



**Marine
Management
Organisation**

Marine Licensing
Lancaster House
Hampshire Court
Newcastle upon Tyne
NE4 7YH

T +44 (0)300 123 1032
www.gov.uk/mmo

Dogger Bank South Case Team
Planning Inspectorate
DoggerBankSouth@planninginspectorate.gov.uk

(Email only)

MMO Reference: DCO/2022/00007
Planning Inspectorate Reference: EN010125
Identification Number: 20050160

14 February 2025

Dear Sir or Madam,

Planning Act 2008, RWE Renewables UK Dogger Bank South (West) Ltd and RWE Renewables UK Dogger Bank South (East) Ltd Proposed Dogger Bank South Offshore Wind Farms Order

Deadline 2 Submission

On 10 July 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 RWE Renewables UK Dogger Bank South (West) Ltd and RWE Renewables UK Dogger Bank South (East) Ltd (the Applicant) for determination of a development consent order for the construction, maintenance and operation of the proposed Dogger Bank South Offshore Wind Farms (the DCO Application) (MMO ref: DCO/2022/00007; PINS ref: EN010125).

The DCO Application seeks authorisation for the construction, operation and maintenance of Dogger Bank South (DBS) Offshore Wind Farm (OWF), comprising of up to 100 wind turbine generators in DBS East and up to 100 wind turbine generators in DBS West together with associated onshore and offshore infrastructure and all associated development (the Project).

The DCO Application includes a draft development consent order (the DCO) and an Environmental Statement (the ES). The draft DCO includes, Marine Licence 1 (Schedule 10), Marine Licence 2 (Schedule 11), Marine Licence 3 (Schedule 12), Marine Licence 4 (Schedule 13) and Marine Licence 5 (Schedule 14) which are draft Deemed Consent under Part 4 (Marine Licensing) of the Marine and Coastal Access Act 2009 (MCAA 2009) (DML).

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,

Leah Cameron

Leah Cameron
Marine Licencing Case Officer

D [REDACTED]
E [REDACTED]@[marinemanagement.org.uk](mailto:[REDACTED]@marinemanagement.org.uk)

Contents

1. Comments on REP1-005 Applicant's Draft DCO Tracked Changes	4
1.1 DCO and DML General Comments	4
1.2 Transfer of the Benefit of the Order – Article 5	4
1.3 Force Majure.....	7
2. Comments on Pre-Examination Procedural Deadline Submissions from Deadline 1	8
2.1 General Comments.....	8
2.2 Fisheries	8
3. Additional MMO comments.....	14
3.1 DCO/DML comments.....	14
3.2 Other Documents.....	14
3.3 In Principle Monitoring Plan (APP-247).....	14
4. References	15
5. Annex 1:.....	16

1. Comments on REP1-005 Applicant's Draft DCO Tracked Changes

1.1 DCO and DML General Comments

1.1.1 Please see Annex 1 Table 1 for comments relating to the DCO and DML. The MO has included more detailed comments below.

1.2 Transfer of the Benefit of the Order – Article 5

1.2.1 The MMO objects to the provisions relating to the process of transferring and/or granting the deemed marine licence set out in the draft DCO at Article 5.

1.2.2 The MMO understands that Article 5 – Benefit of the Order is drafted in a similar way to previous consents granted by the Secretary of State (SoS), however the MMO has major concerns over the wording.

1.2.3 The MMO would highlight that even if this Article has been included in previous DCOs it doesn't mean that these provisions should continue to be included, the drafting process is iterative, it has to be appropriate both generally and in the particular order in which it is to be included.

1.2.4 Article 5(3) gives the right to permanently transfer the benefits of the deemed marine licences (DML) to a third party with the consent of the SoS.

1.2.5 The MMO considers that this is a clear departure from the 2009 Act, which would normally require the licence holder (here 'the undertaker') to make an application to the MMO for a licence to be transferred. Instead, this provision operates to make the decision that of the undertaker, with the Secretary of State (SoS) providing consent to the transfer, rather than the MMO as the regulatory authority for marine licences considering the merits of any application for a transfer. Parliament has already created a statutory regime for such a process, and it is unclear what purpose the written consent of the SoS actually serves. If the intention is for the undertaker to be able to transfer the benefits under the terms of the DCO outside the established procedures under 2009 Act, the MMO queries why is it considered necessary or appropriate for the SoS to 'approve' the transfer of the DML.

1.2.6 It is also unclear what criteria the SoS would be taking in determining whether to approve any transfer, and how this would differ from a consent granted by the MMO under the existing 2009 Act regime.

1.2.7 Because of this confusion and potential duplication, it is the position of the MMO that these provisions are removed and that any transfer should be subject to the existing regime under the 2009 Act, with the decision maker remaining the MMO.

1.2.8 The MMO has concerns with Article 5(6)

1.2.9 The MMO notes that there is no obligation for the SoS to take into account the views of the MMO when providing its consent. Furthermore, there is no obligation for the MMO to be informed of the decision of the SoS, notwithstanding its impact on the MMO as the licencing authority. From a regulatory perspective it is highly irregular that a decision to transfer a licence should not be the decision of the regulatory authority in that area (the MMO), but instead should be subject to such a cursory process as is set out in Article 5(3).

1.2.10 The MMO questions why it is ok to require the SoS to consult with the MMO? If the SoS fails to do this they commit an offence under s161(1)(b) of the PA 2008 if the

SoS does not have a reasonable excuse. This is another unintended consequence of the inclusion of the DML in this Article.

- 1.2.11 The MMO thus resists this change as unworkable. As explained above, Articles 5(3) sets out what is effectively a new non-legislative regime for the variation and transfers of marine licences.
- 1.2.12 In support of these provisions, Article 5(14) explicitly disapplies sections 72(7) and (8) of the 2009 Act, which would otherwise govern these procedures.
- 1.2.13 This conflicts with the MMO's stated position that the DML granted under a DCO should be regulated by the provisions of the 2009 Act, and specifically by all provisions of section 72. Section 72(7)(a) of the 2009 Act permits a licence holder to make an application for a marine licence to be transferred, and, where such an application is approved, for the MMO to then vary the licence accordingly (s. 72(7)(b)). This power that should be retained and used in relation to the DML granted under the DCO and the MMO therefore resists the inclusion of this article 5(14) to disapply these provisions. The MMO notes that Article 5(14) does include an option for the MMO to update the name and has provided further comments below.
- 1.2.14 The key concern held by the MMO is that Article 5 operates to override and/or unsatisfactorily duplicate provision that already exist within the 2009 Act for dealing with variations to marine licences. Such provisions are also inconsistent with the PINS Guidance on how DMLs should operate within a DCO. Advice Note Eleven, Annex B, (<https://infrastructure.planninginspectorate.gov.uk/legislationandadvice/advisenotes/an11-annex-b/>), provides that where the undertaker choses to have a marine licence deemed by a DCO, the MMO, "*will seek to ensure wherever possible that any deemed licence is generally consistent with those issued independently by the MMO.*" Article 5 as drafted is not in compliance with this guidance.
- 1.2.15 The MMO objects to the provisions relating to the process of transferring and/or granting the deemed marine licences set out in the draft DCO at Part 2, Article 5 insofar as these are intended to apply to the MMO and requests paragraphs 5(3), 5(6) and 5 (14) be removed in their entirety, with a clarification added to specifically exclude these provisions from applying to the MMO (with corresponding wording amended in the Deemed Marine Licences).
- 1.2.16 The MMO is concerned that the procedure proposed represents an unnecessary duplication of the existing statutory regime set out in s72 of the 2009 Act and that it will give rise to significant enforcement difficulties for the MMO. The MMO also considers that it has the potential to prejudice the operation of the system of marine regulatory control in relation to the proposed development. The MMO also regards the proposed procedure as cumbersome, more administratively burdensome, slower and less reliable than the existing statutory regime set out in s72 of the 2009 Act.
- 1.2.17 As a matter of public law, the MMO does not think the Order can contain a provision transfer of Benefit of the DML as is being proposed. PA 2008 Section 120(3) should read against Section 120(4) and Part 1 of Schedule 5, which the MMO thinks limits what the Order can contain to provisions which deem a marine licence to be granted under the order and to the conditions that should be deemed attached to that licence. The MMO does not consider this to be sufficiently wide as to allow the inclusion of provisions which transfer the Benefit of the Order.
- 1.2.18 If the Order cannot contain a DML transfer provision for the reasons set out, then it cannot exclude Section 72 of the 2009 Act in the way proposed as Section 120(5) is

limited to applying/modifying/excluding only those statutory provisions which relate to any matter for which a provision may be made in the order.

- 1.2.19 The reason that the DCOs only deem the Marine Licence to be granted, rather than bringing the ML into the DCO as it does for other permissions under s33 of the PA 2008 is because the MMO was considered to be the expert in this area (see PINS advice note Annex 11 - MMO). The MMO questions why now is the SoS best placed to consider the implications of the marine licence being transferred and what might need to change?
- 1.2.20 Therefore, the provision should not extend to the DML. The Order and the DML are not the same thing and so this provision does not extend to the DML, and references to the undertaker in the DML will stay as is.
- 1.2.21 Whilst the mechanism is different, what falls out of the DCO process is a marine licence granted under MCAA 2009 which is distinct and separate to the DCO itself. The DML falls back to the MMO to further manage/regulate under the provisions of MCAA 2009 once the DCO is granted, to be regulated alongside and consistently with all the other marine licences we might issue. This is in part why s149A(4) says a person who fails to comply with a condition of the DML does not commit an offence under s161 of the PA 2008 and why 149A(5) disapplies the notification of application and representations provisions of MCAA 2009 from the DCO process.
- 1.2.22 The MMO would also highlight that even for granted offshore windfarm orders that include a form of the Benefit of the Order Article, the MMO has done multiple variations alongside the transfer of benefit to ensure the DML variation is issued as close to the approval from the SoS to ensure the correct undertaker is on the face of the DML and so that updates to the Marine Case Management System can be completed enabling compliance to continue to be monitored.
- 1.2.23 With the addition of Article 5 (9) current wording this causes the MMO concern as this is just a notice of the transfer and does not include an official variation request to the MMO as required under Section 72 of the 2009 Act. The MMO does not believe the SoS cannot amend the DML once consented. Therefore, the MMO would have to use their regulatory power to conduct a variation and vary the licence to ensure the correct undertaker is on the schedule, this could cause a potential delay the project as if the transferring of unvaried licence impacted on our ability to enforce during this time, the MMO may have to suspend the licence while the MMO conducted the variation.
- 1.2.24 This process could be delayed without the direct contact to the MMO to vary the DML. In addition to this the MMO has statute to charge for any variations and this is not covered by the current Article. This is an issue for two reasons, the Applicant would be getting work at a different rate as the consultation would be a statutory request from the SoS and this is not aligning with other marine licences as per PINS advice note Annex 11 - MMO and two this puts the emphasise for the MMO to vary the licence once notified so there would still be an additional step for the MMO to take.
- 1.2.25 Additionally, there are practical considerations. When the MMO transfers a licence under s72(7) of 2009 Act the MMO must vary it. If the transfer was affected under the Order the MMO are likely to need to vary the licence as a result, under s153 and the schedule 6 of the PA 2008, only the MMO can do that. The MMO could end up with the transfer being affected under the Order, but then having to vary separately using our own powers. If the transferring of the unvaried licence impacted on the MMO's ability to enforce during this time, this could lead to the MMO having to suspend the

licence whilst the variation was carried out.

1.2.26 The MMO does not consider that the PA 2008 allows the DCO to make a provision to transfer the benefit of the DML in the way that is proposed.

1.2.27 The MMO strongly disagrees with the inclusion of the Article and the fundamental impact and change to the process.

1.3 Force Majeure

1.3.1 The MMO maintains its position regarding Force Majeure, as it is not necessary to be included within the DMLs. It is not something that the MMO would include in standalone marine licences. PINS advice note Annex 11 - MMO says that DMLs should be broadly consistent with standalone marine licences.

1.3.2 The MMO understands that Force Majeure is about events, situations and circumstances that arise which are outside of a person's control.

1.3.3 Currently the condition wording used is drafted to apply for stress of weather or any other cause which is very broad. It could cover anything, including causes which are entirely within the master's control such as negligence matters. Currently the MMO believes Condition 14 in DML 1 and 2, 13 in DML 3 and 4 and 10 in DML 5 does not meet the five tests as set out in the National Planning Policy Framework for a number of reasons:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects.

Necessary

1.3.4 If you read Section 86(1)(b) and 86(2) of MCAA 2009, for the defence to be relied on the person relying on it must inform the MMO that the act was carried out, tell it where it was carried out, the circumstances in which it was carried out, and what articles/objects were concerned. The inclusion of Condition 19 in Schedule 3 and 4 removes this defence and replaces it with a wider and less stringently controlled authorisation to deposit articles/substances and the MMO does not believe this is necessary.

Enforceable

1.3.5 The condition as it stands is too subjective and therefore unenforceable and this due to the fact that it is down to the master to determine whether it is necessary to make the deposit and there are no defined criteria.

Precise

1.3.6 The condition is also not restricted to Force Majeure situations or 'no fault situations', due to the inclusion of 'for any other cause'. The MMO questions this wording and why this has been included?

1.3.7 In effect the only obligation the master would have if Condition 19 in Schedules 3 and 4 are included, is to notify the MMO within 48 hours that the deposits have been made. The MMO questions if this notification would be enough to allow enforceability and if it

was to remain should there not be further requirements to then remove the items.

Reasonable

- 1.3.8 The test set in Condition 19 in Schedules 3 and 4 which must be met to allow these deposits to be made is a much lower threshold test to that set in Section 86 of MCAA 2009. This is because the safety of human life and/or the vessel is threatened is not the same as for the purpose of saving life or securing the safety of the vessel. The MMO questions why these masters and vessels be treated more favourably than others in this situation?
- 1.3.9 To summarise the MMO does not agree with the Applicant's reasons for including this provision. The condition should be removed, as the defence (Section 86 of MCAA 2009) will apply if the Applicant or vessel masters needs to make a deposit for a Force Majeure reason.

2. Comments on Pre-Examination Procedural Deadline Submissions from Deadline 1

2.1 General Comments

2.1.1 The MMO has reviewed the following documents:

- AS-052 - 6.1 Report to Inform Appropriate Assessment Habitats Regulations Assessment Part 2 of 4 - Annex I Offshore Habitats and Annex II Migratory Fish (Revision 3) (Tracked)
- AS-105 - 10.41 Heat Mapping Report: Atlantic Herring and Sandeel (Revision 1)
- AS-142 Appendix A Fish and Shellfish Ecology Environmental Statement

2.2 Fisheries

- 2.2.1 The MMO previously raised a major comment about the formation of the herring potential spawning habitat and the sandeel potential habitat 'heat' maps. The Applicant has now provided updated 'heat' mapping for both herring and sandeel in the Heat Mapping Report which outlines the data used to form each heatmap. The updated heat map for identifying potential herring spawning habitat uses the updated heat mapping methodology as outlined in Kyle-Henney *et al.* (2024), meaning that the data layers used to generate the updated heatmaps provided are therefore slightly different to the 'heat' maps the MMO originally advised on.
- 2.2.2 It is appropriate for the Applicant to use the updated 'heat' mapping methods outlined in Kyle-Henney *et al.* (2024) and Reach *et al.* (2024), and it is helpful to see the individual layers mapped separately as this allows the source data underpinning the final 'heat' maps to be checked. However, it appears that only a single year (2020) of vessel monitoring data (VMS) has been used to inform the 'heat' maps for both herring and sandeel. This is significantly less data than was included in the original 'heat' maps and although the layer appears to cover a large spatial area (in Figures 2.5 and 3.6), one year of data only provides a snapshot of fishing activity for that year. In order for the VMS layer to provide the most expansive representation of fishing activity possible, a minimum of 10 years of data should be presented with respect to the 'heat' maps for both herring and sandeel. This layer should either be corrected to present 10 years of VMS data, or the Applicant should be able to demonstrate why the spatial data provided in the 2020 VMS data is more expansive than the sum of 10 years of VMS

activity.

Sandeel

2.2.3 The updated sandeel heat map (Figure 3.1) indicates that the majority of the Humber region, including the DBS export cable corridor (ECC) and the array areas represent suitable supporting habitat for sandeel. OneBenthic sandeel presence data indicates that sandeel have been recorded within the proposed array area. The underwater noise (UWN) contours for mortality and potential mortal injury (219 decibel (dB) cumulative sound exposure level (SELcum), recoverable injury (216 dB SELcum), and temporary threshold shift (TTS (186 dB SELcum), as per the pile driving threshold guidelines described by Popper *et al.* (2014), have been included on Figure 3.1 for reference which is helpful. Sandeel do not possess a swim bladder which is involved in hearing and so the impact ranges for the effects of mortality and recoverable injury are highly localised. The impact range for the effects of TTS extends over a much larger area that is comprised of high and medium-high confidence sandeel habitat.

2.2.4 The Applicant has provided Particle Size Analysis (PSA) data which ground-truths the sediment suitability across the array site for sandeel. The data presented in Table 3.1 shows that the majority of sampling locations across the array consist of 'preferred' sediment types for sandeel. The MMO agrees with the Applicant's conclusion that the majority of the array areas and ECC are located within the 'preferred' habitat for sandeel. Due to their largely demersal ecology, sandeel are most at risk from habitat disturbance (including immediate direct disturbance as well as more long-term sediment changes) and therefore based on the updated evidence presented in the updated Heat Mapping Report.

The MMO maintains the request that pre- and post-construction monitoring proposal for sandeel habitat suitability should be conditioned within the DML to ensure that the sediment composition of the areas of medium, high and very potential habitat which fall within the array area and cable route are monitored prior to and following construction of the Project. Whilst this does not specifically mitigate impacts to sandeel, regular or annual monitoring allows for significant changes in the sediment composition (and therefore sandeel habitat suitability) to be noticed and accordingly managed.

2.2.5 The MMO previously requested that the Applicant supplement their sandeel habitat assessment with data from the North Sea Sandeel Survey (NSSS), which is carried out in Sandeel Area 1 in December each year. It is disappointing that the Applicant has again not presented this data to support their assessment of sandeel habitat suitability. Could the Applicant please provide a justification for why this additional requested data has not been presented and clarification as to whether they intend to present these data at all in future?

Herring

2.2.6 Notwithstanding the insufficient number of years of VMS data used to produce the 'heat' maps (point 2.2.21), the herring potential spawning habitat 'heat' map appears otherwise appropriately informed with suitable data. The Applicant recognises that kilometre points (KP) 10 - KP80 of the ECC intersects with a large extent of 'high' spawning potential which is represented by heat scores <0.08 (see Figure 2.1). Figure 2.1 also shows that the area of the ECC beyond KP80 and the DBS Array Areas are located outside of the high potential herring spawning habitat. The UWN contours for mortality and potential mortal injury (207 dB SELcum), recoverable injury (203 dB SELcum), and TTS (186 dB SELcum), as per the pile driving threshold guidelines described by Popper *et al.* (2014), as well as the UWN contour for the range of

behavioural effects (135 dB SELss) in herring, have been included on Figure 2.1 which is helpful in understanding the range of impact from UWN based on the Applicant's new piling profile (which does not include the Electrical Switching Platform (ESP) within the ECC). It is assumed that the UWN contours provided in Figure 2.1 represent unmitigated monopiling based on the Project's worst-case piling scenario.

2.2.7 The Applicant has provided particle size analysis (PSA) data to ground-truth the sediment suitability across the ECC as herring spawning habitat. The data presented in Table 2.1 shows that the sampling locations along the section of the ECC which overlaps with potential herring spawning habitat as indicated by Figure 2.1, has variable sediment suitability types for herring spawning. There are two main impact pathways from the Project which are of significant concern in relation to the Banks herring spawning population which uses the Flamborough Head herring spawning ground:

- Disturbance to herring spawning habitat caused by seabed preparation and cable laying activities along the ECC including immediate direct disturbance as well as more long-term sediment changes.
- Disturbance to adult herring engaged in spawning caused by UWN from piling and unexploded ordnance (UXO) clearance activities. These are explained in turn below.

UWN disturbance to adult herring engaged in spawning from piling and UXO clearance activities.

2.2.8 The information provided in the Heat Mapping Report pertains primarily to cable laying activities rather than addressing UWN disturbances to spawning herring from piling or UXO Clearance (noting this will be a separate marine licence application). The UWN contours included in Figure 2.1 are helpful for reference, but the MMO still considers that the range of impact for TTS and behavioural impacts is still unacceptably large. The Applicant has also not provided any further information as to how they might mitigate UWN disturbances. For this reason, the MMO maintains that **it is necessary to request a temporal restriction on all piling and UXO clearance activities during the Banks herring spawning season (1 August – 31 October inclusive).**

2.2.9 The MMO notes that the Applicant has still not proposed any strategies to mitigate the impacts to herring from UWN arising from piling and UXO clearance activities. Given the availability of effective alternatives to unmitigated piling – i.e. noise abatement systems (NAS) to reduce noise at source - unmitigated pile driving cannot be justified on the basis that there are no realistic alternatives. NAS would reduce the range of potential impacts from UWN on sensitive species and habitats, an issue which is especially pressing given the wider context of the current expansion of offshore wind developments across the Dogger Bank and wider North Sea. The implementation of adequate NAS may also remove the need for seasonal piling restrictions, providing the Applicant can demonstrate that the range of impact from UWN in relation to the herring spawning ground is adequately reduced. Until such proposals are put forward, a full restriction on piling and UXO clearance should be implemented for the duration of the herring spawning season.

Direct disturbance to herring spawning habitat caused by seabed preparation and cable laying activities along the ECC including immediate direct disturbance and sediment change.

2.2.10 The Applicant has provided additional ecological data in an attempt to have the

requested temporal restriction for cable works along the ECC route dismissed. Section 2.3 of the Heat Mapping Report (document listed in point 7) uses parts of the approach employed for the Eastern Greenlink 2¹ (EGL2) subsea cable marine licence (ML) (which is also proposed to run through the Flamborough Head herring spawning ground) as the rationale for removing the requested temporal restriction on cable installation works along the ECC route. There is some merit in the approach however the Applicant's rationale is missing some key data:

- Section 2.3.1 presents near seabed temperatures and herring larval development rates. This information is relevant for what the Applicant is trying to do, but the Applicant has not presented any site-specific near seabed temperature data. It is claimed in the report that "Nearbed temperature samples taken at the IHLS sampling sites surrounding the Offshore Export Cable Corridor record consistent temperatures of >13°C", however this is not evidenced anywhere. It is necessary to see the evidence of sea bottom temperature data for the International Herring Larval Survey (IHLS) sample stations within and around the ECC mapped for each year of data used (2007-2023), with temperature data for each station presented.
- This will then demonstrate the spatial and interannual variability in near-seabed temperature data to inform the appropriate site-specific larval development periods. Until this information is presented it is premature to be defining explicit larval development periods.
- Following on from the point above, until site-specific near seabed temperature data is provided it is not appropriate to determine the egg development and yolk-sac absorption periods for use in back-calculations to establish the start or end of the 'peak' of spawning activity. It is correct that a back-calculation exercise was the method through which the EGL2 cable laying restriction was temporally refined (not removed). The Applicant should be mindful that the MMO will advise refined dates based on the evidence provided, and that these will not necessarily be the same dates as were applied to the EGL2 ML.
- The Applicant should also recognise that the EGL2 temporal restriction was applied spatially and that, although the temporal restriction on cable laying activities during the herring spawning season was refined for EGL2, the restriction was not completely removed as a result of the back-calculations and additional evidence. The installation of multiple cables running through the Flamborough Head herring spawning ground represents a significant source of direct disturbance to spawning habitat which will inevitably result in a likely significant cumulative impact to spawning herring and the integrity of the Flamborough Head spawning ground.
- The MMO strongly disagrees with the Applicant's statement that "larvae caught by the IHLS are likely to be mobilised by nearbed currents, and are not directly associated with the seabed at point of capture and therefore not considered to be at risk of potential impacts associated with the installation of cables" as this totally misrepresents the risk to herring larvae from cable laying. The Applicant should note that the larvae that are caught using the Gulf VII sampler during the IHLS survey are considered to be associated with the surrounding spawning habitat. This is proven through the correlation of known suitable spawning substrate (i.e. gravel/coarse sediment) in the same location that the larvae are caught. This is why the IHLS data is assigned the highest confidence score in the updated herring potential spawning habitat heatmapping method (as per Kyle-Henney *et al.* (2024),

¹ EGL2: MLA/2022/00273/1, L/2023/00211/1

as this is considered the best evidence for determining areas of active spawning habitat through the presence of larvae.

- The MMO has some concerns regarding the data underpinning Figure 2.7 of the report. Firstly, it is not easy to determine the relative IHLS larval abundances with the sampling points for different years laid on top of each other. These data would be better presented as separate maps for individual years of data so that the relative importance of the area of spawning habitat which underlies the ECC can be clearly seen.
- Secondly, the data used to inform this map refers to larval abundances which are recorded in the IHLS data as the larval abundance per metres squared (m²) not as a count. This should be amended as a point of inaccuracy.
- Further, defining all abundances greater than >600 larvae is not appropriate when presenting larval data for the 15-year period used. It is not uncommon for areas within the main spawning grounds to record thousands, or tens of thousands, of larvae per m². In this sense, Figure 2.7 does not provide the necessary resolution of the data as the current presentation likely underrepresents IHLS stations where larval abundance is greater than 600 larvae/m². The Applicant should revisit the data used to underpin this plot and ensure that the scale for larval abundance is
 - a) presented as larvae per m², and
 - b) that the scale for larval abundance per m² reflects the true values of larval abundances observed in the data, rather than clipping 'high' abundance data points at >600 larvae/m² (as a sample point indicating '>600 larvae/m²' could be representing a sample of 601, or 6000 larvae/m², there's no way to differentiate between these values when clipped at >600 larvae/m²).
- This is especially relevant when plotting larval abundance values for a time-series (i.e. a 15-year IHLS period) where larval abundance would exceed tens of thousands in some locations.

2.2.11 The MMO thanks the Applicant for providing PSA data for the ECC (Table 2-1) as this is helpful to understand the site-specific sediment composition. Nonetheless, as outlined above, there are several gaps in the Applicant's approach which need to be addressed before explicit egg development and yolk-sac absorption periods can be confidently and evidentially defined for use in a back-calculation exercise for the Project ECC.

2.2.12 The Applicant should recognise that whilst the Project ECC and EGL2 are being developed in isolation of each other, both run through the Flamborough Head herring spawning ground and are not the only cable developments to do so. There has been a large increase in the number of offshore developments in recent years, particularly in the Central North Sea in the vicinity of the Banks herring spawning ground off Flamborough head. If the Project ECC and EGL2 were the only anthropogenic activity happening at the Flamborough Head herring spawning ground during the Banks herring spawning season off Flamborough Head, then concerns of significant impacts to herring spawning habitat and the Banks herring population overall would be more measured. However, there are multiple offshore developments (e.g. EGL2, EGL3, EGL4, Hornsea Project Four, and Dogger Bank A and B to name just a few) that are also planned or under construction in the same area off Flamborough Head which also have high potential to cause disturbance to herring spawning activities and herring spawning habitat over multiple years, all of which need to be managed through suitable mitigation measures or an appropriate schedule of works outside the Banks herring spawning season. The impacts of all activities must be considered and assessed as a whole. For this reason, **the MMO maintains the requested temporal**

restriction on works which interact with the seabed along the ECC route (including seabed preparatory works, cable trenching etc.) during the Banks herring spawning season (1 August – 31 October inclusive), and that this restriction should apply to both construction and maintenance activities.

- 2.2.13 Should the Applicant wish to temporally or spatially refine any of the recommended restrictions, the MMO requests the Applicant request the MMO to provide further advice to ensure the information provided will provide the evidence to remove a restriction. This would include a step-by-step instructions on the evidence required and process to follow on how to perform back-calculation exercise for the Project. It should also be noted that any spatial refinement is applicable to the temporal restriction on works which interact with the seabed along the ECC route only.
- 2.2.14 In a similar vein to EGL2, seabed preparation works and cable installation activities associated with the ECC will impact the immediate surrounding habitat of the works. The same cannot be said for the effects of UWN which disperse widely into the environment. Given the location of the Project, the inwards and southward migration of Banks herring must also be considered and so any temporal and spatial refinements must still be inclusive of the periods before and after spawning when gravid herring to migrate from/to their spawning grounds, and not just cover the 'peak of spawning activity'. This buffer period before and after spawning is essential and must be applied at the start and end of the 'peak of spawning activity' to allow sediments to settle and spawning to take place.
- 2.2.15 What the Applicant is proposing is a complex issue which should be approached with caution. This approach method was not developed for the EGL2 project but has been used on a case-by-case basis for a select number of offshore developments over a number of years. This approach requires careful interrogation of IHLS data and peer-reviewed literature, with guidance from our scientific advisors.

Removal of the ESP from the ECC and Updated UWN modelling.

- 2.2.16 Removal of the ESP from the Projects' Design Envelope means that piling (pin piling) within the offshore export cable corridor is no longer required. The Applicant has provided updated underwater noise modelling in Appendix 11-3 - Underwater Noise Modelling Report (AS-138), the Heat Mapping Report: Atlantic Herring and Sandeel (AS-105) and in the Fish and Shellfish Environmental Assessment Update (AS-142). The removal of the ESP from the offshore export cable corridor is positive as it removes the need for piling to be carried out within an area of high potential herring spawning habitat near Flamborough Head.
- 2.2.17 The unmitigated impact ranges for TTS and behavioural impacts in herring still overlap a significant area of high and very high potential herring spawning habitat., this is duplicated from the updated Heat Mapping Report, UWN at a level which would produce behavioural impacts overlaps a large area of the main Flamborough Head spawning ground. The Applicant should note that behavioural impacts have the potential to disturb adult herring engaged in spawning at the spawning ground and deter adult herring migrating towards the spawning ground and it was raised in the previous responses that UWN impacts to herring should be appropriately mitigated. The Applicant has not provided any further information as to how they might mitigate UWN disturbances. For this reason, the MMO maintain that **it is necessary to recommend a temporal restriction on all piling and UXO clearance activities**

during the Banks herring spawning season (1 August – 31 October inclusive)

3. Additional MMO comments

3.1 DCO/DML comments

- 3.1.1 The MMO is currently reviewing a number of conditions with MCA, TH and UKHO to ensure there is a standard across all cases in examination and will provide an update to the Applicant and ExA as soon as these have been agreed.
- 3.1.2 Due to updates to the Marine Noise Registry the MMO will be requesting updates to Condition 26 Reporting of impact pile driving in due course.

3.2 Other Documents

- 3.2.1 The MMO is still reviewing the following documents and will provide comments at Deadline 3 alongside comments on relevant documents submitted at Deadline 2:
- REP1-010 - 7.5 Environmental Statement Chapter 5 – Project Description (Tracked) (Revision 3)
 - REP1-022 - 7.25.25.3 Environmental Statement Appendix 25-3 Construction Noise Assessment (Revision 2) (Tracked)
 - REP1-059 – Historic England – Written Representation
 - REP1-060 – Maritime and Coastguard Agency – Written Representation
 - REP1-063 – Natural England – Deadline 1 Submission
 - REP1-064 – Natural England - Appendix B1 - Natural England's comments and updated advice on 10.38 Coastal Erosion Technical Note [AS-116, Rev. 01]
 - REP1-065 - Appendix H1 - Natural England's Advice on Seabird Compensation Calculations Ornithology
 - REP1-077 - National Federation of Fishermen's Organisations – Written Representation
 - REP1-087 – RSPB – Written Representation
 - REP1-088 – The Wildlife Trust - Written Representation

3.3 In Principle Monitoring Plan (APP-247)

- 3.3.1 The MMO would like further information included within the IPMP.
- 3.3.2 The MMO is currently undertaking a project on the standardisation of offshore wind post-consent monitoring data. This project aims to standardise the collecting and reporting of offshore wind environmental monitoring data in English waters, for receptors/monitoring techniques where a widely recognised standard for monitoring already exists, and to implement this approach in post-consent monitoring for wind farms in English waters.
- 3.3.3 The MMO has engaged a range of stakeholders, including SNCB's, industry, and Renewable UK to identify standards, and are currently finalising a list of agreed standards across six receptors: marine mammals, underwater noise, ornithology, fish and shellfish, benthic and geophysical monitoring.
- 3.3.4 This will make it easier to compare and collate monitoring data from different projects, and ensure we get the most value out of monitoring. It will also ensure that developers know what is expected of them in terms of monitoring and add weight to previously

agreed standards (e.g. Natural England's Best Practice Guidance). Standardisation will only be applied where an agreed standard already exists, and standardisation will deliver benefits.

3.3.5 The final list of standards is expected to be agreed in 2025. These will then become the default approach to post-consent monitoring of these receptors. We request that the IPMP be updated to reference this project, where any of these 6 receptors are applicable. The project can be referenced as (MMO Standardisation of Offshore Wind Post-Consent Monitoring, forthcoming). The MMO also requests that the IPMP include a general commitment to ensuring that any standards or best practice adhered to during monitoring, is outlined clearly within the relevant monitoring reports.

3.3.6 The MMO aims to engage with the Applicant to ensure that this reference is included, and agreement can be made prior to the end of examination.

4. References

Kyle-Henney M., Reach I., Barr N., Warner I., Lowe S., and Lloyd Jones D., 2024. Identifying and Mapping Atlantic Herring Potential Spawning Habitat: An Updated Method Statement.

Popper, A.N., Hawkins, A.D., Fay, R.R., Mann, D.A., Bartol, S., Carlson, T.J., Coombs, S., Ellison, W.T., Gentry, R.L., Halvorsen, M.B., Løkkeborg, S., Rogers, P.H., Southall, B., Zeddies, D.G. & Tavalga, W.N. (2014). Asa S3/Sc1.4 Tr-2014 Sound Exposure Guidelines for Fishes and Sea Turtles: A Technical Report Prepared by ANSI-Accredited Standards Committee S3/Sc1 a (Springerbriefs in Oceanography).

Reach, I., Kyle-Henney, M., Barr, N., Warner, I., Lowe, S., and Lloyd Jones, D., 2024. Identifying and Mapping Sandeel Potential Supporting Habitat: An Updated Method Statement.

5. Annex 1:

Table 1 – MMO Deadline 2 comments					
	Main DCO		MMO Comments	Applicant Comments	Deadline 2 Comments
1	Part 1 – Preliminary Interpretation (2)(1)	“building” includes any structure or erection or any part of a building, structure or erection;	Please can the Applicant confirm that ‘building’ does not include any offshore structures, and therefore that the protective works to building schedule does not apply to offshore structures.	The definition of "building" could apply to offshore structures. If the MMO have any concerns with this approach, the Applicants request that further details be provided. The definition of "building" and the terms of Article 17 are well precedented, and commonly included in DCOs	The MMO does not believe that any offshore works are included in Article 17 therefore it should be made clear within the interpretation that “building” only refers to onshore works.
2		<p>“DBS East Project offshore works” means Work Nos. 1A to 9A and any other authorised development and ancillary works associated with those works.</p> <p>“DBS West Project offshore works” means Work Nos. 1B to 9B and any other authorised development and ancillary works associated with those works.</p>	<p>The MMO notes that works 9A and 9B have been included in the offshore works. The works are to provide means of emergency access along the existing beach between Work No. [....] to allow for access in the event of accidents and / or environmental incidents. Can the Applicant clarify when these activities will be undertaken (when is it an emergency?), if these works include any marine licensable activities or if the works</p>	<p>These works will not include any marine licensable activities. These elements of the works have been included to afford vehicular access to the intertidal area to allow the clean-up of any drilling fluids which could escape from the bores drilled beneath the beach as part of the trenchless crossing works (e.g. Horizontal Directional Drilling works) at landfall</p>	The MMO is currently reviewing this response and will provide a response in due course.

			will impact the environment e.g. abrasion/disturbance to a priority habitat.		
3		<p>“deemed marine licences” means the marine licences set out in Schedules 10 (Marine Licence 1: DBS East Project Offshore Generation – Work Nos. 1A, 4A and 7A), 11 (Marine Licence 2: DBS West Project Offshore Generation – Work No. 1B, 4B and 7B), 12 (Marine Licence 3: DBS East Project Offshore Transmission – Work Nos. 2A, 3A, 6A, 7A and 8A), 13 (Marine Licence 4: DBS West Project Offshore Transmission – Work Nos. 2B, 3B, 6B, 7B and 8B) and 14 (Marine Licence 5: DBS East Project and DBS West Project Offshore</p>	<p>Throughout the DCO and DMLs all the definitions and titles must be updated to state the 5 DMLs are ‘Deemed Marine Licences’. E.g. ‘(Deemed Marine Licence 1: DBS East Project Offshore Generation – Work Nos. 1A, 4A and 7A)’. This is to ensure accuracy.</p>	<p>The Applicants acknowledge this comment and will make appropriate updates to the DMLs to address the concerns raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.</p>	<p>The MMO welcomes the updates the Applicant has made and has no further comments.</p>

		<p>Transmission – Work Nos. 5A, 5B, 7A and 7B);</p> <p>“Marine Licence 1” means the marine licence in Schedule 10 (Marine Licence 1:– DBS East Project Offshore Generation Work Nos. 1A, 4A and 7A);</p> <p>“Marine Licence 2” means the marine licence in Schedule 11 (Marine Licence 2: – DBS West Project Offshore Generation Work Nos. 1B, 4B and 7B);</p> <p>“Marine Licence 3” means the marine licence in Schedule 12 (Marine Licence 3: DBS East Project Offshore Transmission– Work Nos. 2A, 3A, 6A, 7A and 8A);</p> <p>“Marine Licence 4” means the marine</p>			
--	--	--	--	--	--

		<p>licence in Schedule 13 (Marine Licence 4: – DBS West Project Offshore Transmission Work Nos. 2B, 3B, 6B, 7B and 8B);</p> <p>“Marine Licence 5” means the marine licence in Schedule 14 (Marine Licence 5: DBS East Project and DBS West Project Offshore Transmission Work Nos. 5A, 5B, 7A and 7B);</p>			
4		<p>“Jacket foundation” means a lattice type structure constructed of steel, which may include scour protection and additional equipment such as J-tubes, corrosion protection systems and access platforms;</p>	<p>The MMO advise the text is updated to align with the East Anglia 2 definition of jacket foundation (adapted accordingly for the DBS project):</p> <p>“Jacket foundation” means a lattice type structure constructed of steel which is fixed to the seabed at 3 or more points with steel pin piles or steel suction buckets and associated equipment including</p>	<p>The Applicants acknowledge this comment and will make appropriate updates to the DMLs to address the concerns raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.</p> <p>The Applicants note that steel suction buckets have been excluded from the Projects' Design Envelope and so do not propose to include this in the updated definition</p>	<p>The MMO welcomes the updates the applicant has made and has no further comments.</p>

			scour protection, J-tubes, corrosion protection systems and access platforms.		
5		<p>“maintain” includes inspect, upkeep, repair, adjust, alter, and further includes remove, reconstruct and replace (including replenishment of cable protection), but does not include the removal, reconstruction or replacement of foundations associated with the authorised project, to the extent assessed in the environmental statement; and</p> <p>“maintenance” must be construed; accordingly,</p>	<p>The MMO requests the text is updated to:</p> <p>“maintain” includes inspect, upkeep, repair, adjust, alter, and further includes remove, reconstruct and replace (but only in relation to any of the ancillary works in Part 2 of Schedule 1 (ancillary works) to the Order and any component part of any [wind turbine generator, offshore electrical platform, construction, operations and maintenance platform or meteorological mast] described in Part 1 of Schedule 1 (authorised development to the Order not including the alteration, removal or replacement of foundations), to the extent assessed in the environmental</p>	<p>The Applicants do not consider that the wording within the definition of "maintain" in the Draft DCO [APP-027] and in each DML in schedules 10 - 14 of the Draft DCO [APP-027] needs to be updated. The purpose of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 is to identify the likely significant environmental effects that will arise from a project. That facilitates the relevant decision maker making an informed decision on the likely effects of the project before they grant or refuse consent. The detail in an Environmental Statement (ES) is not intended to be wholly prescriptive. That is not how the Environmental Impact Assessment (EIA) regime operates. In undertaking an EIA, a developer has to make certain assumptions about how the project will be undertaken, particularly in respect of the</p>	<p>The MMO is still reviewing this internally and will provide an update at Deadline 3.</p>

			statement; and “maintenance” must be construed accordingly. The MMO notes that within conditions or within attached/ supporting Plans (for example "Offshore Operations and Maintenance Plan") where "replacement" is noted, that it references its limitations of the replacement to be in line with "like-for-like" or "as within the project envelope".	operation and maintenance phase. Key parameters that underpin the assessment will then be included in the terms of the consent granted. Where relevant, these key parameters relating to issues including, but not limited to, numbers of maintenance vessel movements, cable repair quantities, remedial cable protection quantities and number of jack-up activities have been included within the worst case scenario tables across ES chapters and within the assessments of operations and maintenance activities.	
6		“MHWS” or “mean high water springs” means the highest level that spring tides reach on average over a period of time;	The MMO request the definition is updated to: ‘The height of Mean High-Water Springs (MHWS) is the average throughout the year, of two successive high waters, during a 24-hour period in each month when the range of the tide is at its greatest (Spring tides).	This definition is well preceded, and commonly included in DCOs. No change to the Draft DCO [APP-027] is proposed.	The MMO does not agree that ‘ <i>well preceded and commonly included in DCOs</i> ’ provides enough justification for not updating the definition. The MMO notes that previous DCOs may have similar definitions, however upon review, the definition has been expanded to provide further clarity as MHWS does change over time. The updated definition allows all parties to be clear what MHWS is and this is reflected. The MMO’s maintains the position that there should be clarity on the ‘period of time’.
7		“undertaker” means, subject to article 5	The undertaker definition must be updated. This	The Applicants disagree that transfers of the DMLs should be	The MMO acknowledge the Applicants comments however still maintains that

		<p>(benefit of Order),— (a) for the purposes of constructing, maintaining and operating the DBS East works and any related ancillary works, DBSEL; (b) for the purposes of constructing, maintaining and operating the DBS West works and any related ancillary works, DBSWL; and (c) in any other case, DBSEL and DBSWL;</p>	<p>should exclusively be the named companies (RWE Renewables UK Dogger Bank South (East) Limited, company reference number 13656240 and RWE Renewables UK Dogger Bank South (West) Limited, company reference number 13656525,). In addition, the Applicant should remove 'subject to article 5' (benefit of the order). The above updates should also be made to the DBSEL and DBSWL definitions.</p>	<p>regulated by the provisions of section 72 of the Marine and Coastal Access Act (MCAA) 2009. Where a transfer of a DML is proposed, the SoS would be looking at that in the context of all the provisions of the DCO. There are some Articles and Requirements relating to offshore matters within the DCO which overlap with the DMLs. In that context, it is entirely appropriate that the SoS has the ability to approve the transfer of a DML. Article 5(14) confirms that section 72(7) and (8) (variation, suspension, revocation and transfer) of the 2009 Act does not apply to a transfer of the DMLs falling within Article 5. Section 72(7) permits the licensing authority to transfer a marine licence to another person. Section 72(8) provides that "a licence may not be transferred except in accordance with subsection 7". Article 5 however provides for a transfer to take place in a different way to section 72(7). Since Article 5 is different from the precise wording of</p>	<p>reference to the DMLs in Article 5 should be removed. Please see section 1.2 for more information</p>
--	--	---	--	---	--

				<p>section 72(7) of the 2009 Act it is necessary to specify that section 72(7) only applies to a transfer not falling within Article 5 in order to enable Article 5 to operate. Without specifying this, Article 5 might be claimed to be inoperative because of adopting a different wording from section 72(7).</p> <p>The Applicants also note that this approach is aligned with "good practice point 11" in the Planning Inspectorate Advice Note 15: drafting Development Consent Orders (2018), which states that "Applicants should give careful consideration to the terms of the transfer Article they include in their draft DCO so as to ensure that it reflects how they envisage the NSIP being operated post-consent and, if possible, avoid potential inconsistencies between how DCO and DML transfer arrangements would operate." The Applicants' approach is intended to ensure that inconsistencies in the transfer arrangements do not arise.</p>	
--	--	--	--	--	--

8		(7) In this Order “includes” must be construed without limitation unless the contrary intention appears.	The MMO are discussing this section internally and will provide further comments in due course.	It is noted that the MMO are discussing this sub- paragraph. The Applicants note that this wording is well preceded, and commonly included in DCOs.	The MMO is currently reviewing this response and will provide an update in due course.
9	Part 1 – Preliminary Interpretation (3)	(3) All distances, directions, and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised project are to be taken to be measured along that work	<p>The MMO advise the text is updated to:</p> <p>(3) All distances, directions and lengths referred to in this Order are approximate, save in respect of the parameters referred to in—</p> <p>(a) requirements 2 to 9 in Part 3 of Schedule 1 (requirements);</p> <p>(b) conditions 1 to 9 in Part 2 of Schedule 13 (conditions); and</p> <p>(c) conditions 1 to 5 in Part 2 of Schedule 14 (conditions).</p> <p>This is to ensure that the distances and lengths within the Deemed Marine Licences are not approximate. This is because the worst-case scenario for the marine</p>	The Applicants acknowledge this comment and will make appropriate updates to the DMLs to address the concerns raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	The MMO welcomes the updates the Applicant has made and has no further comments.

			licensable activities assessed in the ES needs to be clearly stated within the DML.		
10	Part 2 – Principal powers Development consent granted by the order	(3) “Development consent granted by Order 3. Subject to the provisions of this Order including the requirements — (a) DBSEL is granted development consent for the DBS East works and related ancillary works; and (b) DBSWL is granted development consent for the DBS West works and related ancillary works; to be carried out within the Order limits”.	The MMO requests the text is updated to “Development consent granted by Order 3. Subject to the provisions of this Order including the requirements — (a) DBSEL is granted development consent for the DBS East works and related ancillary works; to be carried out within the Order limits; and (b) DBSWL is granted development consent for the DBS West works and related ancillary works; to be carried out within the Order limits”.	The Applicants acknowledge this comment and will make appropriate updates to the DMLs to address the concerns raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	The MMO welcomes the updates the Applicant has made and has no further comments.
11	Part 2 – Principal powers Benefit of the order	Please see section 3.3.1 in this document for further information	Please see section 3.3 in this document for further information.	For the reasons set out below, the Applicants do not agree with the removal of the parts of Article 5 of the Draft DCO [APP-027] requested by the MMO.	The MMO acknowledges the Applicant’s comments however still maintains that reference to the DMLs Article 5 should be removed. Please see section 1.2 for more information

				<p>Paragraph (14) of Article 5 disappplies sections 72(7) and (8) of the Marine and Coastal Access Act 2009 in relation to a transfer or grant of the benefit of a Deemed Marine Licence (DML). The drafting is based on the Model Provisions and reflects a long- established precedent regarding the transfer of DCO powers and DMLs that has been endorsed by the Secretary of State (SoS) many times, including most recently in the Sheringham Shoal and Dudgeon Extensions DCO. Where a transfer of the DML is sought under Article 5, the SoS would consider the appropriateness of the party to whom the transfer or grant is proposed and would also take into account any representations made by the MMO before determining whether to grant consent, noting that Article 5 (paragraphs (6) and (9)) includes provisions requiring notification and consultation with the MMO where a transfer or grant of the benefit of a DML is proposed.</p>	
--	--	--	--	---	--

				<p>From a procedural perspective, it is important that the DCO and any DML can be transferred together using the process set out in Article 5. It is considered important that the timing of any transfer or grant of powers/authorisations under the DCO and a DML be aligned, as there is considerable overlap between the authorisations and the requirements/conditions. This justifies a departure from the procedure under the Marine and Coastal Access Act 2009. Having deemed the marine licence in the DCO, it is also appropriate that any transfer under the Order include the DML as part of the wider transfer- it is one element of the wider order powers and should not be separated out from the authority to construct, operate and maintain the Nationally Significant Infrastructure Project (NSIP) granted by the Order.</p> <p>The PA 2008 is clear that marine licences may be deemed in a DCO in appropriate areas (s149A) and that a DCO may</p>	
--	--	--	--	--	--

				<p>include such further provisions ancillary to the operation of that DML (s122(3)), including transfer of the benefit. Section 122(5)(a) and (c) set out that a DCO may "apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the order" or "include any provision that appears to the Secretary of State to be necessary or expedient for giving full effect to any other provision of the order". The ability to transfer a DML is related to the deeming and it is therefore a sensible, expedient part of the wider power to transfer the benefit of the order.</p> <p>Overall, the drafting of this article reflects the equivalent provision in recent offshore wind DCOs including Hornsea Three, Norfolk Boreas, Norfolk Vanguard, East Anglia One North, East Anglia Two, Awel y Mor, Hornsea Four and Sheringham Shoal and Dudgeon Extensions. As noted above, this article is necessary to provide the Applicants with the appropriate commercial</p>	
--	--	--	--	--	--

				freedom to sell or lease the authorised projects while ensuring that the SoS can control such sale or lease through the need to obtain their consent.	
12	Part 4 – Supplemental powers Removal of human remains	19.—(1) In this article, “specified land” means the land within the Order limits. (2) Before the undertaker carries out any development or works that disturb or may disturb any human remains in the specified land, it must remove the human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article. (16) Section 25 (offence of removal of body from burial ground) of the Burial Act 1857(a) does not apply to a	The MMO requests that this article specifies it is for land onshore. There are no known burial at sea locations within the offshore order limits, therefore any identification of human remains should be reported to the police and the body should not be removed. There is the potential that any human remains identified at sea are a war grave.	The Applicants acknowledge this comment and will make appropriate updates to the DMLs to address the concerns raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	The MMO welcomes the updates the Applicant has made and has no further comments.

		removal carried out in accordance with this article			
13	Part 4 – Interpretation	“PART 4 INTERPRETATION 30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 17 (protective work to buildings), article 26 (temporary use of land for carrying out the authorised project) or article 27 (temporary use of land for maintaining the authorised project) of the Dogger Bank South East and West Offshore Wind Farms Order 202[X]”.	The Applicant has mislabelled the section. There is already a part 4. Please confirm that this schedule interpretation is for the onshore works only.	This section relates to a new Part 4 to be inserted into the 1965 Act when being applied to the Order. It relates to the exercise of compulsory acquisition powers and is therefore not relevant offshore. No change to the Draft DCO [APP- 0271 is proposed.	The MMO acknowledges the Applicant’s comments and has no further actions. The matter is considered resolved.
14	Part – 6 Operations Deemed Marine Licence	35.—(1) The following marine licences are deemed to have been granted to DBSEL under Part 4 of	The MMO request the Marine Licences are labelled ‘Deemed Marine Licence 1 etc’ This is to ensure accuracy.	Please see response at Row 3 above.	The MMO welcomes the updates the Applicant has made and has no further comments.

		<p>MCAA 2009 for the licensed activities specified in Part 1 of each licence and subject to the conditions specified in Part 2 of each licence— (a) Marine Licence 1 (set out in Schedule 10); and (b) Marine Licence 3 (set out in Schedule 12). (2) The following marine licences are deemed to have been granted to DBSWL under Part 4 of MCAA 2009 for the licensed activities specified in Part 1 of each licence and subject to the conditions specified in Part 2 of each licence— (a) Marine Licence 2 (set out in Schedule 11); and (b) Marine Licence 4 (set out in Schedule 13). (3) Marine Licence 5 (set out in Schedule 14) is</p>			
--	--	--	--	--	--

		deemed to have been granted to the undertaker under Part 4 of MCAA 2009 for the licensed activities specified in Part 1 of the licence and subject to the conditions specified in Part 2 of the licence.			
15	Part 7 Miscellaneous and general Application of landlord and tenant law	36. —(1) This article applies to— (a) any agreement for leasing to any person the whole or any part of the authorised project or the right to operate the same; and (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised project, or any part of it; so far as the agreement relates to the terms on which any land	Please confirm this is for onshore works only.	This wording is well preceded, and commonly included in DCOs.	The MMO does not agree that ‘well preceded, and commonly included in DCOs’ provides enough justification for not updating the DCO or providing clarity on what elements are only for the Offshore works. The MMO notes that previous DCOs may have Articles or Requirements but requires further justification.

		<p>that is the subject of a lease granted by or under that agreement is to be provided for that person's use. (2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies. (3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to— (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of</p>			
--	--	---	--	--	--

		the tenancy or any other matter; (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land that is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.			
16	Part 7 Miscellaneous and general Abatement of works abandoned or decayed	43.—(1) Where the DBS East Project offshore works or any part of them are abandoned or allowed to fall into decay the Secretary of State may,	The MMO advises this condition is updated to say the undertaker must ensure they also obtain the necessary consents.	This wording is well preceded, and commonly included in DCOs. Failure to obtain any necessary consents would be dealt with under the relevant consenting regime, and therefore inclusion of a requirement in this article	The MMO acknowledges the Applicants comments and will provide a response in Deadline 3.

	<p>following consultation with DBSEL, by notice in writing require DBSEL at its own expense either to repair, make safe and restore one or any of those works, or any relevant part of them, or to remove them and, without prejudice to any notice served under section 105(2) of the 2004 Act, restore the site to a safe and proper condition, to such an extent and within such limits as may be specified in the notice.</p> <p>(2) Where the DBS West Project offshore works or any part of them are abandoned or allowed to fall into decay the Secretary of State may, following consultation with</p>		<p>to obtain necessary consents would be superfluous. No change to the Draft DCO [APP-027] is proposed.</p>	
--	--	--	--	--

		DBSWL, by notice in writing require DBSWL at its own expense either to repair, make safe and restore one or any of those works, or any relevant part of them, or to remove them and, without prejudice to any notice served under section 105(2) of the 2004 Act, restore the site to a safe and proper condition, to such an extent and within such limits as may be specified in the notice.			
17	Part 7 Miscellaneous and general Arbitration	(2) For the avoidance of doubt, any matter for which the consent of the Secretary of State or the MMO is required under any provision of this Order shall not be subject to arbitration.	The MMO supports this condition.	The Applicants acknowledge the MMO's position.	No further comments required.

18	Part 7 Miscellaneous and general Inconsistent planning permissions	Inconsistent planning permissions	There is no definition of planning permission. The MMO requests this is defined within the order.	The Applicants will amend the Draft DCO [APP-027] to clarify that references in this article to "planning permission" are to planning permission granted pursuant to Part 3 of the Town and Country Planning Act 1990.	The MMO welcomes the changes and has no further comments.
19	Schedule 1 – Authorised Project Part 1 – Authorised Development	Inconsistencies between DCO and ES	Please see points 44 to 47 for further information	Please see responses below.	No response required.
20	Schedule 1 – Authorised Project Part 2 – Ancillary works	"1. Works within the Order limits which have been subject to an environmental assessment recorded in the environmental statement comprising— (a) intrusive ground investigations including the making of boreholes and trial pits; (b) temporary landing places, moorings or other means of accommodating or anchoring vessels in	The Applicant should clearly identify all marine licensable activities within the DMLs. If there are any ancillary works that will be subject to a separate marine licence application, this should be clearly stated within the documents.	At the request of the MMO, the draft DMLs do not include authorisation for UXO surveys and clearances, which will be subject to separate marine licence applications post- consent. If the final Habitats Regulation Assessment (HRA) compensation measures for kittiwake involve provision of an offshore artificial nesting structure, this would also be subject to a separate marine licence application. The final HRA compensation measures for kittiwake will be set out in the kittiwake compensation implementation and monitoring	The MMO welcomes the Applicant's response and has no further comments.

		the construction or maintenance of the authorised project; (c) temporary or permanent buoys, beacons, fenders and other navigational warning or ship impact protection works; and (d) temporary works for the benefit or protection of land, groundwater, watercourses or structures affected by the authorised project”.		plan submitted to the SoS for approval under Part 2 of Schedule 18 of the Draft DCO [APP-027] post-consent, following consultation with the Kittiwake Compensation Steering Group (which will include the MMO).	
21	Schedule 2 Part 1 Requirements	Inconsistencies between DCO and ES	Please see points 44 to 47 for further information.	Please see responses below.	No response required.
22	Schedule 2 Part 1 Requirements	Notification of generation of power 28.—(1) DBSEL must notify the relevant planning authority and the MMO upon first generation of power from each phase of the DBS East Project no later than seven days after the	The MMO would like to understand the inclusion of this notification and will provide further comment once this has been reviewed.	This notification has been included to align with the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024. As the Draft DCO [APP-027] authorises the construction of two projects, the notification ensures the relevant planning authority and MMO will have clarity as to when first generation is for each project. The Applicants	The MMO acknowledges the Applicants response and will provide comments in due course upon discussions with the LPA.

		<p>occurrence of this event.</p> <p>(2) DBSWL must notify the relevant planning authority and the MMO upon first generation of power from each phase of the DBS West Project no later than seven days after the occurrence of this event</p>		<p>would be content to delete this requirement if the relevant planning authority and MMO do not consider it necessary.</p>	
23		<p>Ministry of Defence Radar Mitigation 31.—(1) Where the layout plan for the DBS West Project approved under condition 15 of Marine Licence 2 would have unacceptable effects on the air defence radar capability of Remote Radar Head (RRH) Staxton Wold, no relevant wind turbine generator forming part of the DBS West Project is</p>	<p>The MMO defer to the Ministry of Defence (MoD) for comment and will maintain a watching brief.</p>	<p>The Applicants acknowledge the MMO's position</p>	<p>No further comment required.</p>

		permitted to rotate its rotor blades on its horizontal axis until the Secretary of State, having consulted with the Ministry of Defence, confirms satisfaction that appropriate mitigation will be implemented and maintained for the life of the authorised project and that arrangements have been put in place with the Ministry of Defence to ensure that the approved mitigation is implemented.			
24		Amendments to approved details 34.—(1) Where any requirement requires the authorised project to be carried out in accordance with the details approved by the relevant planning authority or another person (the	For cases that contain definitions or the use of the terms "maintenance"/ "materially", the MMO strongly considers that the activities authorised under the DCO and DML should be limited to those that are assessed within the Environmental Impact Assessment	This wording is well preceded and commonly included in DCOs. Most recently, it is included in the Sheringham and Dudgeon DCO (2024), which provides in its DMLs in Part 1: "8(2) Any amendments to or variations from the approved details, plans or schemes must be in accordance with the principles and assessments set	The MMO is reviewing this response and will provide a comment in due course.

		<p>“approving authority”), the approved details must be taken to include any amendments that may subsequently be approved by the approving authority (after consulting any person that the approving authority is required to consult under the relevant requirement).</p> <p>(2) The approving authority must not approve an amendment unless it is satisfied that the amendment is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement</p>	<p>(EIA), and the statement that activities will be limited to those that ‘do not give rise to any materially new or materially different environmental effects’ should be updated to clarify this. The MMO considers that wording should be updated to ‘do not give rise to any new or different environmental effects to those assessed in the Environmental Statement’. This also applies to the definition of “maintain”. The MMO does not consider that it is appropriate to use the word ‘material’ in these circumstances.</p>	<p>out in the environmental statement and approval of an amendment or variation may only be given where it has been demonstrated to the satisfaction of the MMO that it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement."</p> <p>It is necessary for DCOs to allow for a degree of flexibility, in particular to allow for the use of new or improved construction methods or emerging technologies. Allowing actions which can be demonstrated not to have materially new or different environmental effects cannot be contrary to the EIA regime, which is intended to proportionately control likely significant effects. The EIA regime is not intended to control any effect regardless of how insignificant it may be. If an effect is not materially new or different, it cannot give rise to a risk of a significant effect</p>	
--	--	---	---	---	--

				arising which is not assessed in the ES.	
25	Part 2 Approval of matters specified in requirements Further Information	Further information 3.—(1) In relation to any application referred to in paragraph 2, the discharging authority may request such further information from the undertaker as it considers necessary to enable it to consider the application. (2) If the discharging authority considers that further information is necessary, and the requirement concerned contained in Part 1 of this Schedule does not specify that consultation with a consultee is required, the discharging authority must, within ten days of receipt of the application, notify the undertaker in writing specifying	3.11.1 The MMO has provided detailed comments in Table 1 below. Please find a summary of the main concerns below. Determination dates: The MMO strongly considers that it is inappropriate to put timeframes on complex technical decisions of this nature. The time it takes the MMO to make such determinations depends on the quality of the application made, the complexity of the issues and the amount of consultation the MMO is required to undertake with other organisations to seek resolutions. 3.11.3 The MMO's position remains that it is inappropriate to apply a strict timeframe to the approvals the MMO is required to give under the conditions of the	3.11.1 The Applicants have responded to the MMO's detailed comments in Table 1 below and 3.11.3 The Applicants require certainty that the discharge of conditions under the DMLs will not cause undue delay to the delivery of the Projects. The Applicants note that, whilst the MMO is not subject to set determination periods for the discharge of conditions for marine licences issued by the MMO, the MMO does aim to make a decision on most marine licence applications within 13 weeks of an application being validated. It would therefore seem reasonable that the MMO is able to make a decision on the discharge of conditions within a period double that length. The Applicants therefore submit that six months is a reasonable amount of time for the MMO to determine any approvals sought, noting that the provisions of the DMLs (condition 8 on DML 1 and 2, condition 6 on DML 3 and 4 and condition 4 on DML 5) do allow	The MMO welcomes that documents will be submitted six months before the intended commencement of licensed activities. In relation to Condition 15(5) the MMO maintains their position and believes this will be a matter for the SoS to decide.

	<p>the further information required. (3) If the requirement concerned contained in Part 1 of this Schedule specifies that consultation with a consultee is required, the discharging authority must issue the application to the consultee within five working days of receipt of the application and notify the undertaker in writing specifying any further information requested by the consultee within five working days of receipt of such a request. (4) If the discharging authority does not give the notification within the period specified in subparagraphs (2) or (3) it (and the</p>	<p>DML, given this would create disparity between licences issued under the DCO process and those issued directly by the MMO, as marine licences issued by the MMO is not subject to set determination periods. This applies for the following conditions:</p> <ul style="list-style-type: none"> • Extension of time Periods (condition 8 on DML 1 and 2, condition 6 on DML 3 and 4 and condition 4 on DML} • Pre-construction plans and documentation (condition 15 on DML 1 and 2, condition 13 on DML 3 and 4 and condition 11 on DML s) • Site integrity plans (condition 16 on DML 1 and 2 and condition 14 on DML 3 and 4) 	<p>for an alternative timeframe to be agreed between the MMO and the undertaker, which could be utilised in the unlikely event that six months was not sufficient in individual cases.</p> <p>3.11.4 The Applicants welcome the MMO's confirmation that it does not delay determining whether to grant or refuse such approvals unnecessarily. This supports the Applicants' position that six months should be a sufficient amount of time for such approvals to be considered, noting that an alternative timeframe can be agreed in the unlikely event that six months was not sufficient in individual cases.</p> <p>3.11.2, 3.11.5 and 3.11.6 The Applicants' position is that the submission of certain plans for approval at least four months prior to commencement of operation of licensed activities is appropriate and precedented (for example Hornsea Four and East Anglia One North OWFs). Notwithstanding that, the Applicants welcome that the</p>	
--	---	---	---	--

		<p>consultee, as the case may be) is deemed to have sufficient information to consider the application and is not entitled to request further information without the prior agreement of the undertaker.</p>	<p>3.11.4 Whilst the MMO acknowledges that the Applicant may wish to create some certainty around when it can expect the MMO to determine any applications for an approval required under the conditions of a licence, and whilst the MMO acknowledges that delays can be problematic for developers and that they can have financial implications, the MMO stresses that it does not delay determining whether to grant or refuse such approvals unnecessarily. The MMO makes these determinations in as timely a manner as it is able to do so.</p> <p>3.11.5 The MMO's view is that it is for the developer to ensure that it applies for any such approval (with all</p>	<p>MMO is open to discussion on this point and will therefore seek to agree the relevant timescales with the MMO and update the Examining Authority (ExA) once those discussions have taken place</p>	
--	--	--	--	---	--

			<p>information required) in sufficient time as to allow the MMO to properly determine whether to grant or refuse the application. The MMO believes that if time scales are included within the DML for plans, then these should be 6 months and not 4 months.</p> <p>3.11.6 However, without prejudice to this position, the MMO is open to discussions on which documents should be 6 months and which documents could be 4 months, in order to take into account the concerns that the Applicant may have</p>		
26	Schedule 16 Arbitration rules		<p>The MMO notes that the MMO and DMLs are not referenced within the Arbitration Rules Schedule. This is appropriate as the MMO have their own mechanisms for appealing decisions.</p>	The Applicants acknowledge the MMO's position.	No further comment required.

27	Schedule 18 Compensation measures PART 1, PART 2 and PART 3	2. The offshore works within the Dogger Bank SAC may not be commenced until a plan for the work of the DBCSG has been submitted to and approved by the Secretary of State. Such plan to include— (a) terms of reference of the DBCSG; (b) details of the membership of the DBCSG which must include the relevant statutory nature conservation body and, where appropriate, the MMO as core members; (c) details of the proposed schedule of meetings, timetable for preparation of the Dogger Bank CIMP and reporting and review periods; and	The MMO notes that they will be a core member within the Dogger Bank Compensation Steering Group. This is appropriate as the compensation measures may require a marine licence consent and therefore the MMO should be aware of the discussions. However, the MMO highlights that the MMO will not act as arbitrator and is in attendance in relation to the marine licensable requirements of such compensation. The MMO defers to the Statutory Nature Conservation Body (SNCB) on the need for, or amount of, compensation. The level of compensation required is not for the MMO to determine.	The Applicants acknowledge the MMO's position.	No further comment required.
----	---	---	---	--	------------------------------

		(d) the dispute resolution mechanism.			
28	Schedule 18 Compensation measures PART 1, Part 2, PART 3	3. Following consultation with the DBCSG, the Dogger Bank CIMP must be submitted to the Secretary of State for approval in consultation with the MMO and relevant SNCB.	The MMO welcomes that the compensation measures are secured as a schedule on the DCO and that the MMO will be consulted. The MMO would like to remind the Applicant that some compensation measures may require a further marine licence consent. For example, construction, maintenance and decommissioning of the artificial nesting structures.	The Applicants acknowledge the MMO's position.	No further comment required.
29	Explanatory note	'This Order grants development consent for, and authorises the construction, operation and maintenance of two offshore generating stations located in the North Sea approximately 100km and 122km from the East Riding	The Applicant has stated 'marine licences impose conditions in connection with the deposits and works for which they grant consent'. The Applicant should clarify that it is the deemed marine licenses and should refer to the marine licensable	The Applicants acknowledge this comment and will make appropriate updates to the Explanatory Note to the Draft DCO [APP-027] to address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	The MMO welcomes the Applicant's updates and has no further comments.

		<p>of Yorkshire coast together with associated development. The Order authorises the compulsory purchase of land and rights in land and the right to use land and to override easements and other rights. This Order also grants deemed marine licences under Part 4 of the MCAA 2009 in connection with the wind farms. The marine licences impose conditions in connection with the deposits and works for which they grant consent. A copy of the plans and book of reference referred to in this Order and certified in accordance with article 41 (certification of plans</p>	<p>activities. Deposit is only one type of licensable activity.</p>		
--	--	--	---	--	--

		and documents, etc.) of this Order may be inspected free of charge at the offices of East Riding of Yorkshire Council at County Hall, Beverley, East Riding of Yorkshire, HU17 9BA.'			
	Schedule 10 Schedule 14 – Deemed Marine Licences		MMO Comments		
	Part 1				
30	Part 1 Licensed marine activities Interpretation Titles For DML1 – DML5.	'Marine Licence....'	Throughout the DCO and DMLs all the definitions and titles must be updated to state the 5 DMLs are 'Deemed Marine Licences'. E.g. '(Deemed Marine Licence 1: DBS East Project Offshore Generation – Work Nos. 1A, 4A and 7A)'. This is to ensure accuracy.	Please see response above.	Please see row 3 for full response, no further response required.
31	Part 1 Licensed marine activities Interpretation DML1 - DML5	"authorised deposits" means the substances and articles specified in paragraph 4 of Part	The MMO requests this is updated to clarify that the materials need approval by the MMO in order to be deposited.	This wording is well precededent, and commonly included in DCOs. It is considered that the additional detail proposed by the MMO is not appropriate or necessary	As above the MMO does not believe that precedent is justification alone and will provide an update in due course.

		1 of this marine licence;		for the purposes of defining the meaning of "authorised deposits". No change to the Draft DCO [APP-027] is proposed.	
32	Part 1 Licensed marine activities Interpretation DML1 - DML 5	"cable protection" means measures to protect cables forming part of the authorised scheme from physical damage and exposure due to loss of seabed sediment including, but not limited to, rock placement, concrete mattresses with or without frond devices, protective aprons or coverings, bagged solutions filled with sand, rock, grout or other materials and protective shells;	The MMO requests the condition wording is updated to the below to ensure that the reason why cable protection is being used is clear. "cable protection" means measures for offshore cable crossings and where cable burial is not possible due to ground conditions or approaching offshore structures, to protect cables forming part of the authorised scheme from physical damage and exposure due to loss of seabed sediment including, but not limited to, rock placement, concrete mattresses with or without frond devices, protective aprons or coverings, bagged solutions filled with sand, rock, grout or other	This wording is well preceded, and commonly included in DCOs. It is considered that the additional wording proposed by the MMO is not appropriate or necessary for the purposes of defining the meaning of "cable protection". No change to the Draft DCO [APP-027] is proposed.	The MMO is reviewing this response and will provide comments in due course,

			materials and protective shells;"		
33	Part 1 Licensed marine activities Interpretation DML1 - DML 5	"intrusive activities" means activities including anchoring of vessels, jacking up of vessels, temporary deposits and temporary wet storage areas;	The MMO would like to remind the Applicant that temporary deposits are still licensable. The Applicant should not undertake temporary deposits that are not licensed under a DML. The MMO request the phrase 'temporary deposit' is removed from this definition within the DMLs. Can the Applicant confirm where this has been assessed within the ES?	The Applicants would welcome a discussion with the MMO regarding the scope of "temporary deposits" before committing to making this change.	The MMO welcome the Applicant's response and would welcome written information on this matter prior to a discussion to ensure any discussion is efficient.
34	Part 1 Licensed marine activities Interpretation DML1 - DML 5	"jacket foundation" means a lattice type structure constructed of steel, which may include scour protection and additional equipment such as J-tubes, corrosion protection systems and access platforms;	The MMO advise the text is updated to align with the East Anglia 2 definition of jacket foundation (adapted accordingly for the DBS project): "jacket foundation" means a lattice type structure constructed of steel which is fixed to the seabed at [3 or more points with steel pin piles	The Applicants acknowledge this comment and will make appropriate updates to the draft DCO to address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1. The Applicants note that steel suction buckets have been excluded from the Projects' Design Envelope and so do not propose to include this in the updated definition.	The MMO welcomes the Applicant's changes and has no further comments.

			or steel suction buckets] and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms.		
35	Part 1 Licensed marine activities Interpretation DML1 - DML 5	“maintain” includes inspect, upkeep, repair, adjust, alter, remove, reconstruct and replace (including replenishment of cable protection), but does not include the removal, reconstruction or replacement of foundations associated with the authorised scheme, to the extent assessed in the environmental statement; and “maintenance” must be construed accordingly;	The MMO advise the text is updated to: “maintain” includes inspect, upkeep, repair, adjust, alter, and further includes remove, reconstruct and replace (but only in relation to any of the ancillary works in Part 2 of Schedule 1 (ancillary works) to the Order and any component part of any wind turbine generator, offshore electrical platform, construction, operations and maintenance platform or meteorological mast described in Part 1 of Schedule 1 (authorised developed) to the Order not including the alteration, removal or	The Applicants do not consider that the wording within the definition of "maintain" in the Draft DCO [APP-027] and in each DML in schedules 10 - 14 of the Draft DCO [APP-027] needs to be updated. The purpose of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 is to identify the likely significant environmental effects that will arise from a project. That facilitates the relevant decision maker making an informed decision on the likely effects of the project before they grant or refuse consent. The detail in an Environmental Statement (ES) is not intended to be wholly prescriptive. That is not how the Environmental Impact Assessment (EIA) regime operates. In undertaking an EIA, a developer has to make certain	The MMO acknowledge the Applicant's comments and is still discussing this internally and will provide an update in due course.

			replacement of foundations), to the extent assessed in the environmental statement; and "maintenance" must be construed accordingly. The MMO note that within conditions or within attached/ supporting Plans (for example "Offshore Operations and Maintenance Plan") where "replacement" is noted that it references its limitations of the replacement to be in line with "like-for-like" or "as within the project envelope".	assumptions about how the project will be undertaken, particularly in respect of the operation and maintenance phase. Key parameters that underpin the assessment will then be included in the terms of the consent granted. Where relevant, these key parameters relating to issues including, but not limited to, numbers of maintenance vessel movements, cable repair quantities, remedial cable protection quantities and number of jack-up activities have been included within the worst case scenario tables across ES chapters and within the assessments of operations and maintenance activities	
36	Part 1 Licensed marine activities Interpretation DML1 - DML 5	"MHWS" or "mean high water springs" means the highest level that spring tides reach on average over a period of time;	The MMO request the definition is updated to: 'The height of Mean High Water Springs (MHWS) is the average throughout the year, of two successive high waters, during a 24-hour period in each month when the range of the tide is at its greatest (Spring tides).	This wording is well preceded, and commonly included in DCOs. No change to the Draft DCO [APP-027] is proposed.	The MMO acknowledges the Applicant's comments and is still discussing this internally and will provide an update in due course.

37	<p>Part 1 Licensed marine activities Interpretation</p> <p>DML1 - DML 5</p>	<p>DML 1: “offshore works” means Work Nos 1A to 9A and any other authorised development associated with those works;</p> <p>DML 2: “offshore works” means Work Nos 1B to 9B and any other authorised development associated with those works;</p> <p>DML 3: “offshore works” means Work Nos 1A to 9A and any other authorised development associated with those works;</p> <p>DML 4: “offshore works” means Work Nos 1B to 8B and any other authorised development associated with those works;</p>	<p>The MMO request that the offshore work definitions are updated for each to DML to define what the offshore works are for specific to each DML e.g. DML1 is only for 1A, 4A and 7A DML2 is for 1B, 4B and 7B DML3 is for 2A, 3A, 6A, 7A and 8A. DML4 is for 2B, 3B, 6B, 7B, 8B DML5 is for 5A, 5B, 7A and 7B</p>	<p>The Applicants acknowledge this comment and will make appropriate updates to the Draft DCO [APP-027] to address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.</p>	<p>The MMO welcomes the Applicant’s updates and has no further comments.</p>

		DML 5: “offshore works” means Work Nos 1A to 9A and 1B to 9B and any other authorised development associated with those works;			
38	Part 1 Licensed marine activities Interpretation DML1 - DML4	“transition piece” means a metal structure attached to the top of a foundation where the base of a wind turbine generator is connected and may include additional equipment such as J-tubes, corrosion protection systems, boat access systems, access platforms, craneage, electrical transmission equipment and associated equipment;	The MMO requests the text is updated to the following: “transition piece” means a metal structure attached to the top of a foundation where the base of a wind turbine generator is connected and includes additional equipment such as J-tubes, corrosion protection systems, boat access systems, access platforms, craneage, electrical transmission equipment and associated equipment;’	The Applicants acknowledge this comment and will make appropriate updates to the Draft DCO [APP-027] to address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	The MMO welcomes the Applicant’s update and has no further comments.
39	Part 1 Licensed marine activities Interpretation	“undertaker” means DBSEL and DBSWL;	The MMO request this is updated. Only one company can own the marine licence and be the undertaker. Please	Company details are provided in the definition of DBSEL and DBSWL. Marine Licence 5 relates to cabling inter-linking the two	The MMO does not know of any DML that has two owners, where joint working is taking place one company has taken ownership of the DML. The MMO understands the reason the Applicant has

	DML 5		also include the company name and registration number.	Projects and would be owned jointly by DBSEL and DBSWL. A separate DML has been included in order to allow for the transfer of these transmission assets to an Offshore Transmission Owner in due course. The Applicants are not aware of any legal restriction preventing a DML being granted to joint undertakers. No change to the Draft DCO [APP-027] is proposed.	included DML5 as joint owners however believes joint ownership can cause issues during compliance and enforcement and therefore only one Applicant should be on the DML. The MMO does not allow more than one undertaker on any marine licence and as per PINS Advice note 11 – Annex B this would not align with other marine licences. The MMO requests the Applicant provide evidence of where joint ownership has been accepted by the MMO.
40	Part 1 Licensed marine activities Interpretation DML 3 and DML 4	“offshore collector platform” means a structure described in the environmental statement as an offshore collector platform with equipment to collect the HVAC power generated at the wind turbine generators, being a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and open with modular equipment	The MMO request that Applicant remove the reference to the ‘structure described in the Environmental Statement’.	The Applicants acknowledge this comment and will make appropriate updates to the Draft DCO [APP-027] to address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	The MMO welcomes the Applicant’s updates and has no further comments.

		<p>or fully clad and may include a helicopter platform, containing electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation, including but not limited to high voltage power transformers, high voltage switchgear and busbars, substation auxiliary systems and low voltage distribution, instrumentation, metering equipment and control systems, standby generators, shunt reactors, auxiliary and uninterruptible power supply systems, facilities to</p>			
--	--	---	--	--	--

		support operations and maintenance;			
41	Part 1 Licensed marine activities Interpretation DML 3 and DML 4	“offshore converter platform” means a structure described in the environmental statement as an offshore converter platform with equipment to convert the HVAC power generated at the wind turbine generators into HVDC power, being a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and open with modular equipment or fully clad and may include a helicopter platform, containing electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and	The MMO request that you remove the reference to the ‘structure described in the Environmental Statement’.	The Applicants acknowledge this comment and will make appropriate updates to the Draft DCO [APP-027] to address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	The MMO welcomes the Applicant’s updates and has no further comments.

		provide reactive power compensation, including but not limited to high voltage power transformers, high voltage switchgear and busbars, substation auxiliary systems and low voltage distribution, instrumentation, metering equipment and control systems, standby generators, shunt reactors, auxiliary and uninterruptible power supply systems, facilities to support operations and maintenance;			
42	Part 1 Licensed marine activities Interpretation DML3 and DML 4	“offshore switching platform” means a structure described in the environmental statement as an offshore switching platform with equipment to facilitate and alter the inter-connection	The MMO request that you remove the reference to the ‘structure described in the Environmental Statement’.	The Applicants acknowledge this comment and will make appropriate updates to the Draft DCO [APP-027] to address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	The MMO welcomes the Applicant’s update and have no further comments.

		<p>and onward transmission of power from two or more power transmission systems, being a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and open with modular equipment or fully clad and may include a helicopter platform, containing electrical equipment required to switch, transform, convert electricity to a higher voltage and provide reactive power compensation, including but not limited to high voltage power transformers, high voltage switchgear and busbars, auxiliary systems and low voltage distribution, instrumentation,</p>			
--	--	---	--	--	--

		metering equipment and control systems, standby generators, shunt reactors, auxiliary and uninterruptible power supply systems facilities to support operations and maintenance;			
43	Part 1 Licensed marine activities Interpretation DML3 and DML4	under article 42“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State under article 42 (certification of documents and plans, etc.) of the Order;	Please delete ‘under article 42’ as this appears to be an error.	The Applicants acknowledge this comment and will make appropriate updates to the Draft DCO [APP-027] to address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	The MMO notes this change has not been reflected in the DCO (REP1-005).
44	Maximum turbine height (from MHWS)	DML1 and DML 2 Part 2: Condition 1 (a)	The condition states that the scheme must not exceed a height of 394.08m when measured from MHWS, however the ES	The height specified in Condition 1(1)(a) is consistent with the height specified in Table 5-2 'Offshore Scheme Summary' of Chapter 5 Project Description [APP-071] of the ES.	The MMO appreciates the Applicant’s comments and agrees that no change is needed. The MMO has no further comments to add.

			(Chapter 5, plate 5-4) indicates 394m. Please ensure consistency across all documentation.	Plate 5-4 presents indicative wind turbine parameters only, and it is noted in a footnote that all measurements are provided to the nearest integer. No change to the Draft DCO [APP-027] or ES is proposed.	
45	Maximum blade length	DML1 and DML 2 Part 2: Condition 1 (b)	The condition states that the scheme must not exceed a height of 344.08m when measured from MHWS, however the ES (Chapter 5, plate 5-4) indicates 344m. Please ensure consistency across all documentation.	The diameter specified in Condition 1(1)(b) is consistent with the diameter specified in Table 5-2 'Offshore Scheme Summary' of Chapters Project Description [APP-071] of the ES. Plate 5-4 presents indicative wind turbine parameters only, and it is noted in a footnote that all measurements are provided to the nearest integer. No change to the Draft DCO [APP-027] or ES is proposed.	The MMO appreciates the Applicant's comments and agrees that no change is needed. The MMO has no further comments to add.
46	Other Platforms	DML 1 and DML 2: Part 2 Condition 3 (1)	The condition states that there will be one accommodation platform per project however the ES (Chapter 5, section 5.5.4.2) states that "In addition to the CPs / OCPs, up to two other platforms may be required for the Projects, being: • ESP; and	The Applicants are in the process of preparing a change request relating to the relevant design parameters. The ExA was notified of the Applicants' intention to make this change request on the 8 th October 2024 (Change Notification Letter [application reference 10.2)). It is expected that the change request will be submitted in December 2024 following some	The MMO welcomes the changes made by the Applicant and has no further comments.

			<ul style="list-style-type: none"> • Accommodation Platform.' <p>Please can you clarify whether there will be one accommodation platform and ESP per project; this should be clear within the DMLs.</p>	<p>targeted consultation. The change request relates to the removal of an intertidal HOD exit from the Projects' Design Envelope, the removal of all platforms from the Offshore Export Cable Corridor, reductions in the numbers of platforms in the Array Areas and overall reductions in cable lengths within the Array Areas. The change request will be supported by a Request for Design Change- Environmental Assessment Update document which will describe any resultant changes to the assessment conclusions presented in the ES, thus informing a consultation with relevant stakeholders (as agreed by the ExA) as part of the change request process. All the changes are expected to be positive i.e. reducing or removing impacts. The change proposed of relevance to these representations is the removal of the ESP from the Projects' Design Envelope. If this request is accepted by the ExA, we would expect this</p>	
--	--	--	--	---	--

				to address the concern raised by the MMO. Notwithstanding the proposed change, there would be no more than one accommodation platform and one offshore switching platform across both Projects. This is secured in Requirement 4 of Part 1 of Schedule 2 of the Draft DCO [APP-027].	
47	Drill arisings	DML 1 – Schedule 10 – Works No. 7a (f) DML 2 - Schedule 11 - Works No. 7b (f) DML 3 – Schedule 12 – Works No 7a (f) DML 4 – Schedule 13 – Works No 7b (f)	Chapter 5 section 5.5.3.2.1 table 5-7 states maximum drill arisings per foundation and maximum volume of arisings differ to what is detailed within each DML: ES: Maximum drill arisings per foundation (m3) – small turbines 2,012. Large turbines 4,712 Maximum volume of arisings (m3) – Small turbines 20,106. Large Turbines 26,625 DML 1: 37,917 DML 2: 35,086 DML 3: 2,815 DML 4: 2,815	The Applicants note that the numbers presented are correct and as intended. The reasoning for the apparent inconsistencies relates to the optionality retained within the Projects relating to different types of foundations that could be used and how arisings are grouped for different purposes within the Draft DCO [APP-027] and DMLs. For example, there are figures presented in Tables 5-7 and 5-9 of Chapter 5 Project Description [APP-071) which are different because Table 5.7 relates to arisings generated by turbine monopile foundations only, whilst Table 5-9 relates to arisings generated by turbine jacket foundations only. Each	The MMO welcomes the Applicants comments and will review the figures again to ensure it is clear that the maximum figure will only be used in relation to the foundation.

			<p>Please ensure consistency across all documentation. In addition, it needs to be clear within the DMLs if the maximum parameters are across all DMLs. The maximum parameters should be conditioned to ensure the works are within the parameters assessed in the ES.</p>	<p>type of foundation could create a different volume of arisings as a worst case, hence different numbers are presented.</p> <p>Within the Draft DCO [APP-027] the numbers relating to arisings presented in Schedule 1 Part 1 are for each project taken separately and include both the worst case or turbine foundation arisings combined with the worst case foundation arisings, plus the worst case foundation arisings from the platforms associated.</p> <p>The numbers relating to drill arisings presented within each DML relate to the worst case arising calculations associated with the infrastructure included within the given licence. For example, DML 1 covers the worst case values for drill arisings from all turbines, plus the worst case values for drill arisings from the platforms included within that licence</p>	
	Part 2 Conditions				
48	Design Parameters	<p>DML 1: Condition 1 - Condition 5</p> <p>DML 2: Condition 1 – Condition 5</p>	<p>The MMO requests the wording of these conditions are updated to ensure they are</p>	<p>The Applicants acknowledge this comment and will make appropriate updates to the Draft DCO [APP-027] to</p>	<p>The MMO welcomes the applicants changes however notes: <i>2 (2) No wind turbine generator piled monopile foundation may have a pile</i></p>

		DML 3: Condition 1 – Condition 3 DML 4: Condition 1 – Condition 3	enforceable by changing ‘may’ to ‘will’ or by stating ‘must not be higher’ etc. for all conditions.	address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	<i>diameter exceeding 15 metres</i> still contains the word “may”. The MMO requests that this is updated.
49		DML 1: Condition 3 – Offshore accommodation platform dimensions DML 2: Condition 3 – Offshore accommodation platform dimensions DML 3: Condition 1 – Offshore electrical installation dimensions DML 4: Condition 1 – Offshore electrical installation dimensions	The Applicant has stated: The ‘dimensions of any offshore accommodation platform must not exceed’... and ‘The dimensions of any offshore electrical installation must not exceed’... However they have excluded helidecks, lighting protection, towers, masts and cranes from the dimensions. Please clarify how the maximum dimensions of these helidecks etc will be secured on the DML.	Exclusion of these elements is well precedented, including with the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024, and the East Anglia ONE North Offshore Wind Farm Order 2022. It is well precedented for these elements not to be subject to restrictions. No change to the Draft DCO [APP-027] is proposed.	As above precedent is not justification for the inclusion. The MMO will provide further comments in due course.
50		DML 1: Condition 4 – Offshore accommodation platform foundations DML 2: Condition 4	The Applicant has stated that the offshore accommodation platform foundations and offshore electrical installation foundations will be	Condition 2 of DML1 and DML2 confirms the maximum number of piles (four) where piled jacket foundations are used for wind turbine generators.	The MMO appreciates the Applicant’s comments and has no further comments to make on this matter.

		<ul style="list-style-type: none"> – Offshore accommodation platform foundations DML 3: Condition 2 – Offshore electrical installation foundations DML 4: Condition 2 – Offshore electrical installation foundations 	undertaken using piled monopiles or a piled jacket foundation. The condition should be updated to clarify the maximum number of each foundation type that will be used for one offshore accommodation platform. For example, the Applicant's HRA states that there will be four pin piles per piled jacket foundations. This should be clearly stated, and the maximum number of piles must be stated.	<p>Condition 4 of DML1 and DML2 confirms the maximum number of piles (eight) where piled jacket foundations are used for the offshore accommodation platform.</p> <p>Condition 2 of DML3 and DML4 confirms the maximum number of piles (eight) where piled jacket foundations are used for the offshore converter platform, offshore collector platform, or offshore switching platform.</p> <p>No change to the Draft DCO [APP-027] is proposed.</p>	
51	Phases of the authorised Scheme	<p>DML 1: Condition 6</p> <p>DML 2: Condition 6</p> <p>DML 3: Condition 4</p> <p>DML 4: Condition 4</p> <p>DML 5: Condition 2</p>	<p>The MMO requests the wording is updated to:</p> <p>“(1) The authorised scheme must not commence until a written scheme setting out the phases of construction of the authorised scheme has been submitted to and approved in writing by the MMO.</p> <p>(2) The authorised scheme must be submitted at least 6</p>	<p>The principle of a time period for submission of the written scheme is acceptable to the Applicants. However, the Applicants propose a four month time period is included in the new sub-paragraph (2). The Applicants will update the Draft DCO [APP-027] on this basis. The Applicants will also update the Draft DCO [APP-027] to refer to this scheme as the "Offshore Works Phasing Scheme" and submit an</p>	<p>The MMO welcomes the Applicant's comments however does not agree with the four-month time period and maintains that a 6-month time period is suitable as set out in row 25 above.</p>

			<p>months prior to the proposed commencement of the works.</p> <p>(3) Any subsequent amendments to the written scheme submitted for approval under sub-paragraph (1) must be submitted to the MMO for approval in writing’.</p> <p>(4) The written scheme submitted for approval under sub-paragraph (1) must be implemented as approved. The approved details shall be taken to include any amendment that may subsequently be approved by the MMO in accordance with sub-paragraph (2).</p> <p>In addition, the MMO note that the Offshore Works Phasing Scheme will be submitted under the related return for this condition at the post-consent stage. This</p>	<p>updated Draft DCO [APP-027] at Deadline 1.</p>	
--	--	--	---	--	--

			document should be clearly named in the condition.		
52	Maintenance of the authorised Scheme	<p>DML 1: Condition 7 DML 2: Condition 7 DML 3: Condition 5 DML 4: Condition 5 DML 5: Condition 3</p> <p>This condition as written is not precise or enforceable. The activities authorised under the DML should be limited to those assessed in the ES. The worst-case scenario in the Rochdale envelope should be clearly referenced e.g. the maximum number of cable repairs and replacement activities.</p>	<p>The MMO requests condition 7 is replaced with the following wording: <i>(1) The undertaker may at any time maintain the authorised scheme, except to the extent that this licence or an agreement made under this licence provides otherwise.</i></p> <p><i>(2) Maintenance works include but are not limited to— (a) Bird waste and marine growth removal; (b) Surveys/inspections of cables; (c) Cable remedial burial; (d) Cable protection replenishment; (e) Cable repairs and replacement; (f) Access ladder and boat landing replacement; and (g) J-tube repair/replacement.</i></p>	<p>The principle of a time period for submission of the written scheme is acceptable to the Applicants. However, the Applicants propose a four month time period is included in the new sub-paragraph (6). The Applicants will update the Draft DCO [APP-027] on this basis. The list of maintenance works in the MMO's sub- paragraph (2) is more limited than that set out in sub- paragraph (2) of the Draft DCO [APP-027]. While sub- paragraph (2) is non-exhaustive, the Applicants consider that, for clarity, their list should be maintained. The Applicants' approach is precededented in The Hornsea Four Offshore Wind Farm Order 2024. No amendment to sub- paragraph (2) in the Draft DCO [APP-027] is proposed. The details specified in the MMO's sub-paragraph (3) are acceptable to the Applicants, and the Applicants will update the Draft DCO [APP-027] and Outline Offshore Operations</p>	<p>The MMO welcomes the Applicant's updates and will review in due course.</p> <p>With regard to sub para (2) the MMO acknowledged the Applicants response and agree that the Applicants approach can be used.</p> <p>The MMO is content with sub-paragraph (2) remaining as is. In relation to sub-paragraph (6) the MMO's position remains in regards to the timescales being 6 months and this should be reflected within this document.</p>

			<p>(3) XXXX must not commence until an Offshore Operations and Maintenance Plan (OOMP) has been submitted to and approved by the MMO in accordance with the 'Outline Offshore Operations and Maintenance Plan' in writing. The OOMP must include, but is not limited to—</p> <p>(a) a list of maintenance activities within the marine environment that are planned for the lifetime of the licensed activities;</p> <p>(b) details of the typical construction plant, machinery and personnel requirements for each maintenance activity and any requirements for detailed method statements;</p> <p>(c) details of the typical frequency and timing of each maintenance activity; and</p>	<p>and Maintenance Plan [APP-248] on this basis.</p>	
--	--	--	---	---	--

			<p><i>(d) details of controls and mitigation that will be in place in order to protect the marine environment.</i></p> <p><i>(4) The OOMP must be reviewed every three years commencing from the date on which the OOMP was approved, unless otherwise agreed by the MMO, to ensure the details of the maintenance activities remain accurate. The conclusions of that review must be submitted to and approved by the MMO in writing.</i></p> <p><i>(5) The OOMP must be implemented as approved by the MMO.</i></p> <p><i>(6) Unless otherwise agreed in writing with the MMO, the undertaker must submit—</i></p> <p><i>(a) the first OOMP at least 6 months prior to the proposed commencement of the works;</i></p>		
--	--	--	---	--	--

			<p><i>(b) the updated OOMPs in paragraph (2), at least 6 months before such revised OOMP is required to be put in place; and</i></p> <p><i>(c) any updated OOMP covering additional activities as soon as possible after the need for such additional activities is identified.</i></p>		
53	Extension of Time periods	DML 1: Condition 8 DML 2: Condition 8 DML 3: Condition 6 DML 4: Condition 6 DML 5: Condition 4	<p>The MMO requests this condition is removed from all the DMLs. Please see comments under 3.11.2-3.11.6 determination dates.</p>	<p>Please see response above. This condition is precededented, for example within the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024, and the Hornsea Four Offshore Wind Farm Order 2023. No change to the Draft DCO [APP-027] is proposed.</p>	<p>The MMO acknowledges the Applicant's response, the MMO is content on the condition remaining however would request a minor amendment to ensure that any agreement is 'in writing' for audit/enforcement purposes.</p>
54	Notifications and Inspections	DML 1: Condition 9 (1) (a) DML 2: Condition 9 (1) (a) DML 3: Condition 7 (1) (a) DML 4: Condition 7 (1) (a) DML 5: Condition 5 (1) (a)	<p>The MMO recommend the below updates to the wording to increase clarity.</p> <p>The undertaker must ensure that— a copy of this marine licence (issued as part of the grant of the Order) and any subsequent amendments or</p>	<p>References in the Draft DCO [APP-027] to conditions 20 of DML1 and 2 and condition 17 of DML3 and 4, are typographical errors, and should refer to conditions 19 and 17 respectively. References to conditions 15 of DML5 are typographical errors and should refer to condition 13. The</p>	<p>The MMO welcome the updates the Applicant has made and has no further comments on this matter.</p>

			revisions to it is provided to— all agents and contractors; and the MMO must be notified in accordance with condition 19; (DML 3 and 4 -17, DML 5 – 15) the masters and transport managers responsible for the vessels; and the MMO must be notified in accordance with condition 20; (DML 3 and 4 -17, DML 5 – 15).	Applicants will correct this in the Draft DCO [APP-027]. Notwithstanding the above, the MMO's comment is based on a misunderstanding of the condition, and the recommended update would not be appropriate. Conditions 19/17/15 require details of agents, contractors and vessels to be provided to the MMO. The purpose of condition 19(1)(a) is to require the undertaker to provide a copy of the DMLs to those agents, contractors and vessels notified to the MMO. No change to the Draft DCO [APP-027] is proposed.	
55		DML 1: Condition 9 (1) (b) DML 2: Condition 9 (1) (b) DML 3: Condition 7 (1) (b) DML 4: Condition 7 (1) (b) DML 5: Condition 5 (1) (b)	The MMO request this section of the condition is removed. It is the undertaker's responsibility to notify the MMO. This is reflected in the updated Condition (1) (a) wording provided above.	This condition is well preceded, and commonly included in DCOs. No change to the Draft DCO [APP-027] is proposed.	The MMO notes the Applicant's position however there is no ability for those named in (1)(a) to be able to submit something to the MMO on our Marine Case Management System and this is where all the conditions will be located. Therefore, any other submission would not be accepted. It is the Undertakers responsibility to ensure that this is provided, and the condition should be updated to reflect this.
56		DML 1: Condition 9 (6) DML 2: Condition 9 (6)	The MMO should be notified upon commencement and completion of any part of	The Draft DCO [APP-027] provides for five days prior notice of commencement of licensed activities, rather than	The MMO does not agree that precedent is enough justification for five days' notice to remain. To allow for compliance inspections at relevant stages the local

		<p>DML 3: Condition 7 (6)</p> <p>DML 4: Condition 7 (6)</p> <p>DML 5: Condition 5 (6)</p>	<p>the licensed activities, particularly when works are being undertaken in phases. The MMO requests the condition is updated to:</p> <p>(6) The undertaker must inform the MMO Local Office in writing at least 14 days prior to the commencement of the licensed activities or any part of them including providing a programme of works for future activities and within five days of the completion of the licensed activities or any part of them.</p>	<p>the 14 days requested by the MMO.</p> <p>Five days' notice is well precedented, and no change to the Draft DCO [APP-027] is proposed.</p>	<p>MMO office needs more than five days preparation to ensure compliance checks can be organised and undertaken. This is now standard on all Marine Licences and DMLs generally take longer to prepare for than a Marine Licence. The MMO maintains that this condition should be updated to 14 days.</p>
57		<p>DML 1: Condition 9 (7) (a-b)</p> <p>DML 2: Condition 9 (7) (a-b)</p> <p>DML 3: Condition 7 (7) (a-b)</p> <p>DML 4: Condition 7 (7) (a-b)</p> <p>DML 5: Condition 5 (7) (a-b)</p>	<p>Please update the condition to:</p> <p>7) The undertaker must inform the Kingfisher Information Service of Seafish by email to kingfisher@seafish.co.uk of details of the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part— (a) at least 14 days prior to the</p>	<p>The MMO's proposed wording is already included in the Draft DCO [APP-027].</p>	<p>The MMO welcomes the Applicant's update and has nothing further to add.</p>

			commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; (b) on completion of construction of the authorised scheme, and confirmation of each notification must be provided to the MMO within five days.		
58		DML 1: Condition 9 (8) DML 2: Condition 9 (8) DML 3: Condition 7 (8) DML 4: Condition 7 (8) DML 5: Condition 5 (8)	The MMO notes that the notice to mariners are only for works numbers 1A to 8A and 1B to 8B. Can the Applicant confirm why this is not for the other works undertaken under each DML?	This condition is well preceded, and commonly included in DCOs. The condition requires notification prior to the commencement of the authorised scheme or any part thereof. No change to the Draft DCO [APP-027] is proposed.	The MMO acknowledges the Applicant's comment however does not agree, the MMO notes that for example DML 1 also includes Works 7A and although the condition states, 'at least 14 days prior to the commencement of the authorised scheme or any part thereof' and that Works 7A should be used alongside Works 1A that the condition should include all works within the relevant DML.
59		DML 1: Condition 9 (9) DML 2: Condition 9 (9) DML 3: Condition 7 (9) DML 4: Condition 7 (9) DML 5: Condition 5 (9)	The MMO requests the words '(unless otherwise agreed)' is removed from this condition.	This condition is preceded within the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024. The Applicants consider this flexibility is helpful to allow the option for the Applicants and the MMO to agree weekly notifications are not required in	The MMO notes the Applicant's comments and requests that '(or otherwise agreed)' is updated to '(unless otherwise agreed in writing by the MMO)'. The MMO also requests MCA is added to this condition alongside MMO and UKHO.

				<p>certain circumstances, such as during period of the construction period when the on-going construction activities are not changing from week to week.</p> <p>This wording requires agreement with the MMO, and therefore the default position is that the undertaker will be required to provide weekly, unless the MMO is satisfied it is unnecessary.</p> <p>No change to the Draft DCO [APP-027] is proposed.</p>	
60		<p>DML 1: Condition 9 (10)</p> <p>DML 2: Condition 9 (10)</p> <p>DML 3: Condition 7 (10)</p> <p>DML 4: Condition 7 (10)</p> <p>DML 5: Condition 5 (10)</p>	<p>This condition states the undertaker must notify the UK Hydrographic Office (UKHO) of the progress of construction. The Applicant should clarify the reporting timeframe and what progress (stages) will require a notification. If this is agreed in a plan, this plan should be referenced and the condition the plan will be approved under.</p>	<p>This condition is well preceded, and commonly included in DCOs.</p> <p>No change to the Draft DCO [APP-027] is proposed.</p>	<p>The MMO is reviewing this condition and will provide further comments in due course.</p>
61		<p>DML 1: Condition 9 (11)</p> <p>DML 2: Condition 9</p>	<p>The MMO request the condition is updated to clarify the local MMO</p>	<p>The Applicants acknowledge this comment and will make appropriate updates to the</p>	<p>The MMO welcomes the Applicant's changes and has no further comments to make on this matter.</p>

		(11) DML 3: Condition 7 (11) DML 4: Condition 7 (11) DML 5: Condition 5 (11)	office and the MMO marine licensing team should be notified of any damage, destruction or decay.	Draft DCO [APP-027] to address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	
62		DML 1: Condition 9 (13) DML 2: Condition 9 (13) DML 3: Condition 7 (13) DML 4: Condition 7 (13) DML 5: Condition 5 (13) 'The undertaker must notify the MMO in writing a minimum of 5 days in advance of the commencement of each discrete incident of cable repair, replacement, or protection replenishment activity.	The MMO requests this is updated to "at least 14 days prior to the commencement'... In addition the condition should clearly define repair, replacement, and protection replacement. This should be defined under maintain and linked to the Outline Offshore Operations and Maintenance Plan (OOOMP) or those assessed in the Environmental Statement. We consider that these works should be restricted to those that have been assessed and consented and the definition should clearly demonstrate this.	The Draft DCO [APP-027] provides for five days prior notice of commencement of cable repair, replacement, or protection replenishment activity, rather than the 14 days requested by the MMO . Five days' notice is precededented within the Hornsea Four Offshore Wind Farm Order. No change to the Draft DCO [APP-027] is proposed.	The MMO is reviewing this condition and will provide an update in due course.
63	Colouring of Structures	DML 1: Condition 11 DML 2: Condition	The MMO recommend the wording is updated to:	The Applicants acknowledge this comment and will make appropriate updates to the draft	The MMO welcomes the Applicant's update and would highlight that all conditions relating to UKHO, MCA and

		11 DML 3: Condition 9 DML 4: Condition 9	'The undertaker must paint all structures forming part of the authorised scheme yellow (colour code RAL 1023) from at least HAT to the height agreed in writing with Trinity House. The undertaker must paint the remainder of the structures grey (colour code RAL 7035). Requests to change the colouring of the structure must be submitted to the MMO in writing and must not be undertaken unless approved in writing by the MMO'.	DCO to address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	Trinity house are currently being reviewed and further updates may be required.
64	Aviation Safety	DML 1: Condition 12 DML 2: Condition 12 DML 3: Condition 10 DML 4: Condition 10 DML 5: Condition 8	The MMO requests this condition is removed and included in the DCO as the Defence Infrastructure Organisation Safeguarding and Civil Aviation Authority can review this through the DCO requirements.	This condition is well preceded, and commonly included in DCOs. No change to the Draft DCO [APP-027] is proposed.	As above precedent is not enough justification on the inclusion. The MMO believes that this should be within the DCO and not the DML. This was included within the DCO and not the DML on the Norfolk Boreas and Norfolk Vanguard Orders.
65	Chemicals, drilling and debris	DML 1: Condition 13 (1) DML 2: Condition 13 (1)	The MMO note the International Convention for the Prevention of Pollution from Ships	The Applicants note that the MMO is considering this further.	The MMO acknowledges the Applicant's comment and will provide further comments in due course.

		<p>DML 3: Condition 11 (1)</p> <p>DML 4: Condition 11 (1)</p> <p>DML 5: Condition 9 (1)</p> <p>‘Unless otherwise agreed in writing by the MMO, the carriage and use of chemicals in the construction of the authorised scheme must comply with the International Convention for the Prevention of Pollution from Ships 1973 as modified by the Protocol of 1978 relating thereto and by the Protocol of 1997.’</p>	<p>1973 does not apply to chemicals used by the offshore wind industry.</p> <p>The MMO are discussing this further internally and will provide further comments in due course.</p>		
66		<p>DML 1: Condition 13 (2)</p> <p>DML 2: Condition 13 (2)</p> <p>DML 3: Condition 11 (2)</p> <p>DML 4: Condition 11 (2)</p>	<p>The final design of the frond mattresses will be detailed in the offshore construction method statement that will be submitted to and approved by the MMO prior to commencement of development. It</p>	<p>The Applicants note that it is stated in the Outline PEMP [APP-245] that all chemicals used (including paints) would be certified for use in the marine environment (unless otherwise agreed with the MMO) to ensure that there would be no risk anticipated to</p>	<p>The MMO acknowledges the Applicant’s comment and will provide further comments in due course.</p>

		<p>DML 5: Condition 9 (2)</p> <p>'The undertaker must ensure that any coatings and treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by the Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.'</p>	<p>should also be noted that any paints coatings and chemicals with a pathway to the marine environment should be approved by the MMO prior to use. Part 2 section 7 also allows the undertaker at any time to maintain the authorised scheme at (c) allows for "Painting and applying other coatings to wind turbine generators or offshore accommodation platforms", as these may also contain plastics. Coatings and paints under OSPAR guidance should have their properties known and therefore should be notified to the MMO for approval prior to use. Therefore, the condition 13 (2) wording should be amended to reflect OSPAR guidance.</p>	<p>arise from normal operations of the Projects. The Applicants submit that the control afforded to the MMO for the use of any chemicals (including paints) not certified for use in the marine environment through the Outline PEMP [APP-245] and any final PEMP is sufficient. As such no change to the Draft DCO [APP-027] is proposed. The PEMP will cover both the construction and operational phases of the Projects</p>	
67		<p>DML 1: Condition 13 (3)</p> <p>DML 2: Condition 13 (3)</p> <p>DML 3: Condition 11</p>	<p>The MMO recommends the condition wording is updated to increase precision.</p>	<p>The Applicants acknowledge this comment and will make appropriate updates to the Draft DCO [APP-027] to address the point raised by the</p>	<p>The MMO welcomes the Applicant's update and no further response is required.</p>

		(3) DML 4: Condition 11 (3) DML 5: Condition 9 (3) '.... Must be undertaken so as to prevent releases into the marine environment.'	'...must be undertaken to prevent releases into the marine environment...'	MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	
68		DML 1: Condition 13 (5) DML 2: Condition 13 (5) DML 3: Condition 11 (5) DML 4: Condition 11 (5) DML 5: Condition 9 (5) 'The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within the Order limits seaward of MHWS'.	The Applicant should state the name of the disposal site that the material will be deposited in. The MMO is working to designate the disposal sites and will provide an update in due course. See further comments about disposal sites in section 3.14. In the event that no activity has taken place during the reporting period the undertaker must provide a null (0) return to the MMO.	The Applicants acknowledge this comment and will make appropriate updates to the Draft DCO [APP-027] to address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	The MMO welcomes the Applicant's updates. The MMO requests a shape file of each disposal site in order to work on designating disposal sites and so these references can be included within the DML.

39	Force Majeure	<p>DML 1: Condition 14</p> <p>DML 2: Condition 14</p> <p>DML 3: Condition 12</p> <p>DML 4: Condition 12</p> <p>DML 5: Condition 10</p>	<p>The MMO request that “Force Majeure” conditions are removed from the DML. The MMO does not consider provisions on Force Majeure to be necessary as Section 86 MCAA 2009 provides a defence for action taken in an emergency in breach of any licence conditions. The defence under Section 86 of MCAA has two limbs, and in the event that the undertaker fails to notify the appropriate licensing authority, in this case the MMO, within a reasonable time of their actions (Section 86(2) “matters”) the defence cannot be relied upon in the event of any enforcement action.</p>	<p>This condition is well preceded, and commonly included in DCOs. The Applicants do not agree that this wording is not necessary. Section 86 provides a defence for actions taken in an emergency, whereas this condition is about notifying the MMO of a deposit made in those circumstances. It does not overlap with Section 86, which will still apply. No change to the Draft DCO [APP-027] is proposed.</p>	<p>The MMO notes the Applicant’s comments regarding this matter. Please see section 1.3 for further information</p>
70	Pre-construction plans and documentation	<p>DML 1: Condition 15 (1)</p> <p>DML 2: Condition 15 (1)</p> <p>DML 3: Condition 13 (1)</p> <p>DML 4: Condition 13</p>	<p>The MMO requests that the SNCB is listed as a consultee for this condition.</p>	<p>The Applicants acknowledge this comment and will make appropriate updates to the Draft DCO [APP-027] to address the point raised by the MMO and submit an updated</p>	<p>The MMO welcomes the Applicant’s updates and has no further comments.</p>

		(1) DML 5: Condition 11 (1)		Draft DCO [APP-027] for Deadline 1.	
71		DML 1: Condition 15 (1) (c) (ii) DML 2: Condition 15 (1) (c) (ii) DML 3: Condition 13 (1) (c) (ii) DML 4: Condition 13 (1) (c) (ii) DML 5: Condition 11 (1) (c) (ii) Construction method statement - scour protection and cable protection.	The MMO request this is updated to clarify it must be submitted to the MMO for approval. The MMO request the wording is changed to: (ii) scour protection and cable protection including details of the need, type, sources, quantity and installation methods for scour protection and cable protection. Details must be updated and resubmitted to the MMO for approval if changes to it are proposed following cable laying operations;	The Draft DCC [APP-027] already states that details should be updated and resubmitted for approval if changes are proposed following cable laying operations. Condition 15(1) is clear that information is to be submitted for the approval of the MMO. This wording is well precedented, and commonly included in DCOs. No change to the Draft DCC [APP-027] is proposed	The MMO has not further comments on this condition.
72		DML 1: Condition 15 (1) (c) (iv) DML 2: Condition 15 (1) (c) (iv) DML 3: Condition 13 (1) (c) (iv)	The Applicant should update wording as the below is unclear. 'a construction method statement (in	The Applicants acknowledge this comment and will make appropriate updates to the Draft DCC [APP-027] to address the point raised by the MMO and submit an updated	The MMO welcomes the Applicant's updates and has no further comments.

		DML 4: Condition 13 (1) (c) (iv) DML 5: Condition 11 (1) (c) (iv)	accordance with the cable statement), including details of—....’ ‘iv_ advisory safe passing distances for vessels around construction sites;’	Draft DCO [APP-027] for Deadline 1.	
73		DML 1: Condition 15 (1) (d) DML 2: Condition 15 (1) (d) DML 3: Condition 13 (1) (d) DML 4: Condition 13 (1) (d) DML 5: Condition 11 (1) (d) Project environmental management plan	Please clarify why the Project Environmental Management Plan only covers the construction period and not the operational period. If it does include the operational period, this condition must be updated.	DML2- DML5 specify that the Project Environmental Management Plan covers the period of construction and operation. Exclusion of "and operation" from condition 15(1)(d) of DML1 is a typographical error, and the Applicants will update the Draft DCC [APP-027] and submit an updated version at Deadline 1.	The MMO welcomes the Applicant’s confirmation and update and has no further comments
74		DML 1: Condition 15 (1) (d) (ii) DML 2: Condition 15 (1) (d) (ii) DML 3: Condition 13 (1) (d) (ii) DML 4: Condition 13 (1) (d) (ii) DML 5: Condition 11 (1) (d) (ii)	The Applicant should ensure that there is no contradiction with the chemical, drilling and debris condition (condition 13 (DML 1 and 2), condition 11 (DML 3 and 4) and condition 9 (DML 5)).	The Applicants are satisfied there is no contradiction between these conditions.	The MMO acknowledges the Applicant’s comments and has no further comments.

		Chemical risk assessment			
75		<p>DML 1: Condition 15 (1) (d) (iii)</p> <p>DML 2: Condition 15 (1) (d) (iii)</p> <p>DML 3: Condition 13 (1) (d) (iii)</p> <p>DML 4: Condition 13 (1) (d) (iii)</p> <p>DML 5: Condition 11 (1) (d) (iii)</p> <p>Waste management and disposal arrangements</p>	The Applicant should ensure that there is no contradiction with the chemical, drilling and debris condition (condition 13 (DML 1 and 2), condition 11 (DML 3 and 4) and condition 9 (DML 5)).	The Applicants are satisfied there is no contradiction between these conditions.	The MMO acknowledges the Applicant's comments and has no further comments.
76		<p>DML 1: Condition 15 (1) (d) (vi)</p> <p>DML 2: Condition 15 (1) (d) (vi)</p> <p>DML 3: Condition 13 (1) (d) (vi)</p> <p>DML 4: Condition 13 (1) (d) (vi)</p> <p>DML 5: Condition 11 (1) (d) (vi)</p> <p>References the best practice protocol for the red throated diver.</p>	Please can the Applicant confirm in the condition wording where this is, e.g. include a schedule or plan name. It is the MMO's understanding this will be covered within the Project Environmental Management plan (vessel traffic).	<p>Conditions 15(1)(d), 13(1)(d) and 11(1)(d) require a detailed PEMP to be submitted in accordance with the Outline PEMP [APP-245], which must include specified details, including the best practice protocol for the red throated diver. Outline details for this protocol are set out in section 6.2 of the Outline PEMP [APP-245].</p> <p>The Applicants consider reference to the detailed PEMP and Outline PEMP in sub-paragraph (1)(d) is sufficient, and no change to sub-</p>	The MMO acknowledges the Applicant's response and agrees with their rationale, no further comments required.

				paragraph (vi) of the Draft DCO [APP- 027] is proposed	
77		<p>DML 1: Condition 15 (3)</p> <p>DML 2: Condition 15 (3)</p> <p>DML 3: Condition 13 (3)</p> <p>DML 4: Condition 13 (3)</p> <p>DML 5: Condition 11 (3)</p> <p>'Any sediment removed from within the Dogger Bank Special Area of Conservation during construction of the authorised scheme must be disposed of within that part of the Dogger Bank Special Area of Conservation which falls within the Order limits'.</p>	<p>The MMO is concerned that the Applicant could dispose of material on non-sand bank habitats within the SAC.</p> <p>The MMO requests the condition is updated to state that dredged material is disposed on the same material type. This is to prevent dredged material being deposited on sensitive habitats.</p> <p>'Any sediment removed from within the Dogger Bank Special Area of Conservation during construction of the authorised scheme must be disposed of within that part of the Dogger Bank Special Area of Conservation which falls within the Order limits. Material to be disposed must be placed on the same material type'. This is so that all requirements regarding</p>	<p>As a variety of sediment types are present on the Dagger Bank, the Applicants believe that stipulating material to be disposed must be placed on the same material type cannot be guaranteed and would be difficult and onerous to apply in reality. Dredging, particularly for the linear aspects of the Projects such as the subsea cable installations, may occur over a variety of sediment types to allow installation to occur. The resultant mixed cargo could not be disposed of on any single, specific material type. Hence, compliance with such a condition would require the dredge, transit and deposition of very high numbers of potentially very limited cargoes of specific sediment types for specific disposal on patches of that same sediment type. The dredge, transit and disposal and the 'stop-start' nature of dredging mean that this would be highly time consuming and inefficient. Given the practical</p>	<p>Please see row 68 above for more information regarding dredging and disposal. The MMO is reviewing this condition further and will provide an update in Deadline 3</p>

			<p>the location of the material to be disposed is clearly written within the same condition. The disposal site must also be named within the condition. The MMO recommend a disposal site is designated for the disposal within the SAC to clearly signpost the area.</p> <p>The MMO is working to designate the disposal sites and will provide an update in due course</p>	<p>difficulties associated with this request, the Applicants do not agree that this should be added as conditions of the DMLs.</p>	
78		<p>DML 1: Condition 15 (4) DML 2: Condition 15 (4) DML 3: Condition 13 (4) DML 4: Condition 13 (4) DML 5: Condition 11 (4)</p> <p>Each programme, statement, plan, protocol or scheme required to be approved under</p>	<p>The MMO request this section is updated to reference the correct schedule for each DML. For example, in DML1 this should refer to condition 15.</p>	<p>The Applicants acknowledge this comment and will make appropriate updates to the Draft DCO [APP-027] to address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.</p>	<p>The MMO welcomes the Applicant's updates and has no further comments.</p>

		condition 11 must be submitted for approval at least six months before the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.			
79		<p>DML 1: Condition 15 (5)</p> <p>DML 2: Condition 15 (5)</p> <p>DML 3: Condition 13 (5)</p> <p>DML 4: Condition 13 (5)</p> <p>DML 5: Condition 11 (5)</p> <p>The MMO must determine an application for approval made under condition 11 within a period of six months commencing on the date the application is received by the</p>	<p>The MMO requests this is removed. It is not appropriate for the determination times to be conditioned. The MMO set their own timescales, and this is dependent upon the quality of the submission and the availability of primary advisors, see comments 3.11.2-3.11.6 for determination dates.</p> <p>In addition, the Applicant has referenced the wrong condition within the text.</p>	<p>3.11.1 The Applicants have responded to the MMO's detailed comments in Table 1 below and 3.11.3 The Applicants require certainty that the discharge of conditions under the DMLs will not cause undue delay to the delivery of the Projects. The Applicants note that, whilst the MMO is not subject to set determination periods for the discharge of conditions for marine licences issued by the MMO, the MMO does aim to make a decision on most marine licence applications within 13 weeks of an application being validated. It would therefore seem reasonable that the MMO is able to make a decision on the</p>	As set out in row 25 above the MMO disagrees with the inclusion of this condition.

		MMO, unless otherwise agreed in writing with the undertaker.		<p>discharge of conditions within a period double that length. The Applicants therefore submit that six months is a reasonable amount of time for the MMO to determine any approvals sought, noting that the provisions of the DMLs (condition 8 on DML 1 and 2, condition 6 on DML 3 and 4 and condition 4 on DML 5) do allow for an alternative timeframe to be agreed between the MMO and the undertaker, which could be utilised in the unlikely event that six months was not sufficient in individual cases.</p> <p>3.11.4 The Applicants welcome the MMO's confirmation that it does not delay determining whether to grant or refuse such approvals unnecessarily. This supports the Applicants' position that six months should be a sufficient amount of time for such approvals to be considered, noting that an alternative timeframe can be agreed in the unlikely event that six months was not sufficient in individual cases.</p>	
--	--	--	--	---	--

				<p>3.11.2, 3.11.5 and 3.11.6 The Applicants' position is that the submission of certain plans for approval at least four months prior to commencement of operation of licensed activities is appropriate and precedented (for example Hornsea Four and East Anglia One North OWFs). Notwithstanding that, the Applicants welcome that the MMO is open to discussion on this point and will therefore seek to agree the relevant timescales with the MMO and update the Examining Authority (ExA) once those discussions have taken place</p> <p>The Applicants will amend cross-references within this sub-paragraph and submit an updated version of the Draft DCO [APP-027] at Deadline 1.</p>	
80		<p>DML 1: Condition 15 (6)</p> <p>DML 2: Condition 15 (6)</p> <p>DML 3: Condition 13 (7)</p> <p>DML 4: Condition 13 (7)</p>	<p>In addition, the MMO requests that additional wording is added into the condition to require the applicant to re-submit the Construction Programme and Monitoring Plan if updates are required.</p>	<p>Conditions 15(6), 13(7) and 11(7) provides that the licensed activities must be carried out in accordance with the programmes, statements, plans, protocols or schemes approved under that condition, unless otherwise agreed in writing with the MMO. This</p>	<p>The MMO welcomes the Applicant's comments and has no further amendments to this condition.</p>

		DML 5: Condition 11 (7)	This is because the final version should be submitted for approval and any subsequent amendments/revisions must be submitted to the MMO for approval.	means that any amendments would require agreement with the MMO. No change to the Draft DCO [APP-027] is proposed.	
81		DML 1: Condition 16 (3) DML 2: Condition 16 (3) DML 3: Condition 14 (3) DML 4: Condition 14 (3) MMO recommend the condition is update to six months before not 4 months before. This is the standard timeframe that the MMO request for all document submissions.	The MMO requests the SIP is submitted no later than 6 months prior to the commencement of the piling activities.	The Applicants acknowledges that the final SIP is to be submitted at least six months prior to commencement of piling.	The MMO welcomes the Applicant's update and has no further comments on the condition wording at this time.
82		DML 1: Condition 17 DML 2: Condition 17 DML 3: Condition 15	The MMO requests that the condition 16 (DML1) and condition 17 (DML1) are combined, and this update is also reflected within the other DMLs listed.	The Applicants' preference is not to combine these two conditions, as changes to condition numbering would have an impact on cross-references to DML conditions	The MMO acknowledges the Applicant's comments and refers to row 25 on determination dates in relation to a time scale for approval. However, in the current format there is duplication between Condition 15 (5) and (6) and Condition 17 and this should be resolved. Cross

		DML 4: Condition 15	The MMO also request that condition 17 (2) for DML 1 and 2 and 15 (2) for DML 3 and 4 is removed as this is not appropriate to be in a condition. The MMO set their own timescales. See comments 3.11.2-3.11.6 for determination dates.	in a number of other application documents. In relation to sub-paragraph (2), please see response to RR-030=3.11 above. No change to the Draft DCO [APP-027] is proposed.	references are not enough justification to leave in a condition that does not meet the conditions tests – in this case it is not relevant. The MMO would be open to Condition 15 (5) & (6)
83	Pre-construction monitoring and surveys	DML 1: Condition 20 DML 2: Condition 20 DML 3: Condition 18 DML 4: Condition 18 DML 5: Condition 14 Condition 20	This condition must be updated to state when the results of the pre-construction monitoring survey will be submitted and also state that the works will not commence until the MMO has approved the survey report.	Rather than trying to define a timeframe at this point, the Applicants consider the timeframe for reporting should be approved as part of the approval of the monitoring plan(s). Sub-paragraph (5) requires that the undertaker must carry out the surveys in accordance with the approved monitoring plan(s). It is not standard practice for DCO DMLs to include a restriction on commencement of work until the survey report has been approved. A new sub-paragraph (5) will be added to the Draft DCO [APP-027] which will confirm that a survey report must be	The MMO acknowledges the Applicant's response and welcomes the updated text. The MMO has no comments at this time.

				submitted to the MMO following completion of a survey carried out pursuant to this condition, prior to the construction of the relevant stage.	
84		DML 1: Condition 20 (2) DML 2: Condition 20 (2) DML 3: Condition 18 (2) DML 4: Condition 18 (2) DML 5: Condition 14 (2)	The MMO request the wording is updated to: (2) The survey proposals submitted under sub-paragraph (1) must be in accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position and/or will enable the validation or otherwise of key predictions in the Environmental Statement	The Applicants acknowledge this comment and will make appropriate updates to the Draft DCO [APP-027] to address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	The MMO welcome the Applicant's updates and has no further comments.
85		DML 1: Condition 20 (4) DML 2: Condition 20 (4) DML 3: Condition 18	The MMO recommend the wording is updated to: The pre-construction surveys referred to in	The Applicants acknowledge this comment and will make appropriate updates to the Draft DCO [APP-027] to address the point raised by the	The MMO welcome the Applicant's updates and has no further comments.

		(4) DML 4: Condition 18 (4) DML 5: Condition 14 (4) 'The pre-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO have due regard, but not be limited to, the need to undertake—;	sub-paragraph (1) must, unless otherwise agreed in writing with the MMO include, but not be limited to, the need to undertake—'	MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	
86		DML 1: Condition 20 (4) (a) DML 2: Condition 20 (4) (a) DML 3: Condition 18 (4) (a) DML 4: Condition 18 (4) (a) DML 5: Condition 14 (4) (a)	The MMO request the word 'appropriate' is removed from this condition as this is not precise enough.	The Applicants acknowledge this comment and will make appropriate updates to the Draft DCO [APP-027] to address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	The MMO welcomes the Applicant's updates and has no further comments.
87		DML 1: Condition 20 (5) DML 2: Condition 20 (5) DML 3: Condition 18 (5) DML 4: Condition 18	This should be updated to include the full name of the plans. This is to ensure clarity.	This is not considered necessary, as it is clear from sub- paragraph (1) that this is a reference to the monitoring plan(s) approved pursuant to conditions 15(1)(b), 13(1)(b) and 11(1)(b).	The MMO acknowledges the Applicant's response and considers this matter resolved.

		(5) DML 5: Condition 14		No change to the Draft DCO [APP-027] is proposed.	
88	Construction monitoring and surveys	(5) DML 1: Condition 21 DML 2: Condition 21 DML 3: Condition 19 DML 4: Condition 19 DML 5: Condition 15	Please explicitly state within the conditions where the results will be submitted.	The Applicants consider this detail should be approved as part of the approval of the monitoring plan(s). It is notprecedented for this to be specified in DCO DML conditions. No change to the Draft DCO [APP-027] is proposed.	The MMO believes this is covered within Condition 21 (3) however the MMO is reviewing this condition and may ask for specific changes in due course.
89		DML 1: Condition 21 (4) DML 2: Condition 21 (4) DML 3: Condition 19 (4) DML 4: Condition 19 (4)	The MMO will keep a watching brief on this condition as there are ongoing internal discussions.	The Applicants acknowledge the MMO's response.	The MMO requests that this condition along with Condition 21 (2) is updated to include the 2 of the worst-case scenario piles to be monitored. The MMO is currently reviewing the condition wording with SNCBs and will provide a standard condition in due course. However, the MMO is open to further discussions with the Applicant in the interim to agree wording or a position for the project as the MMO each project has specific programming issues.
90		New subsection: DML 1: Condition 21 (8) DML 2: Condition 21 (8)	The MMO requests that a provision for adaptive management is included within this condition.	The Applicants would request that the MMO provide further detail on this point, in order to allow consideration of drafting.	The MMO acknowledge the Applicants comments and will provide further comments in due course.

		DML 3: Condition 19 (8) DML 4: Condition 19 (8) DML 5: Condition 15 (5)			
91		DML 1: Condition 22 (3) (a) DML 2: Condition 22 (3) (a) DML 3: Condition 20 (3) (a) DML 4: Condition 20 (3) (a) DML 5: Condition 16 (3) (a)	The MMO recommends the post construction survey design is also informed by the construction benthic survey report. This is to account for any mobile benthic habitats which may shift in extent. Suggested wording: 'undertake a survey to determine any change in the location, extent and composition of any habitats of principal importance or habitat with suitability for sandeel identified in the pre-construction survey in the parts of the Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic	The Applicants acknowledge this comment and will make appropriate updates to the Draft DCO [APP-027] to address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	The MMO welcome the Applicant's updates and has no further comments.

			survey and construction benthic surveys'		
92		DML 1: Condition 22 (3) (b) DML 2: Condition 22 (3) (b) DML 3: Condition 20 (3) (b) DML 4: Condition 20 (3) (b) DML 5: Condition 16 (3) (b)	This condition should be clarified to confirm the mechanism for agreement. E.g. 'in writing'.	The mechanism for agreement is specified in sub- paragraph (3). No change to the Draft DCO [APP-027] is proposed.	The MMO acknowledges and agrees with the Applicant's response. No further response is required.
93		DML 1: Condition 22 (3) (e) DML 2: Condition 22 (3) (e) DML 3: Condition 20 (3) (e) DML 4: Condition 20 (3) (e)	The MMO requests the word 'contribute' is removed from this condition as it is not precise enough and therefore does not meet the 5 tests. Suggested wording: 'undertake any marine mammal monitoring referred to in the marine mammal mitigation protocol submitted in accordance with condition 15(1)(g).*' <p>*15 (1) (g) for DML 1 and 2, 13 (1) (g) for DML 3 and 4</p>	The Applicants acknowledge this comment and will make appropriate updates to the Draft DCO [APP-027] to address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	The MMO welcomes the Applicant's updates and has no further comments.

94		<p>New subsection</p> <p>DML 1: Condition 22 (6)</p> <p>DML 2: Condition 22 (6)</p> <p>DML 3: Condition 20 (6)</p> <p>DML 4: Condition 20 (6)</p> <p>DML 5: Condition 16 (6)</p>	The MMO requests that a provision for adaptive management is included within this condition	The Applicants would request that the MMO provide further detail on this point, in order to allow consideration of drafting.	The MMO acknowledge the Applicants comments and will provide further comments in due course.
95	Reporting of scour and cable protection	<p>DML 1: Condition 23</p> <p>DML 2: Condition 23</p> <p>DML 3: Condition 21</p> <p>DML 4: Condition 21</p> <p>DML 5: Condition 17</p> <p>(1) Not more than four months following completion of the construction of the authorised scheme, the undertaker must provide the MMO and the relevant statutory nature conservation bodies</p>	MMO request the text is updated to 'No more than four months...'	The Applicants acknowledge this comment and will make appropriate updates to the Draft DCO [APP-027] to address the point raised by the MMO and submit an updated Draft DCO [APP-027] for Deadline 1.	The MMO welcomes the Applicant's updates and has no further comments.

		<p>with a report setting out details of the cable protection and scour protection used for the authorised scheme.</p> <p>(2) The report must include the following information—</p> <p>(a) the location of cable protection and scour protection;</p> <p>(b) the volume of cable protection and scour protection;</p> <p>and</p> <p>(c) any other information relating to the cable protection and scour protection as agreed between the MMO and the undertaker.</p>			
--	--	---	--	--	--