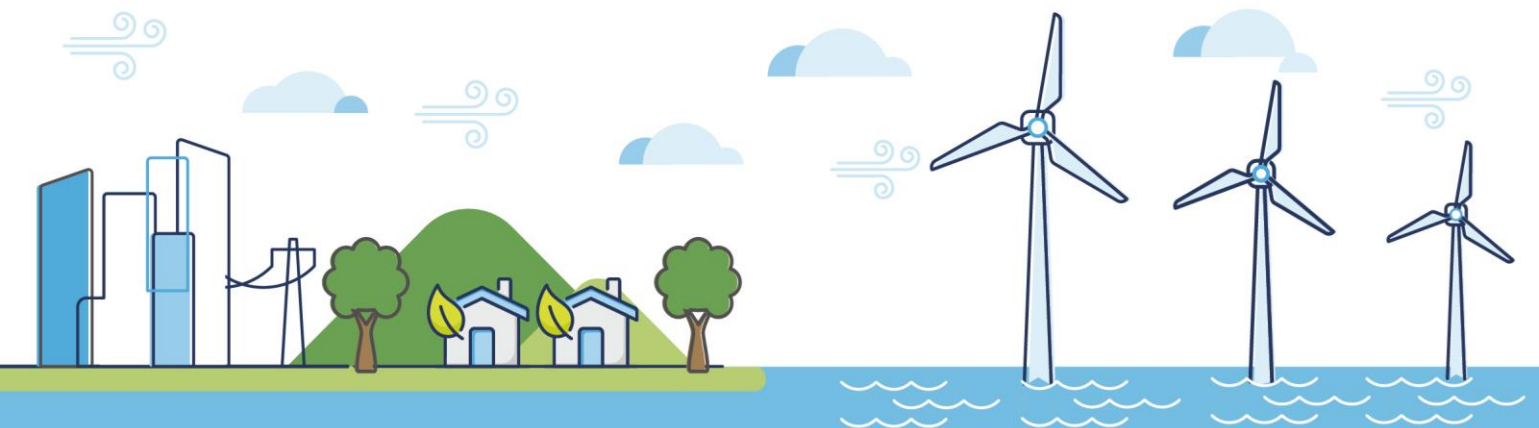


Morecambe Offshore Windfarm: Generation Assets Examination Documents

The Applicant's Response to ExA's Written Questions 2

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Glossary of Acronyms

ADD	Acoustic Deterrent Devices
AfL	Agreement For Lease
AIS	Automatic Identification System
BEIS	Department for Business, Energy & Industrial Strategy
BEM	Biodiversity, Ecology and Marine Processes
CAA	Civil Aviation Authority
CAR	Civil and Military Aviation and Radar
CC	Climate Change
CEA	Cumulative Effects Assessment
CF	Commercial Fisheries
CH	Cultural Heritage (including Marine Archaeology)
CIP	Copenhagen Infrastructure Partners'
CMS	Construction Method Statement
CNP	Critical National Priority
COLREGS	International Regulations for Preventing Collisions at Sea
COP	Copenhagen Offshore Partners
CRA	Chemical Risk Assessment
CRM	Collision Risk Modelling
D1	Deadline 1
DCO	Development Consent Order
DDC	Drop-down camera
dDCO	Draft Development Consent Order
DF	Direction Finding
DIO	Defence Infrastructure Organisation
DML	Deemed Marine Licence
DRC	Dose Response Curves
EDR	Effective Deterrent Ranges
EIA	Environmental Impact Assessment
EIP	Environmental Improvement Plan
EIS	Environmental Impact Statement
EMF	Electromagnetic fields
EN-5	National Policy Statement for Electricity Networks Infrastructure
ENG	Environmental Net Gain

EPP	Evidence Plan Process
ES	Environmental Statement
ES	Environmental Statement
ETG	Expert Topic Group
EU	European Union
ExA	Examining Authority
HAT	Highest Astronomical Tide
ExQ1	Examination Questions 1
ExQ2	Examination Questions 2
FLCP	Fisheries Liaison and Co-existence Plan
FLO	Fisheries Liaison Officer
GEN	General and Cross-topic Questions
GHG	Greenhouse Gas
HRA	Habitats Regulations Assessment
ICES	International Council for the Exploration of the Sea
IPCoD	Interim Population Consequences of Disturbance
ISH1	Issue Specific Hearing 1
JNCC	Joint Nature Conservation Committee
KAMT	Kenneth Allsop Memorial Trust
LBBG	Lesser Black-Backed Gulls
LSE	Likely significant effects
LURA	Levelling Up and Regeneration Act
LVIA	Landscape and Visual Impact Assessment
M&MTA	Morgan and Morecambe Offshore Wind Farms Transmission Assets
MCA	Marine Conservation Area
MCZA	Marine Conservation Zoning Assessment
MDE	Marine Data Exchange
MHWS	Mean High Water Springs
MHWN	Mean High Water Neaps
MLWN	Mean Low Water Neaps
MMMP	Marine Mammal Mitigation Protocol
MMO	Marine Management Organisation
MSA	Minimum Sector Altitude
MSL	Mean Sea Level

NATS	National Air Traffic Services
NC	Natural Capital
NE	Natural England
NFFO	National Federation of Fishermen's Organisations
NISA	Northern Irish Sea Array
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NRW	Natural Resources Wales
NSIP	Nationally Significant Infrastructure Projects
NtP	Notice to Proceed
OOI	Other Offshore Infrastructure
OSP	Offshore Substation Platform
OSPAR	Convention for the Protection of the Marine Environment of the North-East Atlantic
OWF	Offshore Wind Farm
PAM	Passive Acoustic Monitoring
PDE	Project Design Envelope
PEIR	Preliminary Environmental Impact Report
PINS	Planning Inspectorate
PTS	Permanent Threshold Shift
RIAA	Report to Inform Appropriate Assessment
RIS	Information Sheet on Ramsar Wetlands
RR	Relevant Representation
RTD	Red Throated Diver
SAC	Special Area of Conservation
SAR	Search and Rescue
SETR	Socio-Economics, Tourism and Recreation
SLV	Seascape, Landscape and Visual
SMRU	Sea Mammal Research Unit
SN	Shipping and Navigation
SNCBs	Statutory Nature Conservation Bodies
SoCG	Statement of Common Ground
SPA	Special Protection Area

TA	Transport Assessment
TAA	Terminal Arrival Altitudes
TT	Traffic and Transport
UK	United Kingdom
UWSMS	Underwater Sound Management Strategy
VHF	Very High Frequency
VMC	Visual Meteorological Conditions
WR	Written Representation
WTG	Wind Turbine Generator

Glossary of Unit Terms

km	kilometre
km ²	square kilometre
m	metre
MW	Megawatt

Glossary of Terminology

Agreement for Lease (AfL)	Agreements under which seabed rights are awarded following the completion of The Crown Estate tender process.
Applicant	Morecambe Offshore Windfarm Ltd.
Application	This refers to the Applicant's application for a Development Consent Order (DCO). An application consists of a series of documents and plans which are published on the Planning Inspectorate's (PINS) website.
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).
The Planning Inspectorate	The agency responsible for operating the planning process for Nationally Significant Infrastructure Projects.
Windfarm site	The area within which the WTGs, inter-array cables, OSP(s) and platform link cables would be present.
Agreement for Lease (AfL)	Agreements under which seabed rights are awarded following the completion of The Crown Estate tender process.



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1 Introduction

1. This document presents the Applicant's response to the Examining Authority's (ExA) second written questions and requests for information (ExQ2), issued to the Applicant on 27 February 2025 (PD-015).
2. As the owner of the Morecambe Offshore Windfarm Generation Assets, Morecambe Offshore Windfarm Ltd is the named undertaker that has the benefit of the Development Consent Order (DCO). References in this document to obligations on, or commitments by, 'the Applicant' are given on behalf of Morecambe Offshore Windfarm Ltd as the undertaker of Morecambe Offshore Windfarm Generation Assets.

2 Comments on ExQ2

3. The Applicant's responses to the ExQ2 are presented in **Table 2.1**.

Table 2.1 The Applicant's responses to ExQ2

ExQ2	Question to:	Question	Applicant's Response
1. General and Cross-topic Questions (GEN)			
Environmental Statement (General)			
2GEN1	The applicant	<p>Applicant status</p> <p>The ExA is aware of press reports that Copenhagen Infrastructure Partners has agreed to buy the proposed development from COBRA Group and Flotation Energy. In light of this, could the applicant please update the ExA on the current situation including any implications for funding of the proposed development.</p>	<p>On 6 February 2025 Copenhagen Infrastructure Partners' (CIP) fifth flagship fund (CI V) signed an agreement with Cobra and Flotation Energy to acquire the full ownership of Project. The transaction will close pending fulfilment of customary transaction conditions including consent from The Crown Estate. Once the transaction is complete, CI V will assume all funding obligations for the project.</p> <p>CI V is expected to be the largest dedicated greenfield renewable energy fund globally with a target of EUR 12bn and per 6 January 2025 had commitments of EUR 10,423m.</p> <p>Copenhagen Offshore Partners (COP), CIP's development and construction partner for offshore wind projects, will be leading the development and construction of the Project. Flotation Energy will remain involved as a development partner to the Project which will ensure continuity of expertise and knowledge.</p> <p>COP is a world leader in offshore wind project origination, development, and construction. Working for CIP, COP is accelerating the energy transition through the development of a 50+ GW project portfolio which includes the Ossian Floating Offshore Wind Farm and the Pentland Floating Offshore Wind Farm. An industry pioneer, the group is leading project development in new markets, including several CIP's projects recently completed or currently under</p>

ExQ2	Question to:	Question	Applicant's Response
			construction – Veja Mate in Germany, Changfang and Xidao and Zhong Neng in Taiwan, Vineyard Wind 1 in the United States, and Jeonnam 1 in Korea.
2GEN2	The applicant	Cumulative assessments In its D4 submission [REP4-074] NRW (A) makes the point at three locations to the effect that it considers that the applicant has undertaken assessments based on activities occurring simultaneously rather than cumulatively. The applicant is specifically requested to respond to this critique of its assessments and to comment on whether, if the activities were not to occur simultaneously, different significant or effects might result. The applicant in commenting is requested to note whether there are any effects on the RIAA in-combination assessment.	<p>The Applicant considers a robust cumulative assessment has been carried out and notes that NRW comments around activities occurring simultaneously are in relation to marine mammals and disturbance events (noisy activities).</p> <p>The Applicant has assessed at worst case, all noisy activities that could occur while the Project is constructing (given this is when the peak of noisy activities would occur). These assessments considered a large number of other windfarm projects that could be piling (and/or constructing) at the same time as the Project (as well as other activities such as dredging or operational projects). The assessment included a quantitative representation of the number of animals that could be disturbed at one time if all activities were to occur at the same time. This was calculated for the Project alone and cumulatively with other projects (considering each disturbance activity such as construction noise and piling). Within the Marine Mammal Technical Note 1 (EIA) (REP1-083), as requested by Natural England at Deadline 1 (D1), the Applicant provided further quantitative information displaying all disturbance calculation methods (such as Dose Response Curves (DRC) and Effective Deterrent Ranges (EDRs)) of the total number of animals that could be disturbed at one time as a result of all Project activities, and cumulatively with other projects and activities. This was incorporated into the ES chapter for</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>Deadline 4 (REP4-011) and in the Report to Inform Appropriate Assessment (RIAA) (REP4-009).</p> <p>The number of animals potentially disturbed at one time is considered against the total reference population and used to help ascertain the magnitude of effects, along with the duration of effects.</p> <p>The Applicant notes the value of the number of animals presented is a snapshot, but highlights this within the assessments. It is agreed that the values are a precautionary picture of the number of animals disturbed at any one time, but they do not represent the total number of animals that could be affected over the Project duration by the Project or other projects.</p> <p>In recognition of this, the Applicant also undertook iPCoD modelling which explores the population level consequences of repeated disturbances for piling events over time. For the Project alone, the number of animals disturbed each day is considered across the whole piling schedule, i.e. the model considers piling for the maximum number of piling days and the number of animals disturbed each day. This allows the assessment of effects over the duration of the piling window and allows assessment of the effect on the reference population of repeated disturbance events.</p> <p>Cumulatively, the iPCoD modelling takes account of the full piling schedule and number of animals disturbed over time for each project. The assessment in iPCoD was determined using published piling schedules and accounts for piling events over around a three year period, with a precautionary approach applied to include the potential that piling could overlap and occur at the same time and/or sequentially with</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>the Project. The disturbance events over this period were used to determine the population level consequences over the model duration of 25 years.</p> <p>There is currently some inherent uncertainty on the piling schedule of the Project and other projects. As such, it was considered that allowing for overlapping piling windows, as per published piling schedules, provided the worst case. This is because it assesses the maximum number of animals disturbed by each project compressed into the smallest time window, where the % of the population impacted is highest. If piling activities of all projects assessed extended over a larger number of years, this would mean disturbance events would occur over a longer period of time. The peak number of animals impacted at any one time would be less and there would be less potential for interaction of effects between projects. It is thus not considered that changes to piling schedules would result in any worse effects than assessed in the EIA and RIAA.</p> <p>It is noted that the iPCoD model is not yet capable of assessing noisy activities aside from impact piling. Effects of activities such as vessel movements and other construction activities are assessed using disturbance ranges from literature. The assessments completed by the Applicant use all available methods and consider the snap shot of the largest number of animals disturbed at any one time, the duration of effects and a qualitative approach to acknowledge repeated disturbances (noting this assessment has been further clarified in response to NRW comments received at Deadline 4). See 2BEM5 for details of the</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>further justification and acknowledgement added to the ES and RIAA at Deadline 5 to resolve NRW's residual concerns.</p> <p>It is considered that the assessment does consider repeated disturbances, and assesses multiple projects. If Project time scales change and noisy activities were not to overlap with other projects, effects would be no worse than already assessed in the ES and RIAA as the peak number of animals disturbed (and % of the population) at any one time would be less. Although it is acknowledged that the time period of effects could increase it is not considered that events being more spaced out would cause greater effects than those identified in Application documents from being concentrated into a smaller window.</p> <p>If Project schedules did expand over a longer timeframe than currently expected it is not considered there would be any implications to the conclusions to the EIA or RIAA.</p> <p>The Applicant reiterates that considering a snapshot of the maximum number of animals potentially disturbed at any one time allows an assessment of the number of animals, relative to the reference population that could be impacted. The Applicant notes that activities would be geographically and temporally spaced out and agrees that there would be repeat disturbance effects, however as outlined in the assessments, effects would be no worse than those assessed considering the worst case activities during</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>construction. This is shown in the population modelling and the qualitative assessments considered for repeat disturbances.</p> <p>A variety of assessment methods have all informed the overall conclusions of both the ES and the RIAA. If the schedules of projects alter from those expected, disturbance events could extend for a longer period of time but there would be fewer animals impacted for each event over the same time period. As such it is not considered that the conclusions of the significance in the assessment would alter. The Cumulative Effects Assessment (CEA) and in-combination assessments in the ES and RIAA included assessment of all reasonably foreseeable projects, and considered their published timescales, which is considered to be suitably robust and based upon the best available information at the time.</p>
2GEN3	The applicant	<p>Mitigations</p> <p>The applicant is requested to review each of the following documents to ensure that there is certainty as to the mitigation(s) that are to be secured. For example, the use of “would” rather than “should” or “could”, and avoiding the use of “may”.</p> <ul style="list-style-type: none"> Outline Project Environmental Management Plan [REP3-041] Outline Fisheries Liaison and Co-Existence Plan [REP4-023] In Principle Monitoring Plan [REP4-025] Draft Marine Mammal Mitigation Protocol [REP4-027] Outline Offshore Operation and Maintenance Plan [REP2-020] 	<p>The Applicant has reviewed and updated the documents listed by the Examining Authority (ExA) to ensure certainty. Please note that not all instances of “should”, “could” or “may” were amended in the documents for the following reasons for example:</p> <ul style="list-style-type: none"> where additional mitigation is dependent on the survey results (e.g. Archaeological Exclusion Zones may only be required if remains of archaeological interest are identified during diver/ROV surveys). environmental conditions at the time of construction (e.g. sea state and weather conditions would determine the requirement for Passive Acoustic Monitoring (PAM) during piling).

ExQ2	Question to:	Question	Applicant's Response
		<ul style="list-style-type: none"> Outline Port Access and Transport Plan [APP-151] Outline Scour Protection and Cable Protection Plan [REP1-057] Outline Vessel Traffic Management Plan [REP3-047] Outline Offshore Written Scheme of Investigation [APP-154] Outline Skills and Employment Plan [APP-155] Outline Underwater Sound Management Strategy [REP4-049] Outline Construction Method Statement [REP4-056] Commitments Register [REP4-047] <p>Please note that any measures that are relied upon for a conclusion to enable a competent authority to rely on its delivery and enable a conclusions of no AEol beyond reasonable scientific doubt.</p>	<ul style="list-style-type: none"> Where the detail of mitigation would be secured post-consent alongside the final design of the Project. Where mitigation is designed to further reduce non-significant effects where possible in terms of good practice but not where measures have been relied upon for the conclusion of significance. This is made clear in the schedule of mitigation where the worst case has been assessed (e.g. reduction of seabed preparation would be considered where possible, however the worst case area of disturbance has been assessed).
2. Biodiversity, Ecology and Marine Processes (BEM)			
General			
2BEM1	The applicant MMO NE	<p>Outline Underwater Sound Management Strategy</p> <p>The Outline Underwater Sound Management Strategy [REP4-049] in paragraph 34 states that the applicant is committed to deploying a NAS for its worst-case scenario (i.e. maximum strike rate with maximum hammer energy).</p> <p><u>To the applicant</u></p> <ul style="list-style-type: none"> a) can the applicant explain why there is a commitment only for the worst-case scenario and thus any other scenarios which may require NAS are not so committed? b) in order to future proof the document, could the applicant consider including reference to potential future piling noise limits which may be imposed? 	<p>a) The worst-case scenario includes a piling strike rate that would result in an impact range requiring Acoustic Deterrent Devices (ADD) activation time over the SNCB recommended maximum limit (80 minutes) where ADD use is still considered effective. As such, if all worst-case parameters including hammer energy and the strike rate profile were to remain the same, the Applicant agrees that NAS would be required. In other scenarios NAS could be used to reduce the impact range and thus the ADD activation time to within the current SNCB recommended duration to ensure there is no potential for residual auditory injury (PTS). However, for other scenarios, design refinement or</p>

ExQ2	Question to:	Question	Applicant's Response
		<p><u>To MMO and NE</u></p> <p>c) are there any other scenarios in which the applicant should be committed to applying NAS through the Outline Underwater Sound Management Strategy? If so, please identify which ones setting out the rationale. Alternatively, could the NE and MMO set out and explain any other criteria upon which the applicant should be committed to applying NAS.</p> <p><u>To the applicant, MMO and NE</u></p> <p>d) should there be different scenarios based on different sensitivities, species and times of year? For example, would it be appropriate for different criteria during the cod spawning season as opposed to at other times of year? (See also ExQ2BEM3.).</p>	<p>other noise reduction methods could sufficiently reduce impact ranges and ADD usage.</p> <p>While it is not possible to be more granular with consideration of theoretic design scenarios and the associated mitigation, wording has been added in the UWSMS_Rev 03 (Document Reference 9.32) at Deadline 5 around the length of ADD being within acceptable use for any scenario. The means to achieve this could be through NAS, design refinement, other noise reduction methods or a combination of these and this would be agreed through the finalisation of the UWSMS.</p> <p>As discussed at ISH2, the precise threshold for NAS has not yet been included within guidance so at this time it is not possible to identify a precise point within the PDE at which point NAS would be required. This is addressed through the two step mechanism in the proposed DMML condition where the detail of the UWSMSS will be approved post-consent by the Marine Management Organisation (MMO) who will of course be applying the most up to date guidance.</p> <p>b) The Applicant notes that in agreeing the final mitigation requirements alongside the final Project design, primary and secondary noise reduction measures would be considered in line with new (January 2025) underwater noise policy. The Applicant notes that the UWSMS includes provision for adhering to the latest guidance at that time, which would allow for future updates, such as the proposed noise limit, to be incorporated. To future proof the UWSMS as much as possible (noting that the Applicant can only work to</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>current guidance at this time and is not in control of the timescales of any updates) the following additional text has been added to the UWSMS.</p> <p><i>During the refinement of the project requirements, all updated legislation and guidance (such as any determined noise limit if available when writing) will be reviewed and incorporated as necessary. Any further guidance for mitigation through Primary measures to be built into the Project's design (such as outlined in the RaDIN report) or additional measures through a potential update to the Joint Nature Conservation Committee (JNCC) piling guidance (currently published in 2010) or other relevant documents will be applied where applicable.</i></p> <p><i>The mitigation measure(s) (or suite of measures including NAS) that may be implemented during the construction of the Project will be determined in consultation with the regulator and relevant SNCBs. The Project is committed to deploying a NAS for its worst-case scenario (i.e., maximum strike rate with maximum hammer energy) and to ensure there is no residual PTS after the ADD use. The Project will also ensure all ADD use is within the recommended maximum duration stipulated by SNCB's (currently set at 80 minutes).</i></p> <p>d)The Applicant has only identified cod (through the EIA and RIAA, and following discussion with the MMO around their view that there could be significant effects on cod due to piling) as the species where there is the</p>

ExQ2	Question to:	Question	Applicant's Response
			potential need for a seasonal restriction (unless impacts ranges can be reduced). It has not been identified by SNCBs or the MMO that a seasonal restriction for any other marine species or other times of the year is required.
Fish and Shellfish Ecology			
2BEM2	NE MMO	Site specific fish/ shellfish surveys In light of NFFO comments on the need for site specific fish and shellfish surveys (as set out in the SoCG between the NFFO and the applicant [REP4-034]), can NE and the MMO explain why they are satisfied with the level of detail as indicated in their D3 and D4 submissions and why further detailed surveys are not necessary.	The Applicant notes that 2BEM2 is directed to Natural England and the MMO and shall not be responding.
2BEM3	The applicant MMO	Cod spawning 'season' In its D4 submission [REP4-064] the MMO maintains that a temporal restriction on piling activities should take place during the cod spawning season. The applicant makes the point in the Outline Underwater Sound Management Strategy [REP4-049] paragraph 53 that there is some uncertainty as to the extent of the season. The MMO seeks the January to April period to be excluded. The evidence of Maxwell <i>et al</i> (2012) cited refers to surveys undertaken in the end of January to April 2008 period, but the ExA has not been provided with the data and thus to what, if any, extent there is any variation in egg production during this period. The applicant notes that peak spawning occurred in the mid-February to mid-March period, although there was some variation of up to one week, but this occurred within this period.	<p>c)The Applicant maintains that the mitigation for piling, and the management of effects for cod is controlled by the UWSMS. It is noted that the UWSMS is also the mechanism to agree measures required for marine mammals.</p> <p>The Applicant does not consider it necessary to have a seasonal restriction condition on the face of the DCO, as this is included within the UWSMS and is therefore already secured by Condition 20 of the DML.</p> <p>However, the Applicant has discussed the wording originally provided by the MMO at Deadline 4 further with the MMO, and there is now an suggested form of wording. While the Applicant maintains that no seasonal restriction is necessary on the face of the dDCO (and therefore considers that the wording agreed with the MMO for condition 20(3) is not</p>

ExQ2	Question to:	Question	Applicant's Response
		<p>The applicant's view is that the finalised Underwater Sound Management Strategy would provide sufficient protection for cod larvae so that a specific temporal restriction on the face of the DCO or DML is not necessary.</p> <ul style="list-style-type: none"> • <u>To the MMO</u> <ol style="list-style-type: none"> a) If the MMO is not satisfied that a finalised Underwater Sound Management Strategy would be sufficient, it is also asked to respond to the proposition that any restriction should be limited to the mid-February to mid-March period (15 February to 15 March) providing evidence, if it does not accept this proposition, as to why this would not be appropriate. b) The MMO is requested to provide an update/ final confirmation of the condition setting out specific dates. If alternative dates are to be proposed, then these too should be justified as being the minimum necessary. • <u>To the applicant and MMO</u> <ol style="list-style-type: none"> c) The ExA notes that the MMO has provided a draft condition in its D4 submission [REP4-064] (pdf page 19). The ExA also notes that in its response to R17.1.18 (pdf page 95) it has made comments in relation to the use of 'codicil' phrases in conditions. The MMO is directed to the latest version of the dDCO [REP4-002] (and also the tracked change version [REP4-003] which more clearly shows the alterations made by the applicant) for alternative wording to "unless otherwise agreed in writing by the MMO" which shows other approaches to maintain the substance of a condition while providing for flexibility. 	<p>required), the Applicant has included it in the draft of the DCO submitted at Deadline 4 should the ExA or the Secretary of State consider it necessary to be included.</p> <p>The updated wording of this condition is as follows:</p> <p><i>20.—(1) No piling activities shall commence until an underwater sound management strategy for those activities, which accords with the outline underwater sound management strategy, has been submitted to and approved in writing by the MMO in consultation with the relevant statutory nature conservation body.</i></p> <p><i>(2) The underwater sound management strategy must be submitted to the MMO no later than six months prior to the commencement of the relevant activities (or such other timescale as agreed with the MMO in writing).</i></p> <p><i>(3) No piling activities associated with the authorised development shall be undertaken between 15 February and 31 March (inclusive), unless:</i></p> <ul style="list-style-type: none"> <i>(a) such activities are deemed necessary by the undertaker during this period;</i> <i>(b) any additional mitigation requirements for such activities are included in an underwater sound management strategy approved by the MMO under paragraph (1); and</i> <i>(c) such activities are thereafter undertaken with the additional mitigation requirements identified and approved by the MMO under paragraph (3)(b).</i> <p><i>(4) The piling activities must be carried out in accordance with the approved underwater sound</i></p>

ExQ2	Question to:	Question	Applicant's Response
		The applicant, on a 'without prejudice' basis, and MMO are asked to provide agreed wording on a potential condition.	<i>management strategy for the duration of such activities.</i>
Marine Mammals			
2BEM4	The applicant	<p>Marine Mammal CEA Project Screening</p> <p>In paragraph 91 of the Marine Mammal CEA Project Screening [REP4-019] the applicant indicates that, because there was no detailed information available at the time of assessment on oil and gas infrastructure that could be decommissioned during the construction phase of the Project, precautionary assumptions about the expected impact load were used to provide a qualitative assessment of impacts that might be expected.</p> <p>If the SoS were to conclude that the construction of the proposed development could only take place if the Spirit Energy and Harbour Energy assets were in the decommissioning phase, could the applicant please set out what effect this would have on any cumulative and in-combination (HRA) effects?</p> <p>Please also see ExQ2DCO2. and ExQ2OOI1.</p>	<p>In respect of oil and gas infrastructure and decommissioning the Applicant has provided further consideration at Deadline 3 of decommissioning activities (including oil and gas) during the lifetime of the Project (ES Chapter Marine Mammals (REP4-011) and RIAA (REP4-009)). It is noted that there is no exact timeline on the decommissioning dates for oil and gas infrastructure. However, decommissioning of oil and gas activities is not considered likely to give rise to any significant effects if this were to occur during any phase of the Project, given the level of noise associated with decommissioning activities. It is also highlighted that the area around the windfarm site is within an active area of oil and gas activity and as such already experiences a level of baseline operational noise from these activities.</p> <p>There are two assets in proximity (Calder and CPP1) to the Project's order limits where decommissioning noise could interact cumulatively with construction of the Project if the timescales of these activities were to overlap. It is noted that details of the Calder platform decommissioning are publicly available, where underwater noise is assessed in the Environmental</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>Appraisal¹ and stated that activities '<i>would not generate a great deal of noise and may not be detectable above other sources operating simultaneously (i.e. vessels)</i>'. Due to the level of noise identified no further assessment was undertaken but mitigation around minimising vessel use for example was noted. It is expected that the same would be considered for the CPP1 structures. This is in accordance with the assessment undertaken by the Applicant (ES Chapter Marine Mammals (REP4-011) and RIAA (REP4-009)), where the cumulative effects are not considered to alter whether the overlap of decommissioning activities was during the Projects construction or operation and maintenance period given the noise levels associated with decommissioning are low.</p> <p>It is also noted that the ES and RIAA conservatively assess piling for offshore substations and booster stations that have now been removed from the Transmission Assets Application and thus the plans and projects CEA assessment retains a level of precaution that would more than account for oil and gas decommissioning and the scale of the effects expected.</p>
2BEM5	The applicant	Marine Mammals Could the applicant please respond to the outstanding concerns of NRW(A) in [REP4-074] about the assessment of cumulative and in-combination effects to marine mammals. This should provide an assessment	The Applicant maintains that suitable methodology has been used to reach conclusions in both the EIA and RIAA, applying an assessment approach used in previously consented DCO projects including Sheringham Shoal Extension Project and Dudgeon

¹ [Calder, Dalton & Millom Decommissioning Programmes](https://assets.publishing.service.gov.uk/media/668bbe3e4a94d44125d9ce4c/EIS_EA.pdf) - https://assets.publishing.service.gov.uk/media/668bbe3e4a94d44125d9ce4c/EIS_EA.pdf

ExQ2	Question to:	Question	Applicant's Response
		that addresses effects from repeated disturbance and cumulative stressor load, or justify the approach to taken to asses a single day of construction with reference to relevant guidance. In the response, could the applicant differentiate as necessary the implications for EIA and HRA.	<p>Extension Project and the Norfolk Offshore Wind Zone (also known as Norfolk Vanguard & Norfolk Boreas Offshore Wind Farms).</p> <p>The Applicant has provided the following assessments in the ES and RIAA:</p> <ul style="list-style-type: none"> ▪ Quantitative presentation of all noisy activities occurring at the same time and consideration of the number of animals impacted in relation to the reference population (as well as the duration of effects). Further information on this approach is given in 2GEN2. ▪ iPCoD modelling which considered the effect on the population of repeated piling events over time, for both the Project alone and considering other projects and activities. Further information on this approach is given in 2GEN2. ▪ Qualitative analysis of repeated disturbance and cumulative stressor load. This assessment has been further developed following discussion with NRW and the Applicant considers that the information provided at Deadline 5 (incorporated in the RIAA and ES) address NRW (A)'s residual concerns. <p>The Applicant notes that a full response to NRW (A) has been provided at Deadline 5. Further amendments, as noted above, have also been made in the ES Chapter Marine Mammals (REP4-011) and RIAA (REP4-009) also submitted at Deadline 5, to resolve residual concerns NRW have raised. The amendments have been discussed with NRW (A) on the 6 March 2025.</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>It is noted that more detail to the repeat disturbance assessment, and clarity around the number of animals (now stated more clearly as a snap shot) has been provided in the updates to the ES and RIAA but no change to any assessment conclusions has been identified. More detail is provided in the ES chapter and the CEA, with information also summarised in the RIAA to reduce replication, given the basis of the cumulative and in-combination assessments are the same.</p> <p>In respect to the EIA conclusions, the Applicant considers that sufficient mitigation has been secured so that no significant effects will arise following implementation of the UWSMS and MMMP. In regard to the HRA, the mitigation applied is the same as for the EIA and the Applicant maintains that, as per the conclusions agreed by NRW (A) on the Mona and Morgan projects, there would be no cumulative Adverse Effects on the Integrity of Welsh designated sites, and the results of the three projects align. It is not considered that NRW could reach a different conclusion to that agreed on the Mona and Morgan projects and that suitable information is provided within the assessments.</p>
2BEM6	NRW (A)	Marine Mammals The ExA notes that the Outline Marine Mammal Management Protocol [REP4-027] and Outline Underwater Sound Management Strategy [REP4-049] refer to the Defra and JNCC guidance published in January 2025 and include commitments to NAS. Can NRW(A) explain what further mitigation it considers is needed in relation to marine mammals and piling and	The Applicant notes that 2BEM6 is directed to NRW(A) and shall not be responding.

ExQ2	Question to:	Question	Applicant's Response
		confirm whether this is for effects identified in the EIA, HRA or both.	
2BEM7	The applicant	<p>Marine Mammals</p> <p>NRW(A) requested that the Outline Underwater Sound Management Strategy [REP4-049] includes a commitment to consider Offshore Renewables Joint Industry Programme (ORJIP) Range dependent nature of impulsive noise (RaDIN). Could the Applicant please provide an updated version with this commitment or explain why it is not needed.</p>	<p>The Applicant considers that the UWSMS includes provision to consider the latest guidance and does not, and could not, list all potential new guidance. However, the Applicant has incorporated the specific request in the UWSMS submitted at Deadline 5 (see also ExAQ 2BEM1) regarding future noise limits) to include reference to the RaDIN as stated below</p> <p><i>‘During the refinement of the project requirements, all updated legislation and guidance (such as any determined noise limit if available when writing) will be reviewed and incorporated as necessary. Any further guidance for mitigation through Primary measures to be built into the Project’s design (such as outlined in the RaDIN report) or additional measures through a potential update to the JNCC piling guidance (currently published in 2010) or other relevant documents will be applied where applicable.’</i></p>
2BEM8	NRW (A)	<p>Guillemot and Razorbill</p> <p>In paragraphs 21 and 23 of its D4 submission [REP4-074] NRW (A) indicates that it considers that the apportionment of 100% of birds as adults should be used for guillemots and razorbills rather than the stable age structure of 57% as adults. Given the whole population will extend over a whole life-cycle, could NRW (A) please explain why the 100% figure should be used rather than the real-case percentage, otherwise does not the analysis risk becoming over-precautionary?</p>	<p>The Applicant notes that 2BEM8 is directed to NRW(A) and shall not be responding.</p>

ExQ2	Question to:	Question	Applicant's Response
3. Civil and Military Aviation and Radar (CAR)			
Clarifications			
2CAR1	The applicant	<p>Applicant's supporting evidence and distance calculations</p> <p>Spirit Energy ([REP4-069], paragraph 5.5) has stated that it has not been able to verify the distance calculations, methodology and supporting information used by the applicant for calculating the landing approach for day/ night Visual Meteorological Conditions (VMC); day/ night VMC One Engine Inoperative (OEI) take-off or day/ night Instrument Meteorological Conditions (IMC) OEI take-off. Similarly the OEI take-off distances in Tables 3.1 and Table 3.2 of section 3.2.6 of the applicant's D3 Anatec Report [REP3-071] are not supported by any calculations and so cannot be verified.</p> <p>Please can the applicant provide the information requested in order to support and evidence its position?</p>	<p>The Applicant's supporting evidence and distance calculations used to inform its position is provided within Appendix A and B of the Applicant's Response to Spirit Energy's Deadline 4 Submission Appendix A: Helicopter Access (Document Reference 9.59.1).</p>
2CAR2	The applicant	<p>Outstanding Assessments</p> <p>In the event that the assessments in relation to Very High Frequency (VHF), Ultra High Frequency (UHF) and Direction Finding (DF) have not been undertaken and (if necessary) mitigation identified and agreed by the close of this examination, there would be insufficient information on the potential impacts of the proposed development on these systems.</p> <p>Whilst a Requirement is proposed to address these matters, what assurance can be given that the requirements of NPS EN-1 (notably paragraphs 5.5.37, 5.5.50 and 5.5.60) would have been complied with and</p>	<p>Assessments in relation to Very High Frequency (VHF), Ultra High Frequency (UHF) and Direction Finding (DF) have been undertaken and the results of the assessments have been communicated directly to the affected aviation stakeholders (namely, Blackpool Airport, BAE Systems (Operations) Limited and BAE Systems (Marine) Limited." While these were not able to be finalised in time for submission to the ExA at Deadline 5, they were shared directly with the affected aviation stakeholders ahead of Deadline 5 to inform discussions on the draft DCO and Statements of Common Ground. The Applicant would propose to submit these to the ExA as soon as they are finalised</p>

ExQ2	Question to:	Question	Applicant's Response
		that any such Requirement would be reasonable and meet the necessary legal tests?	<p>rather than delay submission until Deadline 6, although it is noted that the ExA is not obliged to accept these if their submission does not align with the Examination Timetable.</p> <p>As assessments have now been undertaken, the Applicant considers that the requirements of NPS EN-1 paragraphs 5.5.37 and 5.5.49 have been complied with.</p> <p>Discussions are ongoing with the affected aviation stakeholders regarding any operational impacts in respect of VHF, UHF and DF. However, the Applicant continues to work with relevant aviation stakeholders, and updated requirements have been included within the draft DCO submitted at Deadline 5 (Document Reference 3.1) which secure mitigation. The DCO wording has been agreed with Blackpool Airport and Isle of Man Airport, which is documented in the Statements of Common Ground (Document References 9.11 and 9.7). Discussions are ongoing with BAE Systems Marine Limited, BAE Systems (Operations) Limited and Defence Infrastructure Organisation (DIO) on the final wording of their preferred requirements. The parties will continue to discuss with a view towards presenting agreed requirement wording at Deadline 6.</p>
2CAR3	The applicant Blackpool Airport	<p>VHF Communication</p> <p>At ISH3 representatives of Blackpool Airport commented that in addition to a project alone assessment of effects on VHF communications, it considered a cumulative effects assessment, being in conjunction with the</p>	<p>a) The Applicant commissioned NATS to undertake the VHF and DF communications assessment. Through initial discussions with NATS, given the distance between the boundaries of the Project and the other proposed developments (approximately</p>

ExQ2	Question to:	Question	Applicant's Response
		<p>proposed Mona Offshore Wind Farm and the proposed Morgan Offshore Wind Farm, was required. In response the applicant confirmed that cumulative effects were not being assessed because project alone assessments have only been carried out for those other projects and this is confirmed in the applicants post hearing written summary ([REP4-061], Item 36). The ExA notes in the applicant's response to the action points of the February hearings ([REP4-061], item 24) that it understands Blackpool airport has commissioned its own cumulative assessment, and that the applicant intends to provide its project alone assessment to the airport so that this can be taken into account if required.</p> <p><u>To the applicant:</u></p> <ul style="list-style-type: none"> a) whilst the ExA understands project alone assessments may have been conducted for the other projects, can you explain why you consider a cumulative assessment is not required given for other topics within the ES cumulative effects assessments have been carried out? b) if project alone assessments have been undertaken for the other offshore wind projects, could these not be used in order to carry out a cumulative assessment? If not, please can the applicant explain why this is the case. c) if a cumulative assessment is not undertaken as part of the ES or received before the close of the examination, how can the ExA/ SoS be satisfied that the potential effects of all the proposed offshore wind farms currently being proposed within the Irish Sea (if granted) would not give rise to significant effects or 	<p>16.68km for Morgan and 10.56km for Mona), the Applicant considered the results of a cumulative assessment would not differ considerably compared to a project-alone assessment, as any potential effects would only occur directly above the windfarm site where the wind turbine generators would be located – essentially, the effects are highly localised. As noted in response to 2CAR2 above, the results of the VHF and DF assessment have been received and communicated directly to aviation stakeholders, although they were not finalised in time for submission at Deadline 5. The assessment has considered the possibility for cumulative impacts and concluded that there are not expected to be any cumulative impacts from neighbouring developments. Any potential effects to VHF and DF communications would be dependent on the distance of the aircraft to the wind turbine generators. As the distance between the aircraft and the wind turbine generators increases, any potential effects to the VHF and DF communications would decrease.</p> <p>b) The Applicant understands from direct discussions that the developers of the other offshore wind projects (Morgan and Mona) are in the process of commissioning NATS to carry out their project-alone assessments. The Applicant does not foresee any reason why each of the project-alone assessments cannot be combined to produce a cumulative assessment.</p>

ExQ2	Question to:	Question	Applicant's Response
		<p>ensure mitigation appropriate measures are secured to address any such impacts?</p> <p><u>To the applicant and Blackpool Airport:</u></p> <p>at ISH3 the parties indicated that it was their intention to make a written submission at D4 setting out their positions and reasons for requiring a cumulative VHF assessment. No such submission was received at D4. Can the applicant and Blackpool Airport therefore please let us have any comments by D5 along with a copy of the cumulative assessment in order that all parties have an opportunity to comment on this before the close of the examination.</p>	<p>Whilst the Applicant would be happy to combine these assessments, the Applicant considers the results of a cumulative assessment would not identify any additional potential effects when compared to a project-alone assessment, as any potential effects would only occur directly above the windfarm site where the wind turbine generators would be located, and this has been reaffirmed by the assessment commissioned by the Applicant. NATS apply a 10km safeguarded zone around their Air-Ground-Air communications sites, significantly lower than the 28km distance between Blackpool Airport and the Project array area. Potential effects on VHF communications are therefore not expected to be significant and any effects are likely to be confined to the immediate vicinity of the Project array area. Additionally, any potential effects do not mean VHF communication will not be possible; it only indicates that there is a possibility that the quality of VHF communications may be reduced. Furthermore, the Applicant is not aware of any reports of adverse effects on VHF communications in the vicinity of existing offshore windfarms.</p> <p>The Applicant is engaged in discussions with Blackpool Airport and understands that the airport is due to commission its own cumulative assessment of effects on VHF for all Round 4 developments via Cyrrus and would defer to Blackpool Airport to provide timelines. The</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>Applicant is happy to provide project-alone input required in connection with this cumulative assessment and can confirm the report has now been shared with Blackpool Airport for comment.</p> <p>The Applicant would propose to submit its commissioned VHF assessment to the ExA as soon as it is finalised rather than delay submission until Deadline 6, although it is noted that the ExA is not obliged to accept this if this submission does not align with the Examination Timetable.</p> <p>c) As explained in response to points a) and b) above, the VHF assessment is highly localised such that there is not considered to be any pathway to a significant cumulative effect (that is, in EIA terms, any impact to VHF or DF communications from the Project-alone will not be altered or increase by neighbouring developments).</p>
2CAR4	CAA	<p>New CAA rule change</p> <p>In its D4 submission ([REP4-069, paragraph 5.23) Spirit Energy comments that the CAA has not committed to the proposed 3nm restriction being secured as an Acceptable Means of Compliance (AMC) and so this could be secured as a regulation change. If the latter option is taken, then Spirit states that non-compliance with the regulation is not an option.</p> <p>Noting the CAA's previous response [REP3-075] to our first written question EXQ1CAR5, we understand that the new restriction is likely to be introduced as an AMC. For</p>	<p>The Applicant notes that 2CAR4 is directed to the CAA and shall not be responding.</p>

ExQ2	Question to:	Question	Applicant's Response
		the avoidance of doubt, can the CAA therefore confirm its position as to whether the restriction would be secured as an AMC or a change to the regulations themselves?	
2CAR5	Spirit Energy	<p>Minimum distance from platform(s) in VMC / Visual Flight Rules (VFR)</p> <p>In Spirit Energy's WR at D1 and D3 ([REP1-116], paragraph 2.22 and [REP3-102] paragraph 2.12) it states that a minimum distance of 1.9nm would be required to ensure safe approach and OEI take off in VMC using VFR.</p> <p>Without prejudice to Spirit Energy's wider position that a minimum 3.76nm buffer is required, should the SoS be minded to make the DCO in favour of the applicant accepting that this would restrict access to daytime VMC/ VFR only, can Spirit Energy advise:</p> <p>a) whether a minimum distance of 1.9nm would be acceptable and, if not, what minimum distance would be required and why?</p> <p>whether this should be secured by way of a Protective Provision and if so, can you please provide drafting of such a provision?</p>	The Applicant notes that 2CAR5 is directed to Spirit Energy and shall not be responding.
4. Climate Change (CC)			
Assessment			
2CC1	The applicant	<p>Carbon analysis</p> <p>In response to the Action Point 20 [REP4-061] the applicant maintains its position that around 24% of the carbon emissions from the M&MTA project should be allocated to the proposed development. In paragraph 21.183 of the Climate Change chapter of the ES</p>	<p>It is acknowledged that cables are separate between the Morgan and Morecambe projects, but it is noted that there are 4 cables required for the Morgan project and 2 for the Morecambe project.</p> <p>The Applicant presents below how the dDCO parameters for the Transmission assets reflect the</p>

ExQ2	Question to:	Question	Applicant's Response
		<p>[APP-058] it is clear that this is done on the basis of a proportional analysis based on nominal capacities of the Morgan and Morecambe generation projects.</p> <p>However, in Appendix A of the Post-hearing submissions on behalf of Spirit Energy [REP4-070] on pdf page 20 it is made clear that the two cable corridors are “<i>entirely separate</i>”.</p> <p>While appreciating the applicant's case about the relevant nature of the carbon assessment, in light of this comment, could the applicant please provide a more nuanced, quantitative assessment of the carbon assessments for those elements of the M&MTA project associated with the proposed development?</p>	<p>differences in size of infrastructure, with the parameter for the Morecambe project expressed as a percentage of the total within the maximum design scenario for the Transmission DCO.</p> <ul style="list-style-type: none"> - Number of cables – 33% Morecambe - Length of offshore cable – 17% Morecambe - Number of offshore cable crossings – 11% Morecambe - Substation working compound – 43% Morecambe <p>The average of these is 26% and largely in line with the calculation based on capacity, which was done to reflect the size of the projects relevant to the infrastructure needed and the GHG emissions associated with each project.</p> <p>However, the Transmission DCO parameters do not provide parameters for the onshore cable length (although it is noted that the Morecambe project is limited to 2 cables as opposed to Morgan's 4 cables), and it is noted that the onshore cable lengths do contribute a large proportion of the GHG emissions calculated for the Transmission Assets project.</p> <p>As such, the Applicant in the updated Chapter 21 (see 2CC2 below) has applied 50% of the total emissions to Morecambe on a precautionary basis, given there is no means to undertake a more quantitative and detailed apportioning method based on how the GHG emissions have been presented for the Transmission Assets application.</p> <p>It is noted that in REP4-062, the Applicant only added in wake and shipping effects and did not alter the</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>values of GHG emissions for the Project or Transmission Assets, to allow direct comparison of the impact of these sources. However, it is noted that the Transmission Assets emissions value is based on information presented the PEIR and within the updated in Chapter 21 this has been updated to reflect the Transmission Assets ES value. The value has reduced partially given the removal of the booster station (which was previously considered for the Morgan project only) and offshore substation platforms.</p> <p>To provide clarity, Chapter 21 now includes a 50/50 split (50% of the ES Transmission Assets emissions). The 24% value of the PEIR Transmission Assets emissions used in REP4-062 actually now equates to a similar figure to the whole GHG emissions from the Transmission ES (and indeed similar to a 50/50 split of the PEIR Transmission Assets GHG emission) due to design refinements to the Transmission Assets between PEIR and ES, as detailed above. No changes to the outcome of the assessment result from the use of either figure, and Chapter 21 is considered to be precautionary.</p>
2CC2	The applicant	<p>Climate Change</p> <p>Could the applicant please update Chapter 21 of the ES [APP-058] in light of the latest submissions, including the 'Written Summary of the Applicant's Oral Submissions – Issue Specific Hearings 2, 3 and 4' [REP4-059], 'Response to Actions arising from Issue Specific Hearings 2, 3 and 4' [REP4-061], the 'Greenhouse Gas Assessment Technical Note' [REP4-062], the response to</p>	<p>The Applicant has updated Chapter 21 Climate Change and Appendix 21.1 Greenhouse Gas Assessment Methodology at Deadline 5 (Chapter 21 Climate Change_Rev 02 Clean and Appendix 21.1. Greenhouse Gas Assessment Methodology_Rev 02 Clean) in light of the latest submissions at Deadline 4 (REP4-059, REP4-061 and REP4-062).</p>

ExQ2	Question to:	Question	Applicant's Response
		ExQ2CC1 and any responses to the D4 submissions from Ørsted IPs [REP4-075], [REP4-076] and [REP4-077].	
5. Commercial Fisheries (CF)			
Compliance with Policy			
2CF1	BML	<p>Compliance with NPS EN-3</p> <p>Paragraph 2.8.154 of NPS EN-3 states that “<i>Applicants should undertake early consultation with a cross-section of the fishing industry..... and actively encourage input from active fishers to provide evidence of their use of the area to support the impact assessments.</i>” (emphasis added).</p> <p>Paragraph 2.8.197 of NPS EN-3 states that “<i>Where a potential offshore wind farm..... has the potential to affect activities for which a licence has been issued by government, the applicant should undertake an assessment of the potential effects of the proposed development on such existing or permitted infrastructure or activities” (emphasis added).</i></p> <p>In your D4 submission you acknowledge that you are not currently in a position to apply for a marine licence and that “<i>co-located aquaculture needs to follow OWF development</i>” [REP4-068, paragraph 8].</p> <p>Without repeating arguments or submissions already made, can you therefore explain why you consider the applicant has failed to comply with the above requirements of NPS EN-3 given your aquaculture activities are not actively being carried out and you have no existing licence or consent that allows those activities to take place?</p>	The Applicant notes that 2CF1 is directed to BML and shall not be responding.

ExQ2	Question to:	Question	Applicant's Response
2CF2	The applicant BML	<p>Compliance with North West Inshore and Offshore Marine Plan 2021</p> <p>Paragraph 2.8.319 of NPS EN-3 states that “<i>The Secretary of State should consider the extent to which the proposed development occupies any recognised important fishing grounds, and whether the project would prevent or significantly impede protection of sustainable commercial fisheries or fishing activities.</i>”</p> <p>Policy NW-AQ-1 of the North West Inshore and Offshore Marine Plan 2021 (NWMP) seeks to protect both existing aquaculture operations as well as potential future opportunities for aquaculture within spatially defined strategic areas of sustainable aquaculture production (emphasis added). The Technical Annex that supports the NWMP adds that if sited within existing or potential strategic areas of sustainable aquaculture production (as identified in the similarly named layer on the Explore Marine Plans digital service), proposals will need to demonstrate how they will avoid significant adverse effects. If significant effects cannot be avoided than measures should be identified to minimise and mitigate such effects.</p> <ul style="list-style-type: none"> • <u>To the applicant and BML:</u> <p>a) given no aquaculture activity is taking place within the footprint of the wind farm site or within ICE 36E6, does aquaculture constitute a commercial fishery and fishing for the purposes of NPS EN-3 and does the proposal site constitute a “<i>recognised important fishing ground</i>”?</p>	<p>a) The Applicant does not consider that aquaculture constitutes a commercial fishery or fishing activity for the purposes of NPS EN-3. As is noted in 4.14 National Policy Statements Accordance Report - Revision 03 (REP3-010) in respect of Paragraph 2.8.319 of NPS EN-3 (pg. 146), there is no statutory list of “recognised important fishing grounds” nor is there a definition within EN-3. The Applicant’s position is that what constitutes a “recognised important fishing ground” will therefore depend on the individual facts and circumstances of the area in question. Fundamental to this consideration must firstly be whether there are any “recognised” or “important” fishing activities taking place within that area, either historically or currently, or any activities that are reasonably certain to come forward. There are no recognised or important aquaculture activities currently taking place (or having taken place historically) within the Order limits or ICE 36E6 nor, insofar as the Applicant is aware, anywhere beyond 12nm. As the Applicant noted in 9.51 The Applicant’s Comments on Deadline 3 Submissions by Interested Parties - Revision 01 (REP4-058), this is because it is not clear whether there is any competence for The Crown Estate to lease seabed for aquaculture beyond 12nm (para. 19, pg. 130). This has subsequently been directly confirmed by The Crown Estate in submissions made at Deadline 6 in respect of the Morgan Generation Examination (EN010136) (REP6-102) which is included as Appendix A of this document.</p> <p>b) The Applicant does not consider that Policy NW-AQ-1 applies in this case, as BML’s proposed activities are</p>

ExQ2	Question to:	Question	Applicant's Response
		<p>b) as the proposed development lies outside a strategic area of sustainable aquaculture as identified within the NWMP, does Policy NW-AQ-1 apply in this case?</p> <ul style="list-style-type: none"> • <u>To BML:</u> if Policy NW-AQ-1 does apply, how has the applicant failed to apply the mitigation hierarchy correctly in terms of avoiding potential significant adverse effects on aquaculture if no such activity exists? In other words, if no aquaculture activity is taking place why would mitigation and enhancement be necessary (having regard to paragraph 2.8.51 of NPS EN-3)? 	<p>not situated within a spatially defined strategic area of sustainable aquaculture production. These strategic areas were derived from a report prepared by Cefas for the MMO in May 2019 (MMO1184: Identification of areas of aquaculture potential in English waters) which modelled spatial outputs using “biological suitability layers [...] combined with technical suitability and constraints models developed by the MMO”. None of these strategic areas are situated beyond 12nm, which reflects the confirmed position from TCE that there are no rights exercisable by the United Kingdom under international law to lease areas beyond 12nm for aquaculture.</p>
6. Cultural Heritage (including Marine Archaeology) (CH)			
The ExA has no questions on this issue at this time.			
7. Development Consent Order [REP4-002] (DCO)			
General			
2DCO1	The applicant	<p>Drafting As a general rule “and/ or” should not appear in Statutory Instruments due to uncertainty. There are currently 26 occurrences of this. Could the applicant please look at where these occur with a view to removing them as necessary.</p>	<p>The Applicant has had regard to section 3.7 of the Office of Parliamentary Counsel Drafting Guidance (March 2024) and has replaced all occurrences of “and/or” with “or” where it was considered suitably clear from the context that the provisions should, as noted in the excerpts from Dickerson’s <i>Fundamentals of Legal Drafting</i> quoted, be read inclusively. Additional wording has been added to some former instances of “and/or” where the Applicant considered that the context was unclear (as suggested by para. 3.7.9 of the Drafting Guidance).</p>

ExQ2	Question to:	Question	Applicant's Response
Schedule 2 - Requirements			
2DCO2	The applicant Spirit Energy Harbour Energy	<p>Potential additional requirement</p> <p>Without prejudice to its consideration, the position of the parties and further representations, in the event that the ExA or SoS were to conclude that the objections of Spirit Energy and Harbour Energy were overriding to prevent development in proximity to the existing oil and gas installations, could the applicant, Spirit Energy and Harbour Energy all produce an additional requirement (on a 'without prejudice' basis where appropriate) to prevent development taking place within the relevant area until decommissioning activities would no longer represent an impediment to construction of the proposed development. Such a requirement should consider:</p> <ul style="list-style-type: none"> • a defined point or points (if phased) in time relating to decommissioning activities at which the proposed development could take place • distance from the outer extremity edge of the Calder Platform (or other defined structure, such as the CPC) • height above HAT beyond which no development could be installed • height above HAT beyond which no temporary equipment could be located <p>If possible, the ExA would appreciate agreed drafting of the basic text, even if there may be differences over the precise criteria. See also ExQ2OOI1.</p>	<p>For the avoidance of doubt (and appreciating the ExA's acknowledgement of the same in the question), the Applicant does not consider these additional restrictions are required or appropriate. Notwithstanding, the Applicant has provided drafting of a requirement and alternative revised Protective Provisions in favour of Spirit Energy Production Limited (Spirit) and Harbour Energy (Harbour) which consider phased scenarios for aviation buffer zones around the CPP1 platform, see Without Prejudice Development Consent Order: Requirement, Schedule 3 Spirit and Harbour Alternative Protective Provisions and Plan (Document Reference 9.60.1) The Applicant considers that the drafting in the alternative Protective Provisions alone, should the Examining Authority be minded to include this drafting in its recommended form of Development Consent Order, is sufficient and proportionate to govern the position between the parties. Protective provisions can be set aside by agreement and, given that operators are private entities and the operations being protected and regulated are fluid, the Applicant submits this a more appropriate place to include these restrictions. This would follow the usual approach that provisions to protect and regulate the assets and interests of 3rd parties are regulated by protective provisions in their favour, rather than through requirements (which would require a change to the DCO in order to update in future).</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>The alternative Protective Provisions provide for two different aviation buffer zones around the CPP1 platform. The first buffer zone is a pre cessation of production (COP) buffer zone, "the WTG aviation pre-COP buffer zone". This buffer zone shall provide for "[.]nm" of clear airspace measured from the other extremity edge of CPP1. The Applicant has not provided a specific figure at this time, as it would depend on what the ExA or Secretary of State considers is sufficient to maintain night and IMC access. A revised Protective Provisions plan would be required showing this additional temporary buffer (the length of the WTG aviation corridor would also be aligned with this). No WTG shall be erected in the WTG pre-COP buffer zone prior to the decommissioning date for CPP1, defined as 1 January 2029 (or actual COP if earlier). Thereafter, the aviation buffer zone will reduce to 1.5 nm, as the Applicant has previously provided for. For the avoidance of doubt, whilst the Applicant cannot erect WTGs within the pre-COP buffer zone before the decommissioning date for CPP1, it can undertake some construction activities such as the installation of turbine foundations.</p> <p>The Applicant does not consider phased scenarios for aviation buffer zones around the Calder platform to be necessary or proportionate, as this platform is a normally unmanned installation (NUI). The Applicant believes that it had demonstrated through its submissions, The Applicant's Response to Spirit Energy's Deadline 4 Submission (Document Reference 9.59) together with its appendices, that restricting Calder to Visual Meteorological Conditions</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>(VMC) access only is proportionate (for reasons including the much reduced flighted schedule compared to CPP1 and the anticipated earlier decommissioning date). There is also clear precedent within made offshore wind DCOs for windfarms to be located this close to NUIs, for example the existing Waveney platform (also an operational NUI which the operator Perenco confirmed requires weekly support from helicopters) has a buffer zone of 1.26nm from the centre of the platform in Protective Provisions in Part 14 of Schedule 14 to The Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024.</p> <p>The date for COP has been identified based on Spirit's stated position to the Examination. From Spirit's summary of ISH3 submissions:</p> <p><i>"2.47 Mr Hepburn explained that the cessation of production for CPC is 2027, plus or minus two years, and that Spirit are not in any way, shape or form looking to decommission the asset at this time. Mr Hepburn stated that his remit at Spirit is to extend the life of the asset to 2030 and beyond with that, and Spirit have a strategy and a roadmap that will facilitate this. Cessation of production is defined by the macroeconomic factors as well, such as gas prices. As per the current gas price model, Spirit certainly have a route that takes it beyond 2027 and out to 2030 and beyond. Mr Hepburn explained that Spirit are working with Harbour Energy to extend the life of its Calder platform as well."</i></p> <p>It is observed that Spirit state there is a "route" that takes beyond 2027 and indeed to 2030 and beyond.</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>The Applicant has proposed what it considers a cautious but reasonable date based on these stated intentions of 1 January 2029 (which would be 1 January 2027 plus two years). This is consistent with the decommissioning plan for Calder, produced by Harbour, published on the OPRED website and the currently understanding for plug and abandonment activities which is in the range of 2027-2030.² The Environmental Appraisal which supports the decommissioning programme for Calder states "Calder decommissioning activities are anticipated to commence in 2027"³. If Spirit or Harbour were to seek to revise these COP dates / decommissioning plan, those decisions could be taken in time in the context of the Project being a neighbour at that time. In other words, prior to this identified decommissioning date it would be for the Applicant to accommodate Spirit on its terms, and after this date it would be for Spirit to accommodate the wind farm (noting the Applicant's clear primary position is that this is absolutely achievable immediately and the Protective Provisions provide compensation for additional costs in doing so). The Applicant recognises there is not absolute certainty on the date for COP but this date is considered appropriate given Spirit's stated position and because if seabed leased for offshore wind were to be sterilised, there should be a very clear benefit in doing so, not just a "route" to or possibility of an extension of projected life. It is appreciated that this of</p>

² [Calder, Dalton & Millom Decommissioning Programmes](#)

³ [Calder, Dalton & Millom Decommissioning Programmes](#)

ExQ2	Question to:	Question	Applicant's Response
			<p>course would be a matter for the Secretary of State if minded to impose such Protective Provisions or a similar requirement.</p> <p>COP is considered an appropriate date on which decommissioning commences, because following that date and production stopping there will be decline in the pressure to ensure time critical helicopter access (as outlined in the Applicant's Response to Spirit Energy's Deadline 4 Submission (Document Reference 9.59), specifically Appendix D).</p> <p>The construction programme for the Project identifies as the realistic construction scenario WTG installation as commencing in Q2 2029 (Plate 3.1 Realistic Expected Scenario within Response to Actions arising from Preliminary Meeting and Issue Specific Hearing 1 –(REP1-086)) and in a delayed scenario WTG installation commencing Q2 2032 (Plate 3.2 Delayed Scenario within Response to Actions arising from Preliminary Meeting and Issue Specific Hearing 1 – (REP1-086)) which would be compatible with WTG aviation pre-COP buffer zone until the identified decommissioning date. Note, that it is critical that there is an identified clear date for commencement of decommissioning (i.e. on which the WTG aviation pre-COP buffer zone reduces) because it will be necessary to make decisions to commence construction in advance of this (including reaching financial close for the Project) and these decisions will not be possible without clarity on when the WTG aviation pre-COP buffer zone reduces.</p> <p>See further the Applicant's Response to Spirit Energy's Deadline 4 Submission (Document Reference 9.59),</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>which sets out the Applicant's full position in response to the issues raised by Spirit and Harbour. It is very much the Applicant's position that restrictions on IMC and night access (mitigated by the WTG aviation corridor) is an operational nuisance, and does not limit the safe operation, maintenance and decommissioning of the affected assets. If operational accommodations are needed with the Project as a neighbour, the Applicant is responsible for these additional costs in the protective provisions (and the DNV report annexed to that submission explains that a full range of operational accommodations are available should this be considered necessary by Spirit to keep up with its SECE maintenance burden – see Appendix B Effect of Proposed Morecambe Offshore Windfarm on Offshore Oil and Gas Operations_ Rev 02 Clean (Document Reference 9.59.2). This has been the Applicant's position since submission, so the Applicant's primary position is that the Protective Provisions are suitable in their current form (noting no drafting comments have been received from Spirit or Harbour), save for the inclusion of the limitation of liability.</p>
Schedule 6 – Deemed Marine Licence			
2DCO3	The applicant	<p>Condition 2(5) and 2(7) – maintenance of authorised project</p> <p>Under the revised drafting submitted at D4 [REP4-002] maintenance reports need to be submitted to the MMO following “completion of construction”. Given the discussions in relation to whether other OWFs in the Irish</p>	<p>The Applicant considers that reference to “completion of construction” is appropriate in this context given that the Deemed Marine Licence includes a condition requiring completion of construction to be notified to the MMO and others (Condition 18 Completion of construction). However, the Applicant has revised</p>

ExQ2	Question to:	Question	Applicant's Response
		Sea have been fully constructed, or 'complete', would a more appropriate marker be 'first operation'? If so, could the dDCO please be amended as appropriate.	Condition 2 in the version of the draft DCO_Rev 05 submitted at Deadline 5 (Document Reference 3.1) to clearly make the link to Condition 18. Anecdotally, the Applicant would note that it is only in more recent DCOs that "completion of construction" conditions have been included, largely to address the issues stemming from uncertainty about full construction and completion.
2DCO4	The applicant MMO NE	<p>Determination under DML - timings</p> <p>The ExA has read and understood NE's comments in its 'Comments on Rule 17 letter to Natural England and the Marine Management Organisation' [REP4-065] at point R17.1.16 <i>"The necessity for the increased consultation time to 6 months is to avoid delays to the start of construction and is mainly due to; a) the quantity of pre-construction condition discharge consultations we are now receiving per project (compared with OWF NSIPs consented 10 years ago), and b) the potential requirement for multiple consultations in relation to each marine licence condition. It is Natural England's view that the additional rounds of consultations have become common place due to the complexity of the issues included within the licence discharge process and in many cases the necessity to address unresolved issues from consent, before the discharge of the condition can progress"</i>. However, this presupposes that the MMO is not willing to refuse matters where an inappropriate proposal is put forward. The ExA has also noted the MMO's response to the same question at [REP4-064].</p>	<p>The Applicant has made further amendments to the Deemed Marine Licence (in the version of the dDCO submitted at Deadline 5) to extend time periods for submission from four months to six months where possible, although it is noted that there are still instances where four months is considered to be appropriate. The Applicant is mindful of resourcing challenges but considers four months to be proportionate and appropriate, particularly given the drive from Government to streamline the consenting process.</p> <p>The Applicant would also note that Schedule 6 Part 2 paragraph 3 (extension of time periods) allows for timescales within the DML to be extended with the agreement of the other party (such agreement not to be unreasonably withheld or delayed). This would give scope for timescales of four months to be extended, at the MMO or NE's request and with the Applicant's agreement, to six months where it was demonstrated to be appropriate and reasonable.</p> <p>The Applicant notes the ExA's comment regarding a 56 day determination period (which is presumed to be 56 calendar days, i.e. 8 weeks, rather than working days). The Applicant is supportive of any efficiencies to</p>

ExQ2	Question to:	Question	Applicant's Response
		The ExA is considering recommending a 56 day determination period for all consents within the DML. The applicant, MMO and NE are asked for comments.	the consenting process, but it is also cognisant of resourcing constraints and workload pressures. It will defer to the ExA and the Secretary of State on this matter.
Schedule 7 – Without prejudice compensation measures			
2DCO5	The applicant NE NRW (A)	Notification procedures In paragraph 2(1) of both Parts 1 and 2 of Schedule 7 there is a time period of six months set in a square bracket. Could the applicant, NE and NRW (A) please confirm this provision, removing the square bracket.	The time period of six months was taken from drafting originally proposed by Natural England on strategic compensation set out in Annex 1A of its Relevant Representation (RR-061). The Applicant has therefore removed the square brackets in the version of the draft DCO submitted at Deadline 5, although it will consider any further responses made by NE and NRW(A) in response to this question as necessary.
8. Habitats Regulations Assessment (HRA)			
HRA Issues			
2HRA1	NE	Lesser black backed gull (LBBG) The ExA notes the applicant's 'Comments on Deadline 3 Submissions by Interested Parties' [REP4-058] in relation to the progression of proposed compensation at Steep Holm to enable commencement of delivery in 2025 with the options of Banks Marsh and South Walney being retained. NE [REP4-066] identifies that the assessments have been updated by the applicant and is waiting for these to be incorporated into the application documentation for a potential solution. a) Can NE confirm: <ul style="list-style-type: none"> whether these updates would enable it to make a conclusion of no AEoI alone or in combination for 	The Applicant notes that 2HRA1 is directed to NE and shall not be responding.

ExQ2	Question to:	Question	Applicant's Response
		<p>LBBG at Morecambe Bay and Duddon Estuary SPA and Ribble and Alt Estuary SPA; or</p> <ul style="list-style-type: none"> whether these updates are to be made to the derogations case to enable NE to agree the without prejudice derogations case for the conclusion of AEol in-combination for the LBBG qualifying feature of Morecambe Bay and Duddon Estuary SPA and Ribble and Alt Estuary SPA? <p>In light of NE's comment regarding baseline surveys for LBBG and what it considers to be underestimates of impacts, would NE comment as to whether additional compensation may be necessary in respect of LBBG.</p>	
2HRA2	NE	<p>Red-throated diver conservation objective</p> <p>The conservation objectives for the red-throated diver in respect of Liverpool Bay SPA in respect of 'distribution' are: <i>"Restore the distribution of the feature; preventing further deterioration, and where possible, reduce any existing anthropogenic influences impacting feature distribution"</i>.</p> <p>Footnote 16 (after the word 'restore') states: <i>"“Restore” is used here because existing evidence shows the feature to have been displaced from previously used areas of the site. Therefore, we have set the target to prevent further displacement, while recognising current impacts to the feature, and where possible existing influences should be addressed."</i></p> <p>The Explanatory information indicates that <i>"there are detectable displacement effects from the Burbo Bank extension windfarm in Liverpool Bay/Bae Lerpwl SPA (HiDef, 2020). As a result of wind farm development, red-throated divers in Liverpool Bay SPA have experienced a</i></p>	<p>The Applicant notes that 2HRA2 is directed to NE and shall not be responding.</p>

ExQ2	Question to:	Question	Applicant's Response
		<p><i>reduction in available supporting habitat. Although the physical supporting habitat may still be present, disturbance and displacement from wind farms has meant that some areas are no longer accessible for red-throated diver”.</i></p> <p>NE is asked to explain how preventing the proposed development from being constructed within 10km of the original (2010) boundary of the SPA would ‘restore’ the distribution of red-throated divers, as ‘restore’, by definition, can only be a putting back of a previously existing something (in this case location) which has been lost.</p> <p>In light of this, should the objective for the purposes of the consideration of the proposed development be that of ‘maintain’ only? If not, could NE explain why ‘restore’ is suitable.</p>	
2HRA3	The applicant NE	<p>Red-throated diver</p> <p>The ExA has noted the representations put forward by the applicant and IPs in relation to the conclusions of in-combination AEol for the red-throated diver qualifying feature of the Liverpool Bay SPA, noting the distribution objective and effect on supporting habitat. It remains a matter of disagreement. The applicant has provided two further technical notes [REP1-082] [REP4-054] in relation to this matter. [REP1-082] includes Figure 2.1 which shows an area of the original Liverpool Bay SPA boundary which the applicant states that it and NE have agreed as being the area potentially impacted.</p> <p>The applicant has explored a number of factors [REP1-082] [REP4-054] which in its view should be considered</p>	<p>Whilst the final design and layout of the WTGs has yet to be approved and would be settled and submitted to the MMO post-consent, an indicative layout and map of the unconstrained site area available has been presented into examination [REP3-068], Appendix A]. The notional layout is based on minimum spacing, hence no further reduction in spacing can be accepted or proposed. Therefore, the notional layout represents the best-case scenario in terms of turbine spacing following DCO commitments while accounting for all agreed or proposed buffers. The notional layout however does not account for site optimisation, which may also impact the viability of the project.</p> <p>The proposed 10km buffer from the original Liverpool Bay Special Protection Area (SPA) boundary would</p>

ExQ2	Question to:	Question	Applicant's Response
		<p>and which enable a conclusion of no AEol in-combination. These include (but are not limited to):</p> <ul style="list-style-type: none"> • consideration of current uses of the area in and around Liverpool Bay SPA which exert a displacement effect on red-throated diver • consideration of removal of these uses in future years • application of the Crown Estate Round 4 Plan level HRA conclusions • size of the area being in its view, inconsequential to the in-combination assessment • presence of red-throated diver within the area. <p>The applicant notes [REP4-054] that due to the distance of 6.5km supporting habitat would not be impacted.</p> <p>NE reaffirms in [REP4-066] that, to enable a conclusion of no AEol for red-throated diver at Liverpool Bay SPA, a change in boundary for which wind turbines are located is required. The applicant [REP3-064] has set out that a reduction in boundary would make the proposed development unviable.</p> <ul style="list-style-type: none"> • <u>To NE</u> <ol style="list-style-type: none"> a) Could NE please confirm its position in light of the latest position from the applicant. b) The ExA notes that NE's D4 response suggests that minimising overlap with the 10km buffer could resolve the issue. Can NE confirm whether there is a specific change in the level of displacement between 10km and 7km that might be used to inform the choice of a slightly smaller buffer than 10km whilst still enabling a conclusion of no AEol. • <u>To the applicant</u> 	<p>neutralise 36.13% of the unconstrained Project area (16.12km² of the 44.61km² unconstrained Project area) at the east of the site. Based on the notional layout presented at Deadline 2, 14 of the 35 WTGs plus one potential OSP location would be lost, representing a significant loss in generating capacity. There is no planned or commercially available WTG expected to be manufactured in the timeline of the project to enable the intended 480MW generation capacity to be met from the remaining turbine locations alongside other buffer zones proposed or agreed. As set out in more detail in response to 2HRA6, incrementally smaller buffers from the original Liverpool Bay SPA would have incrementally smaller implications, but the Applicant has not identified any buffer zone in this area which could be accommodated without impacting the delivery of the Project and its generation capacity objectives.</p> <p>The Applicant again highlights the conclusions of the Plan Level HRA, presented into examination as [REP3-078] at Deadline 3. The Secretary of State did not consider that a 10km buffer from the original Liverpool Bay SPA was required when the boundary of the Project's Plan area was approved (See The Applicant's Response to ExQ1 reference 1HRA2 in REF3-068).</p>

ExQ2	Question to:	Question	Applicant's Response
		Can the applicant set out the reasons why the same power output cannot be achieved without this area (for example amending the proposed turbine spacing, size, or other criteria within the assessed parameters) (see also question ExQ2HRA5.).	
2HRA4	NE	Vessel effects on red-throated diver NE has referenced seasonal restrictions on vessel movements, which the applicant considers to be not necessary. Could NE explain what seasonal restrictions it considers could be imposed on vessel movements to reduce impacts on red-throated diver in light of the applicant's proposals to use existing vessel channels and to avoid transiting through the SPA where possible.	The Applicant notes that 2HRA4 is directed to Natural England and shall not be responding.
2HRA5	NatureScot	'Without prejudice' red-throated diver compensation measures On 10 February 2025 the ExA wrote a Rule 17 letter [PD-014] to NatureScot requesting comments on the applicant's 'Habitats Regulations Assessment Without Prejudice Derogation Case – Red-Throated Diver at Liverpool Bay / Bar Lerpwl SPA' [REP3-065] . NatureScot is asked to respond to this letter.	The Applicant notes that 2HRA5 is directed to NatureScot and shall not be responding.
2HRA6	The applicant NE	Location of WTGs and OSPs <ul style="list-style-type: none"> <u>To the applicant</u> a) The applicant has indicated that preventing the location of WTGs within 10km of the originally designated Liverpool Bay SPA would mean that the proposed site would no longer be viable. Can the applicant respond to the proposition that if the siting of WTGs and OSPs were to be restricted to an area within, in each case, 9km, 8km and 7km of the	Whilst the final design and layout of the WTGs has yet to be approved and would be developed and submitted post-consent, an indicative layout and map of the unconstrained site area available (totalling 44.62km ²) has been presented into examination [REP3-068, Appendix A] with the caveats expressed above in response to ExQ2 reference 2HRA3. As stated above (2HRA3), with a 10km buffer 14 of the 35 notional WTG locations + one OSP location would

ExQ2	Question to:	Question	Applicant's Response
		<p>originally designated Liverpool Bay SPA, particularly if the area in the northwestern part of the application site in the vicinity of the existing oil and gas equipment were to be made available for WTGs and OSPs following decommissioning.</p> <ul style="list-style-type: none"> • <u>To NE</u> <p>NE is asked to set out its position were the proposal to be so restricted. It is asked specifically to respond to each of the three specified distances and whether in each case the proposed development would be likely to result in likely significant effects on integrity of the Liverpool Bay SPA in respect of the red-throated diver.</p>	<p>be lost. A 9km buffer would reinstate six notional WTG locations, resulting in a loss of eight of the possible 35 WTG plus one potential OSP location and would represent the loss of 10.48km² area and 23.49% of the unconstrained site.</p> <p>An 8km buffer would reinstate ten of the 14 notional infrastructure locations, representing a loss of four notional WTG locations and an area representing 5.25km² or 11.78% of the unconstrained site.</p> <p>A 7km buffer would reinstate 13 of the 14 notional infrastructure locations, representing a loss of one notional WTG location and an area representing 0.94km² or 2.11% of the unconstrained site.</p> <p>It should be noted that whilst the notional layout losses stated above represent theoretical infrastructure location losses, the actual number of lost locations could be higher following site optimisation, e.g. where for economic reasons a more efficient layout would present more WTG locations along the eastern site boundary than represented in the notional 35 WTG layout in REP3-068.</p> <p>Whilst reduced or removed buffers associated with O&G infrastructure following decommissioning offers the theoretical potential to locate an increased number of WTGs beyond that available under the proposed O&G infrastructure exclusion zones, there is no certainty as to the timing of completion of all decommissioning activities nor what buffers would remain following removal of the O&G infrastructure, for example to allow continued access to monitor any infrastructure left in-situ following decommissioning.</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>As discussed in The Applicant's Response to Spirit Energy's Deadline 4 Submission (Document Reference 9.59) a period of coexistence between Calder, CPC1 and the Project is expected, during both the final period of operation and throughout the decommissioning process. As indicated in their Written Representations both Harbour Energy (REP1-102) and Spirit Energy (REP1-116) highlight that there will be a need for continued access to discharge their decommissioning obligations throughout the decommissioning process. As discussed in response to questions 2DCO2 above, the pressure on access will reduce following a decision on Cessation of Production through the decommissioning process, but delivery of the Project within its objective timescales is unlikely to be possible if the Project were to wait until the 1.5nm aviation buffer zones (proposed in the Protective Provisions) are no longer required.</p> <p>In addition, costs would increase significantly if there were a need to split the construction period into phases given supply chain and manufacturing issues and limited availability of heavy lift installation vessels, which would require additional mobilisation costs for a split construction campaign. There are also considerable concerns as to whether or not it would even be possible for the Project to store and maintain the un-installed WTG for a number of years until required, with additional implications for the manufacturers warranties if they are left in long-term storage.</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>Given the constrained nature of the site and uncertainty around O&G infrastructure decommissioning completion dates, the potential residual buffer sizes around decommissioned infrastructure and the lack of agreement on existing O&G infrastructure buffers, the Applicant considers that the loss of any further of the unconstrained area of the site to accommodate an increased buffer from the original Liverpool Bay SPA would have the potential to impact upon the viability of the Project to deliver the agreed capacity of 480MW of renewable energy into the UK power grid.</p> <p>Furthermore, the Applicant has pressed Natural England during discussions to identify where a boundary reduction threshold, below which no AEol would be achieved, would lie. Natural England has not identified such a threshold, and it is therefore the Applicant's conclusion that Natural England does not consider any reduction below 10km would enable (in Natural England's view) no AEol to be concluded.</p> <p>The Applicant also again highlights the conclusions of the Round 4 Plan Level HRA, presented into examination as [REP3-078] at Deadline 3. The Secretary of State addressed this specific issue in his response and did not consider that any buffer from the original Liverpool Bay SPA was required when the boundary of the Project's Plan area was approved (See Applicant's Response to ExQ1 reference 1HRA2 in REF3-068).</p>
2HRA7	The applicant	Underwater noise	<p>The Applicant has updated the wording of this paragraph, and other similarly worded paragraphs in the Report to Inform the Appropriate Assessment</p>

ExQ2	Question to:	Question	Applicant's Response
		<p>a) The first sentence of section 9.4.4.1 paragraph 3462 (previously 3405) of the RIAA [REP4-009] does not appear to make sense. Please amend the drafting of this paragraph as necessary; and</p> <p>b) section 9.4.4.1 paragraph 3465 of the RIAA [REP4-009] states that “<i>The combined results from these assessments have been summarised in Table 9.20 and Table 9.20.</i>”. Is this correct? Please amend the drafting as necessary.</p>	<p>(Report to Inform Appropriate Assessment_Rev 03 Clean) submitted at Deadline 5 (Paragraphs 3460, 3677, 3888 and 4083).</p> <p>The Applicant has also updated the cross-reference in Paragraph 3463 to ‘Table 9-20 and Table 9-21’.</p>
9. Other offshore infrastructure (OOI)			
Oil and Gas			
2OOI1	Spirit Energy	<p>Decommissioning of existing assets</p> <p>At ISH3, and in Spirit Energy’s post hearing summary ([REP4-070], paragraph 2.47) it states that the cessation of production for the Central Processing Complex (CPC) is 2027, plus or minus two years, but that Spirit are looking to extend the life of the asset to 2030 and beyond.</p> <p>a) Please can you advise for what future purpose the CPC is proposed to be used and whether a new consent or licence would be required for any such new use?</p> <p>b) Given the age of the platform, would any new development or works be required to extend the life of the asset?</p> <p>c) If the decision is taken to decommission the CPC (and Calder CA1 platform), how long would it take to remove the infrastructure?</p> <p>See also question ExQ2DCO2.</p>	<p>The Applicant notes that 2OOI1 is directed to Spirit Energy and shall not be responding.</p>

ExQ2	Question to:	Question	Applicant's Response
Ørsted assets			
20012	The applicant Ørsted IPs MMO NE	Effect on nearby OWFs <p>The Ørsted IPs ([REP4-077], paragraph 1.22) consider that any need to obtain or vary an existing marine licence is considered business-as-usual and would not impact on decision making regarding extending the lifetime of the assets. Having regard to the recent <i>C G Fry & Son Limited vs Secretary of State for Housing, Communities and Local Government</i> [2024] EWCA Civ 730 judgment, could the Ørsted IPs, MMO, NE and the applicant respond to the proposition that any new marine licence would be likely to require a HRA to be carried out. As a result, parties are invited to comment on how certain the ExA/ SoS can be that any such consent/ approval would be forthcoming?</p>	<p>The Applicant considers that any new marine licence, as well as any decision to extend the lifetime of the Ørsted IPs' assets, would engage the HRA Regulations. Given the proximity of some of these assets to the Liverpool Bay / Bar Lerpwl SPA, there remains the possibility that any HRA could not exclude adverse effects on site integrity such that a derogation case would be needed.</p> <p>The <i>Fry</i> case centred on whether the approval of reserved matters could trigger an Appropriate Assessment under the Habitats Regulations, particularly where the original decision to grant planning permission in principle had been taken without an Appropriate Assessment being required. The Court held that it would undermine the purpose and approach of the Habitats Regulations if assessment provisions and requirements were limited to an initial permission stage of what is a multi-stage process. As such, an Appropriate Assessment could be required at a subsequent stage regardless of whether the original decision had been subject to an Appropriate Assessment.</p> <p>The position with HRA in relation to extension of life may be simpler than the <i>Fry</i> case - it is very clear that any new Marine Licence application, or any formal variation application, under the Marine and Coastal Access Act 2009 can trigger HRA in its own right. A new or varied marine licence is not a multi-stage</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>consent, but simply a new marine licensing decision engaging HRA requirements.</p> <p>In relation to other decisions which might be needed in relation to an extension of life, while <i>Fry</i> was focused on a specific scenario under the Town and Country Planning Act 1990, it is clear that the case has implications for other 'multi-stage' decisions, such that any subsequent decision (e.g. condition discharge) can trigger the need for HRA in its own right, regardless of whether or not an HRA was carried out for the original decision or what the conclusion of that HRA might have been.</p> <p>The Applicant also considers that the Habitats Regulations are quite clear in that they apply to any decision by the competent authority, for example reg. 28(1) of the Conservation of Offshore Marine Habitats and Species Regulations 2017 provides that "<i>before deciding to undertake, or give any consent, permission or other authorisation for, a relevant plan or project, a competent authority must make an appropriate assessment of the implications of the plan or project for the site in view of that site's conservation objectives</i>" (emphasis added).</p> <p>The Applicant submits that this would extend to any decision by the Secretary of State to extend the lifetime of the Ørsted IPs' assets, as this would constitute an authorisation given in respect of a relevant project. While the letter from Department for Business, Energy & Industrial Strategy (BEIS) exhibited by the Ørsted IPs (REP3-110) suggests that no further permissions may be needed for an extension (a matter which the Applicant contends is an</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>incorrect interpretation of law, and the existing consents, that would cut across the purpose of EIA), it does specifically state that a further decision would need to be taken by the Secretary of State: “...to secure the Secretary of State's approval to enable the continued operation of the wind farms”. That approval would be a decision by a competent authority and, as such, must involve HRA.</p> <p>The Applicant would not like to comment on the prospects of success, and is a supporter of renewable energy and would certainly support ongoing co-existence with the Ørsted IPs' projects seeking to extend their life. The only point the Applicant would make is that the potential engagement of the HRA Regulations (even if all consents are successfully secured) supports its approach that the life as set out in the original ES is an appropriate basis for its cumulative and in-combination assessments. Once there is certainty that any future consents have been secured (or indeed there is certainty that further consents and/or HRA is not needed), and the period for the proposed extension is settled, that would be the appropriate point for the projects as extended to become part of the cumulative baseline.</p>
200I3	Ørsted IPs	<p>Effect on nearby OWFs</p> <p>In its latest submission ([REP4-076], paragraph 2.5) the Ørsted IPs maintain that the predicted wake effects are a commercial consideration that will affect decisions about the lifetime extension of the existing Ørsted projects and therefore their future viability.</p>	<p>The Applicant notes that 200I3 and 200I4 is directed to the Ørsted IPs and shall not be responding.</p>

ExQ2	Question to:	Question	Applicant's Response
		For the avoidance of doubt, can the Ørsted IPs confirm whether their position is that the potential wake effects identified would affect the financial viability of the existing Ørsted projects up and until their 'earliest possible decommissioning date' or that your concerns are about financial viability relating to future decisions about lifetime extensions only?	
200I4	Ørsted IPs	<p>Financial viability of existing Ørsted assets</p> <p>In first written question EXQ1.00I13 the ExA asked the Ørsted IPs to provide evidence to substantiate their position that the proposed development would affect the viability of the existing Ørsted assets. The Ørsted IPs' response [REP3-109] stated that calculating the financial consequences from wake loss is complex and commercially sensitive but that Ørsted would investigate how to submit a robust assessment of the financial impact using public sources for a later submission. No such information has been provided.</p> <p>Can you provide the information requested in order to support your position that the ExA/SoS should give substantial weight to those effects as directed by paragraph 2.8.347 of NPS EN-3.</p>	
10. Seascape, Landscape and Visual (SLV)			
Effect on National Landscapes			
2SLV1	The applicant	<p>S245 Levelling up and Regeneration Act</p> <p>In light of the SoS's 'minded to' letter in relation to the second runway proposals for Gatwick Airport concerning the amended duty set out in s85 of the Countryside and Rights of Way Act 2000 (as amended by s245 of the Levelling Up and Regeneration Act 2023), the Applicant</p>	The Applicant more fully set out its position on the applicability of s245 of the Levelling Up and Regeneration Act 2023 and s85 of the Countryside and Rights of Way Act 2000 in its response to ExQ1 1SLV9 (REP3-068). The Applicant does not consider the 'minded to' decision in relation to the second runway

ExQ2	Question to:	Question	Applicant's Response
		is requested to consider further potential enhancement measures to further the purpose of conserving and enhancing the natural beauty of the areas of outstanding natural beauty (National Landscapes) which may be affected by the proposed development. If appropriate, the applicant is requested to provide additional provisions within the dDCO.	<p>proposals for Gatwick Airport to materially alter its position, which remains that the obligation to 'seek to further the purpose of conserving and enhancing' must be read proportionately.</p> <p>Specifically, the Applicant would note that the Gatwick application, and its impacts on national landscapes, can be distinguished from the Project:</p> <ol style="list-style-type: none"> 1. Gatwick is located within 3km of three national landscapes. By contrast, the Project is located c. 43km away from the Lake District National Park. 2. As an airport development, the Gatwick proposals would also directly lead to an increase in air traffic immediately above the national landscapes (specifically, a 22% increase in overhead air traffic at low altitude). The Project does not have a comparable direct impact on the Lake District National Park. <p>The Applicant notes that the s85 duty does not require measures to be imposed in all cases and is instead framed as a duty "<i>to seek to further</i>" (emphasis added) which supports the interpretation that it is a proportionate duty that may not be applicable in all cases. The relevant policy test (NPS EN-1 at 5.10.8) states that "<i>[t]he Secretary of State should be satisfied that measures which seek to further the purposes of the designation are sufficient, appropriate and proportionate to the type and scale of the development</i>". While it is a proactive, and not a passive, duty, it may not apply in all cases.</p>

ExQ2	Question to:	Question	Applicant's Response
			<p>The Applicant acknowledges that, following the 'minded to' Gatwick decision, it may not be correct to argue that a lack of significant effects, in itself, means that it is not proportionate for further enhancement measures to be considered or sought. Rather, the position is more nuanced and will be considered in the wider context of the impacts of the development and its type and scale.</p> <p>The Applicant therefore has not proposed or developed further enhancement measures, but this is considered appropriate and proportionate in light of the way the duty under s85 of CROW is framed and how it has been interpreted by the Secretary of State in the 'minded to' Gatwick decision.</p> <p>It is also of note that the siting for Round 4 factored in from the beginning the visual connectivity with land receptors, and this influenced the decisions that Round 4 windfarms should not be located near to shore: <i>"Reasons for removal of seabed areas included: [...] Visual sensitivity where development would predominately or entirely be within 13 km of shore;"</i>. As such, minimising the landscape and visual impact of the Project, was a factor inherent in the very initial siting considerations.</p>
11. Shipping and Navigation (SN)			
Clarifications			
2SN1	The applicant	Contaminants and navigation	The Applicant would identify the type of scour protection, including the source of rock and the percentage of fines (if this is the chosen scour

ExQ2	Question to:	Question	Applicant's Response														
	MMO	<p>It its response to RR-047-18 the MMO indicates that <i>“The MMO would like to understand what the process will be on deciding the source of the rock to ensure there is no navigational concerns or contaminants risk and where this detail will be provided post consent”</i> in relation to rock material used in the construction of the proposed development.</p> <ul style="list-style-type: none">• <u>To the MMO</u> <p>a) Could the MMO please explain how the source of a rock could affect navigation, as opposed to its volume, which is another matter?</p> <ul style="list-style-type: none">• <u>To the applicant</u> <p>Can the t the applicant to identify anywhere in a document, or to be secured in a control document, where this choice is limited in terms of parameters assessed</p>	<p>protection) post-consent in the Construction Method Statement (CMS). The volume of scour protection is detailed and secured in the Outline CMS (REP4-056) (note this document has been updated and submitted at Deadline 5 (Outline Construction Method Statement_Rev 02 Clean)) and the Outline Scour Protection and Cable Protection Management Plan (REP1-056) (note this document has been updated and submitted at Deadline 5 (Outline Scour Protection and Cable Protection Plan_Rev 03 Clean)).</p> <p>The CMS and Scour Protection and Cable Management Plan would be submitted to and approved in writing by the MMO in consultation with the relevant statutory nature conservation body, Trinity House and the MCA, as appropriate.</p>														
2SN2	The applicant	<p>Navigation</p> <p>In paragraph 73 in Appendix A of the outline Construction Method Statement [REP4-056] the applicant has committed to <i>“identify the risk of needing any cable protection that may exceed 5 percent of navigable depth referenced to Chart Datum”</i>. Could the applicant please confirm how Chart Datum relates to the other sea level measurements utilised in the Environmental Statement and draft DCO? For example, Highest Astronomical Tide, Lowest Astronomical Tide.</p> <p>The applicant is also asked to set out the difference between Highest Astronomical Tide and Lowest Astronomical Tide. If this varies across the application site, then this may be best displayed graphically.</p>	<p>Chart Datum of Admiralty Hydrographic Charts for the Irish Sea is Lowest Astronomical Tide (LAT).</p> <p>Below are the various tidal levels (relative to LAT) noting these do not vary over the site.</p> <table><tr><th colspan="2">Tidal levels relative to LAT (m)</th></tr><tr><td>HAT</td><td>9.56</td></tr><tr><td>MHWS</td><td>8.49</td></tr><tr><td>MWHN</td><td>6.79</td></tr><tr><td>MSL</td><td>4.74</td></tr><tr><td>MLWN</td><td>2.77</td></tr><tr><td>MLWS</td><td>0.98</td></tr></table>	Tidal levels relative to LAT (m)		HAT	9.56	MHWS	8.49	MWHN	6.79	MSL	4.74	MLWN	2.77	MLWS	0.98
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ExQ2	Question to:	Question	Applicant's Response	
			LAT	0.00
			Where: <ul style="list-style-type: none">▪ HAT, Highest Astronomical Tide,▪ MHWS, Mean High Water Springs,▪ MHWN, Mean High Water Neaps,▪ MSL, Mean Sea Level,▪ MLWN, Mean Low Water Neaps,▪ MLWS, Mean Low Water Springs,▪ LAT, Lowest Astronomical Tide	
12. Socio-Economics, Tourism and Recreation (SETR)				
2SETR1	The applicant	<p>Operations and maintenance expenditure</p> <p>Paragraphs 20.240 and 20.243 of Chapter 20 ([APP-057], pdf page.83) state that the annual costs associated with the operations and maintenance of the Generation Assets would be approximately £19 million per year and that it is estimated that 59% of spending would occur in the Local Economic Area. Paragraph 20.244 however provides a breakdown of the average annual expenditure as being £11 million in the Local Economic Area and £17 million in the UK.</p> <p>Can you please explain the difference in the two figures cited and, if required, update and correct accordingly.</p>	<p>The total annual operational figure is greater than the average expenditure in the UK because it is estimated that approximately 14% of the expenditure will be imported from outside the UK. This may include specialist replacement components or technical services provided by the turbine manufacturer.</p> <p>Annual Expenditure is provided for each area below, as a cash amount and as a proportion of the total,</p> <ul style="list-style-type: none">▪ Local Economic Area - £11m (59% of total)▪ UK - £17m (86% of total)▪ Global - £19m (100% of total) <p>There is no identified need to update the chapter (APP-057).</p>	
13. Traffic and Transport (TT)				
The ExA has no questions on this issue at this time.				

Appendix A: The Crown Estate Submission to Morgan Generation Examination in relation to Bodorgan Marine Limited

DATED 27/02/2025

APPLICATION BY MORGAN OFFSHORE WIND LIMITED FOR AN ORDER GRANTING

DEVELOPMENT CONSENT FOR THE MORGAN OFFSHORE WIND FARM SCHEME

PLANNING INSPECTORATE EXAMINATION NUMBER: EN010136

REGISTRATION IDENTIFICATION NUMBER: 20048830

WRITTEN REPRESENTATION

SUBMITTED ON BEHALF OF THE CROWN ESTATE

**IN RESPECT OF THE RESPONSES TO APPLICANT'S DEADLINE 1-4 SUBMISSIONS AND FURTHER
COMMENTARY AND SUBMISSIONS ON BEHALF OF BODORGAN MARINE LIMITED [REP5-093]**

(THE "BML SUBMISSION")

1. This written representation is submitted on behalf of The Crown Estate ("**TCE**") in connection with the application by Morgan Offshore Wind Limited (the "**Applicant**") for a development consent order (DCO) for the Morgan Offshore Wind Farm (the "**Project**").
2. Bodorgan Marine Limited ("**BML**"), in the BML Submission, made several submissions as regards the terms of TCE's leasing arrangements in connection with the Project and/or for the co-location of aquaculture projects with the same. TCE is submitting this response to provide clarification on a point of law in connection with the same.
3. An Agreement for Lease was entered into on 17 January 2023 between TCE (1) and the Applicant (2) (the "**Agreement for Lease**"). The Agreement for Lease provides that, if and when a lease (the "**Lease**") is entered into pursuant to that Agreement for Lease, TCE will grant the Applicant rights for the installation of a wind farm (with associated on-going rights) pursuant to section 84 of the Energy Act 2004. The wind farm will be located outside UK territorial waters in the UK Renewable Energy Zone ("**REZ**") (as defined in that same provision). Accordingly, the rights to which the Lease relates are limited to those rights exercisable by the United Kingdom under international law¹ that are incorporated into domestic law by Section 84 of the Energy Act 2004. Those are the rights to exploit the REZ for the production of energy from water or winds; exploring the REZ in that connection; or for other purposes connected with such exploitation. These rights are vested in the Monarch in right of the Crown and managed by TCE.
4. BML has requested that TCE consider allowing for underletting out of the Lease to enable it to engage in commercial aquaculture. As set out above, the Lease will only grant rights pursuant to Section 84 of the Energy Act 2004 and, as such, underletting for BML's intended purposes is not possible pursuant to the Lease. The Section 84 rights do not extend to the rights sought by BML which do not relate to (nor are they in connection with) the exploitation of the REZ to produce energy from water or winds (or related exploration).

¹ As set out in Part V of the United Nations Convention on the Law of the Sea 1982