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By email

Your Ref:

Natural England
Marine Management Organisation

Our Ref: EN010121

Date: 10 February 2025

Dear Sirs

The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 17

Application by Morecambe Offshore Windfarm Ltd for an Order Granting Development Consent for the Morecambe Offshore Windfarm Generation Assets

Request for further information

On 4, 5 and 6 February 2025 we held Issue Specific Hearings into the above project. Unfortunately Natural England and the Marine Management Organisation were unable to be represented. Had the organisations been represented we would have asked various questions so as to enable the Examination to progress. These questions are set out in the Schedule below.

The particular context for the questions can be found in the video recordings of the Hearings, which can be found in the [Examination Library](#). You may find watching these beneficial in answering the questions. Responses should be made by **Deadline 4 (Tuesday 18 February 2025)**.

We appreciate that resourcing issues mean that it is sometimes difficult for some bodies to attend hearings but to enable us to successfully complete the Examination by Wednesday 23 April 2025 in line with the statutory deadline and to allow us to give the Applicant sufficient time to respond in the interests of fairness, we need responses as set out.

To date we have seen responses indicating substantive responses will be delayed or answered “in due course”. Can I remind parties that not providing us with information as requested can delay the Examination and lead to unnecessary or wasted expense. If parties are unavoidably unable to respond at any point in time, then the reasons for the delay should be explained and another point in time needs to be specified.

Can we also make clear that we will not accept and will return submissions that do not give the Applicant sufficient time to respond. We note that Deadline 6 (15 April 2025) is only 4 working days before the end of the Examination and submissions should not go beyond

those already identified for that deadline. Consequently, going forward, the latest submissions should be made is **Deadline 5 (Tuesday 11 March 2025)**.

I am sure that you will be able to respond positively to this request for further information to allow the Examination to proceed smoothly.

Yours sincerely

Robert Jackson

Robert Jackson
Lead Panel Member of the Examining Authority

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Schedule of Questions to Natural England and the Marine Management Organisation

Reference	Question to:	Question:
R17.1.1.	Natural England (NE) Marine Management Organisation (MMO)	<p>Written Ministerial Statement of 29 January 2025 and associated guidance documents</p> <p>NE and the MMO are invited to make comments on the following:</p> <ul style="list-style-type: none"> the Written Ministerial Statement number UIN HCWS394 the DESNZ guidance on 'Strategic compensation measures for offshore wind activities: Marine Recovery Fund interim guidance' the Defra Policy Paper 'Reducing Marine Noise' the JNCC 'Guidelines for minimising the risk of injury to marine mammals from unexploded ordnance (UXO) clearance in the marine environment'. <p>insofar as they may affect the consideration of the Proposed Development.</p> <p>Could NE and MMO respond both generally and with particular reference to:</p> <ul style="list-style-type: none"> Unexploded Ordnance Permanent Threshold Shift Offshore wind piling noise limit.
R17.1.2.	MMO	<p>Outstanding information</p> <p>The MMO is asked to ensure that all responses which were stated as being provided either by Deadline 4 or "in due course" are provided at Deadline 4. Should information not be provided at Deadline 4, a full explanation as to why this is the case must be provided at Deadline 4 and a specific date given for provision. Please note the comments in the covering letter.</p>
R17.1.3.	MMO	<p>Disposal site(s)</p> <p>The MMO response to the Applicant's response RR-047-47 says that the MMO is "currently working to designate disposal sites and will provide further comments in due course".</p> <p>A full update should be provided at D4, including the extent of any proposed designated sites.</p>
R17.1.4.	MMO	<p>In Principle Management Plan [REP3-045]</p> <p>Bearing in mind the MMO's current timetable for its standardisation project, what further information would the MMO like to see included within the In Principle Management Plan, other than a general commitment to ensuring that any standards or best practice adhered to during monitoring are outlined clearly within the relevant monitoring reports? Please be as specific as possible.</p>

Reference	Question to:	Question:
R17.1.5.	MMO	<p>Response to ExQ1 BEM24</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 that MMO will supply updated wording 'in due course'. Please ensure that this is submitted at Deadline 4 or equivalent wording to inform the Underwater Sound Management Strategy.</p>
R17.1.6.	NE	<p>Unexploded Ordnance Assessment</p> <p>In NE's Risk and Issues log [REP3-093] at reference RE_E11 the UXO assessment remains outstanding. The Applicant indicates that the UXO clearance will be dealt with outside the DCO process. Consequently, NE is requested to give its position as to whether at this stage sufficient information has been provided in light of the recent Guidance (see R17.1.1).</p>
R17.1.7.	NE and MMO	<p>Thresholds for the onset of behavioural responses</p> <p>NE's Risk and Issues log [REP3-093] in D40 notes that the dose-response curve approach has not been used to determine the number of common dolphin impacted at White Cross. This is contrary to what is stated in Paragraph 11.760. The approach used (TTS) is not sufficiently precautionary for a disturbance impact and is not consistent with how the other projects in the area have been assessed. NE and the MMO are requested to provide further information in light of the Applicant's view that the assessment is sufficiently precautionary.</p>
R17.1.8.	MMO	<p>Draft Marine Mammal Mitigation Protocol and outline Underwater Sound Management Strategy</p> <p>Please provide your comments on the draft Marine Mammal Mitigation Protocol [REP2-018] and outline Underwater Sound Management Strategy [REP2-026] and how these will interact with each other.</p>
R17.1.9.	NE	<p>Effects on Red Throated Diver</p> <p>Please set out an explanation for the 10km buffer from the edge of the original Liverpool Bay SPA boundary for the effects on Red Throated Diver, and explain why any lesser distanced buffer would not be acceptable given that Red Throated Divers have been noted within 10km of existing windfarms.</p>

Reference	Question to:	Question:
R17.1.10.	NE	<p>Without Prejudice Red Throated Diver Compensation</p> <p>Please can both NE give its views on the efficacy of the proposed Without Prejudice Red Throated Diver Compensation proposals [REP3-065], and in particular whether they would provide sufficient compensation for the asserted effects on this species. The Examining Authority understands that NE has been provided with an unredacted version of this document by the Applicant. However, should it require a copy, please contact the Case Team who will provide a copy.</p>
R17.1.11.	MMO	<p>Article 7: Benefit of Order</p> <p>The Marine and Coastal Areas Act 2009, and in particular Part 4 which deals with Marine Licences, is relevant. Section 113 of that Act is under the heading “the appropriate licensing authority” and determines who is the appropriate licensing authority for any given area. Subsections (2), (4) and (6) deal with Scotland, Wales and Northern Ireland waters respectively, and subsection (8) sets out “In relation to any area not mentioned in subsection (2), (4) or (6), the appropriate licensing authority is the Secretary of State.</p> <p>Please could the MMO indicate whether its powers in respect of licensable activities were transferred from the Secretary of State or whether it acts under delegated powers from the Secretary of State.</p>
R17.1.12.	MMO	<p>Deemed Marine Licence</p> <p>The MMO has indicated a desire for a condition 7(1) relating to all chemicals and substances used below MHWS.</p> <p>The MMO is asked to explain:</p> <ul style="list-style-type: none"> • why such a provision is necessary, noting it has not been requested on recent examinations • why it requires ten weeks in which to make any approvals (this needs to be fully justified, setting the MMOs internal procedures involved) • whether it would be possible to set out a schedule of materials that, for want of a better expression, have deemed approval and if so could this please be provided.
R17.1.13.	MMO	<p>Deemed Marine Licence</p> <p>The MMO has indicated that it is looking for revised drafting for condition 7(10) in respect of dropped objects. Could this please be provided at D4.</p>

Reference	Question to:	Question:
R17.1.14.	MMO	<p>Deemed Marine Licence</p> <p>Please can the MMO look at its response at D3 [REP3-085] pdf page 70. In paragraphs 3.2.18 to 3.2.28. There are a couple of references to condition 19 in Schedules 3 and 4. Give Schedules 3 and 4 do not relate to the marine licence, what is this referring to?</p>
R17.1.15.	MMO	<p>Deemed Marine Licence</p> <p>Condition 8 deals with Force Majeure. At D2 the MMO indicated it would respond further at D3, but no response was received. Could you please confirm its position either way, and if you are not content please review the recording from the hearing and provide a response.</p>
R17.1.16.	MMO NE	<p>Deemed Marine Licence</p> <p>In condition 9(1)(c) there is a reference to a four month prior approval period. The MMO and NE are asked to justify why they each need a six month period. This needs to be fully justified, setting out the MMOs and NE's internal procedures involved.</p>
R17.1.17.	MMO	<p>Deemed Marine Licence</p> <p>Please could the MMO confirm either way whether the current drafting of condition 9(1)(e) is satisfactory. If not, please explain why, providing alternative wording.</p>
R17.1.18.	MMO	<p>Deemed Marine Licence</p> <p>A number of conditions suggested by the MMO include the phrase "unless otherwise agreed in writing by the MMO". In light of the High Court decision in <i>Midcounties Co-operative Ltd v Wyre Forest DC</i> [2009] EWHC 964 the MMO is asked to justify why this wording is required in each case. Examples include conditions 14 and 20.</p>
R17.1.19.	MMO	<p>Deemed Marine Licence</p> <p>The MMO has indicated it will provide an update to condition 15(1) in due course. Please provide a full response by Deadline 4.</p>