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Morecambe Offshore Windfarm: Generation Assets

Examination Documents

Volume 9

Response to Actions arising from Issue Specific Hearings 2, 3 and 4

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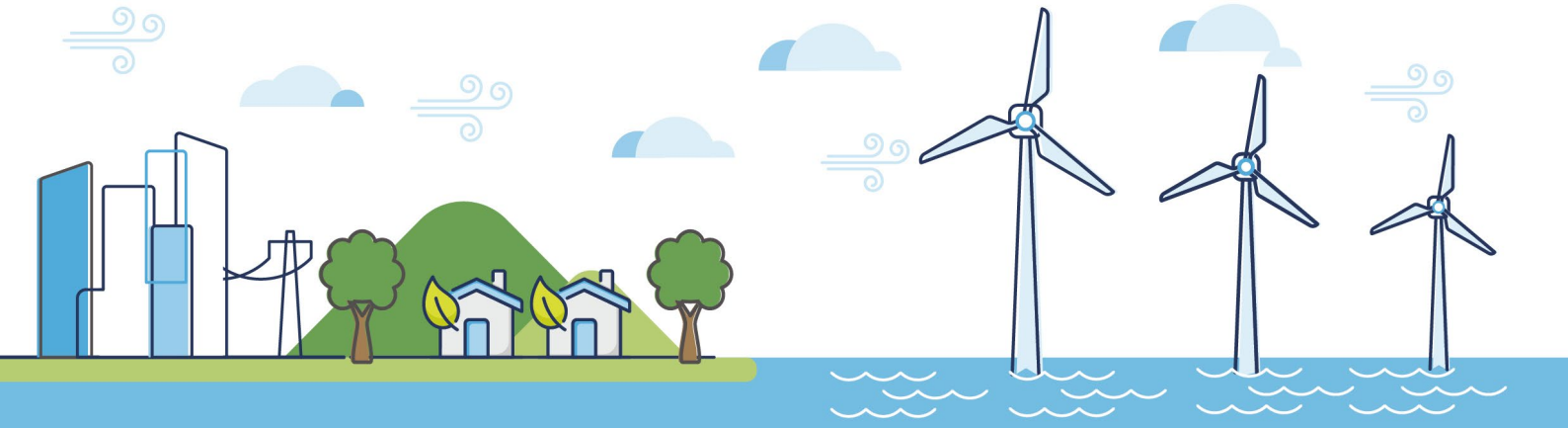

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Glossary of Acronyms

DCO	Development Consent Order
ES	Environmental Statement
ExA	Examining Authority
GBS	Gravity Base Structures
IP	Interested Parties
ISH	Issue Specific Hearing
JNCC	Joint Nature Conservation Committee
MMMP	Marine Mammal Mitigation Protocol
MMO	Marine Management Organisation
MPA	Marine Protected Area
OSP	Offshore Substation Platform
PEMP	Project Environmental Management Plan
REZ	Renewable Energy Zone
SNBC	Statutory Nature Conservation Bodies
SoCG	Statement of Common Ground
UK	United Kingdom
UWSMS	Underwater Sound Management Strategy
UXO	Unexploded Ordnance
VHF	Very High Frequency
WTG	Wind Turbine Generator

Glossary of Unit Terms

km^2	square kilometre
nm	nautical mile

Glossary of Terminology

Applicant	Morecambe Offshore Windfarm Ltd
Generation Assets (the Project)	Generation assets associated with the Morecambe Offshore Windfarm. This is infrastructure in connection with electricity production, namely the fixed foundation wind turbine generators (WTGs), inter-array cables, offshore substation platform(s) (OSP(s)) and possible platform link cables to connect OSP(s).
Morgan and Morecambe Offshore Wind Farms: Transmission Assets	The transmission assets for the Morgan Offshore Wind Project and the Morecambe Offshore Windfarm. This includes the offshore export cables, landfall site, onshore export cables, onshore substations, 400kV cables and associated grid connection infrastructure such as circuit breaker infrastructure. Also referred to in this chapter as the Transmission Assets, for ease of reading.
Offshore substation platform(s)	A fixed structure located within the windfarm site, containing electrical equipment to aggregate the power from the WTGs and convert it into a more suitable form for export to shore.
Platform link cable	An electrical cable which links one or more OSP(s).
Windfarm site	The area within which the WTGs, inter-array cables, OSP(s) and platform link cables will be present.

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1 Introduction

1.1 Purpose of this document

1. This document addresses the Hearing Action Points raised by the Examining Authority (ExA) at the Issue Specific Hearing (ISH) 2, 3 and 4 on 4, 5 and 6 February 2025.

2 Response to Hearing Action Points Raised by the Examining Authority

2. **Table 2.1**, **Table 2.2** and **Table 2.3** provides the Applicant's responses to Hearing Action Points raised by the ExA during ISH2, ISH3 and ISH4 (and published by the Planning Inspectorate on 10 February 2025).

3. **Section 3** and **Section 4** provide expanded responses to Action Points 20 and 21 respectively.

4. **Section 5** includes meeting minutes from engagement with Spirit Energy as requested in Action Point 22.

Table 2.1 Actions recorded by the Examining Authority arising from ISH2

ExA Action Point No.	Action	Action By	Response Due By	Applicant's Response
13	Response to Written Ministerial Statement and associated announcements/ guidance of 21 and 29 January 2025 on Marine Environment. That is: ▪ the Written Ministerial Statement number UIN HCWS394 ▪ the Department for Energy Security and Net Zero guidance on 'Strategic compensation measures for offshore wind activities: Marine Recovery Fund interim guidance' ▪ the Department for Environment, Food and Rural Affairs (Defra) Policy Paper 'Reducing Marine Noise' ▪ the Joint Nature Conservation Committee (JNCC) 'Guidelines for minimising the risk of injury to marine mammals from unexploded ordnance (UXO) clearance in the marine environment'.	Applicant	Deadline 4	Matters covered in the Ministerial Statement (UIN HCWS394) and Interim guidance on the 21 and 29th January are listed below (using the summary bullet points provided within the Ministerial Statement). ***Strategic compensatory measures for unavoidable environmental impacts to Marine Protected Areas (MPAs) can be delivered strategically rather than on a project-by-project basis*** The statement and guidance principally cover strategic compensation measures in the Library of Strategic Compensation Measures (LoSCM). The LoSCM currently contains the following approved strategic compensation measures: ▪ New MPA designations and/or extensions to existing MPAs to provide benthic compensation; ▪ Offshore Artificial Nesting Structures (ANSs) as ornithological compensation specific to kittiwake; and, ▪ Predator reduction for ornithological compensation MPA designation for benthic compensation and ANS for kittiwake are not relevant to the Project as no adverse effects on these features have been concluded. There is some connection to predator reduction in respect to the without prejudice compensation being presented by the Applicant for Red-throated diver (REP3-064) and Lesser Black-Backed Gull (REP3-008),

ExA Action Point No.	Action	Action By	Response Due By	Applicant's Response
				however the Applicant has developed Project led measures, and includes the option for strategic compensation (but can-not rely solely on these strategic measures only at this time as stated within the interim guidance'). ***Publication of an updated Joint Position Statement on Unexploded Ordinance alongside a marine noise policy paper highlighting the further actions to reduce noise in our seas.*** The Applicant (at Deadline 4) has updated the Draft Marine Mammal Mitigation Protocol (MMMP) (Document Reference 6.5) and the Outline Underwater Sound Management Strategy (UWSMS) (Document Reference 9.32) following review of the updated position statement and policy paper ('JNCC, Natural England and Cefas position on the use of quieter piling methods and noise abatement systems when installing offshore wind turbine foundations' and 'Reducing Marine Noise'). Associated updates have also been made in the Marine Mammals Environmental Statement (ES) Chapter and Report to Inform Appropriate Assessment. This includes commitment to noise reduction methods for the worst case piling scenario assessed within the ES, and commitment to agreeing the mitigation requirements for the final design of the Project through the finalisation of the MMMP and UWSMS. The Applicant also notes that the information in respect to UXO clearance ('Guidelines for minimising the risk of injury to marine mammals from UXO clearance in the marine environment') has been considered in the updated MMMP and UWSMS, noting

ExA Action Point No.	Action	Action By	Response Due By	Applicant's Response
				that separate a Marine Licence Application, using the most recent information and guidance at the time of writing would be undertaken post-consent. ***Consulting on an offshore wind piling noise limit in the first half of 2025, followed by a pilot programme in 2025 and 2026, to reduce the risk of project delays because of the need to limit the amount of underwater noise generated.*** The Applicant notes that there is no noise limit that can be considered by the Applicant at this stage. The Applicant acknowledges there is an ongoing development of an underwater noise limit. All updated legislation and guidance available will be taken into through the development of the final UWSMS, including published noise limits as required post consent. This will be clarified through consultation with Statutory Nature Conservation Bodies (SNCB's) and implemented through the final MMMP. Further detail on these points in regards underwater noise has been provided in Section 1 of the Written Summary of the Applicant's Oral Submissions - Issue Specific Hearings 2, 3 and 4 (Document Reference 9.52).
14	Submit outline Construction Method Statement.	Applicant	Deadline 4, if possible but Deadline 5 if not	An Outline Construction Method Statement has been submitted at Deadline 4 (Document Reference 9.49).

ExA Action Point No.	Action	Action By	Response Due By	Applicant's Response
15	Respond on why biocides are not required in relation to gravity foundations, and, if antifouling might be required, explain why this may be necessary.	Applicant	Deadline 4	Should water be used as ballast for gravity base foundations (GBS), this would be locally sourced rather than imported. Therefore, the use of biocide is not necessary since there is no need to treat to prevent the spread of invasive species. The use of antifouling on solid ballast for GBS foundations is again unnecessary since the ballast is not subject or sensitive to drag loading. Antifouling paint could be required on other infrastructure within the windfarm site, for example, it may be applied to external surfaces of the foundation structures of the wind turbine generator (WTG)/offshore substation platform (OSPs). This is to prevent build up of marine growth, as the presence of marine growth would increase load in the foundation structure. As per the Applicant's response to the Marine Management Organisation (MMO) on this point at Relevant Representation stage, implementation of biosecurity measures in line with international and national regulations and guidance will be listed within the Project Environmental Management Plan (PEMP), an Outline of which was submitted as part of the Development Consent Order (DCO) Application (REP3-041). Furthermore, all paints used would be certified for use in the marine environment.
16	Amendment to last bullet in para 17 of In Principle Monitoring Plan to replace "supportive" with a more positive term.	Applicant	Deadline 4	This change has been made in the updated In Principle Monitoring Plan_Rev 03 (Document Reference 6.4). The word 'supportive' has been amended to 'would undertake data sharing'.

ExA Action Point No.	Action	Action By	Response Due By	Applicant's Response
17	Update the 'Draft Marine Mammal Mitigation Protocol' and 'Underwater Sound Management Strategy' in the light of new Defra Guidance and JNCC Guidelines in relation to unexploded ordnance and piling.	Applicant	Deadline 4	An updated Draft MMMP has been submitted at Deadline 4 (Document Reference 6.5). The updated Outline UWSMS has also been submitted at Deadline 4 (Document Reference 9.32).
18	Provide clarification as to "working age" in light of the raising of both the school leaving and retirement ages and relevant assessment of effects	Applicant	Deadline 4	The term "working age population" is a term that is used by the Office for National Statistics, which continues to define this as "people aged 16 to 64". While there is likely to be an increase in the number of people over 65 years who are in employment (as a result of recent changes to pension age) and an increase to the age at which people enter the workforce (as a result of a general increase in the school leaving age), the Applicant considers that it remains appropriate to use the current definition so long as the official statistics authority of the UK Government continues to, as this ensures that baseline comparisons can be drawn robustly. The definition of the working age population does not have an impact on the assessment carried out by the Applicant. It does not affect any of the significance conclusions within the assessment, and there are no definitions of sensitivity or magnitude that are dependent on the definition of the working age population.
19	Provide analysis of assessed significance of effects including cumulative effects in the light of maximum mortality range of 985m (see Applicant's response to	Applicant	Deadline 4	The worst-case underwater noise impact ranges for fish and shellfish ecology predicted from the Transmission Assets from high order clearance of a 970kg UXO is a maximum of 985m (and not the originally reported

ExA Action Point No.	Action	Action By	Response Due By	Applicant's Response
	ExQ1BEM29) in respect of UXO charge weight.			590m). This correction has been acknowledged by the Applicant in response to ExQ1 (Ref. 1BEM29; REP3-068), and corrected in the revised ES Chapter 10 Fish and Shellfish Ecology (REP3-016). The Applicant here provides a reassessment to clarify the implications of this impact range change on the significance of the assessed effect of 'Cumulative impact 3: Underwater noise and vibration (and associated barrier effects)', set out in REP3-016. The assessment for UXO clearance for the Transmission Assets has determined a low magnitude for impact for a maximum UXO clearance impact range of 985m, and this value is in line with 710m worst case impact range found for the Project alone. As noted for the existing Project-alone assessment, considering UXO clearance, there is a short-term intermittent nature of impact, which remains true both alone and cumulatively. There is a relatively small proportion of spawning habitats affected at any one time (given the broadscale nature of these habitats) and cumulative effects on spawning would only occur if piling/UXO clearance occurs simultaneously during the peak spawning periods for these species. This rationale remains valid in light of an updated worst case UXO impact range for the Transmission Assets (from 590m to 970m). The use of high order clearance in this way is considered unlikely and would only be used as a last resort, with low order deflagration of UXO preferred, with greatly reduced noise as a result. However, this represents a precautionary worst case. This updated

ExA Action Point No.	Action	Action By	Response Due By	Applicant's Response
				impact range remains small in the context of the extent of fish and shellfish populations in the Irish Sea. For example, high intensity spawning grounds for cod which encompass the majority of the Eastern Irish Sea, cover an area of approximately 6,700km^2 (Ellis *et al.,* 2012). In this context, when considering the Project-alone noise impacts and updated UXO clearance impact ranges from the Transmission Assets, the findings of the original cumulative assessment remain the same. This means that considering underwater noise from the Transmission Assets does not alter the **negligible to low magnitude** of impact and the **negligible** to **minor adverse** significance of effect as assessed for the Project-alone. It is also noted that this assessment includes
20	Update the Carbon Assessment in light of discussions in relation to: ▪ Wake effects ▪ "Substitution" ▪ Apportionment of Morecambe & Morgan Transmission Assets emissions ▪ Additional travel distance for ferries.	Applicant	Deadline 4	Wake and Vessels - An updated carbon assessment in relation wake effects and shipping has been provided within Greenhouse Gas Assessment Technical Note (Document Reference 9.57). "Substitution" has been addressed in **Section 3** of this document. Apportionment of Morecambe & Morgan Transmission Assets emissions - A reasonable proportion was derived by apportioning the proposed generation capacities of both Morgan and Morecambe to determine the GHG contribution from the Morecambe Project. This was calculated to be around 24% based on the capacity of

ExA Action Point No.	Action	Action By	Response Due By	Applicant's Response
				the projects and the specifications of the transmission infrastructure required (480 MW for Morecambe and 1,500 MW for Morgan). It is noted that there are 6 export cables required for the Morgan project compared to the 2 for Morecambe, and that the Morgan array is further offshore, requiring a longer export cable length (double the length). Further the substation required for the Morecambe project is around a third of the Morgan project.

Table 2.2 Actions recorded by the Examining Authority arising from ISH3

ExA Action Point No.	Action	Action By	Response Due By	Applicant's Response
21	Give your understanding of the status of the Isle of Man in respect of routes and navigation, and whether journeys to and from constitute "international navigation" in relation to Article 60 of the United Nations Convention on the Law of the Sea.	Applicant	Deadline 4	Clarification on the status of the route to the Isle of Man has been provided in **Section 3.1** of this document.
22	Provide minutes of discussions from technical experts in relation to access issues in respect of the assets owned and operated by Spirit and Harbour Energy.	Applicant and Spirit Energy	Deadline 4	**Section 5** includes minutes from meetings held with Spirit Energy on 13 February and 18 February 2025. The Applicant has provided an update on the position as it stands with Spirit and Harbour at Deadline 4 in paragraphs 5.2.1 and 5.2.2 of the Combined Examination Progress Tracker and Statement of Commonality (Rev 05) (Clean) (Document Reference 8.5). Meeting minutes are also included within Response to Actions arising from Issue Specific Hearings 2, 3 and 4 (Document Reference 9.5.4).
23	Provide details of residual design life for Offshore Windfarms in the vicinity and relevant licences.	Ørsted IPs	Deadline 4	The Applicant notes this is addressed to the Ørsted Interested Parties (IPs). However, the Applicant has considered an additional lifetime (totalling a 35 year operational period for all Ørsted windfarm operational Projects) for each Ørsted windfarm as part of the Greenhouse Gas Assessment Technical Note (Document Reference 9.55) to ensure the assessment is undertake on a precautionary basis.
24	Provide details of the Cumulative Assessment of effects on Very High	Applicant	Deadline 4	The Applicant understands that Blackpool Airport is due to commission its own Cumulative Assessment of effects on VHF for all Round 4 developments. The

ExA Action Point No.	Action	Action By	Response Due By	Applicant's Response
	Frequency (VHF) in respect of Blackpool Airport.			Applicant has commissioned a Project-alone assessment on VHF and DF, which will be provided to Blackpool Airport, once available, to feed into the Cumulative Assessment, if required. The Applicant is engaged in discussions with Blackpool Airport and the other Round 4 developments in the vicinity on the process for, and any project-alone input required in connection with, this Cumulative Assessment.

Table 2.3 Actions recorded by the Examining Authority arising from ISH4

ExA Action Point No.	Action	Action By	Response Due By	Applicant's Response
25	Note on whether the Marine Management Organisation acts under its own powers or delegated powers in respect of decisions on marine licences (section 113 of the Marine and Coastal Access Act 2009).	Applicant	Deadline 4	The requirement for a marine licence is set out in s. 65(1) of the Marine and Coastal Access Act 2009 (the "2009 Act"), which makes it an offence to carry on a licensable marine activity "except in accordance with a marine licence granted by the ***appropriate licensing authority***" (emphasis added). The Applicant considers that, pursuant to s. 113(1) and (8) of the 2009 Act, the Secretary of State is "the appropriate licensing authority" for the area in which the Project is situated (the Renewable Energy Zone or REZ) and for any licensable marine activity carried out in that area. The 2009 Act transferred certain functions to the MMO as part of its establishment, which did not include any matters included in Part 4 of the 2009 Act (Marine licensing). However, pursuant to articles 3 and 4 of the Marine Licensing (Delegation of Functions) Order 2011, functions under Part 4 of the 2009 Act (article 3(3)(a)) were subsequently delegated to the MMO (article 4). Article 4 is clear in establishing that the MMO is acting under delegated powers (and not under its own powers), as it is acting on behalf of the Secretary of State as licensing authority, in respect of decisions on marine licences: "The functions designated by article 3, instead of being exercisable by or in relation to the licensing authority or, as the case may be, an enforcement authority, ***are exercisable by or in relation to the Marine Management Organisation acting on behalf of the licensing authority*** or, as the case may be, the enforcement authority." (emphasis added).

ExA Action Point No.	Action	Action By	Response Due By	Applicant's Response
				The Applicant maintains its position (set out in its Response to Relevant Representations (PD1-011) (ID RR-047-23) and its Comments on Deadline 2 Submissions by IPs (REP3-069) (ID D2 REP2035-13 to 29)) and considers that the proposed wording of Article 7 (Benefit of the Order) in the draft DCO is appropriate and competent.
26	Note on whether the Air Navigation Order 2016 applies in respect of the Application site, or whether other legislation is applicable, amending the draft Development Consent Order if necessary.	Applicant	Deadline 4	The Applicant notes that the provisions of article 223 (Lighting of wind turbine generators in United Kingdom territorial waters) are limited to WTGs situated up to the seaward limits of the territorial sea (i.e. up to 12nm from shore). As such, section 223 does not currently apply to the Project, although the inclusion of the Air Navigation Order 2016 in this requirement ensures that, should article 223 be amended in future or an equivalent article be added for WTGs beyond 12nm, the authorised project would be bound to comply with that provision. The Applicant notes that the Air Navigation Order 2016 includes other provisions around lighting and safety which are not restricted to territorial waters, including article 222 (lighting of en-route obstacles). The Applicant considers that the reference to the Air Navigation Order 2016 is therefore appropriate. The Applicant also notes that the wording proposed in requirement 3 (Aviation safety) is standard wording which has been used in other offshore wind farms located beyond 12nm, including the East Anglia ONE North Offshore Wind Farm Order 2022 (requirement 31) and the Norfolk Boreas Offshore Wind Farm Order 2021 (requirement 12).

ExA Action Point No.	Action	Action By	Response Due By	Applicant's Response
				The wording is also standard drafting proposed by the Ministry of Defence and Defence Infrastructure Organisation Safeguarding. The Applicant will discuss the reference to the Air Navigation Order with those parties.

3 Substitution

3.1 Introduction

5. During Issue Specific Hearing 2 (Part 4, Timestamp: 00:43:26:00 - 00:44:17:18) of the Morecambe Offshore Wind Farm (the Project) examination, the Examining Authority (ExA) asked:

6. In Chapter 21 of the Environment Statement (ES) (APP-058) there are two scenarios given;

   - **Scenario 1** - where it's assumed that electricity from the project displaces generation from non-renewable fuel sources. This is the approach that has been advocated for offshore wind farms by Renewable UK in 2022, and is considered to account for the UK's transition from fossil fuel based generation to sources of renewables.
   - **Scenario 2** – where it's been assumed that electricity from the project displaces all forms of generation as part of the future UK grid mix, using the long run marginal emission factors as set out by the Department of Energy Security and Net Zero (DESNZ) in 2023.

7. Does the High Court's decision on the 'substitution argument' in Friends of the Earth Ltd v Secretary of State for Levelling Up, Housing and Communities & Ors [2024] EWHC 2349 (Admin) (13 September 2024) (Friends of the Earth) affect the validity of Scenario 1?

8. This section sets out:

   - Overview of Chapter 21 of the ES
   - Summary of the legal context, R (Finch on behalf of the Weald Action Group) v Surrey Country Council [2024] UKSC 20 (Finch)
   - A summary of case and decision in *Friends of the Earth*
   - The reasons why the Applicant does not consider the decision of the High Court in *Friends of the Earth Lts v Secretary of State for Levelling Up, Housing and Communities& Ors* has any direct relevance or effect on the assessment that has been carried out by the Project and therefore, why Scenario 1 remains valid and
   - The importance of National Policy Statement EN-1 in consideration of this matter

3.2 Overview of Environmental Statement, chapter 21 – climate change

9. As part of the application for the Morecambe Offshore Wind Farm (the Application), the Applicant submitted an ES. Chapter 21 of the ES, Climate Change (APP-058), comprised a Greenhouse Gas (GHG) assessment and a

Climate Change Resilience Assessment (CCRA) to consider the potential effects relating to climate change during the construction, operation and maintenance, and decommissioning phases of the Project.

10. The GHG assessment was undertaken in accordance with the Institute of Environmental Management and Assessment (IEMA) guidance 'Guide: Assessing Greenhouse Gas Emissions and Evaluating their Significance' (2022).

11. Emissions associated with: (i) construction, operation, maintenance and decommissioning (referred to in this note as the "Project emissions"); and (ii) emissions avoided (referred to in this note as the "Project emissions savings"), are separately assessed.[1]

12. To evaluate the Project emissions savings against the baseline without the Project, two 'Do Nothing' scenarios were established, which consider the displacement of emissions associated with the provision of renewable energy from the Project. These scenarios are summarised below:

    - **Scenario 1** – where it was assumed that electricity from the Project displaces generation from 'non-renewable fuel' sources. This approach is advocated for offshore windfarms by RenewableUK (2022) and is considered to account for the UK's transition from fossil fuel-based generation sources to renewables.
    - **Scenario 2** – where it was assumed that electricity from the Project displaces all forms of generation as part of the future UK grid mix, using the long-run marginal emission factors.

13. See Section 2.1 and 4.4 of the Greenhouse Gas Assessment Technical Note (Document Reference 9.57) for further detail on the two scenarios and why they were adopted, and the limitations of each.

14. Overall conclusions on significance are drawn on the 'net effect' compared to a baseline of 'Do Nothing' taking into account both scenarios.

3.3 Legal Context: R (Finch on behalf of the Weald Action Group) v Surrey Country Council [2024] UKSC 20 (Finch)

15. It is helpful to outline the legal context in which the decision in *Friends of the Earth* was made. In *Finch*, a legal challenge was made to the grant of a planning permission for the extraction of oil over a 25 year period. It was

[1] See section 21.7.1.2 of Chapter 21 where operation and maintenance is split into GHG emissions from operation and maintenance activities (which are latter added to the construction and decommissioning emissions) and the emissions savings during operation

agreed that it was inevitable the oil would be refined and combusted elsewhere in the world. The ES produced omitted GHG emissions of when the oil extracted is eventually used. The claimant argued that these emissions, which were capable of being estimated, should have been included as part of the Environmental Impact Assessment (EIA), on that basis that combustion emissions were indirect effects of the oil extraction.

16. The Supreme Court decided that the environmental effects of the GHG emissions, resulting from the ultimate combustions of the oil once refined (an indirect effect) were required to be assessed in EIA terms. The Council, in accepting that the GHG emissions were not indirect effects of the project, was unlawful.

3.4 Friends of the Earth Ltd v Secretary of State for Levelling Up, Housing and Communities & Ors [2024] EWHC 2349 (Admin) (13 September 2024) (Friends of the Earth)

3.4.1 Background

17. In December 2022 the Secretary of State for Levelling Up, Housing and Communities (SoS) issued a decision letter granting West Cumbria Mining Limited (WCM) planning permission for a new underground coal mine at Whitehaven, Cumbria. WCM had described the Project as a “net zero” mine on the basis that emissions would be compensated by offsetting.

18. Friends of the Earth (FoE) and South Lakeland Action on Climate Change – Towards Transition (SLACC) each brought a claim for statutory review, seeking to have the decision of the SoS quashed.

19. The issues in the case arise in the context of Environmental Impact Assessment (EIA). The relevant regulations for this case were the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (2011 Regulations). The project constituted EIA development, and as such was required to assess the environmental effects of the development. The 2011 Regulations referred to a description of the aspects of the environment "likely to be significantly affected by the development" including climatic factors. The judgement notes that, *“Although the 2011 Regulations were arranged in a different manner to the 2017 Regulations, the legal requirements are substantially the same.”*[2]

[2] Paragraph 68, *Friends of the Earth.*

20. Background to the Court's decision on each of the two key issues relevant to the ExA question (the EIA Assessment Issue and the Substitution Issue) is set out below.

3.4.2 Background to The EIA Assessment Issue

21. Ecolyse, consultants acting on behalf of WCM, provided a GHG Assessment dated 1 September 2021. The approach of WCM and Ecolyse was that the end use GHG emissions from the burning of the coal fell outside the scope of the EIA because they were not effects, whether direct or indirect, of the proposed coal mining project.

22. In essence, WCM maintained that Whitehaven coal would replace more expensive coal being supplied from the United States (US) to the United Kingdom (UK) and Europe. WCM stated that a broadly equivalent amount of coal would remain in the ground in those US mines, purely for an economic reason, namely the difference in the cost of coal for use in the production of steel in the UK and Europe. WCM's case, therefore, was that for that reason there would be a perfect (100%) or virtually perfect substitution.

23. The Court found that the burning of the Whitehaven coal was an "inevitable" consequence of the project, and so (applying the *Finch* decision) the emissions required to be assessed under the 2011 EIA Regulations (and the Secretary of State had to take into account in their decision).

24. The Court rejected the argument that there was no need for an assessment because there was no net increase in emissions due to the equivalent amount of US coal remaining in the ground. The court explained the correct approach would be to assess both effects of the project – the indirect effect of the emissions from the combustion and (if the substitution was in fact an effect of the project) then also the indirect effect of the US coal remaining in the ground (see para 103). The two effects have two different chains of cause and effect, which should not be "elided".

25. The Court did, however, accept that in principle substitution could be a relevant consideration so long as both impacts were assessed, and so long as it could be justified – *"To the extent that substitution for US coal would result in a reduction in GHG emissions, that could potentially be offset against the GHG emissions attributable to the burning of the Whitehaven coal. Assuming that there will be no other demand for it, the US coal would not be burnt."* [3]

[3] Paragraph 106, *Friends of the Earth*

3.4.3 Background to The Substitution Issue

26. The Court then went on to consider as a separate ground whether the conclusion reached on substitution (which was the basis for an argument that there would be no net increase in GHG emissions) could be justified or if it was flawed.

27. FoE and SLACC claimed that the SoS's conclusion that the Whitehaven coal mine would have a neutral or beneficial effect on GHG emissions was inconsistent with the decision letter itself regarding substitution, and illogical as it did not find as to the degree of substitution. The Court found that the SoS's decision letter demonstrated that either that there would only be a partial substitution of US coal for the Whitehaven coal, or failed to reach any consistent conclusion on this issue. As a result, the Court held that the SoS was not entitled to conclude that the Whitehaven coal mine would not lead to a net increase in GHG emissions.

28. The Court additionally noted that it was for WCM, should it wish to claim that the US substitution effect would be as large so as to set off the emissions produced by the Whitehaven claim, to produce information in its ES to demonstrate that point, including legal causation in relation to substitution. It was for WCM, as the applicant, to be responsible for producing information which is legally essential for a compliant ES. WCM's case had to show 1) a very high degree of substitution not far short of perfect substitution, and if that was shown, 2) that there would be no other demand for US coal substituted by that Whitehaven coal. The ES material produced did not address either of these points.

3.5 Application to the Project

3.5.1 The EIA Assessment Issue

29. The position of the Project as compared to the EIA assessment issue in *Friends of the Earth* can be distinguished for the two (related) reasons set out below.

30. The Project (a renewables project) has no equivalent of combustion emissions to assess:

- in *Finch* and *Friends of the Earth* there was enough of a causal connection between the project being developed and the 'inevitable' GHG effects of the coal / oil being extracted and burned. As such, the downstream emissions from the product of those projects required to be assessed; but
- with regards to offshore wind, there is not a sufficient and clear causal link between the electricity produced by the project and how it is used,

such that the implications of that use can be said to be a 'likely significant effect' of the project. Unlike burning oil or coal, using electricity does not give rise to GHG emissions. Using electronic devices in a home or lights and equipment in a hospital do not produce GHG emissions. It is possible that electricity may power or facilitate activities which in turn give rise to GHG emissions (such as powering the lights in steel production plant), but clearly at that point, the chain of causation is far too remote to suggest that GHG emissions from the steel production is caused by (i.e. the likely significant effects are those of) the electricity indirectly used as part of the steel production process. No more so than electricity is also the cause of cyber-crime.

31. A complete assessment of emissions has been carried out for the Project:

- the ES has assessed both the Project emissions and the Project emissions savings (Chapter 21: Climate Change of the EIAR (APP-058), and Volume 5 – Appendix 21.1 – Greenhouse Gas Assessment Methodology of the EIAR (APP-087)); and
- unlike *Friends of the Earth,* the Project is not suggesting that there is no need to assess the Project emissions because they are substituted by the Project emissions savings – both are assessed, which accords with the approach the Court said would have been correct in *Friends of the Earth*.[4]

32. Therefore, unlike the *Friends of the Earth* case (or *Finch*), there is no question here of an absence of a GHG assessment. There is no legal flaw in the EIA for the Project.

3.5.2 The Substitution Issue

33. Turning to the substitution issue in *Friends of the Earth,* as noted above the Court did not suggest there is no place in decision making for offsetting of impacts or the concept of substitution. However, in the *Friends of the Earth* case, WCM deployed the concept of substitution as a 'shield' against the absence of a legally required assessment of the "inevitable" GHG emissions from burning the coal (and failing that, as an alternative argument that the absence of an assessment make no difference because the emissions would be wholly offset). The Court explained that because WCM was seeking to use substitution in this way then it had to prove it, which the ES did not do. The Court stated: *"124. On any view, WCM's case had to show 2 things: (i) a very high degree of substitution not far short of perfect substitution, and, if that was shown, (ii) that there would be no other demand for US coal substituted by that Whitehaven coal. The ES material upon which WCM relied during and*

[4] Paragraph 103, *Friends of the Earth*

after the inquiry did not address points (i) or (ii). The claim in the ES that there would be no net increase in GHG emissions was essentially a matter of assertion which was not assessed."

34. The GHG assessment for the Project, in attempting to assess the benefits of the renewable electricity, does use the concept of substitution. It presents two scenarios for consideration. However, the concept of substitution is not being used to avoid an assessment, indeed it is part of the assessment. Neither is it being suggested that the ExA or the SoS must make findings on exactly what the extent of the substitution will be – the two scenarios are provided to present a range of alternatives (in contrast to *Friends of the Earth* where the SoS had to accept there would be "virtually perfect" substitution).

35. So the high bar set by the Court in the *Friends of Earth* case - that substitution must be proven to be relied upon – is not relevant in this context. In short, the *Friends of Earth* case involves a very different situation and as such it is of no direct relevance to the Project. There could, however, arguably be some indirect relevance to the Project from the discussion of causation by the Court, and this is considered in the following two paragraphs.

36. The two scenarios in the GHG assessment are identified against a context of increasing electricity demand in the UK: "The Project will contribute to the UK meeting the projected increase in electricity demand over the years due to population and economic growth (BEIS, 2022), as well as the supply of renewable energy to decarbonise the power sector and support emission reductions in other economic sectors" (Paragraph 21.171 of Chapter 21: Climate Change of the EIAR (APP-058). If there will remain strong demand for electricity in the future,[5] coupled with the fact that generation plant does not last forever and must be periodically replaced,[6] there is a clear causal connection between the Project and another source of electricity being required in its place if it were not to proceed. That is why the two 'Do Nothing' scenarios consider alternative sources of electricity if the project were not to proceed (and not a proposition that actually electricity demand starts drying up). See assumption 4 of Table 21.12 "Energy displaced by the Project would otherwise be produced by non-renewable fuels (Scenario 1) or displace electricity from the future UK grid (Scenario 2), as discussed in Section 21.6.1.2." and Table 21.25 of Chapter 21: Climate Change of the EIAR (APP-058).

[5] This assumption is supported by the NPSs – para 3.3.3 of NPS EN-1 "Our analysis suggests that even with major improvements in overall energy efficiency, and increased flexibility in the energy system, demand for electricity is likely to increase significantly over the coming years and could more than double by 2050 as large parts of transport, heating and industry decarbonise by switching from fossil fuels to low carbon electricity"

[6] para 3.3.3 of NPS EN-1 "To ensure that there is sufficient electricity to meet demand, new electricity infrastructure will have to be built to replace output from retiring plants and to ensure we can meet increased demand."

37. Common sense suggests this causal connection (no Project = electricity needed from elsewhere) is much clearer and stronger than the example in *Friends of the Earth* (no project = coal is mined which would otherwise stay in the ground). A point reinforced by the very credible source of scenario 1 and scenario 2 – DESNZ Green Book supplementary guidance (as referenced in Chapter 21). It is submitted that there is sufficient causal connection between the Project and both these scenarios for them to form an appropriate basis for the assessment of Project emissions savings, and so the assessment in Chapter 21 is not flawed as a result of relying on these substitution scenarios to support the assessment of Project emissions savings.

3.5.3 The Role of the GHG Assessment in Decision Making

38. It is not an EIA concept that that the future baseline must be "proven", instead best available science is used to make future predictions and the limitations in assessment must be disclosed.[7] It is clear from Chapter 21, that its conclusions are drawn from a consideration of two credible scenarios, and the Chapter discusses the positives and shortcoming of each scenario (paragraphs 21.125 – 12.127). Each scenario might represent the high and low water mark (Scenario 1: displacement of fossil fuels only; Scenario 2: displacement of a hypothetical future UK grid mix accounting for projects like this coming online). In the context of this assessment, the use of substitution of two possible future scenarios is considered an appropriate (and indeed the only way to) assess the Project emissions savings. It is submitted that Scenario 1 represents the more reasonable scenario of the two, given that the net zero transition assumed in Scenario 2 is yet to occur, but that the balanced approach taken by the Chapter in considering both scenarios is appropriate.

39. EIA is a tool to inform, not direct, decision making. It is for the ExA to consider what weight to give the effects assessed in reaching its recommendation and the Secretary of State to do likewise in its decision.

40. Previous Secretary of State decisions on offshore wind have considered the benefits of carbon emissions. For example, the decision on Awel y Môr stated:

- "7.6. The Secretary of State has considered all the merits and disbenefits of the Proposed Development, and concluded that, on balance, the benefits of the Proposed Development outweigh its negative impacts, in

[7] Schedule 4, *Information for Inclusion in Environmental Statements*, of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. Paragraph 3 notes "A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge."

particular, the contribution of renewable electricity to the urgent need to decarbonise the electricity supply."

- "9.1 […] The Secretary of State does not believe that the national need for the Proposed Development as set out in the relevant NPSs is outweighed by the Development's potential adverse impacts, as mitigated by the proposed terms of the Order."

41. The Applicant also notes the Secretary of State decision letter for the Norfolk Boreas Offshore Wind Farm commented that the ExA in that examination at paragraph 4.221 "concluded no weight for or against the Order being made should be given in respect of climate change and adaptation [ER 7.3.58], and that there was substantial weight in favour of the Order due to its contribution toward achieving zero carbon energy". The Secretary of State agreed. In other words, the Secretary of State was relying on policy and the need for the project established in policy, rather than the findings of the GHG assessment, to support their decision.

42. The relevant National Policy Statements (NPS), overarching national policy statement for energy (EN-1) and for renewable energy infrastructure (EN-3), continue to strongly support the need for low carbon electricity generation, and indeed set out a "critical national priority" for nationally significant low carbon infrastructure (paragraph 4.2.5 of EN-1).

43. Importantly, the Project is low carbon infrastructure, and so benefits from this very strong support whatever the generation scenario against which GHG benefits are considered. This strength of the need established by the NPS is not in any way caveated by a requirement for corroboration by any particular level of GHG emissions saved. The need for the Project, as low carbon infrastructure, established by the NPS and supporting the Application is beyond doubt.

3.5.4 Response to the ExA Question

44. Therefore, in response to the ExA's question "Is Scenario 1 still valid in light of the decision on substitution of the High Court in Friends of the Earth Ltd v Secretary of State for Levelling Up, Housing and Communities & Ors [2024] EWHC 2349 (Admin) (13 September 2024) (Friends of the Earth)?", it is the Applicant's position that both Scenario 1 and Scenario 2 are examples of substitution, but both are valid to consider in the context in which they are used: assessing the Project emissions savings (and indeed displacement of future electricity generation scenarios is the only way to assess this impact). The context of the *Friends of the Earth* case was very different, as a finding of "virtually perfect" substitution was being relied upon to avoid the need for a GHG assessment, or alternatively that a significant effect from combustion emissions would not arise (neither of which is relevant here). If anything, it is submitted that Scenario 1 is the more reasonable of the two, as it considers

substitution of existing non-renewable generation rather than a future UK grid mix, but that the balanced approach taken in the GHG assessment is appropriate.

45. Importantly, in any event, the Applicant is of the view that the ExA does not need to make a finding on which scenario is more appropriate, and is instead entitled to consider the assessment in the GHG ES chapter as a whole, along with, and secondary to, the clear need (indeed the Critical National Priority) established for low carbon generation in the National Policy Statements.

46. See also response to ExA question 1CC5 (REP3-068).

4 International Navigation

4.1 Introduction

47. During Issue Specific Hearing 2 in the Morecambe Offshore Wind Farm (the Project) examination, the Examining Authority (ExA) requested Morecambe Offshore Wind Limited (the Applicant) to give its understanding of the status of the Isle of Man in respect of routes and navigation, and whether journeys to and from constitute “international navigation” in relation to Article 60 of the United Nations Convention on the Law of the Sea.

48. The Applicant’s position is that the phrase ‘recognised sea lanes essential to international navigation’ should be read as a whole, and dissecting into constituent parts could distort the overall meaning. It submits that this is a phrase which is found in the United Nations Convention on the of Law of the Sea (UNCLOS) and, despite not being defined, the Maritime and Coastguard Agency (MCA) considers ‘recognised sea lanes essential to international navigation’ to be Traffic Separation Schemes (TSS). As there are no TSS in the vicinity of the Project, the Applicant submits that the relevant policy and legislative tests, set out below, are not engaged.

49. The Applicant also sets out the status of navigation to the Isle of Man, without prejudice to the Applicant’s position that this is not relevant to the policy and legislative requirements.

4.2 Status Of The Isle Of Man In Respect Of Routes And Navigation

50. The term “international navigation” is not defined under UNCLOS and instead its meaning is derived from the context in which it is used throughout UNCLOS. Generally, the term is used in connection with the principle of innocent passage.

51. International navigation may occur where a vessel navigates from a port in one State to a port in another State, when traversing a strait between an exclusive economic zone (EEZ) or the High Seas (beyond 200 nautical miles), or passage through a designated sea lane within the territorial waters (12 nautical miles) of an archipelagic State.

52. International voyage is, however, defined in the International Convention for the Safety of Life at Sea (SOLAS), an international maritime treaty which sets out minimum safety standards in the construction, equipment and operation of merchant ships. SOLAS specifically states that for the purpose of the regulations:

"international voyage means a voyage from a country to which the present Convention applies to a port outside such country, or conversely."

53. This definition necessitates consideration of whether the Isle of Man is regarded as a country. The Isle of Man is not listed as a separate state in the Ratification by State document and also does not appear as a separate member of the United Nations. Based on this it can be inferred that that voyage between the UK and the Isle of Man does not constitute international voyage because the Isle of Man is not considered to be a sovereign country.

54. This does not entail, however, that such journeys are through 'recognised sea lanes essential to international navigation'. This is the UNCLOS requirement in Article 60(7), elaborated on further below. In any event, the Project does not impact any routes between England and the Isle of Man.

4.3 Recognised Sea Lanes Essential to International Navigation

4.3.1 UNCLOS

55. UNCLOS contains provisions dealing with "Artificial islands, installations and structures in the exclusive economic zone".

56. Article 60(7) provides that:

"Artificial islands, installations and structures and the safety zones around them may not be established where interference may be caused to the use of recognized sea lanes essential to international navigation".

57. The term "recognised sea lanes essential to international navigation" (together with its constituent parts) is not defined in UNCLOS.

4.3.2 National Policy Statement EN-3

58. Paragraphs 2.8.326-327 of the National Policy Statement (NPS) EN-3 on Renewable Energy state:

"2.8.326 The Secretary of State should not grant development consent in relation to the construction or extension of an offshore wind farm if it considers that interference with the use of recognised sea lanes essential to international navigation is likely to be caused by the development.

2.8.327 The use of recognised sea lanes essential to international navigation means:

a) anything that constitutes the use of such a sea lane for the purposes of article 60(7) of the United Nations Convention on the Law of the Sea 1982; and

b) any use of waters in the territorial sea adjacent to Great Britain that would fall within paragraph (a) if the waters were in a REZ."

4.3.3 Energy Act 2004

59. Section 99 of the Energy Act 2004 added Section 36B to the Electricity Act 1989. Section 36B set out duties imposed on the MMO in relation to navigation when granting a consent under the 1989 Act. Section 36(1B) provides that the MMO may not grant such a consent if it considers that interference with the use of recognised sea lanes essential to international navigation is likely to be caused by the carrying on of offshore generating activities (section 36B(1)(a)). This section directly implements the UK's international obligations under Article 60(7) of UNCLOS, to refrain from establishing installations, structures and the safety zones around them where interference may be caused to such sea lanes.

60. 36B of the Electricity Act 1989 provides:

(1) The appropriate authority may not grant a consent in relation to any particular offshore generating activities if the appropriate authority considers that interference with the use of recognised sea lanes essential to international navigation—

(a) is likely to be caused by the carrying on of those activities; or

(b) is likely to result from their having been carried on.

3.4 Within that provision,

'the use of recognised sea lanes essential to international navigation' means—

(a) anything that constitutes the use of such a sea lane for the purposes of Article 60(7) of the United Nations Convention on the Law of the Sea 1982; or

(b) any use of waters in the territorial sea adjacent to Great Britain that would fall within paragraph (a) if the waters were in a Renewable Energy Zone.

61. The relevant paragraphs of NPS EN-3 therefore restate the legislation.

4.4 Conclusion

62. There is no definition within UNCLOS of recognised sea lanes essential to international navigation, however, the term is a recognised one repeated in various places in law and guidance.

63. In the MCA's response to the Examining Authority's Written Questions in the Morgan Offshore Wind Farm Examination they state:

> *In the context of paragraphs 2.8.316 and 2.8.317 in the National Policy Statement for Renewable Energy Infrastructure (EN-3), 'sea lanes essential to international navigation' is understood to mean IMO-adopted Traffic Separation Schemes. The navigation routes passing east, west and south of the proposed Morgan wind farm are not Traffic Separation Schemes, however they are considered to be strategic routes essential to regional, national and international trade.*

64. This statement is repeated in the Statement of Common Ground between Morgan Offshore Wind Farm and the MCA at row MCA.SN.17 (REP5-051 from Morgan Offshore Wind Project's Examination Library) (text copied below):

MCA.SN.17	The Morgan Generation Assets would not interfere with the use of recognised sea lanes essential to international navigation (Traffic Separation Schemes).	Agreed based on MCA's written representation submitted at Deadline 1 and confirmed in meeting 10/10/24.	Agreed

65. Therefore, if the MCA understand 'recognised sea lanes essential to international navigation' within the context of the NPS to mean Traffic Separation Schemes (TSS), then the same must be said of the reference in this part of UNCLOS, given the NPS and legislative definition ties itself to UNCLOS.

66. The Applicant acknowledges that these statements are made in relation to the Morgan Offshore Wind Farm which is located in a different place to the Project. However, there are no TSS within the vicinity of the Project as shown on Figure 8: Navigational features in the study area, on page 75 of the Navigational Risk Assessment (APP-073). There is one TSS located to the south of the Shipping and Navigation Study Area, shown in pink within the Navigational Risk Assessment.

67. Therefore, given there are no TSS affected here, Article 60(7) of UNCLOS, and paragraphs 2.8.326-327 of NPS EN-3 are not engaged.

5 Minutes from Meeting with Spirit Energy

5.1 Joint Summary / Meeting Notes from MOWL & Spirit Energy Shared Understanding Meeting 13 February 2025

Location		Boardroom, Flotation Energy Ltd, iQ Building, 15 Justice Mill Lane, Aberdeen, AB11 6EQ	
Time		10:00 – 12:00	
Participants:		**Name**	**Organisation**
		Alastair Rayner (AR)	MOWL / Flotation Energy
		Sam Park (SP)	MOWL / Flotation Energy
		Christopher Rowland (CR)	MOWL / Flotation Energy
		Oliver Gardner (OG)	MOWL / Flotation Energy
		Kevin Dale (KD)	MOWL / Flotation Energy
		Sarah Gregory (SG)	MOWL / Flotation Energy
		Mark Anderson (MA)	MOWL / Xodus Group
		Susan Gair (SG)	Spirit Energy
		Rae-Anne Marr (RAM)	Spirit Energy
		Peter Hepburn (11-12) (PH)	Spirit Energy
		Andy Macdonald (AM)	Spirit Energy
		Rosalyn Masson (RM)	Spirit Energy
		Denis Ustich (DU)	Spirit Energy
		Laura Taylor (LT)	Spirit Energy
		Dave Will (DW)	Spirit Energy
		Jonathan Clarke (JC)	Spirit Energy

Agenda:	1	- Introductions
	2	- Intention of the meeting as outlined by both parties is to reach a shared understanding of the safety impact on Spirit's operations. - Intention and Purpose of Meeting by MOWL *Safety moment and opening remarks by CR from MOWL to explain necessity to reach common ground outside the DCO process and intention to align on terms for Side Agreement by latest 28th February and final form by latest 10th March.* - Intention and Purpose of Meeting by Spirit *Spirit clarified (RAM and SG) the intention of the session agreed post hearing conversations is to hold a session to broker a shared understanding between the parties of Spirit's operations and the safety concerns raised to date by Spirit as a result of MOWL's proposal. Spirit clearly stated that this session is not a negotiation commencement and that safety is not a matter it deems capable of being compensated.* *Spirit shared that it felt that in previous meetings the safety concerns raised by Spirit were not understood/ heard and MOWL moved too quickly to a mitigation proposal without understanding the safety concerns and understanding why Spirit requires the aviation buffers requested. Spirit has ensured all key personnel are in attendance to help MOWL understand the safety impact on Spirit and encourages an open discussion with key attendees on hand to support MOWL with any questions or clarifications they require to broker a shared understanding.* *Spirit shared the view that where possible will seek to work collaboratively and are happy to work towards coexistence, but not at the expense of safety.*
	3	**Schedules:** - **Project Construction Schedule *(KD)*** o MOWL shares current timeline and schedule for project - key dates are April 2028 for commencement of offshore construction works, and summer 2029 for installation of turbines; o MOWL highlights there may only be a small or no period of overlap between spirit decommissioning and our construction timelines; o Topics discussed include: possible variations to timelines due to the consent process, grid connection dates and CfD timelines o MOWL team outlines relationship with neighbouring windfarm project regarding co-ordination and grid connection: projects have a shared transmission DCO process however will achieve separate consents and have separate construction execution. Projects are neighbouring in terms of cable route, landfall and onshore route and therefore some simultaneous works will be co-ordinated between the parties and is agreed in a Co-ordination Agreement - **Spirit high level Decommissioning and CCS schedule** o Spirit present high-level schedule for MNZ CCS and decommissioning activities; o Spirit does not have a set decommissioning date at this time, and could potentially have people in the area through to 2035;

		○ Spirit (RM) notes that the majority of maintenance obligations are not stepped down; ○ Spirit highlights they have no issues with coordinating Simops engagement between MOWL construction and Spirit's activities in the area relating to Decommissioning and CCS when considering the positive Simops engagements between the parties in 2024 whilst MOWL were undertaking surveys and seabed sampling, and Spirit were undertaking a CCS Licence Seismic survey. ○ Topics discussed included: How decommissioning decisions are made, effects of the decommissioning process on frequency and number of flights needed, reuse of existing infrastructure during and after decommissioning. ○ **Action (CR & SG):** Both parties agree of need for dedicated decommissioning and MNZ CCS meeting.
	4,5,6 combined	**Impact Analysis, Operations and Safety** Impact analysis update (Spirit) - **Assumptions changed post meeting on 31st October 2024 and overview of the impact of these changes;** - Spirit (JC) present and updated impact analysis; - Changes to the previous methodology include: ○ Sunset/sunrise times updated to +/- 45 minutes, an increase of 15-minutes; ○ Increased flight flexibility, and removal of the 'Compound' methodology. Instead, a new 'Time Offshore' methodology has been developed - Impact analysis has been based on MOWL's 1.5nm proposal excluding the proposed IMC Corridor, which leads to a 30% annual average loss in aviation ability which translates to a 22% loss in previously productive working time offshore on NUI assets. - MOWL acknowledges that there is an impact on Spirits operations. - **Action (SG):** Spirit to share updated impact analysis slides with MOWL post meeting - Topics discussed include, but were not limited to: ○ Effects of wind direction; ○ Flight planning; ○ NUI maintenance activities and planning; ○ Effects of NUI backlog on safety; ○ How Spirit's aviation operations work including discussion around all NUI's being accessed via CPC. ○ Possible effects of decommissioning on maintenance frequency. - **Action (CR & SG)**: Both parties agree to revisit above topics in further detail in aviation focused meeting on 18/02/25, and define agenda in advance. - **Action (CR):** MOWL to share updated analysis and meeting content with Aviation and Safety team and pre-brief ahead of aviation and safety dialogue on 18/02/25.

	7	**Way Forward and Next Steps** - Both parties thank each other respectively for constructive engagement. - Noted that further progress is dependent upon achieving shared understanding on aviation and safety related topics during the next meeting scheduled for 18th Feb - Following which, further meetings will be scheduled to address (i) any questions MOWL has in response to the detailed information included at Spirit's Deadline 3 submission in respect of its CCS MNZ project and (ii) any further clarification in respect of Spirit's decommissioning plans; - Progress is expected with regards to Protective Provisions and any required Side Agreement on matters capable of agreement - Transcript and meeting minutes to be shared after the meeting. - Meeting Close.

Item	Key Outcome / Action Items	Org. / Person Responsible	Due
1	Spirit to share updated Impact Analysis	Spirit (SG)	14-02-2025
2	Follow up meeting for Decom. and MNZ to be arranged	MOWL(CR)/Spirit(SG)	18-02-2025
3	Agenda for aviation meeting to be agreed jointly prior to 18/02/25	MOWL(CR)/Spirit(SG)	17-02-2025
4	MOWL to brief Aviation and Safety teams ahead of follow up meeting on Aviation and Safety on 18/02/2025	MOWL(CR)	17-02-2025

5.2 Agenda and Attendees from MOWL & Spirit Energy Shared Understanding Tuesday 18 February 2025

Location		Online via Teams	
Time		09:30 – 13:00	
Participants:		**Name**	**Organisation**
		[redacted]	MOWL / Flotation Energy
			MOWL / Flotation Energy
			MOWL / Flotation Energy
			MOWL / Anatec
			MOWL / Anatec
			MOWL / DNV
			MOWL / DNV
			Spirit Energy
			Spirit Energy
			Spirit Energy
			Spirit Energy
			Spirit Energy
			Spirit Energy
			Spirit Energy / AviateQ
Agenda:	1	Introductions	
	2	Intention - Intention and Purpose of Meeting by MOWL - Intention and Purpose of Meeting by Spirit	
	3	Safety - DNV to talk through findings of their reports and considerations as a result of the update safety analysis by Spirit shared on 13th Feb; - MOWL and Spirit to step through remaining points of difference;	
	4	Aviation - MOWL/Anatec to share: o 1.26nm calculation o Calculations for IMC o Further explanation to assist Spirit to understand that 1.5nm is a safe aviation buffer - MOWL/DNV/Anatec impact calculations: o Update on latest impact analysis from Anatec; to be shared in the meeting; o Considerations/clarifications from MOWL/DNV to the latest Spirit analysis shared on 13th Feb.	
	5	Way Forward and Next Steps	
	6	AOB	

6 References

Ellis, J. R., Milligan, S. P., Readdy, L., Taylor, N. and Brown, M. J. (2012). Spawning and nursery grounds of selected fish species in UK waters. Sci. Ser. Tech. Rep., Cefas Lowestoft, 147: 56pp.

Morgan Offshore Wind Limited and Morecambe Offshore Windfarm Ltd (2023). Morgan and Morecambe Offshore Wind Farms: Transmission Assets. Preliminary Environmental Information Report. Available at: https://morecambeandmorgan.com/transmission/our-consultation/consultationhub/