the precedent drafting from other offshore wind farm orders, Article 7(2) provides the transfer or grant of DCO powers to take place with the written consent of the Secretary of State (SoS) and for this transfer or grant to take place without the need for consent in the circumstances specified in paragraph 7(5). Both of the circumstances set out in Article 7(2) allow for the transfer or grant of powers under the DML. Article 7(3) requires the Secretary of State to consult with the MMO before giving consent to the transfer or grant to another person of the benefit of the DML. This ensures that the MMO has the opportunity to participate in any decision to transfer or lease made under Article 7.</p> <p>Article 7(11) disapplies sections 72(7) and (8) of the Marine and Coastal Access Act 2009 in relation to a transfer or grant of the benefit of the DML. The drafting in the draft DCO reflects</p>	
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		<p>a long-established precedent regarding the transfer of DCO powers and deemed marine licences that has been endorsed by the SoS many times, including most recently in the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024. Where a transfer of the DML is sought under Article 7(2), the Secretary of State would consider the appropriateness of the party to whom the transfer or grant is proposed and would also take into account any representations made by the MMO before determining whether to grant consent.</p> <p>From a procedural perspective it is important that the DCO and the DML can be transferred together using the process set out in Article 7. It is considered important that the timing of any transfer or grant of powers/authorisations under the DCO and DML be aligned, as there is considerable overlap between the authorisations and the requirements/ conditions. In practice, the most common transfer scenario is when the</p>	
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		<p>offshore transmission infrastructure is transferred to the separate Offshore Electricity Transmission (OFTO) licence-holder following a public tender exercise via Ofgem, and it is important that an OFTO licence-holder have certainty that all consents, licences and permits will transfer concurrently via the same approval process.</p>	
RR-047-24	<p>The MMO does not accept that arbitration clauses should apply to the organisation this would circumnavigate the existing statutory provisions within the 2009 Act. The MMO requires the following be included in addition:</p> <p>“For the avoidance of doubt any matter for which the consent or approval of the Secretary of state or the Marine Management Organisation is required under any provision of this Order is not subject to arbitration.”</p>	<p>This text is already included in Article 15(2) (arbitration) of the draft DCO (APP-012). Schedule 5 (arbitration rules) only applies to matters that are subject to arbitration pursuant to Article 15, which does not include matters which fall within the remit of the MMO. The Applicant does not consider any further changes are required.</p>	<p>The MMO considers this matter closed..</p>
RR-047-25	<p>This section applies to all ‘discharging authorities’ which are defined as “the body responsible giving any consent, agreement or approval required by a requirement included in Part 2 (requirements) of Schedule 2”. It is not clear whether the MMO would be responsible for giving any of these approvals.</p>	<p>As provided in Article 14 (requirements, appeals, etc.), Schedule 4 (approval of matters specified in requirements) only has effect in relation to agreements or approvals in connection with the requirements set out in Schedule 2 (requirements).</p>	<p>The MMO considers this matter closed..</p>

	<p>If the MMO would constitute a discharging authority, the MMO has concerns regarding the Part 3 Schedule 4 Approval of matters specified in requirements applications, which requires the discharging authority to give notice of its decision on an application within a fixed period, and schedule 5 appeals procedure, which the MMO are concerned may conflict with of seek to circumnavigate existing procedures for appeals within the 2009 Act.</p>	<p>Article 14, and by extension Schedule 4, do not apply to the DML or any conditions therein. The MMO does not constitute a discharging authority for any of the DCO requirements in Part 2 (requirements) of Schedule 2 and, accordingly, Article 14 and Schedule 4 do not apply to the MMO.</p> <p>The Applicant notes the reference to “schedule 5 appeals” and presumes this should be a reference to “schedule 5 arbitration rules”. Reference is made to response RR-047-24 above which confirms that Schedule 5 does not apply to the MMO.</p>	
Draft MMMP (APP-149) and Appendix 11.3 Marine Mammal Unexploded Ordnance Assessment (APP-067)			
RR-047-26	<p>In paragraph 79 of the draft (MMMP) it states, “Bubble curtains could be deployed for UXO detonation; however, it should be noted that there are likely to be limits to the environmental conditions within which they are able to provide effective mitigation”. The MMO and Cefas note that bubble curtains will be a mandatory requirement for any high-order clearance operations.</p>	<p>The Applicant acknowledges the requirement for bubble curtains for high order Unexploded Ordnance (UXO) clearance.</p> <p>Mitigation for UXO clearance would be agreed via a separate marine licence for UXO clearance in accordance with mandatory requirements, noting that there are limits to the environmental conditions in which bubble curtains can be</p>	<p>The MMO considers this matter closed..</p>

		deployed to ensure the effectiveness.	
RR-047-27	<p>Further, Section 3.1.4 paragraph 143 regarding breaks in piling states</p> <p>“for any breaks in piling of less than 10 minutes, piling may continue as required (i.e. as if there was no break). For any breaks in piling of more than 10 minutes, but less than two hours, then the piling can recommence with a reduced soft-start procedure (e.g. five to six blows of the hammer at the starting hammer energy) before continuing as required, provided there are no marine mammals within the Management Area”.</p> <p>The JNCC (2010) guidance recommends that if there is a pause in piling operations for a period of greater than 10 minutes, then the pre-piling search and soft-start procedure should be repeated before piling recommences. If a watch has been kept during the piling operation, the Marine Mammal Observer or Passive Acoustic Monitoring Operative should be able to confirm the presence or absence of marine mammals, and it may be possible to commence the soft-start immediately. However, if there has been no watch, the complete pre-</p>	<p>The Applicant acknowledges the request, however notes that the wording proposed by the Applicant has previously been agreed for other offshore windfarm projects, including Dogger Bank A and Dogger Bank B.</p> <p>The Applicant notes finalisation of wording in the Marine Mammal Mitigation Protocol (MMMP) would be undertaken post-consent alongside developed Project design information, in the event that piled foundations are selected as part of detailed design for the Project.</p>	<p>The MMO is reviewing the updated MMMP submitted at Deadline 2 and may have further comments on this matter and will provide these to the Applicant as soon as possible and the ExA at Deadline 4.</p>

	<p>piling search and soft-start procedure should be undertaken. The guidance recommends that the soft-start duration should be a period of not less than 20 minutes. Any requested variation from a 20-minute soft-start should be agreed with the relevant agency and regulator. The MMO and Cefas request that the guidance is adhered to, and the full soft start is implemented (not 5 to 6 blows at the starting hammer energy as is proposed in the MMMP).</p>		
RR-047-28	<p>Table 3.1 in the MMMP presents cumulative sound exposure Level (SELcum) modelled impact ranges for piling of both monopile and pin-pile at the worst- case (south west) location. The MMMP refers the reader to Appendix 11.1 of the ES (Document Reference 5.2.11.1) for more details, which describes the underwater modelling undertaken. Please note that the impact ranges presented in Table 3.1 are vastly different to those presented in Appendix 11.1 (see Table 4-22 in Appendix 11.1 for example which presents the impact ranges for monopiles and Annex 7.1 and 7.2 of this document). These discrepancies must be checked and clarified.</p>	<p>Table 3.1 in the draft MMMP (APP-149) lists the worst-case impact ranges for the Project based on the maximum strike rate scenario listed in Appendix B of Appendix 11.1 Underwater Noise Assessment (APP-065) and would be the worst-case impact range to be mitigated. There is no discrepancy, but it is noted that Appendix 11.1 Underwater Noise Assessment (APP-065) also presents the lower strike rate scenario.</p>	<p>The MMO is reviewing the updated MMMP submitted at Deadline 2 and will provide comments these to the Applicant as soon as possible and the ExA at Deadline 4.</p>

RR-047-29	With regard to Appendix 11.3 Marine Mammal Unexploded Ordnance Assessment, the MMO and Cefas note a minor discrepancy. In Table 4.8 and 4.9, the PTS (permanent threshold shift) and TTS (temporary threshold shift) criteria for UXO (unexploded ordnance) are based on the SPLpeak (peak sound pressure level) metric, and the SELss (single strike sound exposure level) metric, not the SELcum.	Noted, the error in the heading has been updated in The Applicant's Errata Sheet (Document Reference 8.4), submitted alongside this document at Procedural Deadline A.	The MMO is reviewing the updated MMMP submitted at Deadline 2 and will provide comments these to the Applicant as soon as possible and the ExA at Deadline 4.
RR-047-30	Further, Table 5-1 confirms that 616 individual harbour porpoise are at risk of PTS during high-order detonation (353.6 kg Net Explosive Quantity (NEQ) plus donor charge) but this has been assessed as having a 'Medium' magnitude. For Low-Order clearance, 7 individual harbour porpoise are at risk of PTS, and this has also been assessed as having 'Medium' magnitude. The MMO and Cefas question whether 'Medium' magnitude is appropriate for the high order assessment. The MMO and Cefas understand that this scoring is based on the fact that 1% of the reference population is anticipated to be exposed (which is 0.986 % of the Celtic and Irish Sea (CIS) Management Unit (MU) according to Table 5-1).	Noted, 0.986% will be rounded up to 1% and the magnitude will be amended from medium to high. This will be updated accordingly in a separate technical note to be submitted at Deadline 1. It is noted that the precautionary change in magnitude from medium to high would not change the overall significance and conclusions of the assessment.	The MMO will review the comments submitted by the Applicant at Deadline 3 and provide confirmation if this point is now closed.

RR-047-31	Following on from the previous point, the MMO and Cefas also question the Magnitude scoring in Table 5.2. Table 5-2 confirms that 2,037 individual harbour porpoise are at risk of TTS during high order detonation, but this has been assessed as only having a 'Low' magnitude (with 3.3 % of the CIS MU anticipated to be at risk of TTS).	As outlined in Appendix 11.3 Marine Mammal UXO Assessment (APP-067) Table 4.3 the definition of impact magnitude for a marine mammal receptor, a 3.3% population level impact falls within the 'Low' magnitude category for an intermittent and temporary effect.	The MMO will review the comments submitted by the Applicant at Deadline 3 and respond at Deadline 4.
RR-047-32	With regard to Section 5.2, 'Disturbance from underwater noise associated with UXO clearance', Cefas and the MMO do not support the use of TTS as a proxy for disturbance. Therefore, the MMO and Cefas disagree with paragraph 84 that "the use of the TTS threshold was appropriate for UXO disturbance because the noise from the UXO explosion would be only fleetingly in the environment". TTS constitutes a temporary reduction in the sensitivity of the auditory system. The characteristics of TTS are distinct from behavioural disturbance, in which an animal changes its behaviour in response to a stimulus. There is no cognitive impairment implicit in behavioural responses. TTS typically occurs at much higher sound exposures than the onset of behavioural	There are no agreed thresholds for the onset of a behavioural response from underwater noise generated by explosions during UXO clearance activities. Empirically-derived relationships between noise levels and the probability of a response to pile driving noise (i.e. the 26km Effective Deterrence Radius (EDR)) are not appropriate to apply here due to the very different nature of the sound. Other assessments of UXO clearance activities have used the Temporary Threshold Shift (TTS)-onset threshold to indicate the level at which a 'fleeing' response may be expected to occur in marine mammals. This is a result of discussion in Southall et al. (2007) which states that in the	The MMO will review the comments submitted by the Applicant at Deadline 3 and respond at Deadline 4.

	<p>disturbance, and so if behavioural disturbance is assumed to occur only at sound exposures where TTS would occur, this is likely to significantly underestimate the risk of disturbance.</p>	<p>absence of empirical data on responses, the use of the TTS-onset threshold may be appropriate for single pulses (like UXO detonation): “Even strong behavioural responses to single pulses, other than those that may secondarily result in injury or death (e.g., stampeding), are expected to dissipate rapidly enough as to have limited long-term consequence. Consequently, upon exposure to a single pulse, the onset of significant behavioural disturbance is proposed to occur at the lowest level of noise exposure that has a measurable transient effect on hearing (i.e., TTS-onset). We recognize that this is not a behavioural effect per se, but we use this auditory effect as a de facto behavioural threshold until better measures are identified. Lesser exposures to a single pulse are not expected to cause significant disturbance, whereas any compromise, even temporarily, to hearing functions has the potential to affect vital rates through altered behaviour” (Southall et al., 2007). Therefore, an estimation of the</p>	
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		<p>extent of behavioural disturbance is based on the sound levels at which the onset of TTS is predicted to occur from impulsive sounds. TTS thresholds are taken as those proposed for different functional hearing groups by Southall et al. (2019).</p> <p>It is noted that UXO clearance is not part of the DCO Application and assessment was provided for information, noting a marine licence application for UXO clearance, if required, would be made separate from the DCO Application.</p>	
RR-047-33	<p>To quantify the risk of behavioural responses where there are no better alternatives, the effective deterrence ranges (EDRs) in place for noise management in harbour porpoise Special Areas of Conservation (SACs) could be used instead. Since harbour porpoise are relatively skittish and sensitive to underwater noise, the EDRs are likely to be conservative for other marine mammal species and are therefore a suitably precautionary option in the absence of other data (unlike using TTS as a proxy for disturbance). Thus, the MMO and Cefas welcome that the 26km EDR,</p>	<p>The Applicant acknowledges this response, noting, as stated in the draft MMMP (APP-149), the final MMMP for UXO clearance would be submitted for approval under a future marine licence application, separate from the DCO Application.</p> <p>As outlined in Southall et al. (2021) thresholds that attempt to relate single noise exposure parameters (e.g., received noise level) and behavioural response across broad taxonomic grouping and sound types could lead to severe errors in</p>	<p>This is an ongoing point and further information will be provided at Deadline 4.</p>

	<p>as per the Statutory Nature Conservation Bodies (SNCB) guidance (JNCC et al., 2020) has also been considered in the assessment for harbour porpoise and disturbance. A 5km potential disturbance range for low-order clearance, for all marine mammal species, has also been considered (JNCC, 2023) and includes vessels associated with the activity.</p>	<p>predicting effects. Differences between species, individuals, exposure, situational context, the temporal and spatial scales over which they occur, and the potential interacting effects of multiple stressors could lead to inherent variability in the probability and severity of behavioural responses. The 26km EDR is based on harbour porpoise disturbance for piling activities and is also used for high order clearance “despite there being no empirical evidence of harbour porpoise avoidance” (JNCC et al., 2020). Consequently, this EDR may not accurately represent UXO clearances. Applying this EDR to other species is deemed overly conservative and could lead to an overestimate of potential effect for other species. TTS has been used as a proxy for disturbance for assessing disturbance from high order UXO clearance for species where there is no recommended EDRs such as for dolphins, for other offshore windfarm projects such as Seagreen Offshore Wind Farm, Sheringham and Dudgeon</p>	
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		Extension Projects, and Dogger Bank South Offshore Wind Farm Projects.	
RR-047-34	<p>Additionally, Section 5.2, paragraph 90 states “In addition, the MMMP for UXO clearance will include ADD (acoustic deterrent device) activation prior to all UXO clearances, to ensure marine mammals are beyond the maximum potential impact range for PTS”. There is no certainty or guarantee that animals will be deterred beyond the maximum impact ranges. In fact, the assessment later highlights in para 98 that “as per ADD review in the JNCC report No. 615 (McGarry et al., 2022), the ranges of deterrence distances can vary significantly from only a few meters to several kilometres (approximately 6km for VHF cetacean); these differed between devices and dependent on the acoustic properties of the environment (Rosemeyer et al., 2021)”. Although an indicative assessment has been provided, the MMO and Cefas request that the ADD activation times (and mitigation in general) are revisited once further details of the proposed UXO works are known.</p>	<p>The Applicant acknowledges this response, noting, as stated in the draft MMMP (APP-149), the final MMMP for UXO clearance would be submitted for approval under a future marine licence application, separate from the DCO Application. The Applicant will apply this advice when reviewing mitigation measures during the submission of the UXO clearance marine licence once further details of the proposed UXO works are known.</p>	<p>the MMO is still reviewing the information with our scientific advisors and will provide any additional comments or confirm this point is closed at Deadline 4.</p>

RR-047-35	The MMO and Cefas do not have any major comments on the Outline Project Environmental Management Plan (PEMP).	The Applicant notes this response.	Please see comments in relation to Chemicals in Section 3.2. The MMO will review the .
RR-047-36	The MMO and Cefas welcome further assessment be conducted prior to construction, based on the foundation type and installation method, to determine if there is the risk of significant disturbance to marine mammals. This would then be used to determine if further mitigation measures which reduce sound propagation and disturbance are required. If they are required, then a review would be conducted to determine what is the most appropriate and effective method based on the latest and available methods prior to construction. This would include a review of all suitable noise abatement measures at that time.	Noted, confirmation of requirements for mitigation would be agreed post-consent during the finalisation of the MMMP which is secured in Condition 9(1)(i) of Schedule 6 of the Draft DCO (APP-012). The Applicant is planning appropriately for the potential requirement for noise abatement systems (NAS), and this will be one of the options considered when developing the MMMP.	The MMO's is still discussing the MMMP and UWSMS and will provide updates at Deadline 4.
RR-047-37	The MMO and Cefas does not have any major comments in regard to the In Principle Monitoring Plan (IPMP).	The Applicant notes this response.	Other than the comments raised within Section 6 below on the IPMP the MMO is largely content with the IPMP but will continue to review NE advice and support any requests from NE.
RR-047-38	The MMO and Cefas welcome that the final design and scope of monitoring will be agreed with the relevant stakeholders and included	Noted, confirmation of requirements for monitoring would be agreed post-consent	The MMO has no further comments on this comment and it can be closed.

	within the final Monitoring Plan submitted for approval.	during the finalisation of the Monitoring Plan.	
RR-047-39	Regarding potential disturbance resulting from underwater noise during piling activities, Table 2.3 states that in order to test key areas within the ES and Report to Inform Appropriate Assessment (RIAA), the purpose of this potential monitoring would be to research the behavioural response of marine mammals to different construction activities, including from mitigations (e.g. ADDS). This could be undertaken through either acoustic methods or through visual methods during Project required mitigation (e.g. Marine Mammal Observers (MMO) and Passive Acoustic Monitoring (PAM)).	Noted, confirmation of requirements for monitoring would be agreed post-consent during the finalisation of the Monitoring Plan.	The MMO always requests potential monitoring to be included in the outline plan as much as possible and the detail then be confirmed post consent but has no comments to add on this point.
General comments			
RR-047-40	<p>The MMO has focused its review on the following chapters of the Morecambe Offshore Windfarm: Generation Assets, Environmental Statement, volume 5.</p> <p>5.1.1 Volume 5 – Chapter 1 – Introduction 5.1.5 Volume 5 - Chapter 5 – Project Description 5.1.7 Volume 5 – Chapter 7 – Marine Geology, Oceanography and Physical Processes 5.1.9 Volume 5 – Chapter 9 – Benthic Ecology</p>	Noted, detailed responses are outlined below per chapter.	No further comments required.

	5.1.10 Volume 5 – Chapter 10 – Fish and Shellfish Ecology 5.1.11 Volume 5 - Chapter 11 - Marine Mammals 5.1.12 Volume 5 - Chapter 12 - Offshore Ornithology 5.1.13 Volume 5 - Chapter 13 - Commercial Fisheries		
Chapter 7 Marine Geology, Oceanography and Physical Processes (APP-044)			
RR-047-41	The MMO has noted that the approximate number of Wind Turbine Generators (WTGs) that will comprise the Morecambe offshore windfarm is a crucial piece of information that is missing from the introduction of the environmental statement (document 5). The MMO understands from the project introduction document the project could comprise 30 'larger' or up to 35 'smaller' WTGs. We recommend these key findings should be provided early in the introduction.	The Applicant's view is that the scenarios are clearly defined within Chapter 5 Project Description (APP-042). Notably, Paragraph 5.20 states "There could be up to 30 'larger' or 35 'smaller' WTGs installed within the windfarm site to generate the nominal export capacity of 480MW." Further, the worst-case scenarios are outlined in regard to physical processes in Table 7.4 of Chapter 7 Marine Geology, Oceanography and Physical Processes (APP-044).	The MMO considers this matter closed.
RR-047-42	The MMO is content that all significant receptors have been included in regard to coastal processes.	The Applicant notes this response.	The MMO considers this matter closed.
RR-047-43	The MMO considers that there are no outstanding concerns in relation to this application in regard to coastal processes.	The Applicant notes this response.	The MMO considers this matter closed.
Chapter 8 Marine Sediment and Water Quality (APP-045)			
RR-047-44	The MMO notes the concentration of contaminants do not indicate any	The Applicant notes this response.	The MMO considers this matter closed.

	<p>levels of concern and the suspended sediment plumes are expected to return to baseline conditions within 1 to 3 days and the magnitude of those impacts was assessed as negligible adverse effect on water quality. The MMO and Cefas agree with these comments. However, we defer to the Environment Agency to comment on water quality.</p>		
RR-047-45	<p>In section 8.52 the ES states that in OSPAR region III (Celtic Seas) eutrophication is still a problem and reduction in phosphorus discharges exceed the OSPAR target of 50% compared to 1985 but nitrogen discharges were the main problem especially those from agriculture. Additionally, the concentrations of hazardous substances had generally fallen but were still above acceptable concentrations, and historic pollution in aquatic sediments acts as a continued source for releases of persistent chemicals. However, there is no indication of why pesticides (OCs) and other resistant chemicals like brominated flame retardants (PBDEs) were not included in the list of contaminants analysed for. You should provide justification as to why these contaminants were</p>	<p>The parameters mentioned tend to be found in estuarine and coastal sediments as they are associated with land-based activities. Flame retardants, for example, are discharged via point sources such as via sewage discharges (as reported by the Environment Agency polybrominated-diphenylethers-pressure-rbmp-2021.pdf (environmentagency.gov.uk)) and landfills leaching. Therefore, they are much more likely to be found in coastal/estuarine sediments rather than in offshore environments. The site-specific data as reported in Sections 8.69 to 8.72 of Chapter 8 Marine Sediment and Water Quality (APP-045) confirms overall pollutant levels to be</p>	<p>The MMO considers this matter closed.</p>

	<p>omitted from assessment for the characterisation and estimation of risk from release of dredged/disturbed sediment given the comments made in the ES regarding continuing OSPAR concern regarding persistent contaminants.</p>	<p>very low in the sediments therefore it is very unlikely that there would be elevated levels of other pollutants which are associated with land-based sources.</p> <p>Furthermore, consultation via the Evidence Planning Process (see Appendix A of the Consultation Report (APP-016) with representatives from both the MMO and Centre for Environment, Fisheries and Aquaculture Science (Cefas) did not raise any concerns with the parameters analysed and reported when presented with the list of determinants and results.</p>	
RR-047-46	<p>The MMO and Cefas request that section 8.61 be clarified to include the types of chemical analyses performed on samples (e.g. metals, PAHs, PCBs etc.) and which if any together with the location of those samples that exceeded AL (action level) 2, as stating there were no significant exceedance of AL2 does not provide adequate explanation of the contamination present. The MMO and Cefas are not suggesting these analyses are undertaken but require reasons as to why they were not selected.</p>	<p>Section 8.61 of Chapter 8 Marine Sediment and Water Quality (APP-045) relates to sediment data collected for other projects: Walney Extension IV Offshore Wind Farm (Dong Energy, 2013) (approximately 18.8km from the Project) and West of Duddon Sands offshore windfarms (Dong Walney (UK) Limited, 2006) (approximately 12.9km from the Project). Given the age of the Environmental Impact Assessment (EIA)s, distance to</p>	<p>The MMO Will provide confirmation on the status of this comment at Deadline 4.</p>

		<p>the Morecambe array area and age of the data, the MMO are guided to the site-specific data presented in sections 8.69 to 8.72 which was collected within the Morecambe array area and much more recently, in 2022. This data did not show any exceedances of Cefas Action Level (AL) 1 for any of the parameters for which analysis was undertaken and is considered the best and most relevant evidence regarding levels of contamination present that could potentially be disturbed. This aligns with MMO comment ID RR-047-45.</p>	
RR-047-47	<p>The MMO and Cefas note that comparison of levels of arsenic, cadmium, chromium, copper, lead, mercury, nickel and zinc to Canadian quality standards should not be undertaken as the methods used to produce the results are not directly comparable in that the Canadian sediment quality guidelines use normalised metals analysis and likely a different digestion to that of the methods used for production of results of dredge material for determination of suitability for disposal for comparison to the UK Action Levels</p>	<p>Noted. The appropriate comparison against United Kingdom (UK) actions levels has been undertaken (MMO, 2015) (see Paragraph 8.25 of Chapter 8 Marine Sediment and Water Quality (APP-045).</p>	<p>The MMO is reviewing these comments and currently working to designate disposal sites and will provide further comments in due course.</p>

	(e.g. aqua regia/nitric digest, no sieving, no normalisation).		
Chapter 5 Project Description (APP-042)			
RR-047-48	<p>You have suggested that for scour protection 'bagged solutions filled with grout or other materials. Protective aprons, mattresses with or without frond devices, and rock, concrete and gravel placement' (Chapter 5 section 5.53). Bags or mattresses may contain plastics. Concrete mattresses maybe linked polypropylene rope lattice, and artificial fronds mattresses made of continuous lines of overlapping buoyant fronds consisting of polypropylene or similar have been used in the marine environment over the years. Placing plastic infrastructure into the marine environment could pose a risk should they degrade.</p> <p>The MMO and Cefas request that the final design of these frond mattresses should be detailed in the offshore construction method statement that will be submitted to and approved by the MMO prior to commencement of development. This can then be secured within the Draft DCO submitted with the application for consent.</p>	<p>The Applicant acknowledges the MMO consideration of the risks associated with the introduction of plastic infrastructure. The selection of scour protection methods, where required, will be evaluated and further considered post-consent in the Offshore Construction Method Statement, focusing on both engineering and suitability and environmental recoverability. The Offshore Construction Method Statement will be developed through consultation with the MMO and is secured in Condition 9(1)(d) of Schedule 6 of the Draft DCO (APP-012).</p>	<p>This is reviewing the Applicant's comments and will provide a response at Deadline 4.</p>

RR-047-49	<p>In line with OSPAR guidance on the construction operation maintenance and decommissioning of offshore windfarms notification should be given to the regulator where there is potential for chemicals used and or discharged where there is a pathway to the marine environment, including those used within closed systems that require frequent top up should provide full details of the risk and justification for use of chemicals. This guidance includes the use of paints and coatings. In addition, some piles may require pre-drilling (with a maximum drill penetration of 56m) therefore the use of drilling fluids cements or cement additives etc., should be notified to the MMO for approval prior to use (section 5.103).</p>	<p>The Applicant acknowledges the MMO comments. An Offshore Project Environmental Management Plan (PEMP) will be finalised post-consent, to include details of a chemical risk assessment, that shall include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance. The PEMP is secured in Condition 9(1)(e) of Schedule 6 of the Draft Development Consent Order (APP-012).</p>	<p>Please see comments in Section 3.2 on updates to the chemical condition.</p>
RR-047-50	<p>For gravity base options where necessary ballast used maybe water or heavy material such as rock or both. It does not say whether there will be any antifouling or biocide used within the gravity base either on installation or potentially required in the future. The MMO request that this be clarified within the ES (section 5.100).</p>	<p>Should water be used as ballast, this would be locally sourced rather than imported, therefore the use of biocide is not considered necessary. The use of antifouling on solid ballast is again considered unnecessary. Implementation of biosecurity measures in line with international and national regulations and guidance will be listed within the PEMP, an Outline of which was submitted</p>	<p>Please see comments in Section 3.2 on updates to the chemical condition.</p>

		as part of the DCO Application (APP-146).	
RR-047-51	The use of suction buckets requires pumping grout into the bucket, care should be taken to minimise the use of concrete in the marine environment and prevent the release of grout/cement. Therefore, the construction method statements must include comment on what measures are to be taken to prevent the release of excess grout/cement to the wider environment.	The Applicant acknowledges the MMO comments. An Offshore PEMP will be finalised post-consent, to include details of what measures are to be taken to prevent the release of excess grout/cement to the wider environment as required. The PEMP is secured in Condition 9(1)(e) of Schedule 6 of the Draft Development Consent Order (APP-012). The Offshore Construction Method Statement will be developed through consultation with the MMO and is secured in Condition 9(1)(d) of Schedule 6 of the Draft DCO (APP-012).	The MMO considers this matter is closed.
RR-047-52	The MMO and Cefas find it encouraging that outline procedures for the management of mud produced during drilling activities or any material from the seabed preparation are to be disposed of in accordance with the limits of the Deemed Marine Licence for licensed marine activities including disposal location quantities measures for waste concrete etc. Reporting procedures for these were included as part of the Project	The Applicant acknowledges the MMO comments. The PEMP will include reporting requirements and is secured in Condition 9(1)(e) of Schedule 6 of the Draft DCO (APP-012).	Please see comments in Section 3.2 on updates to the chemical condition.

	Environmental Management Plan. The MMO and Cefas note that drilling fluids together with all chemicals with a pathway to the marine environment should be included in plans for reporting.		
RR-047-53	The MMO and Cefas note that if the sandwave clearance material is anticipated to be placed back within the array area you most likely would have to apply to the MMO to designate the area as a disposal site for the MMO to be able to fulfil its statutory obligations under OPSAR to be able to make accurate returns for dredge and disposal.	While surveys to date do not identify prevalence of sandwaves within the windfarm site, Chapter 7 Marine Geology, Oceanography and Physical Processes (APP-044), Chapter 8 Marine Sediment and Water Quality (APP-045) and Chapter 9 Benthic Ecology (APP-046) of the Environmental Statement (ES) assess the worst-case requirement for sandwave clearance/clearance of seabed sand features and disposal within the order limits. A Sediment Disposal Site Characterisation Report (APP-024) has been provided as part of the application in order for the area within the order limits to be designated as a disposal site through the DCO. The Applicant notes that the removal of and disposal of inert material is included as associated development for the purposes of the definition of the authorised project (Schedule 1,	The MMO will provide an update at Deadline 4.

		Part 1, Paragraph 1(c)) and for the purposes of the definition of the licensed marine activities (Schedule 6, Part 1, Paragraph 3(c)). These definitions state that such activities are authorised 'within the Order limits'. Accordingly, no separate application for designation is considered required.	
Chapter 9 Benthic Ecology (APP-046)			
RR-047-54	The MMO has no concerns in regard to the receptors which have been scoped out. These are, namely, sediment bound contaminants and transboundary effects.	The Applicant notes this response.	The MMO considers this matter closed.
RR-047-55	The MMO considers that there are no outstanding concerns in relation to the Application in regard to benthic ecology.	The Applicant notes this response.	The MMO considers this matter closed.
Chapter 10 Fish and Shellfish Ecology (APP-047)			
RR-047-56	The MMO is content that all relevant impacts to fish and fisheries have been identified and assessed.	The Applicant notes this response.	The MMO considers this matter closed.
RR-047-57	Figure 10.6 of Volume 5 Chapter 10 Fish and Shellfish Ecology Figures presents a 'heatmap' of herring larvae abundance data over the most recent 10 years of the NHLS (Northern Irish Herring Larvae Survey) (2012-2021) which has been overlaid with the mapped noise contours for the three	The MMO are correct in their summary of the methods used to create heatmaps of herring larvae abundance from Northern Irish Herring Larvae Survey (NIHLS) data. The qualitative heatmap is intended to display how larval density distribution corresponds with	The MMO Will confirm the position of this comment at Deadline 4.

	<p>modelled pile locations (east, north-west and south-west) based on the maximum hammer energy of 6,600 kJ, based on the 135 dB SELss threshold. Cefas fisheries advisors have had previous discussions with the Applicant's consultants regarding your approach to presenting data on the abundance and distribution of herring larvae at the Manx spawning ground. The MMO and Cefas understand that their approach has taken the NIHLS point data at each station and weighted these points according to the relative abundance of larvae across the grid, then smoothed the points to generated areas of higher and lower density/heat. Whilst it was agreed that this approach was suitable, it should be recognised that the 'high' / 'low' colour scheme shown in the legend in Figure 10.6 does not provide any value to contextualise what 'high' abundance or 'low' abundance means in terms of the number of herring larvae (e.g. no. per m²), so the heatmaps have limited value to the reader (unless they have been made aware of how the data have been treated). The MMO alongside Cefas recommend that the legend is updated for</p>	<p>existing spawning ground maps. An update to the figure legend has been made to display larval abundance quantitatively, giving further context to the heatmap colour scheme, and is being submitted at Procedural Deadline A (5.3.10 Chapter 10 Fish and Shellfish Ecology Figures_Rev 02) alongside this document.</p>	
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	transparency/clarity to all readers of the ES.		
RR-047-58	<p>Cefas and the MMO do not support the conclusions made in the CIA (Cumulative Impact Assessment). The UWN modelling presented in Figures 10.8a and 10.8b present the piling noise impact range noise contours which overlap the spawning grounds of Atlantic cod. The modelling uses the hearing thresholds in Group 3 fish for piling of 207, 203 and 186 dB SELcum for mortality and potential mortal injury, recoverable injury and temporary threshold shift (TTS), respectively. Results of the underwater noise modelling presented in Table 10.25 (Chapter 10 Fish and Shellfish Ecology) quantify the area of impact to eggs and larvae during mono- and pin-piling, which is limited to an area of 0.32km² for monopiling and 0.19km² for pinpiling, though the impact range for this impact is not shown in Figures 10.8a and 10.8b. Figures 10.8a and 10.8b show that piling noise overlaps the spawning grounds of cod for all impairments, i.e. mortality and potential mortal injury, recoverable injury and especially for TTS. Whilst suitable UWN modelling has been undertaken in respect of cod, it</p>	<p>The Applicant acknowledges the overlap of Group 3 noise effect thresholds from the Project and Atlantic cod spawning grounds displayed in Figures 10.8a and 10.8b. The Cumulative Effects Assessment (CEA) conclusions made in Section 10.7.3 of Chapter 10 Fish and Shellfish Ecology (APP-047) are drawn from the wide extent of cod spawning grounds across the Irish Sea and the temporary nature of piling effects in comparison to a four month spawning period. Effects on eggs and larvae are considered in Paragraphs 10.211 to 10.220 of Chapter 10 Fish and Shellfish Ecology (APP-047). In relation to the data sources mentioned by the MMO, the Applicant has considered these sources and is of the position that they are not sufficient to materially alter the understanding of cod spawning in relation to the Project, and subsequently would not materially affect the assessment of significance (or the MMO's</p>	<p>The MMO will review the Applicant's comments and updated UWSMS and provide further information at Deadline 4, please see Section 3.2 in relation to UWSMS condition.</p>

	<p>is disappointing to see that the assessment of impacts from UWN has assessed cod under the generic Group 3 fish in Section 10.245. The assessment seems to be missing the link between the cod as a Group 3 fish and the spawning activity they engage in at their spawning grounds. Meanwhile, the assessment of impacts from noise on spawning grounds in Sections 10.211 – 10.220, only considers impacts to the eggs and larvae, rather than the spawning fish. In our advice for PEIR we highlighted that piling works could have potential to significantly impact cod at a population level if piling was to occur during their spawning season (January – April inclusive). This is of particular importance, given ICES' latest advice on cod for the Irish Sea which states that 'when the maximum sustainable yield (MSY) approach and precautionary considerations are applied, there should be zero catch in 2023' and that 'Fishing pressure on the stock is below FMSY, and spawning-stock size is below MSY Btrigger, Bpa, and Blim' (ICES 2022). We also pointed to Fox et al. (2000) which reports high site fidelity in cod spawning grounds in the Irish Sea.</p>	<p>position that they do not support the conclusions of the CEA in relation to cod spawning). The Applicant intends to follow the developments in the approach to piling of other nearby projects (in terms of timings, techniques, and mitigations), and will further develop the piling strategy, including any mitigations, in agreement with the MMO post-consent. The Applicant will seek to discuss further with the MMO (and Natural England (NE) given their comment regarding this in their RR) the structure of an Underwater Sound Management Strategy as a mechanism of agreeing mitigation post-consent, which will also consider measures the Project may need to take in light of potential cumulative effects and in line with other projects on similar timescales. The Applicant will provide an Outline Underwater Sound Management Strategy at Deadline 2 in order to take into account potential further comments from the MMO expected at Deadline 1. The</p>	
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	<p>For these reasons, the MMO and Cefas would have expected you to consider this information, and potentially other sources of data to inform their assessment such as data from the Northern Irish ground fish trawl survey which has been ongoing since 2009 and has several survey stations within the eastern Irish sea (data are available from ICES: http://datras.ices.dk/). In the absence of any data to suggest that this part of the cod spawning ground is of lower importance than other areas, and in consideration of ICES advice on the cod population in the Irish sea, the MMO and Cefas recommend that piling is not permitted during the cod spawning season and recommend that the following restriction is conditioned on the deemed marine licence: No piling of any kind shall take place during the cod spawning period from 1st January to 30th April (inclusive) of any year. Reason: To prevent disturbance to adult spawning cod during their spawning season.</p>	<p>Applicant has added a new condition 30 (Underwater Sound Management Strategy) in the DML submitted with the updated draft DCO at Procedural Deadline A to secure this. Additionally, the Outline Underwater Sound Management Strategy has been added as document to be certified in the draft DCO.</p>	
RR-047-59	<p>As per our advice on the PEIR, you may wish to consider the use of noise abatement measures such as big as big bubble curtains (BBC) or double BBC during piling, to reduce the noise levels emitted during piling</p>	<p>The Applicant is planning appropriately for the potential requirement for NAS but maintains the position that the effects may be suitably mitigated through further design</p>	<p>The MMO will review the Applicant's comments and updated UWSMS and provide further information at Deadline 4, please see Section 3.2 in relation to UWSMS condition.</p>

	<p>(see Würsig et al. (1999)). UWN modelling incorporating the use of noise abatement measures has been shown to reduce the range of effect for disturbance with sensitive habitats such as spawning grounds.</p>	<p>refinement and other embedded mitigation.</p> <p>The Applicant will seek to discuss further with the MMO (and NE given their comment regarding this in their RR) the structure of an Underwater Sound Management Strategy as a mechanism of agreeing mitigation post-consent, which will also consider measures the Project may need to take in light of potential cumulative effects and in line with other projects on similar timescales.</p> <p>The Applicant will provide an Outline Underwater Sound Management Strategy at Deadline 2 in order to take into account potential further comments from the MMO expected at Deadline 1. The Applicant has added a new condition 30 (Underwater Sound Management Strategy) in the DML submitted with the updated draft DCO at Procedural Deadline A to secure this. Additionally, the Outline Underwater Sound Management Strategy has been added as document to be certified as one referred to in the DCO.</p>	
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RR-047-60	<p>Cefas and the MMO do not support the conclusions made in the CIA that the cumulative effects of piling noise are deemed to be no greater than project-alone effects 'minor adverse'. We would also add that recent advice for Morgan OWF (DCO/2022/00003) which is located entirely in the Irish sea cod spawning ground we highlighted the likelihood that a seasonal piling restriction to protect spawning adult cod and their eggs and larvae will be necessary during the spawning season (January – April inclusive). Whilst we have raised a number of points requiring further clarification on their UWN modelling, the modelling that was presented suggests that an extensive overlap of noise disturbance will occur at the spawning ground.</p>	<p>The Applicant acknowledges the overlap of Group 3 noise effect thresholds from the Project and Atlantic cod spawning grounds displayed in Figures 10.8a and 10.8b in Chapter 10 Fish and Shellfish Ecology Figures (APP-094). The CEA conclusions made in Section 10.7.3 in Chapter 10 Fish and Shellfish Ecology (APP-047) are drawn from the wide extent of cod spawning grounds across the Irish Sea and the temporary nature of piling effects in comparison to a four-month spawning period. The Applicant intends to follow the developments in the approach to piling of other nearby projects (in terms of timings, techniques, and mitigations), and will further develop the piling strategy, including any mitigations, in agreement with the MMO post-consent. The Applicant will seek to discuss further with the MMO (and NE given their comment regarding this in their RR) the structure of an Underwater Sound Management Strategy as a mechanism of agreeing</p>	<p>The MMO will review the Applicant's comments and updated UWSMS and provide further information at Deadline 4, please see Section 3.2 in relation to UWSMS condition..</p>
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		<p>mitigation post-consent, which will also consider measures the Project may need to take in light of potential cumulative effects and in line with other projects on similar timescales.</p> <p>The Applicant will provide an Outline Underwater Sound Management Strategy at Deadline 2 in order to take into account potential further comments from the MMO expected at Deadline 1. The Applicant has added a new condition 30 (Underwater Sound Management Strategy) in the DML submitted with the updated draft DCO (3.1 Draft Development Consent Order_Rev 02) at Procedural Deadline A to secure this. Additionally, the outline Underwater Sound Management Strategy has been added as document to be certified as one referred to in the DCO.</p>	
RR-047-61	The MMO has no comments to make in relation to receptors which have been scoped out and not considered within the ES with regards to shellfish ecology.	The Applicant notes this response.	This can be closed.
RR-047-62	The MMO considers that there are no outstanding concerns in relation	The Applicant notes this response.	This can be closed.

	to the Application in regard to shellfish.		
Chapter 13 Commercial Fisheries (APP-050)			
RR-047-63	The MMO defers to the National Federation of Fishermen's Organisations along with standalone representatives on matters of commercial fisheries. The MMO will continue to be part of the discussions relating to securing any mitigation, monitoring or other conditions required within the DML.	The Applicant notes this response.	The MMO will continue a watching brief on these matters in relation to the DMLs but these may be in separate sections of the document rather than in a table.
Chapter 11 Marine Mammals (APP-048)			
RR-047-64	All relevant/applicable marine mammal functional hearing groups have been considered in the underwater noise modelling assessment. The marine mammal species scoped into the ES assessment, which sit within these four hearing groups are, Harbour porpoise, Bottlenose dolphin, Common dolphin, Risso's dolphin, White-beaked dolphin, Minke whale, Grey seal and Harbour seal. The MMO and Cefas consider all relevant impacts in regard to underwater noise have been scoped in for assessment.	The Applicant notes this response.	The MMO considers this matter agreed.
RR-047-65	With regard to Section 4.2.3 – SW location – installation of single monopile, the MMO and Cefas note that the received SELss versus range (transect curve in Figure 3-5),	Following the impact piling modelling presented in the main report Appendix 11.1 Underwater Noise Assessment (APP-065), further investigation	The MMO will provide additional comments at Deadline 4 if required.

	<p>which are now explicitly included and thus are proving (together with the levels 750 m in Section 4-1) an additional point of reference for the sense checking process, are showing relatively high noise levels, which are well within the values we would expect for sandy seabed environments (i.e., with good propagation conditions). In this scenario, however, the MMO and Cefas would expect overall larger injury effect ranges for marine mammals (e.g., the maximum PTS (permanent threshold shift) ranges for the LF (low frequency) and VHF (very-high frequency) receptors could be 2-3 times larger). We note that these larger impact ranges seem to align well with the predictions presented in the draft MMMP document (Table 3.1 from the draft MMMP), where, for example, the maximum PTS ranges are 13 km for minke whale and 8.1 km for harbour porpoise, while corresponding ranges from the current Appendix 11.1 are 5.0 km and 3.3 km, respectively. The predicted impact ranges presented in the draft MMMP differ to those ranges presented in Appendix 11.1.</p>	<p>into scenarios using higher strike rates were identified for the monopile and pin pile scenarios. A piling hammer is capable of more rapid strikes at lower blow energies. To show the differences between the maximum strike rate scenario and the results presented in Section 4 of Appendix 11.1 Underwater Noise Assessment (APP-065), additional modelling was completed for the SW location. Table 3.1 in the draft MMMP (APP-049) lists the worst-case impact ranges for the project based on the Maximum strike rate scenario listed in Appendix B of Appendix 11.1 Underwater Noise Assessment (APP065) and would be the worst-case impact range to be mitigated and therefore currently used in the assessments.</p>	
RR-047-66	The MMO and Cefas note a minor discrepancy in the project	The Applicant considers the worst-case scenario presented	The MMO will review the Applicant's comments and

	<p>description. Table 5.5 in Chapter 5 Project description states that the maximum pile diameter (m) for multi-legged pin piled jacket WTF/OSP foundations is 3 m, whereas the underwater noise modelling in Appendix 11.1 considers a worst-case scenario of installing 5m diameter pin piles.</p>	<p>in the underwater noise modelling assessment is appropriate. It is noted that the worst-case for underwater noise modelling considers the largest hammer energy, and the highest strike rate, and includes either three sequential monopiles or four sequential pin piles in a 24hr period. The underwater noise assessment report (Appendix 11.1 Underwater Noise Assessment (APP-065)) presented modelling for larger pile sizes (14m for monopile and 5m for pin piles) as the modelling was undertaken prior to a Project refinement whereby pile diameters were reduced to 12m for monopile and 3m for pin-piles. The modelling is therefore precautionary and encompasses the worst-case scenario.</p> <p>The Applicant commits to updated underwater noise modelling post-consent to inform the final MMMP once the selection of foundations have been made. This will inform the appropriate mitigation post consent alongside final design details.</p>	<p>provided an update at Deadline 4.</p>
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Chapter 14 Shipping and Navigation (APP-051)			
RR-047-67	MMO defers to the Maritime and Coastguard Agency and Trinity House on matters of shipping and navigation and supports any comments raised. The MMO will continue to be part of the discussions relating to the securing any mitigation, monitoring or other conditions required within the DML.	The Applicant notes this response.	The MMO will continue a watching brief on these matters in relation to the DMLs but these may be in separate sections of the document rather than in a table.
Chapter 15 Marine Archaeology and Cultural Heritage (APP-052)			
RR-047-68	The MMO defers to Historic England (HE) on matters of marine archaeology and supports any comments raised. The MMO will continue to be part of the discussions relating to securing any mitigation, monitoring or other conditions required within the DMLs.	The Applicant notes this response.	The MMO will continue a watching brief on these matters in relation to the DMLs but these may be in separate sections of the document rather than in a table.
Chapter 18 Seascape, Landscape and Visual Impact Assessment (APP-055)			
RR-047-69	The MMO defers to NE as the SNCB (Statutory Nature Conservation Body), along with HE and the Local Planning Authorities on matters of Seascape, Landscape and Visual Impacts and supports any comments raised. The MMO will continue to be part of the discussions relating to securing any mitigation and monitoring or other conditions required within the DML.	The Applicant notes this response.	The MMO will continue a watching brief on these matters in relation to the DMLs but these may be in separate sections of the document rather than in a table.
Chapter 12 Offshore Ornithology (APP-049)			

RR-047-70	The MMO defers to NE as SNCB, and supports any comments raised in relation to the Ornithology. The MMO will continue to be part of the discussions relating to securing any mitigation and monitoring or other conditions required within the DML.	The Applicant notes this response.	The MMO will continue a watching brief on these matters in relation to the DMLs but these may be in separate sections of the document rather than in a table.
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3. Comments on Applicant's Deadline 2 Submissions

3.1 General Comments

3.1.1 The MMO notes the Applicant has submitted the following documents in Deadline 2:

- REP2-001: 1.3 Guide to the Application - Revision 05 (Volume 1) (Clean) (PDF, 595KB)
- REP2-002: 3.1 Draft Development Consent Order - Revision 03 (Volume 3) (Clean) (PDF, 797KB)
- REP2-003: 3.1.1 Draft Development Consent Order - Revision 03 (Volume 3) (Tracked) (PDF, 812KB)
- REP2-006: 3.4 Schedule of Changes to the Draft Development Consent Order - Revision 02 (Volume 3) (Clean) (PDF, 543KB)
- REP2-007: 3.5 Development Consent Order: Schedule 3 Spirit and Harbour Protective Provisions Plan - Revision 01 (Volume 3) (PDF, 911KB)
- REP2-008: 5.1.7 Environmental Statement Chapter 7: Marine Geology, Oceanography and Physical Processes - Revision 03 (Volume 5) (Clean) (PDF, 2MB)
- REP2-009: 5.1.7.1 Environmental Statement Chapter 7: Marine Geology, Oceanography and Physical Processes - Revision 03 (Volume 5) (Tracked) (PDF, 2MB)
- REP2-010: 5.1.8 Environmental Statement Chapter 8: Marine Sediment and Water Quality - Revision 03 (Volume 5) (Clean) (PDF, 964KB)
- REP2-011: 5.1.8.1 Environmental Statement Chapter 8: Marine Sediment and Water Quality - Revision 03 (Volume 5) (Tracked) (PDF, 982KB)
- REP2-012: 5.1.9 Environmental Statement Chapter 9: Benthic Ecology - Revision 02 (Volume 5) (Clean) (PDF, 2MB)
- REP2-013: 5.1.9.1 Environmental Statement Chapter 9: Benthic Ecology - Revision 02 (Volume 5) (Tracked) (PDF, 2MB)
- REP2-014: 5.2.13.1 Environmental Statement Appendix 13.1: Commercial Fisheries Technical Report - Revision 02 (Volume 5) (Clean) (PDF, 8MB)
- REP2-015: 5.2.13.1.1 Environmental Statement Appendix 13.1: Commercial Fisheries Technical Report - Revision 02 (Volume 5) (Tracked) (PDF, 8MB)
- REP2-016: 5.5 Schedule of Mitigation - Revision 02 (Volume 5) (Clean) (PDF, 2MB)
- REP2-017: 5.5.1 Schedule of Mitigation - Revision 02 (Volume 5) (Tracked) (PDF, 2MB)
- REP2-018: 6.5 Draft Marine Mammal Mitigation Protocol - Revision 02 (Volume 6) (Clean) (PDF, 867KB)



- REP2-019: 6.5.1 Draft Marine Mammal Mitigation Protocol - Revision 02 (Volume 6) (Tracked) (PDF, 884KB)
- REP2-020: 6.6 Outline Offshore Operation and Maintenance Plan - Revision 02 (Volume 6) (Clean) (PDF, 519KB)
- REP2-021: 6.6.1 Outline Offshore Operation and Maintenance Plan - Revision 02 (Volume 6) (Tracked) (PDF, 520KB)
- REP2-022: 6.9 Outline Vessel Traffic Management Plan - Revision 02 (Volume 6) (Clean) (PDF, 530KB)
- REP2-023: 6.9.1 Outline Vessel Traffic Management Plan - Revision 02 (Volume 6) (Tracked) (PDF, 532KB)
- REP2-024: 8.5 Combined Examination Progress Tracker and Statement of Commonality - Revision 03 (Volume 8) (Clean) (PDF, 893KB)
- REP2-025: 8.5.1 Combined Examination Progress Tracker and Statement of Commonality - Revision 03 (Volume 8) (Tracked) (PDF, 940KB)
- REP2-026: 9.32 Outline Underwater Sound Management Strategy - Revision 01 (Volume 9) (PDF, 495KB)
- REP2-027: 9.33 The Applicant's Comments on Written Representations - Revision 01 (Volume 9) (PDF, 2MB)
- REP2-028: 9.33.1 The Applicant's Comments on Written Representations Appendix A: Applicant's Comments on Natural England Risk and Issue Log - Revision 01 (Volume 9)
- REP2-029: 9.34 Draft Statement of Common Ground with Historic England - Revision 01 (Volume 9) (PDF, 485KB)
- REP2-030: 9.35 The Applicant's Response Spirit Energy Deadline 1 Submissions - Revision 01 (Volume 9) (PDF, 1MB)
- REP2-031: 9.35.1 The Applicant's Response to Spirit Energy Deadline 1 Submissions Appendix A: The Applicant's Comments on Spirit Energy and Harbour Energy Aviation Access Study Report - Revision 01 (Volume 9) (PDF, 2MB)
- REP2-032: 9.35.2 The Applicant's Response to Spirit Energy Deadline 1 Submissions Appendix B: Helicopter Access IMC Corridor - Revision 01 (Volume 9) (PDF, 991KB)
- REP2-033: 9.35.3 The Applicant's Response to Spirit Energy Deadline 1 Submissions Appendix C: Helicopter Supporting Information Technical Note - Revision 01 (Volume 9) (PDF, 1MB)

3.1.2 At this time the MMO has no comments to raise regarding REP2-001, REP2-007, REP2-030, REP2-031, REP2-032 and REP-033.



3.1.3 Regarding, REP2-008, REP2-009, REP2-010, REP2-011, REP2-012, REP2-013, REP2-014, REP2-015, REP2-016, REP2-017, REP2-018, REP2-019, REP2-024, REP2-025, REP2-026, and REP2-028, the MMO is reviewing these revised documents alongside our scientific advisors and will look to provide a response in due course. The MMO will share this with the Applicant as soon as this is received and provide an update to the ExA at Deadline 4.

3.1.4 In relation to REP2-027 the technical topics are currently being reviewed by our scientific advisors. In relation to other Stakeholders the MMO notes there is ongoing discussions and will maintain a watching brief on these for any updates required to the DML. For other comments the MMO notes that there will be further comments provided in relation to our Deadline 2 response and as most of these are covered in Table 2 above will not be responding directly.

3.1.5 REP1-060 Draft Statement of Common Ground with the Marine Management Organisation – the MMO will continue to discuss the SoCG with the Applicant and make comments on the draft at future deadlines due to resources the MMO was not able to provide an update to the Applicant for this deadline and therefore believes the Applicant will submit an updated version of the SoCG at Deadline 4.

3.1.6 Regarding, REP2-002, REP2-003 and subsequently REP2-0006, the MMO welcomes the Applicant for the amendments of these documents. The MMO has reviewed these documents and has had a discussion with the Applicant. The MMO will continue to review these documents throughout examination and provide comments where relevant.

3.1.7 .The MMO welcomes the update to Condition 18 and the inclusion of Condition 21.

3.1.8 In relation to REP1-086 the MMO is in discussion with the Applicant on action points 12 and 14 and will provide an update in due course.

3.2 DCO/DML Comments

3.2.1 The MMO highlighted in our Deadline 3 response that there were a few DML conditions being reviewed, these have been discussed with the Applicant and there is an ongoing discussion to come to agreement. Please see the comments below for updates at this stage:

Transfer of the benefit of the order Article 7

3.2.2 The MMO provided comments in Section 4.1 of the MMO's Deadline 2 submission (REP2-035). The MMO will review the Applicant's response submitted to these comments at Deadline 3 and respond in due course.

3.2.3 The MMO does not believe there is any new reasoning why the DML should be included within this Article and requests the DML is updated to remove this provision.

3.2.4 Please see comments in Section 3.1 of REP2-035 in relation to previous DCOs. The MMO would highlight that even if this Article has been included in previous DCOs it doesn't mean that these provisions should continue to be included, the drafting process is iterative, it has to be appropriate both generally and in the particular order in which it is to be included.

3.2.5 The MMO questions why it is ok to require the SoS to consult with the MMO? If the SoS fails to do this they commit and offence under s161(1)(b) of the Planning Act if the SoS



does not have a reasonable excuse. This is another unintended consequence if the inclusion of the DML in this Article.

3.2.6 The reason that the DCOs only deem the Marine Licence to be granted, rather than bringing the ML into the DCO as it does for other permissions under s33 of the Planning Act 2008 is because the MMO was considered to be the expert in this area (see PINS advice note Annex 11 - MMO). The MMO questions why now is the SoS best placed to consider the implications of the marine licence being transferred and what might need to change?

3.2.7 Therefore, the provision in paragraph (3) should not extend to the DML. The Order and the DML are not the same thing and so this provision does not extend to the DML, and references to the undertaker in the DML will stay as is.

3.2.8 Whilst the mechanism is different, what falls out of the DCO process is a marine licence granted under MCAA which is distinct and separate to the DCO itself. The DML falls back to the MMO to further manage/regulate under the provisions of MCAA once the DCO is granted, to be regulated alongside and consistently with all the other marine licences we might issue. This is in part why s149A(4) says a person who fails to comply with a condition of the DML does not commit an offence under the s161 of the Planning 2008 Act and why 149A(5) disapplies the notification of application and representations provisions of MCAA from the DCO process.

3.2.9 The MMO would also highlight that even for granted offshore windfarm orders that include a form of the Benefit of the Order Article, the MMO has done multiple variations alongside the transfer of benefit to ensure the DML variation is issued as close to the approval from the SoS to ensure the correct undertaker is on the face of the DML and so that updates to the Marine Case Management System can be completed enabling compliance to continue to be monitored.

3.2.10 With the inclusion of Article 7 (7) current wording this causes the MMO concern as this is just a notice of the transfer and does not include an official variation request to the MMO as required under Section 72 of the Marine and Coastal Access Act 2009. The MMO does not believe the SoS cannot amend the DML once consented. Therefore, the MMO would have to use their regulatory power to conduct a variation and vary the licence to ensure the correct undertaker is on the schedule, this could cause a potential delay the project as if the transferring of unvaried licence impacted on our ability to enforce during this time, the MMO may have to suspend the licence while the MMO conducted the variation.

3.2.11 This process could be delayed without the direct contact to the MMO to vary the DML. In addition to this the MMO has statute to charge for any variations and this is not covered by the current Article. This is an issue for two reasons, the Applicant would be getting work at a different rate as the consultation would be a statutory request from the SoS and this is not aligning with other marine licences as per PINS advice note Annex 11 - MMO and two this puts the emphasise for the MMO to vary the licence once notified so there would still be an additional step for the MMO to take.



3.2.12 The MMO strongly disagrees with the inclusion of the Article and the fundamental impact and change to the process and is considering the request by the ExA (DCO 2.3) in relation to providing something that we may be content with. If the MMO is minded to provide wording or information we will discuss this with the Applicant in the first instance. The MMO will submit this to the ExA as an additional submission. The MMO notes it is up to the ExA to accept an additional submission and will work with the Applicant if this is not accepted and provide all the information to the ExA in our Deadline 6 response.

Maintenance reporting (addition to condition 2)

3.2.13 Reporting of Maintenance is requested to be included the DML conditions using the following wording:

2(5) An annual maintenance report must be submitted to the MMO in writing within one month following the first anniversary of the date of commencement of operations, and every year thereafter until the permanent cessation of operation.

(6) The report must provide a record of the licensed activities as set out in condition 4 during the preceding year, the timing of activities and methodologies used.

(7) Every fifth year, the undertaker must submit to the MMO in writing, within one month of that date, a consolidated maintenance report, which will—

(a) include a review of licensed activities undertaken during the preceding five years with reference to the reports submitted in accordance with condition XX(1) of this licence;

(b) reconfirm the applicability of the methodologies and frequencies of the licensable activities permitted by this licence for the remaining duration of this licence.

Chemicals, drilling and debris 7(1)

3.2.14 The MMO, along with its scientific advisors and DEFRA are currently reviewing chemical use in relation to offshore wind farms, as part of this the MMO is reviewing the condition and requires the condition to be updated to:

7. (1) Unless otherwise agreed in writing by the MMO, all chemicals and substances, including paints and coatings, used below MHWS for the undertaking of the licensed activities must be approved in writing by the MMO prior to use. Submission for approval to the MMO must take place no later than ten weeks prior to use, unless otherwise agreed by the MMO in writing.

Dropped Objects Condition 7(10)

3.2.15 The MMO is discussing this condition with MCA and will provide an update in due course.

Reporting of engaged agents, contractors and vessels Condition 13

3.2.16 The MMO requests that the Applicant adds ‘*unless otherwise agreed in writing by the MMO*’ to DML condition 13.

3.2.17 This will allow post consent grouping or arrangements of submission to streamline the process for the Applicant and the MMO case team.

Force Majeure Condition 8



3.2.18 The MMO maintains its position regarding Force Majeure, as it is not necessary to be included within the DMLs. It is not something that the MMO would include in standalone marine licences. PINS advice note Annex 11 - MMO says that DMLs should be broadly consistent with standalone marine licences.

3.2.19 The MMO understands that Force Majeure is about events, situations and circumstances that arise which are outside of a person's control.

3.2.20 Currently the condition wording used is drafted to apply for stress of weather or any other cause which is very broad. It could cover anything, including causes which are entirely within the master's control such as negligence matters. Currently the MMO believes Condition 19 in Schedules 3 and 4 does not meet the five tests as set out in the National Planning Policy Framework for a number of reasons:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects.

Necessary

3.2.21 If you read Section 86(1)(b) and 86(2) of Marine and Coastal Access Act 2009 (MCAA), for the defence to be relied on the person relying on it must inform the MMO that the act was carried out, tell it where it was carried out, the circumstances in which it was carried out, and what articles/objects were concerned. The inclusion of Condition 19 in Schedule 3 and 4 removes this defence and replaces it with a wider and less stringently controlled authorisation to deposit articles/substances and the MMO does not believe this is necessary.

Enforceable

3.2.22 The condition as it stands is too subjective and therefore unenforceable and this due to the fact that it is down to the master to determine whether it is necessary to make the deposit and there are no defined criteria.

Precise

3.2.23 The condition is also not restricted to Force Majeure situations or 'no fault situations', due to the inclusion of 'for any other cause'. The MMO questions this wording and why this has been included?

3.2.24 In effect the only obligation the master would have if Condition 19 in Schedules 3 and 4 are included, is to notify the MMO within 48 hours that the deposits have been made. The MMO questions if this notification would be enough to allow enforceability and if it was to remain should there not be further requirements to then remove the items.

Reasonable



3.2.25 The test set in Condition 19 in Schedules 3 and 4 which must be met to allow these deposits to be made is a much lower threshold test to that set in Section 86 of MCAA. This is because the safety of human life and/or the vessel is threatened is not the same as for the purpose of saving life or securing the safety of the vessel. The MMO questions why these masters and vessels be treated more favourably than others in this situation?

3.2.26 The MMO also notes that 'any other cause' is the wording used in precedent licences, including the 2024 Sheringham and Dudgeon order and there is precedent set in other licences.

3.2.27 The MMO is reviewing the ExA's Recommendation Report and SoS decision to understand if any reasoning or further information was included on the inclusion of this and may provide an update at Deadline 6.

3.2.28 To summarise the MMO does not agree with the Applicant's reasons for including this provision. The condition should be removed, as the defence (Section 86 of MCAA) will apply if the Applicant or vessel masters needs to make a deposit for a Force Majeure reason.

Construction monitoring 15(1)

3.2.29 The MMO is discussing the requirement for 2 of the worst case piles to be monitored with the Applicant and will provide an update and any changes required to this condition in due course.

Marine Noise Registry 19(1) (2) (3)

3.2.30 The MMO notes Condition 24 includes a previous standard condition, however due to updates to the MNR system and reporting the MMO requests that the following condition is included in the DMLs for both piling and any UXO detonations (including low order):

19.(1) In the event that driven or part-driven pile foundations and detonation of unexploded ordnance are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry—

(a) no less than four months prior to the commencement of each stage of construction of the licensed activities, information on the expected location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements,

(b) within two weeks after commencement of each stage of construction of the licensed activities, information on the location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements;

(c) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements by 7 April for winter season October to March inclusive and 7 October for summer season April to September inclusive, or within 12 weeks of completion of impact pile driving whichever is earlier.



4. Comments on Stakeholders' Deadline 2 Submissions

4.1 Maritime and Coastguard Agency (MCA) (REP2-036)

4.1.1 The MMO has reviewed the submission and notes there are a few outstanding points between the Applicant and MCA.

4.1.2 In relation to section 3.1 the MMO welcomes the updates requested and understands further discussion may be required with the Applicant in relation to the micro-siting buffers.

4.2 Natural England (REP2-037 and REP2-038)

4.2.1 The MMO has reviewed Natural England's (NE) submission for Deadline 2 (document reference REP2-037). The MMO notes that NE has raised concerns with regards to the IPMP. The MMO agrees with NE in the importance of the IPMP. The MMO wishes to refer the Applicant to Annex A of Natural England's response.

4.2.2 The MMO notes NE comments regarding the Applicant not proposing monitoring for marine mammals within the Mitigation and Monitoring Schedule document and the Offshore IPMP. The MMO is currently reviewing this with our scientific advisors and will look to provide a response in due course.

4.2.3 The MMO notes NE comments under Section 2.6 of their response in relation to ornithology. The MMO defers to NE on matters of ornithology. The MMO hopes to see the issues raised by NE resolved.

5. General Comments on other documents

5.1 IPMP (APP-148)

5.1.1 In addition to the comments regarding the In-Principle Monitoring Plan (IPMP) provided at Deadline 4, the MMO would like further information included within the IPMP.

5.1.2 The MMO is currently undertaking a project on the standardisation of offshore wind post-consent monitoring data. This project aims to standardise the collecting and reporting of offshore wind environmental monitoring data in English waters, for receptors/monitoring techniques where a widely recognised standard for monitoring already exists, and to implement this approach in post-consent monitoring for wind farms in English waters.

5.1.3 The MMO has engaged a range of stakeholders, including SNCB's, industry, and Renewable UK to identify standards, and are currently finalising a list of agreed standards across 6 receptors: marine mammals, underwater noise, ornithology, fish and shellfish, benthic and geophysical monitoring.

5.1.4 This will make it easier to compare and collate monitoring data from different projects, and ensure we get the most value out of monitoring. It will also ensure that developers know what is expected of them in terms of monitoring and add weight to previously agreed standards (e.g. Natural England's Best Practice Guidance). Standardisation will only be applied where an agreed standard already exists, and standardisation will deliver benefits.

5.1.5 The final list of standards is expected to be agreed in 2025. These will then become the default approach to post-consent monitoring of these receptors. We request that the IPMP be updated to reference this project, where any of these 6 receptors are applicable.



The project can be referenced as (MMO Standardisation of Offshore Wind Post-Consent Monitoring, forthcoming). The MMO also requests that the IPMP include a general commitment to ensuring that any standards or best practice adhered to during monitoring, is outlined clearly within the relevant monitoring reports.

5.1.6 The MMO will engage with the Applicant to ensure that this reference is included.

Yours sincerely,

[Redacted signature]

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