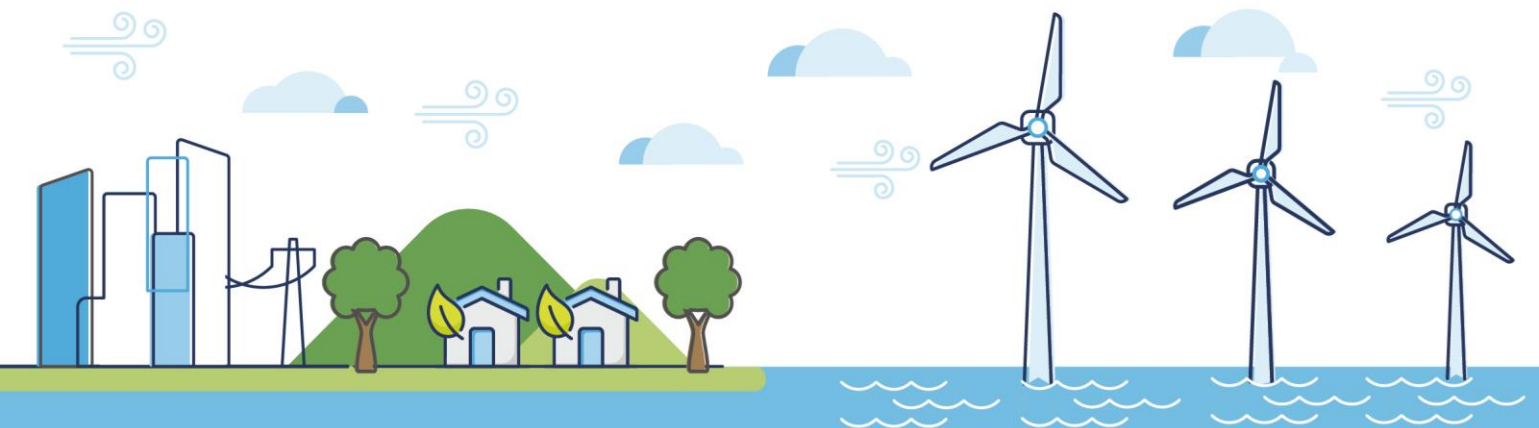


Morecambe Offshore Windfarm: Generation Assets Examination Documents

The Applicant's Response to ExA's Written Questions 3

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Rev 01



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Glossary of Acronyms

ADD	Acoustic Deterrent Devices
AfL	Agreement For Lease
AltMoC	Alternative Means of Compliance
AMC	Acceptable Means of Compliance
BEIS	Department for Business, Energy & Industrial Strategy
CAA	Civil Aviation Authority
DCO	Development Consent Order
dDCO	Draft Development Consent Order
DF	Direction Finding
DIO	Defence Infrastructure Organisation
DML	Deemed Marine Licence
ExA	Examining Authority
FLCP	Fisheries Liaison and Co-existence Plan
IMC	Instrument Meteorological Conditions
INNS	Invasive Non-Native Species
IPMP	In Principle Monitoring Plan
MMMP	Marine Mammal Mitigation Protocol
MMO	Marine Management Organisation
NAS	Noise Abatement Systems
OFLCP	Outline Fisheries Liaison and Co-existence Plan
OSP	Offshore Substation Platform
OSPAR	Convention for the Protection of the Marine Environment of the North-East Atlantic
REZ	<i>Renewable Energy Zone</i>
RIAA	Report to Inform Appropriate Assessment
RTD	Red Throated Diver
SNCBs	Statutory Nature Conservation Bodies
UHF	Ultra High Frequency
UK	United Kingdom
UWSMS	Underwater Sound Management Strategy
VHF	Very High Frequency

VTMP	Vessel Traffic Management Plan
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) third written questions and requests for information (ExQ3), issued to the Applicant on 25th March 2025 (PD-018).
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 Responses to ExQ3

3. The Applicant's responses to the ExQ3 are presented in **Table 2.1**.

Table 2.1 The Applicant's responses to ExQ3

Ref.	Question to:	Question	Applicant's Response
1. General and Cross-topic Questions (GEN)			
Funding			
3GEN1	The applicant TCE	<p>Funding</p> <p>In its response to ExQ2GEN1 the applicant explains the current situation as regards the takeover of the proposed development by Copenhagen Infrastructure Partners fifth flagship fund (CI V), indicating that CI V will assume all funding obligations.</p> <p>Table 2.1 of the National Policy Statements Accordance Report [REP3-010] indicates that the Round 4 leasing process from TCE evaluated the financial capability of bidders.</p> <p>Could the applicant and TCE comment further in relation to the financial arrangements in light of the potential acquisition of the undertaker by CI V and, in the case of TCE, what, if any, arrangements are affected within the AfL?</p>	<p>The Applicant triggered the Change of Control process following the AfL provisions. The Change of Control declaration submitted by the applicant to TCE on 4th March 2025 includes appendices describing the financial standing and capabilities of the proposed transferee (CI V), which allows TCE to assess the capacity of CI V.</p> <p>CI V is confident it will reach a position whereby it can assume all funding obligations under the AfL. The Crown Estate is working closely with CIP on the arrangements to ensure CI V's capability to take over the financial obligations of the AfL.</p>
Cross-topic			
3GEN2	The applicant TCE	<p>Liverpool Bay SPA buffer</p> <p>In the applicant's response to our written question ExQ2HRA6 at D5 [REP5-070], the applicant states "A 7km buffer would reinstate 13 of the 14 notional infrastructure locations, representing a loss of one notional WTG location...." and that "...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>The Applicant's response to 3GEN2 (and 3GEN3) is set out in detail within a standalone response. Please refer to the Applicant's Responses to ExQ3 Appendix A: Response to 3GEN2 and 3GEN3 (Document Reference 9.61.1).</p>

Ref.	Question to:	Question	Applicant's Response
		<p><u>The applicant:</u></p> <p>a) noting that the generating capacity of the proposed development is not defined within the dDCO and that 480MW is described as being the 'nominal' capacity within the ES, please explain what is meant by "<i>agreed capacity of 480MW</i>"?</p> <p>b) can the applicant please provide further explanation or evidence to support its position that the potential loss of a single WTG as result of a 7km buffer from the original Liverpool Bay SPA (or any other reduction in WTG numbers) would affect the viability of the proposed development?</p> <p><u>The applicant and TCE:</u></p> <p>c) do the terms of the AfL contain any provisions or conditions such as requiring a minimum generating capacity to be delivered as part of the proposed development and, if so, what is this in megawatts?</p>	
3GEN3	The applicant	<p>Liverpool Bay SPA and Oil and Gas Platform Buffers</p> <p>Whilst the ExA notes the caveats stated in the applicant's response to ExQ2HRA6 at D5 [REP5-070], to further demonstrate and support the applicant's position:</p> <p>a) please can the applicant provide individual plans to demonstrate the impact that each of the incrementally smaller buffers from the original Liverpool Bay SPA would have on the layout and number of WTGs that could be accommodated within the site (i.e. 10km, 9km, 8km, 7km and so no buffer associated with the SPA affects the site) - with all other existing buffers/corridors as shown on [REP5-007] unchanged.</p>	<p>The Applicant's response to 3GEN3 (and 3GEN2) is set out in detail within a standalone response. Please refer to the Applicant's Responses to ExQ3 Appendix A: Response to 3GEN2 and 3GEN3 (Document Reference 9.61.1). This document includes the set of figures as requested.</p>

Ref.	Question to:	Question	Applicant's Response										
		<p>b) in Spirit Energy's response to ExQ2CAR5 at D5 [REP5-090] it advises a buffer distance of 1.9nm is the minimum acceptable requirement for safe landing and take-off in daytime VMC and for night VMC this distance would be 2.4nm. In light of this could the applicant provide plans for each alternative SPA buffer scenario in (a) plus each of the increased buffer scenarios from the Calder and CCP1 platforms as set out in the following table.</p> <table><tr><th><u>CPP1 WTG and OSP Aviation Buffer</u></th><th><u>Calder WTG and OSP Buffer</u></th></tr><tr><td>1.9nm</td><td>1.9nm</td></tr><tr><td>2.4nm</td><td>1.9nm</td></tr><tr><td>1.9nm</td><td>2.4nm</td></tr><tr><td>2.4nm</td><td>2.4nm</td></tr></table> <p>c) any additional comments or further information the applicant wishes to provide on the implications of each of the above scenarios (noting the applicant's previous response [REP5-070], EXQ2HRA3 and 2HRA6].</p> <p>The ExA is seeking a complete set of alternative scenarios shown on plans, so that, whatever the SoS may determine, if they felt it was appropriate they could include the relevant plan within any final DCO without having to revert to the applicant for that plan. Each should therefore have a different drawing number.</p>	<u>CPP1 WTG and OSP Aviation Buffer</u>	<u>Calder WTG and OSP Buffer</u>	1.9nm	1.9nm	2.4nm	1.9nm	1.9nm	2.4nm	2.4nm	2.4nm	
<u>CPP1 WTG and OSP Aviation Buffer</u>	<u>Calder WTG and OSP Buffer</u>												
1.9nm	1.9nm												
2.4nm	1.9nm												
1.9nm	2.4nm												
2.4nm	2.4nm												
3GEN4	The applicant	<p>Design Statement - Cabling</p> <p>Could the applicant please explain why (former) provision DC15 relating to use of the most direct/ efficient cabling</p>	<p>The Applicant removed the former provision DC15 as it considered that this was duplication of DC10. The Applicant has updated the Design Statement_Rev 04</p>										

Ref.	Question to:	Question	Applicant's Response
		route to minimise cutting has been deleted from the post-consent design code in Table 6.1 of the Design Statement [REP5-008] and [REP5-009] .	(Document Reference 4.3) to make this clearer. The commitment to use the most direct/efficient cable route to minimise cabling is secured with DC10 of the updated Design Statement (Rev 04) (Document Reference 4.3). The Applicant has updated the Guide to the Application Annex 1 (Document Reference 1.3) to explain why the change was made.
2. Biodiversity, Ecology and Marine Processes (BEM)			
General			
3BEM1	NE	Outstanding matters – general NE has set out various matters in the latest version of the Risk and Issues Log [REP5-083] as yellow – unlikely to make a material difference to decision making. The applicant has previously provided responses to many of these issues as identified in The Applicant's Comments on Natural England's Risk and Actions Log at Deadline 4 - Revision 01 (Volume 9) [REP5-061] Please can NE review those responses and confirm whether, in its view, any of these matters are now resolved and provide an update.	The Applicant notes 3BEM1 is directed to Natural England however it is highlighted that in addition to The Applicant's Comments on Natural England's Risk and Actions Log at Deadline 4 - Revision 01 (Volume 9) [REP5-061] , matters in the Risks and Issue log reflect comments initially provided by Natural England in their Relevant Representation, and the Applicant provided a response to all matters in The Applicant's Response to Relevant Representations (PD1-011). The Applicant considers they have been sufficiently addressed.
3BEM2	NE	Outstanding matters – pre- and post-construction monitoring NE is asked to review the applicant's response to its Relevant Representation [PD1-011] at reference RR-061-25 in respect of its request for pre- and post-construction monitoring of benthic, marine mammal or ornithological interests, with particularly reference to the latest versions of the IPMP [REP5-026] and the draft Marine Mammal Mitigation Protocol (MMMP) [REP5-028] to ensure that its Risk and Issues Log [REP5-083] is fully	The Applicant notes 3BEM2 is directed to Natural England and shall not be responding.

Ref.	Question to:	Question	Applicant's Response
		up-to-date. If NE is not content with the current drafting, then this reasoning needs to be fully set out.	
3BEM3	NE	<p>Pre- and post-construction monitoring</p> <p>Can NE signpost to any made DCOs for other offshore windfarms that incorporate pre- or post-construction monitoring for benthic, marine mammals and ornithology as a standard requirement, regardless of the level of significance of ecological effects assessed?</p> <p>It would also assist the ExA if NE could identify specifically where such monitoring has been required and the level of effect on significance assessed.</p>	The Applicant notes 3BEM3 is directed to Natural England and shall not be responding.
3BEM4	The applicant	<p>Offshore impacts on bats over the Irish Sea [REP4-055]</p> <p>In its Risk and Issues Log [REP5-083] at tab I, NE refers to the applicant's technical note [REP4-055]. Recognising both the paucity of evidence and that implementing measures to improve the evidence base is outside the scope of this examination, it advises that</p> <ul style="list-style-type: none"> the technical note should be updated to include evidence from other OWF projects; and there is evidence on the role of barotrauma, that has not been considered in the technical note and which should be included. <p>Please could the applicant respond.</p>	<p>The Applicant has updated the Technical Note on the Assessment of Offshore Impacts on Bats over the Irish Sea_Rev 02 (Document Reference 9.48) in response to NE's comments at Deadline 5 (REP5-080) and submitted it alongside this document at Deadline 5A, including further consideration of barotrauma. Please also see the Applicant's Comments on Natural England's Risk and Issues Log at Deadline 5 (Document Reference 6.64) and the Applicant's Comments on Deadline 5 Submissions by Interested Parties and Comments on responses to ExQ2s (Document Reference 9.63).</p> <p>The Applicant acknowledges the lack of data relating to migratory bats crossing the Irish Sea and notes that this is a broader evidence gap than one project alone could address. The Applicant is open to further conversations with Statutory Nature Conservation Bodies (SNCBs) on a potential contribution to strategic research with other offshore wind farm projects to</p>

Ref.	Question to:	Question	Applicant's Response
			address this knowledge gap, should this be considered to be required by the Secretary of State.
3BEM5	NE The applicant MMO	<p>Decommissioning Plan</p> <p>NE indicates it requires an outline Decommissioning Plan to be provided and removal of infrastructure at end of life, in line with OSPAR requirements. Could NE please explain the specific OSPAR provisions that require this outcome to be secured and explain whether:</p> <p>the exception to dumping at Article 1 g(iii) could apply, or a derogation as outlined in paragraph 3 of the OSPAR 98/3 decision could apply?</p> <p>The applicant and MMO are also asked to comment.</p>	<p>As noted in the Applicant's Response to ExA's Written Questions 1 (REP3-068, question 1CF6) and subsequent submissions, the Applicant considers that the requirements around decommissioning, and the provision of and specific content within a Decommissioning Programme or Plan, are fully addressed within the Energy Act 2004 (specifically sections 104-114).</p> <p>Guidance issued by The Department for Business, Energy and Industrial Strategy (BEIS) on Decommissioning Programmes clearly states that it has had account of the United Kingdom (UK's) international obligations, including OSPAR, in establishing the decommissioning regime and that this has been incorporated within the Energy Act 2004: <i>"The Act provides for decommissioning requirements to apply in territorial and internal waters, as well as to the UK Renewable Energy Zone (REZ) and continental shelf, to which the international conventions under UNCLOS and OSPAR apply."</i> (BEIS, Decommissioning of Offshore Renewable Energy Installations under the Energy Act 2004: Guidance notes for industry (England and Wales), March 2019, para. 3.3.3, pg. 8).</p> <p>There is a complete legislative framework, outside of the Planning Act 2008, which secures decommissioning obligations, including the provision of draft Decommissioning Programmes for consultation and approval at the post-consent stage.</p>

Ref.	Question to:	Question	Applicant's Response
			<p>The Applicant also notes paragraph 4.12.10 of EN-1 which states that “<i>The Secretary of State should work on the assumption that the relevant [...] regulatory regimes, including those on land drainage, water abstraction and biodiversity, will be properly applied and enforced by the relevant regulator. The Secretary of State should act to complement but not seek to duplicate them.</i>”</p> <p>The Applicant considers that the points raised by Natural England are already secured under the Energy Act 2004 and the process for submission, review and approval of a Decommissioning Programme, noting that Natural England (and other stakeholders) will have the opportunity to comment on the draft Decommissioning Programme in due course under that Act.</p> <p>The Applicant notes that the requirement for a decommissioning programme to be submitted for approval is also secured under Requirement 10 (Decommissioning) of the draft DCO (Schedule 2 (Requirements)). As is explained in more detail in the Applicant's Response to ExA's Written Questions 1 (REP3-068, question 1DCO4), this condition is used in many (albeit not all) offshore wind DCOs as a ‘belts and braces’ approach to link the DCO and the Energy Act 2004 even though it is not strictly needed.</p>
3BEM6	The applicant	In Principle Monitoring Plan The IPMP [REP5-026] section 1.3 commits the Applicant to “ <i>consider the application of standardisation where</i>	An updated In Principle Monitoring Plan_Rev 05 (Document Reference 6.4) has been provided at Deadline 5A. The Applicant has amended Section 1.3 to simplify the commitment, however it should be noted

Ref.	Question to:	Question	Applicant's Response
		<i>widely recognised agreed standards for monitoring already exist". Could the applicant explain why it should not simply follow agreed standard methods where they exist? Can the IPMP be updated to reflect this?</i>	that a primary concern with always following the most up to date standards is the potential situation where agreed standards have changed since baseline data was collected, and it is considered preferable to ensure that the baseline dataset remains comparable to subsequent datasets collected to assess potential impacts (i.e. so that 'apples' can be compared with 'apples'). The updated In Principle Monitoring Plan (IPMP) reflects this approach.
Benthic ecology			
3BEM7	The applicant	Correction/ errata – ES Chapter 9: Benthic ecology Paragraph 9.373 of ES Chapter 9 [REP3-014] requires revision as this refers to conclusions in respect of underwater noise and vibration and not from the introduction and spread of invasive non-native species. Please could the applicant check and amend as necessary.	The wording in Paragraph 9.373 (now Paragraph 9.374) has been updated in Chapter 9 Benthic Ecology_Rev 04 (Document Reference 5.1.9) and submitted alongside this document at Deadline 5A.
3BEM8	The applicant	Identification of micro-siting Under condition 9(1)(ii) of the DML it may be necessary to micro-site WTGs or OSPs to take account of features of nature conservation importance. Could the applicant please set out how these are to be identified, if appropriate surveys are not specifically referenced in the IPMP?	The In Principle Monitoring Plan_Rev 05 has been updated at Deadline 5A (Document Reference 6.4) to clarify that pre-construction geophysical surveys (which are included in the IPMP) would be used to identify reef.
3BEM9	The applicant	Boulder clearance The applicant's response to Natural England's Risk and Issues Log [REP5-061] row RI_E11] states that should boulders be encountered during construction it is likely these would be lifted and moved aside within the seabed preparation areas allowed for WTG/ OSPs and inter-array	The Applicant has updated the Commitments Register_Rev 04 (Document Reference 9.31) (C057) and Table 9.2 in Chapter 9 Benthic Ecology_Rev 04 (Document Reference 5.1.9) to clarify that any boulders removed during seabed preparation works would be relocated within the total disturbance widths,

Ref.	Question to:	Question	Applicant's Response
		<p>and platform link cables. The ExA notes that in its version of the Log submitted at D5, [REP5-083] NE has commented whilst it understands this is the case this should be specified within a named plan.</p> <p>For the avoidance of doubt, could the applicant please update Table 9.2 of Chapter 9 of the ES (Impacts 1 and 2) and/ or the outline Construction Method Statement [REP5-056] and Commitments Register [REP5-050] to make it clear that any boulders removed during seabed preparation works would be deposited within the total disturbance widths as identified?</p>	<p>as identified in the draft DCO_Rev 06 (Document Reference 3.1).</p> <p>Following a clarification from Natural England during a meeting on 24 March 2025, additional text has been added to Table 7.3 in Chapter 7 Marine Geology, Oceanography and Physical Processes_Rev 05 (Document Reference 5.1.7), the Schedule of Mitigation_Rev 06 (Document Reference 5.5) (Ref. 7.7) and the Outline CMS_Rev 03 (Document Reference 9.49) (Table 5.1) to clarify that boulders would be placed in a random pattern to avoid creating any artificial linear features.</p>
3BEM10	NE	<p>Outstanding issues raised by NE relating to Benthic Ecology</p> <p>In its Risk and Issues Log [REP5-083] at tab F, NE highlights a number of issues in amber, namely items F6, F7, F9 and F11 (RAG Status Rel and Wri Rep) and item F12 in yellow (RAG Status D5).</p> <p>The applicant has previously provided responses to each of these issues as identified in 'The Applicant's Comments on Natural England's Risk and Actions Log at Deadline 4 - Revision 01 (Volume 9)' [REP5-061]</p> <p>Please can NE review those responses and confirm whether, in its view, these matters are now resolved and provide an update. Where in NE's view any issue remains unresolved, please can NE make clear whether it considers this would make a material difference to the outcome of the decision-making process.</p>	<p>The Applicant notes 3BEM10 is directed to Natural England; however, it is noted that the Applicant has provided further commentary on Item F12 in The Applicant's Comments on Natural England's Risk and Issues Log at Deadline 5 submitted at Deadline 5A (Document Reference 9.66).</p> <p>Please note that the Applicant has not provided additional commentary on items F6, F7, F9 and F11 as these items are believed to be addressed either in previous responses to Natural England (REP2-028, REP5-061), via the submission of Technical Notes/updated chapters/plans and many items (namely F7, F9, F11) have been amalgamated into Tab E (Geol. Phys. Proc. Sed. WQ) and addressed there.</p>
Marine mammals			

Ref.	Question to:	Question	Applicant's Response
3BEM11	The applicant	<p>Outstanding issues raised by NE</p> <p>In its Risk and Issues Log [REP5-083] at tab D, NE highlights unresolved issues in amber (RAG Status D5) relating to:</p> <ul style="list-style-type: none"> ■ cumulative impact: use of worst-case numbers disturbed, not only the iPCoD modelling results (D28) ■ PTS risk – other relevant projects should be included in the CEA (D38) ■ piling mitigation (D45, D70) ■ a standalone vessel code of conduct (D51, D72) ■ monitoring to be included in the IPMP (D61) ■ precise mitigation measures relied upon to conclude no adverse effects from impact pathways (D67) ■ break procedure outlined in the draft MMMP (D68) <p>Please could the applicant provide an update. Where in its view any issue is resolved, please could the applicant direct the ExA to the relevant document(s), providing additional reasoning where necessary.</p>	<p>The Applicant has been working with Natural England to address the remaining comments on marine mammals and has provided an update on each matter raised by Natural England in The Applicant's Comments on Natural England's Risk and Issues Log at Deadline 5 (Document Reference 9.64), submitted alongside this document at Deadline 5A. It is noted that the Risks and Issue log is only updated by Natural England once information is submitted into examination, hence the lag in reflecting the progress made in that document.</p> <p>The following items are considered to be addressed by the updated RIAA (REP5-010) and ES Chapter 11 Marine Mammals (REP5-012) that were submitted at Deadline 5:</p> <ul style="list-style-type: none"> ■ D28, D38 <p>The updated Chapter and RIAA provide information on all assessment methodologies (not just iPCoD modelling, a cumulative assessment of PTS).</p> <p>In regard to piling mitigations (D45, D70, D67) the Applicant has secured the UWSMS to allow for agreement of the final mitigation measures based on the final design of the Project, with noise abatement committed to for the worst case scenario as presented in the Environmental Statement. The application of NAS would ensure that the higher strike rate scenarios within the authorised parameters could be implemented with no residual PTS. The exact level where NAS is appropriate to be approved by the MMO</p>

Ref.	Question to:	Question	Applicant's Response
			<p>post consent in the MMMP / UWSMS will be based on the guidance at the time (recognising that government has indicated that it is their intention to consult on a limit and to work to further develop a noise limit in 2025 and 2026).</p> <p>In regard to D51 and D72, measures to reduce vessel disturbance are provided in the Outline VTMP_Rev 05 (Document Reference 6.9) and the Outline Project Environmental Management Plan_Rev 04 (Document Reference 6.2), which in line with measures for ornithology have been updated at Deadline 5A to further strengthen the use of existing vessel routes and provide suitable measures to reduce disturbance. As stated in the Outline PEMP, a Code of Conduct for vessel operators would be produced and issued to all contractors. As the measures are detailed in the Outline VTMP and Outline PEMP it is not considered that at this stage a separate and standalone code of conduct is required (and would be duplication), but there would be consultation on the finalisation of the VTMP and PEMP post-consent, including the Code of Conduct.</p> <p>In regard to D61, in addition to noise monitoring of the first four piles, the IPMP was updated at Deadline 5 to include capturing marine mammal data during aerial surveys committed to for Red Throated Diver (RTD) monitoring. As detailed in The Applicant's Comments on Natural England's Risk and Actions Log at Deadline 5 (Document Reference 9.64), the Applicant considers that sufficient monitoring has been provided but notes</p>

Ref.	Question to:	Question	Applicant's Response
			<p>that Natural England consider further disturbance monitoring should be carried out.</p> <p>In regard to D68, the Applicant has discussed this with Natural England and reworded the text on breaks in piling in the Draft MMMP_Rev 05 (Document Reference 6.5) at Deadline 5A. The Applicant considers this will resolve matters, given the Draft MMMP_Rev 05 (Document Reference 6.5) at Deadline 5A reverts to the current guidance for breaks in piling but has also incorporated the mechanism to review these procedures with any updates to guidance if Noise Abatement Systems (NAS) (or other noise reduction measures) is implemented (see 3BEM12 below).</p>
3BEM12	NE MMO The applicant	<p>Noise Abatement Systems</p> <p>If NAS were secured for all piling activity, would this affect the provisions relating to ADD, seasonal restrictions, breaks in piling or soft start procedures? For example, if NAS were secured, would there still need to be a temporal restriction during the cod spawning season?</p>	<p>Regarding marine mammals, the implementation of NAS will not directly affect the soft-start procedures, which will continue as usual. With NAS, the use of Acoustic Deterrent Devices (ADD) would still be necessary, but the duration would depend on the final underwater noise modelling outcomes and the effect ranges. The duration of the ADD would be reduced compared to piling without NAS.</p> <p>Regarding breaks in piling, it is considered that the use of NAS may alter the requirements for breaks in piling. There is no specific updated guidance available from the SNCBs and the requirement for breaks would be confirmed through consultation on the final MMMP, and any procedures may depend on the types of NAS used in the Project. Further consultation post-consent with the MMO and Natural England will be required to discuss these procedures in more detail and determine if the current guidance around a break in 10 minutes</p>

Ref.	Question to:	Question	Applicant's Response
			<p>could be adjusted depending on the other mitigations employed such as NAS. The Applicant has amended the Draft MMMP_Rev 05 (Document Reference 6.5) at Deadline 5A to revert to the current guidance for breaks in piling and has incorporated the mechanism to review these procedures with any updates to guidance and if NAS is implemented.</p> <p>Regarding seasonal restriction and cod spawning, it is considered by the Applicant that NAS would reduce impact ranges to the extent that a seasonal restriction is not required. However, the Marine Management Organisation (MMO) have highlighted that the impact ranges and effects would need to be provided in detail (including full modelling of impact ranges) and reviewed post-consent to confirm that a seasonal restriction was not required (this would be done through the Underwater Sound Management Strategy (UWSMS), which is secured through Deemed Marine Licence (DML) condition 20).</p> <p>The Applicant also considers that it is possible to achieve quieter installation techniques and reduced impact ranges, without the use of NAS and avoid the requirement for a seasonal restriction. This will be dependent upon a review of detailed design parameters post-consent and modelling of impact ranges.</p>
3BEM13	NE	Marine Mammal piling responses With reference to NE Risk and Issue Log [REP5-083], tab D, item RI_D61, could NE explain what method the	The Applicant notes 3BEM13 is directed to Natural England and shall not be responding.

Ref.	Question to:	Question	Applicant's Response
		applicant would need to adopt to monitor marine mammal responses to piling impacts.	
Offshore Ornithology			
3BEM14	The applicant NE	<p>Outstanding issues raised by NE</p> <p>In its Risk and Issues Log [REP5-083] at tab B, NE highlights unresolved issues in amber (RAG Status D5) relating to</p> <ul style="list-style-type: none"> ▪ use of gap filling data in CEAs (B8, B24) ▪ cumulative displacement effects: approach to gap-filling: guillemot (B14) ▪ CEA: Collision impacts: little gull and herring gull (B16, B18, B37) ▪ CEA: gap filling for LBBG (B19) ▪ Great black-backed gull (GBBG): figures to be used in assessment (interim advice note to the applicant, April 2024) (B20) ▪ GBBG: cumulative effects and further avoidance or mitigation measures (B21) ▪ vessel management plan: ports and further mitigation (B31) <p>Please could both the applicant and NE provide an update. The ExA notes that several of these issues are reported as “in progress”. Where in either party view any issue is resolved, please direct the ExA to the relevant document(s), providing additional reasoning where necessary.</p>	<p>The Applicant has been working with Natural England to address the remaining comments on each ornithological matter. The Applicant has provided an update in The Applicant's Comments on Natural England's Risk and Issues Log at Deadline 5A (Document Reference 9.64), submitted alongside this document at Deadline 5A. It is noted that the Risk and Issues Log is only updated by Natural England once information is submitted into Examination, hence the lag in reflecting the progress made in that document.</p> <p>As further detailed in The Applicant's Comments on Natural England's Risk and Issues Log at Deadline 5A (Document Reference 9.64) it is noted that the following items are considered to be addressed by the Report to Inform Appropriate Assessment (RIAA) (REP5-010) and ES (REP5-014) chapter that was submitted at Deadline 5:</p> <ul style="list-style-type: none"> ▪ B8, B24 - The Applicant anticipates this matter is resolved with the updated Chapter 12 Offshore Ornithology (REP5-014) submitted at Deadline 5. It is noted that Natural England has agreed that these HRA matters have been resolved through submission of the updated RIAA (REP5-010) ▪ B14 - The Applicant anticipates this matter is resolved with the updated cumulative assessment for guillemot in Chapter 12 Offshore

Ref.	Question to:	Question	Applicant's Response
			<p>Ornithology submitted at Deadline 5 (REP5-014; Section 12.7)</p> <ul style="list-style-type: none"> ▪ B16 - The Applicant anticipates this matter is resolved with the updated assessment for little gull in the RIAA (REP5-010; Section 8.4.2.3) and Chapter 12 Offshore Ornithology (REP5-014; Section 12.7) submitted at Deadline 5 ▪ B18, B37 - The Applicant anticipates this matter is resolved with the updated cumulative assessment for herring gull in Chapter 12 Offshore Ornithology submitted at Deadline 5 (REP5-014; Section 12.7) ▪ B19 - The Applicant anticipates this matter is resolved with the updated cumulative assessment for lesser black-backed gull in Chapter 12 Offshore Ornithology submitted at Deadline 5 (REP5-014; Section 12.7) ▪ B20 - The Applicant anticipates this matter is resolved with the updated project alone and cumulative assessment for great black-backed gull in Chapter 12 Offshore Ornithology submitted at Deadline 5 (REP5-014; Sections 12.6 and 12.7) ▪ B21 - The Applicant anticipates this matter is resolved with the updated cumulative assessment for great black-backed gull in Chapter 12 Offshore Ornithology submitted at Deadline 5 (REP5-014; Section 12.7). It is noted that the Applicant and Natural England are agreed that there would be a moderate adverse effect on GBBG, but that further mitigation

Ref.	Question to:	Question	Applicant's Response
			<p>(increased air gap for the Project) would provide no additional measurable benefit.</p> <p>In regard to B31 the Applicant has discussed this with Natural England and provided stronger commitments to the use of existing vessel routes in the Outline VTMP_Rev 05 (Document Reference 6.9) and Outline PEMP_Rev 05 (Document Reference 6.2) at Deadline 5A. It is expected, through discussion with Natural England, that Natural England will welcome the updates but remain of the view that the effectiveness of measures would be fully understood once the port selection has been made.</p>
3. Civil and Military Aviation and Radar (CAR)			
Clarifications			
3CAR1	The applicant	<p>Outstanding VHF, UHF and DF Assessments</p> <p>Please can the applicant provide copies of the VHF, UHF and DF assessments that the ExA understands were provided to the affected aviation stakeholders before Deadline 5 (as indicated in the applicant's response to ExQ2CAR2 [REP5-070])?</p>	<p>The Applicant has provided a copy of the project-alone Very High Frequency (VHF), Ultra High Frequency (UHF) and Direction Finding (DF) assessments for Blackpool Airport, Warton Aerodrome and Walney Aerodrome (Document Reference 9.66). This has been added to the list of documents certified under the Order (Schedule 8 to the DCO).</p> <p>These assessments have considered the potential for interference to VHF, UHF, and DF communications related to the distance between the aircraft and the height of the proposed wind turbine generators. The assessments conclude that the effects would only occur directly above the windfarm site (i.e. above the precise location of the wind turbine generators). As the distance between an aircraft and the wind turbine generators increases (both vertically, in terms of an aircraft's altitude, and horizontally, as the aircraft flies</p>

Ref.	Question to:	Question	Applicant's Response
			<p>further from the site), the effects to the VHF, UHF and DF communications decreases, as demonstrated within the VHF, UHF, and DF Technical Safeguarding Assessment.</p> <p>Aircraft are expected to be at altitudes of more than 2000ft when overhead the windfarm site, and therefore minimal impacts on radio coverage is anticipated. Any effects would therefore be highly localised as they will be confined to the immediate vicinity of the Project array area.</p> <p>Additionally, effects do not mean radio communication will not be possible; it only suggests readability of radio calls received and transmitted may be reduced.</p> <p>A series of questions have been raised by aviation stakeholders during initial discussions on the assessments, and NATS have since provided further clarification in response to these points. The Applicant proposes to submit an amended version of the assessments to the ExA at Deadline 6 to include this additional information/clarification (noting that it has already been shared directly with stakeholders where requested).</p> <p>Whilst the Applicant has provided the technical analysis, the airports are now carrying out operational assessments based on the technical analysis, and discussions with the airports are underway.</p> <p>Additionally, the Applicant and Blackpool Airport note that the findings of the cumulative assessment will not be known prior to the close of examination and discussions are expected to continue post-examination.</p>

Ref.	Question to:	Question	Applicant's Response
			<p>On the basis that mitigation is required for radio communications, a potential mitigation solution has been identified for Blackpool Airport and Walney Aerodrome. Through initial discussions, this mitigation solution has been deemed acceptable by the stakeholders. The Applicant notes further discussions on the proposed mitigation solution would be required post-examination.</p> <p>It is envisaged no mitigation would be required for Warton Aerodrome as the proposed mitigation solution identified for Blackpool Airport and Walney Aerodrome already exists at Warton Aerodrome.</p> <p>The Applicant has now agreed requirement wording with all aviation stakeholders that secures mitigation for any VHF, UHF and DF effects, as required, together with effects on air traffic services more generally, and these (Requirements 5, 6, 7 and 9) are included in the updated version of the draft Development Consent Order (dDCO) submitted at Deadline 5A (Document References 3.1 and 3.1.1).</p>
3CAR2	CAA	<p>Alternative Means of Compliance</p> <p>Paragraph 5.20 of Spirit's Comments on any other submissions received at Deadline 3 [REP4-069] states <i>"The Applicant has failed to recognise the crucial point that to obtain an AltMoC, the aviation operator would have to demonstrate an equivalent safety standard to the AMC."</i> The applicant submits [REP5-064] in paragraph 155 that <i>"Spirit is wrong in this regard, and that the equivalent safety standard of the IMC Take-Off Corridor, as to unrestricted IMC access in certain wind directions,</i></p>	<p>The Applicant notes 3CAR2 is directed to the Civil Aviation Authority however would like to clarify the following.</p> <p>In its response in paragraph 155 of REP5-064 the Applicant is agreeing with Spirit Energy that in order to obtain an Alternative Means of Compliance (AltMoC) the aviation operator would have to demonstrate an equivalent safety standard to the Acceptable Means of Compliance (AMC). These two quoted paragraphs are disagreement over the Applicant's understanding of</p>

Ref.	Question to:	Question	Applicant's Response
		<p><i>is exactly the basis of Anatec's position in proposing the IMC Take-Off Corridor".</i></p> <p>Could the CAA comment on these statements and, if it prefers one or the other, explain why setting out its reasoning.</p>	<p>the criteria to obtain an AltMoC – Spirit is saying the Applicant has not understood that an equivalent level of safety must be demonstrated; the Applicant is strongly disagreeing and explaining that it does understand that in order to obtain an AltMoC an equivalent level of safety must be demonstrated. This is the 'test' Anatec has been applying in reaching that its positive conclusions on the actual feasibility of obtaining an AltMoC for the corridor mitigation. It is unclear to the Applicant how the Civil Aviation Authority (CAA) could prefer one statement to the other, as both are effectively pointing to the same test (equivalent level of safety) to obtain an AltMoC. The Applicant appreciates at this time the CAA would not be able to give a definitive position on an AltMoC (hence providing the opinion of its aviation consultant Anatec to demonstrate that obtaining an AltMoC is not considered an impediment to the corridor mitigation).</p> <p>It is the Applicant consultant Anatec's position that the provision of the Instrument Meteorological Conditions (IMC) Take-Off Corridor would allow the aviation operator, in certain wind directions, to demonstrate an equivalent safety standard to the AMC, and therefore to obtain the AltMoC to allow for unrestricted IMC access in certain wind directions.</p>
3CAR3	CAA	<p>Alternative Means of Compliance</p> <p>a) Should the proposed CAA 'rule change' be brought in, this would restrict all flights within 3nm of a wind turbine generator to daytime VMC access only. In the event the new rules were to apply retrospectively</p>	<p>The Applicant notes 3CAR3 is directed to the Civil Aviation Authority and shall not be responding.</p>

Ref.	Question to:	Question	Applicant's Response
		<p>upon their implementation, then for Spirit Energy to use the IMC aviation corridor proposed by the applicant as part of the proposed development, the ExA understands that it may still be necessary for Spirit Energy to secure a CAA dispensation under the AltMoC process. Can the CAA confirm the ExA's understanding of this is correct and if not advise?</p> <p>Should the new rule come into force, in cases where the separation distance between an offshore platform and wind turbine generator is less than 3nm, the ExA understands an AltMoC would not be required unless the aviation operator was seeking access other than under daytime VMC. Again, for the avoidance of doubt, please can the CAA confirm whether the ExA's understanding is correct or advise accordingly.</p>	
5. Commercial Fisheries			
Compliance with Policy			
3CF1	TCE	<p>Subleasing of Agreement for Lease</p> <p>BML has requested that TCE consider allowing for underletting of its AfL to enable it to engage in commercial aquaculture. Can TCE please confirm:</p> <p>a) whether, in its view, Part V of the United Nations Convention on the Law of the Sea 1982 allows TCE or any other body to issue a lease for aquaculture outside UK territorial waters (i.e. beyond 12nm)</p> <p>having regard to the applicant's response to ExQ2CF2 and Appendix A [REP5-070], confirm whether the terms of the applicant's AfL for the proposed development similarly does not allow for underletting to enable BML to engage in commercial aquaculture.</p>	<p>The Applicant notes 3CF1 is directed to The Crown Estate and shall not be responding.</p>

Ref.	Question to:	Question	Applicant's Response
3CF2	The applicant	<p>Outline Fisheries Liaison and Co-existence Plan (oFLCP)</p> <p>Paragraph 10 of the oFCLP [REP5-024] states that the plan would be “..periodically reviewed and updated throughout the lifetime of the Project as appropriate”. In its submission at D4 [REP4-073], the NFFO stated it was unclear on what is meant by “periodically reviewed”.</p> <p>Please can the applicant clarify what is meant by “periodically” (ie. reviewed each year, at set phases of the development, etc) and amend the oFLCP to make it clearer?</p>	<p>The Fisheries Liaison and Co-existence Plan (FLCP) will be developed based on the principles of the outline FLCP post-consent and ahead of construction, which allows it to be developed with an understanding of the exact requirements and timeframes of fishing activity ongoing at that time.</p> <p>The Applicant is committed to regular review of the FLCP. The final FLCP will include details of a planned review schedule. This will take place at least prior to each phase of the Project and in line with monitoring reporting.</p> <p>During construction the FLCP will be reviewed annually and 6 months ahead of the completion of construction the FCLP will be further reviewed for operational activities. Thereafter, reviewing intervals will be agreed at the time the FLCP is approved by the MMO, in consultation with relevant stakeholders.</p> <p>An updated Outline Fisheries Liaison and Co-Existence Plan_Rev 05 (Document Reference 6.3) has been provided at Deadline 5A. The document now states that updates “<i>will take place prior to the construction, operation and maintenance, and decommissioning phases of the Project, with reviews being undertaken annually, at minimum, throughout the construction phase.</i>”</p>
3CF3	The applicant	<p>NPS EN-3 – Paragraph 2.8.251</p> <p>Paragraph 2.8.251 of NPS EN-3 states that “<i>Mitigation should be designed to enhance, where reasonably possible, any potential medium and long-term positive</i></p>	<p>The Applicant's understanding of Paragraph 2.8.251 of NPS EN-3 is that it does not require separate mitigation and enhancement measures – rather, it requires the Project to incorporate opportunities for</p>

Ref.	Question to:	Question	Applicant's Response
		<p><i>benefits to the fishing industry, commercial fish stocks and the marine environment</i>".</p> <p>Whilst the ExA notes the content of the Environmental Benefit and Net Gain Statement [REP3-002] and comments identified within the National Policy Statements Accordance Report - Revision 03 (Volume 4) [REP3-011] in relation to paragraph 2.8.251, can the applicant please explain and summarise what, if any, specific 'enhancement' measures (as opposed to mitigation) are proposed in relation to the "<i>..fishing industry, commercial fishing stock and marine environment</i>" and therefore how this test has been met?</p>	<p>enhancement within the design of its mitigation measures, "where reasonably possible".</p> <p>At this stage of the Project, where detailed design is not yet known, it is not reasonably possible to understand what, if any, specific enhancement measures might be available as part of identified mitigation that benefits both the fishing industry/commercial fish stocks and the marine environment. Accordingly, the Applicant has added the post-consent Design Code Item 23 within the Design Statement_Rev 04 (Document Reference 4.3) which is secured within the Deemed Marine Licence (Schedule 8 Part 2 Condition 9(1)(a) of the dDCO_Rev 06 (Document Reference 3.1)). This update is to include the commitment to consider enhancement measures as part of the design of mitigation measures in due course where reasonably possible. This allows for opportunities to be considered at the detailed design phase of the Project, post-consent, when further specific details about the mitigation design are known.</p> <p>The Applicant considers this approach provides appropriate and proportionate measures to allow for enhancement opportunities in accordance with paragraph 2.8.251 of EN-3.</p> <p>The Applicant notes that the proposed effects on commercial fisheries (pre-mitigation and based on a worst-case assessment) are considered to be significant during construction which is a short term</p>

Ref.	Question to:	Question	Applicant's Response
			<p>effect. Mitigation has been secured to reduce effects to minor, and this mitigation is provided directly to the fishing industry. This includes disturbance payments and the use of fishing vessels where possible to support the Project (in all phases). This is secured in the Outline Fisheries Liaison and Co-existence Plan (OFLCP), which is secured in the Deemed Marine Licence (Schedule 6 Part 2 Condition 9(1)(k) of the draft DCO, Document Reference 6.3, resubmitted at Deadline 5A). In respect of identified significant cumulative effects during construction, the Project (despite its minimal project-alone contribution to such effects) has committed to monitoring over a 5 year period and engagement as required in a commercial fisheries working group. As such it is considered that the Project has suitably provided for measures that are proportionate to the level of effects identified.</p> <p>As stated in the IPMP, the Applicant remains open to involvement in existing or upcoming strategic/regional studies and commercial fisheries working groups. This would likely be managed outwith the IPMP since the data collected would be used to inform on-going discussions with local fisheries stakeholders as part of the FLCP.</p> <p>As set out above, the mitigation measures committed to by the Applicant are considered to remove the potential for significant effects on commercial fisheries. That conclusion has been reached with a high degree of confidence. The Applicant has complied with the requirements of the NPS. The Applicant does not</p>

Ref.	Question to:	Question	Applicant's Response
			consider that paragraph 2.8.251 of EN-3 imposes a requirement to provide enhancement in addition to (or in lieu of) mitigation.
7. Development Consent Order [REP5-002] (DCO)			
Schedule 2 - Requirements			
3DCO1	CAA DIO The applicant	<p>Requirement 3 – Aviation Safety <u>To the CAA and DIO</u></p> <p>a) In response to Action Point 26 [REP4-061] the applicant has provided a note as to the applicability of the Air Navigation Order 2016 to the application site, sited as it is outside territorial waters. The CAA and DIO are asked for their views as to the geographical extent of relevant provisions (articles 222 and 223) of the Air Navigation Order 2016.</p> <p>As the parties will be aware, s120 of the PA2008 allows for a DCO to include provision applying and/ or modifying a statutory provision which relates to any matter for which provision may be made in the DCO.</p> <p><u>To the CAA, DIO and the applicant</u></p> <p>b) If either the CAA or DIO takes the view that the geographical extent of the Air Navigation Order does not extend to the application site, should it be applied by express provision in the dDCO?</p> <p>The applicant is asked to liaise with the CAA and DIO in this regard.</p> <p>c) If the answer to (b) is yes, could the applicant consider whether, in addition to the current requirement 3 in Schedule 2, an additional article may be required to expressly apply relevant provisions of</p>	<p>a) The Applicant notes 3DCO1a) is directed to the CAA and DIO and shall not be responding.</p> <p>b) and c) The Applicant notes that s. 120(5) of the Planning Act 2008 allows for a DCO to include provisions modifying other statutory provisions which relate to any matter for which provision may be made in the order or which may appear to the Secretary of State to be necessary or expedient for giving full effect to any other provision of the order.</p> <p>The Applicant considers that the Air Navigation Order 2016 does extend to the application site in general terms. The 2016 Order was made in exercise of powers conferred by the Civil Aviation Act 1982, in addition to other primary legislation, which is not restricted to territorial waters. For example, it is noted that the 2016 Order refers to “offshore installations” which, while not defined in the 2016 Order directly, is defined in the 1982 Act by reference to the Mineral Workings (Offshore Installations) Act 1971 and the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995 and includes areas which are designated under the Continental Shelf Act 1964.</p>

Ref.	Question to:	Question	Applicant's Response
		<p>the Air Navigation Order (with modifications if necessary) to the dDCO.</p> <p>The applicant may find precedent provisions, for example article 22 of the Norfolk Boreas Offshore Wind Farm Order 2021, of use in drafting.</p>	<p>However, the Applicant notes that, notwithstanding its position that the 2016 Order extends to the application site, Article 223 (Lighting of wind turbine generators in United Kingdom territorial waters) is specifically limited such that it does not extend to the application site in its current drafting (albeit, in practice, the CAA and Defence Infrastructure Organisation (DIO) take the view that it does extend).</p> <p>The Applicant has therefore included an additional article in the draft DCO which modifies Article 223 of the 2016 Order such that it extends to the application site. There is no direct precedent for this article, although the Applicant has had reference to Article 6(1) (Application and modification of legislative provisions) of the East Anglia ONE North Offshore Wind Farm Order 2022 in drafting this.</p>
3DCO2	The applicant	<p>Potential additional requirement – bats</p> <p>Could the applicant provide, if necessary on a 'without prejudice' basis, drafting for an additional requirement to secure monitoring for the effects of the proposed development on bats, were the SoS to consider that such a provision were to be necessary.</p>	<p>The Applicant has updated the In Principle Monitoring Plan (Document Reference 6.4) to include the potential for monitoring for bats, should the Secretary of State consider such measures to be necessary.</p> <p>The DCO, as drafted, includes a condition in Schedule 6 (Deemed Marine Licence) requiring a monitoring plan to be submitted and approved "which accords with the in principle monitoring plan" (Condition 9(1)(c)), and the applicant considers that this is sufficient to secure monitoring for effects on bats.</p> <p>If, however, the Secretary of State considered that further drafting was needed on the face of the DCO,</p>

Ref.	Question to:	Question	Applicant's Response
			<p>the applicant would suggest the following amendments:</p> <ul style="list-style-type: none"> ▪ Inclusion of a new sub-paragraph within condition 14(3) (Pre-construction monitoring) as follows: "undertake or contribute to any bats monitoring referred to in the monitoring plan submitted in accordance with paragraph 9(1)(c)" ▪ Inclusion of the same sub-paragraph within condition 16(3) (Post-construction monitoring) <p>The potential for likely significant effects to bats is considered to be low, with no evidence to suggest a high number of bats flying over the Irish Sea. However, the Applicant acknowledges the lack of data relating to migratory bats crossing the Irish Sea and notes that this is a broader evidence gap than one project alone could address. Natural England also acknowledge that monitoring is outside the scope of Examination in their Deadline 5 risks and issues log (REP5-083). Given the scale of monitoring to be effective and the low probability of detection at a Project scale, the Applicant is open to further conversations with SNCBs on a potential contribution with other offshore wind farm projects to strategic research to address this knowledge gap, should this be considered to be required. As such the above wording has been proposed on the basis of 'to undertake or contribute to' monitoring. The Applicant would note that similar</p>

Ref.	Question to:	Question	Applicant's Response
			<p>language (“undertake or contribute”) was used in The Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024 (e.g. paragraph 18(4)(d) of Part 2 of Schedule 10).</p> <p>The Applicant maintains that this is not needed – either within the IPMP or secured on the face of the DCO – and, as such, this is presented on a without prejudice basis.</p>
Schedule 3 – Protective Provisions			
3DCO3	Harbour Energy Spirit Energy	<p>Protective Provisions</p> <p>At D5, the applicant has provided two versions of the Protective Provisions, that is to say in the dDCO [REP5-002] and in the ‘Without Prejudice DCO Requirement and Schedule 3 Spirit and Harbour Alternative Protective Provisions’ [REP5-071].</p> <p>Spirit Energy and Harbour Energy are asked to review both these documents, providing commentary on them and indicating where they consider they should be amended, and provide them both in ‘clean’ and ‘tracked change’ for each document.</p> <p>If Spirit Energy or Harbour Energy feel unable to comment on these provisions, they should set out their own full set of protective provisions explaining in commentary why these are to be preferred on a provision by provision basis.</p>	<p>The Applicant notes 3DCO3 is directed to Harbour Energy and Spirit Energy and shall not be responding.</p> <p>The Applicant notes that its legal advisors have to date still not received drafting (protective provisions or otherwise) from Spirit’s legal advisors (who have an undertaking for their costs). The Applicant has reviewed the draft requirement submitted by Spirit on a ‘without prejudice’ basis in response to ExQ 2DCO2, and have commented on it in [ref to Spirit D5A response].</p>
Schedule 6 – Deemed Marine Licence			
1DCO4	The applicant	<p>Conditions 2(5), 2(7) and 18</p> <p>In ExQ2DCO3 the ExA set out its concerns that if the trigger for the start of maintenance reports to the MMO</p>	<p>The Applicant understands the ExA’s concerns and has amended the wording in the draft DCO submitted at Deadline 5A to tie the obligation of maintenance</p>

Ref.	Question to:	Question	Applicant's Response
		<p>was upon completion there could be delays in this regime starting if the applicant only constructed part of the development. In response the applicant noted that condition 18 relates to completion of development with a view to tying the requirements of conditions 2(5) and 2(7) to condition 18.</p> <p>The ExA remains concerned in relation to two matters:</p> <ul style="list-style-type: none"> firstly, that it would be possible that the applicant may only construct, say, half of the proposed WTGs initially, and return to construct the remainder some years later, meaning that the triggers in conditions 2(5) and 2(7) would not be met and the maintenance reporting regime would not have commenced secondly, it is unlikely that the applicant would build to the full extent of the maximum parameters set out in requirement 2 and condition 1 which could lead to uncertainty as to whether the proposed development was actually 'complete' or not. <p>The applicant is asked to look at these provisions again with a view to avoiding these issues.</p> <p>The ExA notes that when the close-out report under condition 18 is submitted no further construction activities can then take place, but this does not obviate the first concern.</p>	<p>reporting to the anniversary of the date of first operation, as follows:</p> <p><i>"(5) An annual maintenance report must be submitted to the MMO within one month following the first anniversary of the date of first operation of the authorised development (notified in accordance with paragraph 18 (Completion of construction)) and every year thereafter until the permanent cessation of operation.</i></p> <p><i>(7) Every fifth year, the undertaker must submit to the MMO in writing, within one month of the anniversary of the date of first operation of authorised development (notified in accordance with paragraph 18 (Completion of construction)), a consolidated maintenance report which will—..."</i></p>
1DCO5	The applicant	<p>Condition 9 – Pre-construction plans and documentation</p> <p>Could the applicant please explain why, in condition 9(1)(a)(ii), the reference and commitment to two lines of orientation has been removed?</p>	<p>This commitment is in the Design Statement and, following the revision to Condition 9(1)(a) (to secure the Design Statement within the design code as DC3), no longer needs to be specifically listed in 9(1)(a)(ii). Additionally, the requirement for two lines of orientation is included within MGN654. Compliance with MGN654</p>

Ref.	Question to:	Question	Applicant's Response
			<p>is secured by Condition 12 in Schedule 6 (Deemed Marine Licence).</p> <p>The Applicant notes that this change was discussed with and subsequently agreed with the MCA on 11 March 2025. This commitment was also removed from the Draft DCO for the Mona Offshore Wind Farm project at Deadline 2 for similar reasons.</p>
1DCO6	The applicant	<p>Potential additional condition</p> <p>Could the applicant provide, if necessary on a 'without prejudice' basis, drafting for additional condition(s) to secure pre- and post- construction monitoring for the effects of the proposed development on benthic, marine mammal and/ or ornithological monitoring, were the SoS to consider that such provision(s) were to be necessary. This would be in the event that the SoS were to consider the provisions in the IPMP were insufficient in relation to any matter.</p>	<p>The Applicant has updated the In Principle Monitoring Plan (Document Reference 6.4) to include potential further monitoring for the effects of the proposed development on benthic, marine mammal and/or ornithological monitoring, should the Secretary of State consider such measures to be necessary.</p> <p>The DCO, as drafted, includes a condition in Schedule 6 (Deemed Marine Licence) requiring a monitoring plan to be submitted and approved "which accords with the in principle monitoring plan" (Condition 9(1)(c)) and for a marine mammal mitigation protocol to be submitted and approved (in accordance with the draft MMMP) (Condition 9(1)(i)), and the applicant considers that this is sufficient to secure monitoring for any such effects.</p> <p>If, however, the Secretary of State considered that further drafting was needed on the face of the DCO, the applicant would suggest the following amendments:</p> <ul style="list-style-type: none"> ▪ Inclusion of new sub-paragraphs within condition 14(3) (Pre-construction monitoring) as follows:

Ref.	Question to:	Question	Applicant's Response
			<ul style="list-style-type: none"> ○ “undertake or contribute to any marine mammal monitoring referred to in the monitoring plan submitted in accordance with paragraph 9(1)(c) or the marine mammal mitigation protocol submitted in accordance with paragraph 9(1)(i) (or both)” ○ “undertake or contribute to any ornithological monitoring referred to in the monitoring plan submitted in accordance with paragraph 9(1)(c)” ○ “undertake or contribute to any benthic monitoring referred to in the monitoring plan submitted in accordance with paragraph 9(1)(c)” ▪ Inclusion of the same sub-paragraphs within condition 16(3) (Post-construction monitoring) <p>The Applicant considers that it is appropriate to draft the without prejudice conditions with the wording to ‘undertake or contribute to’ given that the scale of monitoring, if deemed to be required, may be more effective or useful at a strategic level. Regarding collision and Lesser Black Backed Gull this has been acknowledged by Natural England in their Deadline 5 submissions where they note that a contribution to wider regional monitoring may be suitable (RI_B39 in REP5-083).</p> <p>The Applicant would note that similar language (“undertake or contribute”) was used in The Sheringham Shoal and Dudgeon Extensions Offshore</p>

Ref.	Question to:	Question	Applicant's Response
			<p>Wind Farm Order 2024 (e.g. paragraph 18(4)(d) of Part 2 of Schedule 10).</p> <p>The Applicant is not in a position to provide more detailed conditions on the specific monitoring requirements, noting that detail is either in the IPMP (that would be further developed post-consent) or has not been presented by Natural England with more specific details of monitoring proposals sought.</p> <p>The Applicant maintains that additional monitoring is not needed – either within the IPMP or secured on the face of the DCO – and, as such, this is presented on a without prejudice basis.</p>
Schedule 7 – Without prejudice compensation measures			
3DCO7	The applicant	<p>‘Without prejudice’ drafting</p> <p>Could the applicant please provide, if necessary on a ‘without prejudice’ basis, drafting for provisions within schedule 7 specifying the specific scheme. In other words, whether that be the Steep Holm vegetation clearance and maintenance or the Banks Marsh megafence compensation, so that either could be secured should the SoS consider only one or the other had the relevant level of certainty.</p> <p>In respect of the Steep Holm compensation measures, could the applicant provide additional drafting to ensure that the provisions include mitigation for the lifetime of the proposed development.</p>	<p>The Applicant considers that Schedule 7 currently provides for this optionality. The definition of “lesser black-backed gull compensation measure” in paragraph 1 is as follows:</p> <p><i>“lesser black-backed gull compensation measure” means the construction of a mammalian predator-proof exclusion fence and mammalian predator removal measure or the habitat management measure;</i></p> <p>It therefore refers to two separate proposed measures:</p> <ol style="list-style-type: none"> (1) The measure to construct a mammalian predator-proof exclusion fence and removal of mammalian predators within a fenced enclosure at key lesser black-backed gull nesting site(s), which, as noted in the Outline Compensation Implementation and Monitoring Plan (Document Reference 4.11.1) updated at

Ref.	Question to:	Question	Applicant's Response
			<p>Deadline 5A, includes the proposed Banks Marsh megafence compensation measure; and</p> <p>(2) The measure to manage and improve the vegetation and scrub habitat for nesting lesser black-backed gulls at key lesser black-backed gull nesting site(s), which includes the proposed Steep Holm vegetation clearance measure.</p> <p>Should the Secretary of State consider that only one of these two measures had the relevant level of certainty, that definition should remain and the other measure should be deleted from the definitions.</p> <p>The Applicant considers that there are effectively three versions of the definition of "lesser black-backed gull compensation measure" that could therefore be used, and has noted these drafting options in square brackets, as follows:</p> <p><i>"lesser black-backed gull compensation measure" means [the construction of a mammalian predator-proof exclusion fence and mammalian predator removal measure] [the habitat management measure] [the construction of a mammalian predator-proof exclusion fence and mammalian predator removal measure or the habitat management measure];"</i></p> <p>It would not be appropriate for Schedule 7 to commit solely to one possible measure or to specifically the Steep Holm and/or Banks Marsh compensatory measures, as the appropriate mechanism for final determination of the compensatory measure(s) and site(s) would be for the Lesser Black-Backed Gull</p>

Ref.	Question to:	Question	Applicant's Response
			<p>Compensation Steering Group and should not prejudged or restricted at this stage.</p> <p>As the remainder of Schedule 7 Part 1 is drafted with reference to "lesser black-backed gull compensation measure" (as opposed to the individual measures), no further consequential amendments are considered needed (beyond the drafting options in square brackets).</p> <p>The Applicant has amended paragraph 12 of Schedule 7 Part 1 to make it clear that the lesser black-backed gull compensation measure (rather than just the fence measure) must be provided for the operational lifetime of the WTGs. As the potential in-combination adverse effect on lesser black-backed gull is linked to collision risk, the compensatory measure only needs to be provided for the period during which WTGs are operational.</p>
11. Shipping and Navigation (SN)			
Clarifications			
3SN1	Spirit Energy	<p>Radar Early Warning Systems</p> <p>Could Spirit Energy please confirm whether it accepts the findings in the updated ES Appendix 17.2 'Radar Early Warning System Technical Report' [REP3-034] submitted by the applicant at D3? The response in [REP4-069] indicates that it "<i>notes and welcomes</i>" it.</p> <p>If not, could Spirit Energy explain its position fully.</p>	<p>The Applicant notes 3SN1 is directed to Spirit Energy and shall not be responding.</p>