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(By Email only)

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

15 April 2025

Dear [REDACTED],

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

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

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

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

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

This document comprises the MMO's Deadline 6 submission.

This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the Examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of



authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

Yours sincerely

[Redacted Signature]

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Marine Licensing Case Officer

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1. The MMO's Closing Statement

1.1 General Comments

- 1.1.1 The MMO is committed to supporting all of the UK government's environmental goals, this includes both net zero targets and nature and biodiversity targets by promoting sustainable practices to protect and enhance the marine environment.
- 1.1.2 The MMO would highlight that although a number of topics (specifically fisheries and underwater noise) were discussed in the pre-application evidence plan process stage and it would have been more beneficial for these to be included (even on a without prejudice basis) as part of the Application rather than having to review multiple documents and updates throughout the shorter period of Examination. The MMO does note that in spite of updating this within Examination, the Applicant has engaged with the MMO throughout the process with the aim to agree as much as possible and we welcome this.
- 1.1.3 The MMO also highlights that there are a number of points where the MMO and the Applicant have differing opinions and these are in not agreed position at the end of Examination. The MMO notes it is for the ExA to make a recommendation and Secretary of State (SoS) to make a decision on these issues.
- 1.1.4 The MMO notes that there are several fundamental disagreements with interested parties. For example, Natural England and the Applicant disagree on monitoring requirements for a number of topics. The MMO would request that any outstanding disagreements are clearly discussed within the recommendation report and decision documents with next steps and required actions and that these are not pushed until post consent for the MMO to make a decision unless clear actions for the Applicant and interested parties are set out.
- 1.1.5 The MMO believes that as the information has been presented now by both sides it is a matter that can be decided upon at consenting stage and this can be clearly set out within the consenting documents. The MMO does not want to be in a position post consent where there is a potential delay to a project, when discharging plans, on issues that could have been decided on at the consenting stage. The MMO utilises the SoS decision when discharging any documents and unless new information/evidence is provided believes all major issues can be decided on at the consenting stage.
- 1.1.6 A summary of the remaining not agreed issues can be found in Section 2 of this letter.



2. The MMO's Position on the Environmental Statement (ES)

2.1 General Comments

- 2.1.1 The MMO and our scientific advisors at the Centre for Environment Fisheries and Aquaculture Science (Cefas) have been in contact with the Applicant throughout the examining process. Comments relating to ecological matters have been provided in the previous deadlines.
- 2.1.2 The MMO considers the most concerns raised have been addressed throughout the examination process. The MMO will now provide the MMO's position on the remaining ecological concerns in this section below.

2.2 Benthic Ecology

- 2.2.1 The MMO considers that concerns regarding benthic ecology have been addressed by the Applicant.

2.3 Coastal Processes

- 2.3.1 The MMO considers that concerns regarding coastal processes have been addressed by the Applicant.

2.4 Underwater Noise

- 2.4.1 The MMO understands that the Applicant intends to refine mitigation regarding underwater noise through the finalisation of the Marine Mammal Mitigation Protocol (MMMP) and Underwater Sound Management Strategy (UWSMS).
- 2.4.2 The MMO has advised that Noise Abatement Systems (NAS) will likely be required for all piling in the coming years and welcomes the commitment by the Applicant in relation to noise reduction methods.

2.5 Shellfisheries

- 2.5.1 The MMO considers that concerns regarding shellfisheries have been addressed by the Applicant.

2.6 Fisheries

- 2.6.1 A major issue that has persisted throughout the examination process has been the MMO's request for seasonal piling restriction to be placed on the DCO/DML and be included in the UWSMS for both cod (15 February to 31 March (inclusive)). The MMO has been in contact with the Applicant regarding this.
- 2.6.2 The MMO notes that the Applicant has now included a piling restriction on the DCO/DML through Condition 20(3) on a without prejudice basis, should the SoS maintain this condition the MMO considers this issue addressed.



3. Comments on the Draft Development Consent Order (DCO) and Deemed Marine Licence (DML) (REP5a-002)

3.1 General Comments.

- 3.1.1 The Applicant has provided an updated draft DCO and DML at Deadline 5a, the MMO has provided comments where relevant.

3.2 Decommissioning

- 3.2.1 As detailed in the MMO's Deadline 5 response (REP5-075) the MMO notes that decommissioning activities have not been fully considered and requested an outline decommissioning plan to be part of the consenting process, but noted due to the late stage of the examination process it would welcome a commitment within the commitment register to review the initial decommissioning programme prior to the SoS.
- 3.2.2 The Applicant has reiterated that they do not consider that an outline version of a Decommissioning Programme is required to be submitted pre-consent.
- 3.2.3 The MMO notes CO28 of the commitments register (REP5-050) is for a decommissioning programme, whereby the Applicant commits to an offshore decommissioning programme to be developed post-consent and implemented at the time of decommissioning. The Applicant has updated this to reflect that this document will be shared with the MMO prior to the submission to the SoS and is content with this update.

3.3 Dropped Objects Condition

- 3.3.1 Section 5.4 of the MMO's Deadline 5a Response detailed requested updates to the dropped objects condition. The MMO notes the condition has been updated as follows:

(11) All dropped objects which are considered a danger or hazard to navigation or which, having regard to guidance issued by the MMO from time to time, would be considered reportable, must be reported to the MMO using the Dropped Object Procedure Form (or any updated or replacement form provided by the MMO) as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident (or such other timescale as agreed with the MMO).

- 3.3.2 The MMO is content with this update.

3.4 Marine Noise Registry Condition 19

- 3.4.1 The MMO requested updates were made to condition 19 regarding timings, as detailed in section 7.5 of its Deadline 5 Response (REP5-075). Condition 19 has been updated (update underlined) as follows:

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

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

- 3.4.2 The MMO is content with the update.



3.5 Chemicals

- 3.5.1 Section 5.3 of the MMO's Deadline 5a response requested updates to the chemical condition. The MMO has discussed this with the Applicant notes the following update will be made at Deadline 6:

...(ii) a site specific chemical risk assessment for all chemicals that have a pathway to the marine environment and are used for the licensed activities (with the exception of any chemicals used in the course of normal navigation), which is to be submitted to the MMO for approval at least ten weeks prior to the use of such chemicals, including—, including;

(aa) the function of the chemical;

(bb) the quantities being used and the frequency of use; and

(cc) the physical, chemical and ecotoxicological properties of the chemical (save for any chemicals present on the OSPAR List of Substances Used and Discharged Offshore which Are Considered to Pose Little or No Risk to the Environment (PLONOR));...

The MMO is content with this wording.

3.6 Transfer of the benefit of the order Article 7

- 3.6.1 The MMO's position remains the same as set out in previous Deadlines (REP5-075). The MMO strongly disagrees with the purpose of the inclusion of the DML as set out in previous representations. The creation of a new route to transfer the DML is unnecessary as there is already an established route to transfer and vary a marine licence and the Article will not work in practice. There is no good reason to away from the process already set out in the Marine and Coastal Access Act 2009 (MCAA 2009), save for operator convenience, and our strongest preference remains for the DML not to be made subject to the Transfer of Benefit provisions in the main body of the order, in full or in part.

- 3.6.2 Even if the Secretary of State (SoS) approves a transfer of benefit for the DML the SoS has no power under the Planning Act 2008 to change the DML once consented. As set out in Schedule 6 Paragraph 2 (13) and Paragraph 5 (6): *"The power may not be exercised in relation to provision included in an order granting development consent by virtue of paragraph 30A or 30B of Schedule 5 (deemed marine licence under Marine and Coastal Access Act 2009)."*

- 3.6.3 Therefore, the transfer and variation completed by the MMO is the right and proper way to amend the DML. As per Section 72 (7) & (8) of MCAA 2009: *'Variation, suspension, revocation and transfer ... (7) On an application made by a licensee, the licensing authority which granted the licence— (a) may transfer the licence from the licensee to another person, and (b) if it does so, must vary the licence accordingly. (8) A licence may not be transferred except in accordance with subsection (7).'*

- 3.6.4 The reason MCAA 2009 says if the MMO transfers, the MMO must vary, is because it recognises that it is necessary to vary on transfer to maintain the enforceability of the licence.

- 3.6.5 The MMO and the Applicant disagree on this matter and this is a Not Agreed – Material Impact within the Statement of Common Ground.

3.7 Schedule 2 Requirement 1 – Time limits/Lifespan



- 3.7.1 The MMO previously highlighted (REP5-075) to the ExA and SoS that there may be a benefit to including an end date of the Operation and Maintenance phase but understands that it was too late to raise it with the Applicant.
- 3.7.2 The MMO notes that the Applicant does not consider that any time limit or end date should be included within the DML relating to the operation and maintenance phase.
- 3.7.3 The MMO maintains its original comment and believes this is a matter for the SoS to decide on and this is a Not Agreed – No Material Impact within the Statement of Common Ground.

3.8 Adaptive Management

- 3.8.1 The previously provided example conditions relating to adaptive management.
- 3.8.2 The MMO notes the Applicant's response where in the Applicant has said they do not consider it necessary or reasonable for blanket adaptive management provisions to be included given the level of significance identified across topics and the location of the Project outside of a designated site.
- 3.8.3 The MMO notes that if impacts are higher than predicted the MMO can utilise Section 72 of 2009 Act and vary the marine licence to request adaptive management, but believes the example Condition (set out in section 7.12 of REP5-075) gives a clear process to all and allows for proactive management rather than reactive management by the MMO
- 3.8.4 The MMO notes that adaptive management has been acknowledged as a possibility within the In-Principle Monitoring Plan (IPMP).
- 3.8.5 As outlined in the MMO's Statement of Common Ground (SoCG) with the Applicant, the MMO is not in agreement with the Applicant on this point but considers it to be of no material impact.

3.9 Force Majeure Condition 8

- 3.9.1 The MMO maintains that this condition be removed as detailed in section 7.4 of REP5-075. The removal of this condition is requested due to the liability and enforcement issues post-consent and the ambiguity of 'any other causes' within the condition wording. Even with the addition of 'unforeseeable' set out in PD-019 the MMO still believes there is a liability issue.
- 3.9.2 Additionally, the dropped object condition already serves as a notification to the MMO.
- 3.9.3 The MMO and the Applicant disagree on this matter and this is a Not Agreed – Material Impact within the Statement of Common Ground.

3.10 7.10 Part 1, Paragraph 2a and Paragraph 4 and Part 2, Condition 7 (5) – Disposal sites

- 3.10.1 The MMO would like to note that this disposal site has been designated and the reference number should be updated within the DML, the reference number is IS156 and the name of the site is the Morgan and Morecambe OWFs.
- 3.10.2 The MMO requested the disposal site identification number is stated in the DML however acknowledges the position of the Applicant in relation to the overlapping disposal site with another project.



3.10.3 The MMO agrees that the current wording of the condition means the Applicant can only disposal of within the order limits. However, notes that if the reference number was included then the condition would also reference the order limits therefore there could be no concerns with any disposal in another area of the disposal site outside the order limits.

3.10.4 The MMO believes it is for the SoS to decide on if the reference should be included but it is not a material impact as the reference number has been provided to the Applicant and they would still be bound to that disposal site within the order limits.

3.11 Determination timescales Condition 10 (2)

3.11.1 The MMO has agreed a 6 month timescale for the submission for most documents and is content with the current submission timescales within the DML.

3.11.2 The MMO does not believe that a determination date should be included in the DML. The MMO acknowledges the Applicant's comments on the reasoning for this, and would highlight that the MMO would never delay a post consent discharge without good reason.

3.11.3 The MMO does not agree with a 4 month timescale for a determination, especially when some documents have an agreed 6 month submission date due to the complexity of these documents and the multiple 4-6 week consultations that may need to be undertaken.

3.11.4 The MMO has been in discussion with the Applicant on this matter and understands the DML will be updated to:

(2) The MMO must determine an application for approval made under condition 9 within a period of four months commencing on the date the application is received by the MMO, except where an application is required to be made no less than six months prior to the intended commencement of the authorised scheme or relevant activity in which case the MMO must determine the application for approval within the period of six months commencing on the date the application is received by the MMO, unless otherwise agreed with the undertaker such agreement not to be unreasonably withheld or delayed.

The MMO on a without prejudice basis, is content with this wording and still objects to the inclusion of this condition.

3.11.5 The MMO has previously raised concerns on the potential of updating this to 56 days as suggested by the ExA in REP5-075 The MMO would highlight that 56 days is a very tight timescale on major complex and technical documents and believes that the agreed timescales should remain should the ExA and SoS maintain a determination date.

3.12 Underwater Sound Management Strategy Condition 20

3.12.1 The MMO has been liaising with the Applicant regarding the proposed piling restrictions to minimise impacts to cod spawning grounds.

3.12.2 The Applicant has included the following without prejudice condition on the DML:

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 by the MMO in consultation with the relevant statutory nature conservation body.



(2) Where driven or part-driven pile foundations are proposed to be installed, the underwater sound management strategy submitted under sub-paragraph (1) must include details of the noise reduction measures or noise abatement system (or both) that will be utilised to manage sound from those piling activities.

(3) 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).

(4) No piling activities associated with the authorised development shall be undertaken between 15 February and 31 March (inclusive), unless—

(a) such activities are deemed necessary by the undertaker during this period;

(b) any additional mitigation requirements for such activities are included in an underwater sound management strategy approved by the MMO under paragraph (1); and

(c) such activities are thereafter undertaken with the additional mitigation requirements identified and approved by the MMO under sub-paragraph (3)(b).

(5) The piling activities must be carried out in accordance with the approved underwater sound management strategy for the duration of such activities.

3.12.3 The MMO is satisfied with the above wording and if the condition remains on face of the DML this would be agreed. However, on the basis that there is still fundamentally a disagreement with the Applicant on this it remains Not agreed – no material impact (on the basis that the condition is provided in the dDCO) in the SOCG.



4. Comments on the Applicant's Deadline 5 Submissions

4.1 General Comments

4.1.1 The Applicant has submitted several updated documents at Deadline 5. The MMO provided comments in its Deadline 5a response, the MMO has provided further comments below.

4.2 Comments on The Applicant's Comments on Deadline 4 Submissions by Interested Parties (REP-060)

4.2.1 Regarding 1HRA28, the MMO notes the Applicant's response regarding cumulative effect of invasive Non-Native Species and the associated stepping stone effect of Project Infrastructure. The MMO considers the Applicant's response appropriate and has no other comments to raise.

4.3 Comments on 9.49. Outline Construction Method Statement (Tracked) – Revision 02 (Volume 9) (REP5-057)

4.3.1 The MMO notes that the Applicant has added a commitment to include details of the source of rock materials to be used should rock berm be chosen as the scour and cable protection method. The MMO agrees with this inclusion.

4.3.2 The MMO also welcomes the Applicant's commitment (in Section 9 of the Outline Construction Method Statement (CMS) (REP5-056) to demonstrate that the final design of the Project falls within the Project Development Envelope (PDE) through presenting a tabulated comparison of the final design in the CMS with the PDE as set out in the Environmental Statement.



5. Comments on the Applicant's Deadline 5a Submissions

5.1 General Comments

5.1.1 The MMO notes several updated documents were submitted by the Applicant at Deadline 5a. The MMO has reviewed these documents and provided comments where relevant.

5.2 Comments on Chapter 11 Marine Mammals (REP5a-019)

5.2.1 The MMO notes the updates to this Chapter and has no comments.

5.3 Comments on Chapter 7 Marine Geology, Oceanography and Physical Processes (REP5a-015)

5.3.1 The MMO thanks the Applicant for the update to the introduction regarding the inclusion of the two Wind Turbine Generator scenarios.

5.3.2 The MMO notes the update to Table 7.3 regarding boulder relocation being randomised with regard to seabed preparation. The MMO notes that this has also been included in Table 2.1.7.7 the Schedule of Mitigation (REP5a-021) and the point C057 of the Commitments Register (REP5a-040). The MMO understands this update is in response to comments from Natural England (NE), the MMO defers to NE for comment.

5.3.3 The MMO confirms it is content with this Chapter noting outstanding issues were raised by NE but believes these will be amber not red within their risk and issues log at Deadline 6.

5.4 Comments on the Schedule of Mitigation (REP5a-021)

5.4.1 The MMO is content with the updates to this Chapter noting outstanding issues were raised by NE but believes that other than ornithology issues these will be amber not red within their risk and issues log at Deadline 6.

5.5 Comments on the Commitments Register (REP5a-041)

5.5.1 The MMO notes that CO28 has been updated to include that the decommissioning programme and all updated programmes would be submitted to the MMO for review prior to submission by the SoS. The MMO is content with this update.

5.6 Comments on the Outline Project Environmental Management Plan (PEMP) (REP5a-023)

5.6.1 The MMO notes updates have been made regarding the Code of Conduct for good practice to avoid marine mammal collisions with vessels. The MMO is content with these updates, however, defers to NE for further comment.

5.6.2 Updates have been made to section 6.2.3 Offshore Ornithology. The MMO defers to NE regarding ornithological matters.

5.6.3 Overall, the MMO is content with the PEMP noting outstanding issues were raised by NE but believes that other than ornithology issues these will be amber not red within their risk and issues log at Deadline 6.

5.7 Comments on the Fishing Liaison Coexistence Plan (FLCP) (REP5a-026)

5.7.1 The MMO has reviewed the updates to the FLCP. The MMO is content with the updates and does not have further comments.



5.8 Comments on the Outline Vessel Traffic Management Plan (OVMP) (REP5a-031)

5.8.1 The MMO is content with the updated OVMP noting outstanding issues were raised by NE on this document.

5.9 Comments on the In Principle Monitoring Plan (IPMP) (REP5a-027)

5.9.1 The MMO notes updates have been made to section 2.3.3 In-principle monitoring, regarding the identification of potential unrecorded Annex I biogenic or geogenic reef features to inform micro-siting. The MMO defers to NE for comment.

5.9.2 The MMO notes that the Applicant maintains that further benthic monitoring is not required, however if deemed necessary by the SoS or MMO further monitoring could be undertaken in a benthic monitoring programme.

5.9.3 The MMO previously noted that NE advised that monitoring conditions should be included regarding pre- or post-construction benthic, marine mammal or ornithological monitoring, the MMO advised it welcome discussions on the wording of these conditions.

5.9.4 The Applicant has highlighted that monitoring is secured on the DML within the draft DCO (Schedule 6 Part 2 conditions 9, 14, 15 and 16) (Document Reference 3.1) to be in-line with the IPMP (Document Reference 6.4).

5.9.5 The Applicant has also drafted additional without prejudice conditions for benthic, ornithology, marine mammal and bat monitoring but does not consider these conditions of additional monitoring to be necessary for consent. The Applicant shared these conditions with the MMO in a meeting held on 7 April 2025:

(a) [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);

(b) undertake or contribute to any ornithological monitoring referred to in the monitoring plan submitted in accordance with paragraph 9(1)(c); and

(c) undertake or contribute to any bats monitoring referred to in the monitoring plan submitted in accordance with paragraph 9(1)(c); and

(d) undertake or contribute to any benthic monitoring referred to in the monitoring plan submitted in accordance with paragraph 9(1)(c)].[CMS1]

5.9.6 The MMO is content with the proposed conditions. The MMO believes the conditions address the concerns raised by NE, however the MMO defers to NE for confirmation.

5.9.7 Overall, the MMO is content with the IPMP noting outstanding issues were raised by NE.

5.9.8 As set out in Section 1 of this document the MMO would welcome confirmation from the SoS on what monitoring is required at this stage to ensure an efficient discharge process of this plan at the post consent stage.

5.10 Comments on the Draft Marine Mammal Mitigation Protocol (MMMP) (REP5a-029)

5.10.1 The MMO notes the update in section 3.1 Mitigation regarding measures implemented in the final MMMP being based on the refinements in Project design, and final commitment to noise management options being confirmed in the UWSMS and agreed by the MMO. The MMO is content with this update.



5.10.2 Section 3.1.4 regarding breaks in piling has been updated as follows:

For any breaks in piling the following mitigation is proposed, depending on the duration of the break:

- *For any breaks in piling of less than 10 minutes, piling may continue as required (i.e. as if there was no break).*
- *For any breaks in piling of more than 10 minutes, the full mitigation procedure (as outlined above) is required, including 30 minute monitoring of the MA by MMObs and/or PAM, ADD deployment and activation for the required time, followed by the soft-start and ramp-up procedure (for a minimum of 20 minutes). This will be the Project's approach unless, as noted below, it can be amended based on the noise reduction measures in place.*

5.10.3 The MMO welcomes this update.

5.10.4 The MMO welcomes the update regarding point 149 of section 3.2 Noise management options, wherein the Applicant notes the final MMMP and UWSMS being developed in line with the most recent policy paper from the Department for the Environment, Rural Affairs and Agriculture (DEFRA).

5.10.5 The MMO is content with the updates to the MMMP noting outstanding issues were raised by NE but believes that other than ornithology issues these will be amber not red within their risk and issues log at Deadline 6.

5.11 Comments on the Outline Underwater Sound Management Strategy (UWSMS) (REP5a-042)

5.11.1 The MMO notes several updates have been made to the UWSMS, primarily within Table 3.1 which outlines how consultation responses regarding the UWSMS have been addressed by the Applicant. The MMO has provided comments in response where necessary below. Overall, the MMO is content with the updates to the UWSMS noting outstanding issues were raised by NE but believes that other than ornithology issues these will be amber not red within their risk and issues log at Deadline 6.

5.12 2BEM3 R17.1.8

5.12.1 The Applicant has confirmed that the Project is committed to NAS for the worst-case scenario, and to ensure mitigation of Permanent Threshold Shift (PTS), therefore, Acoustic deterrent Device (ADD) use will be within recommended time limits. The application of NAS (as a secondary measure) would be considered for all scenarios alongside the final design of the Project and the applied primary mitigation.

5.12.2 The MMO is content with this update noting outstanding issues were raised by NE but believes that other than ornithology issues these will be amber not red within their risk and issues log at Deadline 6.

5.13 1BEM3 R17.1.5

5.13.1 The MMO and the Applicant do not agree that a piling restriction is required. However, the Applicant has included a piling restriction (condition 20) on the DCO which the MMO is content with.

5.13.2 The MMO has no further comments.



5.14 1BEM24 to RR-047-60

- 5.14.1 The MMO maintains its previous comments that the UWSMS does not provide evidence that a seasonal piling restriction is not required. Further modelling would be needed to remove the piling restriction and there has not been sufficient time remaining in the Examination process for this to be undertaken. The UWSMS will then be used post-consent to ensure that appropriate NAS, supported by appropriate UWN modelling of the mitigated impact ranges for the NAS employed, should the Applicant seek to remove the piling restriction.
- 5.14.2 The MMO considers that the inclusion of the piling restriction (condition 20) on the DML and the UWSMS have sufficiently addressed this issue.
- 5.14.3 The MMO notes the UWSMS has been updated regarding the most recent policy paper from Defra. The Applicant notes that if driven piling is required to install any foundation, the undertaker will comply with the Defra Reducing Marine Noise policy (UK Government and Defra, 2025) and will commit to reducing noise via the use of primary and/or secondary measures. The MMO welcomes this update.
- 5.14.4 The MMO is content noting outstanding issues were raised by NE but believes that other than ornithology issues these will be amber not red within their risk and issues log at Deadline 6.



6. Comments on The Applicant's Comments on Deadline 5 Submissions by Interested Parties and Comments on responses to ExQ2s (REP5a-059)

6.1 General Comments

6.1.1 The Applicant has provided comments in response to the MMO's Deadline 5a submission within Table 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9. Where the MMO has further comments in response to the Applicant's comments these are set out below. The MMO has also provided comments relating to the draft DCO and DML in section 3 of this letter.

6.2 2BEM1

6.2.1 The MMO maintains its original position as set out in section 1.6 of its Deadline 5a response. The MMO is content given that a piling restriction (condition 20) is included on the face of the DCO/DML and has no further comments to raise.

6.3 2DCO4

6.3.1 The MMO maintains that it is inappropriate to put timeframes on complex technical decisions.

6.3.2 The Applicant has highlighted that NE have requested a further three plans (Offshore Operation and Maintenance Plan (OOMP), Project Environmental Management Plan (PEMP) and Vessel Traffic Management Plan (VTMP)) be updated from four months to six months. The Applicant has updated this in the draft DCO. The MMO is content with this.

6.4 REP5-075-46 Natural England Deadline 4 Submission (REP4-066)

6.4.1 The MMO previously highlighted advice submitted from NE regarding the assessment of impacts to benthic habitats and physical processes being incomplete and that potential impacts from seabed preparation have not been fully considered.

6.4.2 The Applicant has responded to Natural England's concerns noting the Commitments Register has been updated to provide clarification on boulder relocation and seabed preparation. The Applicant has clarified that boulders relocated will be deposited within total disturbance widths and that boulders would be placed in a random pattern to avoid creating linear features.

6.4.3 The MMO does not have comments to raise. The MMO defers to NE to confirm that the issue has been sufficiently addressed.

6.5 REP5-075-47 Natural England Deadline 4 Submission (REP4-066)

6.5.1 The MMO previously noted that NE advised the Applicant has not made a commitment to the use of NAS during construction. NE anticipated that the majority of piling will not be able to proceed without noise abatement in place. NE requested the Applicant fully commit to using noise abatement mitigation.



6.5.2 The Applicant notes that the final Project design has not yet been confirmed the exact measures required for impact piling cannot be defined. The Applicant is committed to the use of primary and/or secondary measures to be applied to ensure there is no potential for residual Potential Threshold Shift (PTS) after ADD use. Further requirements for mitigation measures and their necessity would be secured through consultation and the development of the UWSMS post consent which will apply all relevant guidance and policy available at the time of submission.

6.5.3 The MMO defers to NE for comment but notes that this has moved on since Deadline 5 and the Applicant has submitted a Without prejudice condition in relation to further commitment in the IWSMS as part of Condition 20.

6.6 REP5-075-50 National Federation of Fishermen's Organisation (NFFO) Late Deadline 3 Submissions (REP4-072 and REP4-073)

6.6.1 The MMO has no further comments.

6.7 R17.1.19 Deemed Marine Licence

6.7.1 Regarding Condition 15 the MMO maintains that representation of the worst case should be undertaken.

6.7.2 The Applicant considers that monitoring of the first four piles is to be proportionate and appropriate for the Project.

6.7.3 The MMO on this occasion agrees that the monitoring can be undertaken as set out within this condition.



7. Comments on The Applicant's Comments on ExAs Written Questions 3 (REP5a-056)

7.1 3BEM5 Decommissioning Plan

7.1.1 The MMO acknowledges the Applicant's response. The MMO has no further comments.

7.2 3BEM12 Noise Abatement Systems

- 7.2.1 The Applicant notes that 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.
- 7.2.2 Regarding breaks in piling, the Applicant has said they consider that the use of NAS may alter the requirements for breaks in piling. There is no specific updated guidance available from the Statutory Nature Conservation Body (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.
- 7.2.3 The MMO acknowledges the Applicant's response. The MMO notes that the draft MMMP has been updated regarding breaks in piling (section 5.7 of this letter). The MMO is content that the requirement for breaks in piling would be confirmed through the finalisation of the MMMP. The MMO defers to NE for further comments.
- 7.2.4 Regarding the seasonal restriction and cod spawning, the MMO maintains that further evidence would be required for the removal of the seasonal piling restriction. The Applicant has acknowledged this.



8. Response to the Rule 17 Letter (PD-020)

8.1 General Comments

- 8.1.1 Question R17.2.4 of the Rule 17 letter is addressed to the Applicant and the MMO. The MMO has provided its response below. The MMO notes that R17.2.4 relates to the transfer of the benefit of the order, the MMO has also provided comments on this in section 3.6 of this letter.

8.2 R17.2.4

In paragraph 6.23 of his decision letter on the proposed Rampion 2 Offshore Wind Farm Extension project (Rampion 2) the Secretary of State considers a similar objection from the MMO in relation to the provision in the dDCO relating to the transfer of the benefit of the order (article 7 in relation to the proposed development [REP5a-002], article 5 in relation to Rampion 2). In paragraph 9.1 first bullet point of the decision letter the Secretary of State also notes an amendment to the drafting which he used in making the order.

The applicant and MMO are asked to respond to these conclusions, with the MMO specifically asked whether it is still maintaining its case that the transferring of the deemed marine licence should be excluded from the provisions of the relevant article.

- 8.2.1 The MMO notes the conclusion set out in section 6.23 of the Secretary of State Decision Letter for Rampion 2 wherein Secretary of State agrees with the ExA that Article 5 should be retained because it does not just deal with deemed marine licenses, but all other licences required to construct the Proposed Development, and the purpose of the PA2008 is to provide a simple one-stop shop process for obtaining consent for national infrastructure projects and to have one legal instrument, the Recommended Order, as its control.
- 8.2.2 The MMO maintains its original position that the Transfer of the Benefit should be removed in relation to the DML, mainly as the SoS has no power to vary the DML once consented therefore a variation would still have to take place and potentially cause enforcement issues. The MMO believes further comments, on top of those raised in the Rampion 2 examination, have been provided within this Examination to be reviewed and considered during the consent decision.

Yours sincerely

[Redacted Signature]

Marine Licensing Case Officer

D [Redacted]

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9. References

UK Government, Defra, MMO, JNCC, NE, OPRED, DAERA, Nature Scot, Marine Scotland, NRW, BEIS and DESNZ (2025). Policy Paper. Marine Environment: Unexploded Ordnance Clearance Joint Position Statement. Available at: UK Government. <https://www.gov.uk/government/publications/marine-environmentunexploded-ordnanceclearance-joint-position-statement>. Accessed 25th March 2025.

