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MMO Reference: DCO/2021/00003
Planning Inspectorate Reference: EN010130
Identification Number: 20048765

26 February 2025

Dear Rod Macarthur,

Planning Act 2008, GTR4 Limited, Proposed Outer Dowsing Offshore Windfarm Order

Deadline 4a Submission

On 02 May 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 GTR4 Limited (the Applicant) for determination of a Development Consent Order (DCO) for the construction, maintenance and operation of the proposed Outer Dowsing Offshore Wind Farm (the DCO Application) (MMO ref: DCO/2021/00003; PINS ref: EN010130). The DCO includes Deemed Marine Licences (DMLs) in Schedules 10, 11, 12, 13, 14, 15 and 16.

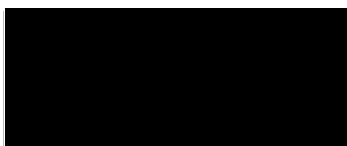
The DCO Application seeks authorisation for the construction, operation and maintenance of Outer Dowsing offshore wind farm (OWF), comprising of up to 100 wind turbine generators together with associated onshore and offshore infrastructure and all associated development (the Project).

This document comprises comments in respect of the DCO Application, in response to Deadline 4a.

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,



Amelia Clarke
Marine Licensing Case Officer

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1. Comments on the Applicant's Latest Update to the Draft DCO (Tracked) (REP4-007)

1.1 Decommissioning

- 1.1.1 The MMO stated in its Deadline 4 response (REP4-129) that it is reviewing the requirement of having an Outline Decommissioning Plan at this stage within the Deemed Marine Licence (DML). The MMO notes that the Applicant does not consider that an outline plan is necessary and has put forward that the Project will be required to submit a Decommissioning Plan to the Secretary of State for approval under Development Consent Order (DCO) requirement 7 in accordance with the provisions of the Energy Act.

Offshore decommissioning

6Work Nos. 1 to 7 must not commence until a written decommissioning programme in compliance with any notice served upon the undertaker by the Secretary of State pursuant to section 105(2) of the 2004 Act has been submitted to the Secretary of State for approval.

- 1.1.2. The MMO has directed the Applicant to the Decommissioning of Offshore Renewable Energy Installations Under The Energy Act 2004 Guidance notes for industry Decommissioning of offshore renewable energy installations under the Energy Act 2004. The guidance notes for industry includes the following:

"5.2.1 Developers/owners should include an indication of their decommissioning proposals in the consultations they conduct as part of the process of securing statutory consents (or the process of their appointment as owner of offshore transmission assets or "OFTO") so that the feasibility of removing the infrastructure can be considered as part of the consent application process."

The MMO considers that this should therefore be provided during this consenting process to align with the guidance and the MMO considers that case specific reasoning for why the Project does not wish to provide this has been provided.

- 1.1.3. The recently published guidelines by Offshore Energies UK (OEUK, 2024) for 'Designing for Decommissioning of Offshore Wind' states that:

"Assets should be designed to be decommissioned with a technology available at the time of commissioning".

The MMO notes that the Examining Authority (ExA) for Five Estuaries Offshore Wind Farm Limited (project EN010115) has requested from the Applicant that:

"Decommissioning is required to be assessed in order that the Examining Authority (ExA) and Secretary of State can have regard to the likely significant effects of the whole project over its lifecycle in making a recommendation and determination."

This can be achieved by following the OEUK Designing for Decommissioning of Offshore Wind guidelines and assessing decommissioning based on available technologies now and not in the future.

- 1.1.4. The MMO understands that there is a requirement for a decommissioning programme to be submitted to the SoS in Schedule 1, Part 3, Requirement 7, however believes



that the information requested should be provided at this stage and the programme will be submitted in accordance with the plan submitted at the consenting stage.

1.2 Operational lifetime

- 1.2.1. The MMO has provided comments regarding operational lifetime in response to the Applicant's answer to Q2 GC 1.3 (see points 2.10.1 to 2.10.4 below)..

1.3 Notification and Inspections

- 1.3.1. The MMO requests that Condition 7(6) is updated to require the notification to be provided 14 days prior instead of 5. This is to allow time for any required inspection to be undertaken.

- 1.3.2. The MMO has liaised with Kingfisher and requests that Condition 7(7) can be updated to the following:

'The Kingfisher Information Service of Seafish must be informed of details of the vessel routes, timings and locations relating to the construction of the authorised scheme or part thereof by include the information in a notice via their portal (<https://kingfisherbulletin.org/submit-notice>) and sent to kingfisher@seafish.co.uk—

(a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and

(b) as soon as reasonably practicable and no later than 24 hours after completion of the authorised scheme

Confirmation of notification must be provided to the MMO within five days.'

1.4 Marine Noise Registry

- 1.4.1. The MMO has liaised with the Joint Nature Conservation Committee (JNCC) and requests that Condition 20(1) is updated to reflect timing updates to the following:

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

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

(b) within two weeks after commencement of each stage of construction of the licensed activities, information on the location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements;

(c) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements by 7 April for winter season October – March inclusive and 7 October for summer season April – September inclusive or within 12 weeks of completion of impact pile driving whichever is earlier.'

1.5 Other Comments

- 1.5.1. The MMO notes the following changes to the Applicant's draft DCO (REP4-007) outlined in Table 1 below.

- 1.5.2. The MMO highlights that it has responded to further comments and Applicant responses regarding the DMLs in Tables 2, 3 and 4 below.



Table 1: Comments on Applicant's changes to the draft DCO (Version 7).

DCO Reference	Comments/Rationale for Change	Change Made	DCO Version	MMO Comment
Schedule 10, Part 1, Paragraph 1	A definition of outline offshore reactive compensation platform lighting management plan has been added to paragraph 1. This relates to an amendment to Schedule 11, Part 2, Condition 13.	<i>"outline offshore reactive compensation platform lighting management plan" means the document certified as the outline offshore reactive compensation platform lighting management plan by the Secretary of State for the purposes of the Order under article 41;</i>	7 (Submitted at Deadline 4).	The MMO notes this change and has no comment to make.
Schedule 11, Part 2, Condition 13(1)(k)	Condition 13 has been amended to secure the Applicant's commitment to submit an offshore reactive compensation platform lighting management plan to the MMO for approval prior to the commencement of any licensed activities.	<i>(k) An offshore reactive compensation platform lighting management plan, in accordance with the outline offshore reactive compensation platform lighting management plan.</i>	7 (Submitted at Deadline 4).	The MMO welcomes this change and has no comment to make.
Schedules 12 and 13, Part 2, Condition 6	Following a request from Trinity House, the Applicant has updated condition 6(3) to provide that reporting to Trinity House on the availability of aids to navigation must be in accordance with the frequencies set out in the aids to	<i>(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation quarterly, or as requested by Trinity House in accordance with the frequencies set out in the aids to navigation</i>	7 (Submitted at Deadline 4).	The MMO welcomes this change and has no comment to make.



	navigation management plan approved pursuant to condition 11(1)(h),	<i>management plan approved pursuant to condition 11(1)(h) using the reporting system provided by Trinity House.</i>		
Schedule 21	Schedule 21 has been updated to reflect the latest versions of certified documents that have been submitted to the Planning Inspectorate.	Revision/version numbers have been updated and new certified documents have been added.	7 (Submitted at Deadline 4).	The MMO welcomes this change and has no comment to make.



2. Comments on other submissions received at Deadline 4

2.1 Habitat Regulations Assessment - Report to Inform Appropriate Assessment (REP4-030)

2.1.1. The MMO notes that this document has been updated at the request of Natural England and as agreed by the Applicant with the Examining Authority (ExA) to capture changes made during Examination. The MMO agrees with this approach to have this document updated and defers to Natural England on the appropriateness of the Report to Inform Appropriate Assessment.

2.2 Benthic Compensation Strategy (REP4-045)

2.2.1. The MMO notes that the Benthic Compensation Strategy (REP4-045) has been updated with the introduction of an Offshore Restricted Build Area (ORBA) over the northern section of the Project array area; and the removal of the northern section of the offshore Export Cable Corridor (ECC). The MMO defers to Natural England on the suitability of the Benthic Compensation Strategy.

2.3 Without Prejudice Sandbank Compensation Plan (REP4-047)

2.3.1 The MMO notes that the Sandbank Compensation Plan (REP4-047) has been updated with the introduction of an ORBA over the northern section of the Project array area; and the removal of the northern section of the offshore ECC. The MMO defers to Natural England on the suitability of the Sandbank Compensation Plan.

2.4 Without Prejudice Biogenic Reef Compensation Plan (REP4-049)

2.4.1 The MMO notes that the Biogenic Reef Compensation Plan (REP4-049) has been updated with the introduction of an ORBA over the northern section of the Project array area; and the removal of the northern section of the offshore ECC. The MMO also notes that reference has also been made to the Marine Recovery Fund guidance (DESNZ January 2025) and the Ministers note in the Written Statement (29 January 2025). The MMO welcomes that the Applicants will follow the recently published strategic compensation guidance and will work closely with Statutory Nature Conservation Bodies (SNCBs), and Defra, to progress. The MMO defers to Natural England on the suitability of the Biogenic Reef Compensation Plan and the Without Prejudice Benthic Compensation Evidence Base and Roadmap (REP4-051).

2.5 Schedule of Mitigation (REP4-073)

2.5.1. The MMO acknowledges the addition of *'best endeavours will be utilised to deliver noise reductions for pile driving activity'* within the Outline Marine Mammal Mitigation Protocol (MMMP) (Piling) (REP4-084). It is also noted that the MMMP for Piling lists the use of Noise Abatement Systems (NAS) for mitigation that may be used.

2.5.2. The MMO welcomes the addition of the statement *'ecological based solutions for scour protection will be prioritised, where practicable'* within the Outline Scour Protection and Cable Protection Management Plan (REP4-079). The MMO is considering whether this satisfies our original comments.

2.5.3. The MMO notes the addition of the statement *'if cable protection is required in the nearshore (defined as the inner depth of closure out to 7.1m water depth), concrete mattresses will be utilised, a description of concrete mattresses is set out in Section 6.11.5.2 of ES Chapter 3 Project Description (APP-058)'* within the Outline Scour



Protection and Cable Protection Management Plan (REP4-079) and the Outline Cable Specification and Installation Plan (REP4-082). The MMO defers to Natural England on the appropriateness of this 7.1m distance.

2.6 Outline Scour Protection and Cable Protection Management Plan (REP4-079)

2.6.1. Please see points 2.5.2 and 2.5.3 above regarding ecological based solutions for cable protection.

2.7 Outline Cable Specification and Installation Plan (REP4-082)

2.7.1 Please see point 2.5.3 above regarding cable protection in the nearshore.

2.8 Outline Marine Mammal Mitigation Protocol for Piling Activities (REP4-084)

2.8.1. The MMO notes that definitions have been updated and the inclusion of a definition for the ORBA.

2.8.2. Please see point 2.5.1 above regarding the inclusion of *‘best endeavours.’*

2.8.3. The MMO welcomes the reference made to the Reducing Marine Noise Policy Paper (Defra, 2025) and the inclusion of the statement *‘as a result of this update to policy, the Applicant has committed to use best endeavours to deliver noise reductions through the use of primary and/or secondary noise reduction methods for pile driving activity. The precise technique will be confirmed within the final MMMP.’* The MMO understands that Natural England had originally requested details of the type of NAS used, however, the MMO acknowledges that this may not be known at present but reference to the types of NAS could be made.

2.9 Outline Statement of Commonality of Statements of Common Ground (REP4-101)

2.9.1. The MMO agrees with the representation of items still in discussion with the Applicant.

2.10 Outline The Applicant’s Responses to The ExA’s Second Written Questions (REP4-107)

Operational Lifetime (Q2 GC 1.3)

2.10.1. The MMO notes the applicant’s response referring to *‘the assessment of long term effects in the ES is based on a high level estimate of the likely operational lifetime of up to 35 years, but this period has not been treated as a limit’*, however the MMO considers that this should be treated as a limit for the assessment to remain valid and to give confidence in its findings.

2.10.2. With regards to the statement *‘there are no other reasons that would make it necessary, reasonable and appropriate (in accordance with NPS EN-1 paragraph 4.1.16) to impose a requirement that the operational period comes to an end after 35 years’* the MMO considers that the DMLs should not be an indefinite consent and notes that all other Marine Licences have an end date. The MMO would query with the ExA regarding their opinion on whether there should be an end date of operation and maintenance on the DCO/DML to make it clear, considering that all standard Marine Licences contain end dates.

2.10.3. The MMO queries how the Applicant can be confident in its statement that *‘no new or different likely significant effects would arise after 35 years’*. The Applicant has stated that *‘if the Examining Authority would find it helpful the Applicant can provide*



further details for individual topics as required and the MMO considers that this would be beneficial to gain a more thorough understanding, especially when this is based on a *'high level estimate'*.

- 2.10.4. The Applicant goes further to state that *'Regulation 3 (Interpretation) of the EIA Regulations defines "environmental information" as including both the ES and "any other information". It defines "any other information" as meaning "any other substantive information provided by the applicant in relation to the environmental statement or updated environmental statement'*, however the MMO stresses that it must be clear that the decisions regarding the consent of this Project are based on the *'other information'* that is provided during the course of this examination. Any other information after consent would be treated as new information and would be considered/scrutinised accordingly.

Temporal Restriction on Piling Activities (Q2 FSE 1.2)

- 2.10.5. The MMO notes that the Applicant is considering the advice received during its meeting with the MMO held on 16 January 2025 and will revert at Deadline 5. Please see section 3.3 below for further details.

Information relating to the application of a 135 decibels (dB) Single Strike Sound Exposure threshold (Q2 FSE 1.3)

- 2.10.6. The Applicant has presented modelling using the 135 dB threshold to determine behavioural responses in herring. The modelling showed that the range of effect from piling at the North Artificial Nesting Structure (ANS) and the Array area overlaps the herring spawning ground. For this reason we recommended the following restrictions:

- i) For the Array area: No piling of any type shall be permitted between 1 September and 16 October each year. Reason: To protect spawning Banks herring and their eggs and larvae during their spawning season.
- ii) For the North Artificial Nesting Structure (ANS): No piling of any type shall be permitted between 1 September and 16 October each year. Reason: To protect spawning Banks herring and their eggs and larvae during their spawning season.

- 2.10.7. However, the UWN modelling using 135dB also demonstrated that a temporal restriction on piling at the Offshore Reactive Compensation Platform (ORCP) and South-Eastern ANS is not required during the Banks herring spawning season.

- 2.10.8. In the meeting with the Applicant held on 16 January 2025, preliminary discussions were held on the matter of spatially refining the temporal piling restriction for part the Array area. The MMO is awaiting further evidence on this matter from the Applicant in the form of new modelling (again based on 135 dB). The MMO considers that the discussions remain ongoing and notes the Applicant's response that it will provide further detail on this matter to the ExA at Deadline 5.

- 2.10.9. Until such time that the revised modelling is presented to determine the effectiveness of a spatially applying the piling restriction, the MMO maintains the request for the piling restrictions outlined in i and ii and that these should be on the face of the DML.

Noise Abatement Systems (Q2 MM 1.3)



- 2.10.10. The MMO notes the Applicant's response stating that *'the Applicant is confident that the conditions requiring the production and approval by the MMO of a SIP prior to the commencement of piling activity (Schedule 10, Condition 22 and Schedules 11, 12, 13, 14 and 15, Condition 15 of the dDCO), which will set out the required management measures to ensure there is no risk of exceeding the area/time thresholds for the SNS SAC, is sufficient to enable the ExA and SoS to be confident that there is no risk of an AEoI.'* However, the MMO would note that the Site Integrity Plan (SIP) considers in-combination effects with other Projects which may have suffered technical issues and programme changes which may mean that Noise Abatement will be required to be certain that noise thresholds are not breached. Further commitment should be clarified now. The policy is not just for the Marine Protected Areas but is to reduce noise as a whole and this should be taken into account.
- 2.10.11. In addition to the above the MMO would also advise that 'best endeavours' relates to wildlife licensing for disturbance and injury to protected species. This is a different legal test than following policy and being below the Special Area of Conservation (SAC) thresholds and the MMO would strongly advise that NAS will likely be required for all piling in the coming years.
- 2.10.12. The MMO is currently having ongoing discussions on whether to include NAS as a condition within the DML. At this stage the MMO has no condition to provide and no position but understands that Natural England requires this on the face of the DML and would welcome further discussions should a condition be provided.

2.11 The Applicant's Change Request (REP4-124)

Change 1: Change in ornithology compensation provisions

- 2.11.1. The MMO understands that Schedule 22 has been updated to reduce the length of time the proposed ANS needs to be in place before operation of the Project from three full kittiwake breeding seasons to two full kittiwake breeding seasons. The MMO defers to Natural England for any comments regarding ornithology.

Change 2: Changes to the maximum design parameters of the Offshore Reactive Compensation Platforms (ORCPs)

- 2.11.2. The MMO notes that the Applicant is requesting to reduce the maximum height of the ORCPs to 59.2m above lowest astronomical tide (LAT), with any mast or antenna located on the ORCPs to be a maximum height of 79.2m above LAT.
- 2.11.3. The MMO has reviewed the Draft Development Consent Order (Change Request) (3.1, REP4-008) which has been updated to amend Requirement 3(5) and paragraph 1(5) of Part 2, Schedule 11. The MMO is satisfied with these changes to reflect the maximum ORCP height and the maximum height of any masts, lightning protection, radar and antennae.

2.12 Natural England (REP4-135)

- 2.12.1. The MMO notes that Natural England (NE) welcomes the resolutions of the issues so far and that NE are keen to see the Applicant make further substantial progress earlier in Examination, rather than pushing back aspects of their advice, which will leave outstanding issues unresolved until later in Examination.



Strategic Compensation Measures for Offshore Wind Activities

- 2.12.2. The MMO notes that NE draws the attention of the ExA and the Applicant to the Ministerial Statement issued on the 29 January 2025 which confirmed DEFRA's support for the delivery of strategic benthic compensation, making compensation measures available and delivery of compensation through the Marine Recovery Fund (MRF).
- 2.12.3. The MMO notes that DESNZ issued interim guidance on the MRF, providing developers a means to access MPA designation as a compensation measure, prior to the launch of MRF.
- 2.12.4. The MMO acknowledges that NE will provide further comments on this project in due course. The MMO will keep a watching brief.

Scour and Cable Protection

- 2.12.5. The MMO notes that NE have raised that the Applicant must secure within the DCO/DML that all scour and cable protection must be removable within Inner Dowsing, Race Bank and North Ridge (IDRBNR) SAC and a commitment to remove it upon decommissioning.
- 2.12.6 The MMO notes that NE notes that within the DCO/DML Condition 21 now secures the deployment of cable protection up to 10 years post construction but NE considers that it is at odds with the OOMO (APP-275) and is not in line with Natural England's best practice guidance provided in Appendix C5 in (REP4-138).
- 2.12.7 The MMO notes NE will review the above issue once the Applicant has revisited this concern. The MMO will keep a watching brief and provide comments in due course.

Defra Marine Noise Package

- 2.12.8. The MMO notes and agrees that NE advises that the Applicant should review the content of these documents and ensure their assessment and mitigation measures are aligned.
- 2.12.9. The MMO will maintain a watching brief of any further advice or comments from NE.
- 2.12.10. The MMO provided comments on the Defra Noise Policy in Deadline 4 [REP4-129].

Natural England's Defer to CEFAS clarification

- 2.12.11. The MMO thanks NE for the clarification provided regarding their Relevant Representation response (RR-045) deferring to Cefas and that this matter should have been deferred to the MMO as the relevant Interested Party for comment as Cefas are the technical advisers to the MMO.

Natural England's Comments on Marine Processes including the Applicants Sandwave levelling Study (REP4-136)

- 2.12.12. The MMO acknowledges that Natural England has welcomed the Sandwave levelling study but noted the lack of evidence to demonstrate that sandwave levelling in English benthic Marine Protected Areas (MPAs) has in fact ensured that cables have remained buried and negated the need for cable protection. The MMO notes that Natural England have requested that *'further and more extensive site-specific*



bathymetric data will be needed to more accurately and confidently assess bedform migration directions and rates' and that this was also reflected in their advice regarding the In Principle Monitoring Plan (IPMP) provided at Deadline 3 (REP3-075).

- 2.12.13. The MMO notes that Natural England has provided detail regarding increasing the potential for sandwave recovery. This includes depositing dredged material in similar sediment type, updrift of levelling and cable trenching operations to encourage natural backfill and reworking of material. The MMO notes that Natural England has requested that this is built into the Schedule of Mitigation.

2.13 Environment Agency (REP4-127)

- 2.13.1. The MMO notes that following a meeting on the 20 November 2024 with the Applicant, the Applicant has proposed and confirmed in REP3-038, page 70 to resolve the matter at the design stage concerning the potential risk of the HDD creating a tidal flood pathway, which would require mitigation. The MMO acknowledges that the Environment Agency (EA) are satisfied that this could form part of the pre-construction technical/approval of plans.
- 2.13.2. The MMO notes that the entry in the outline Code of Construction Practice (CoCP) provided by the Applicant is satisfactory although EA advised this to be expanded to include the confidence level.

Hydraulic modelling of the Noise Bund

- 2.13.3. The MMO notes that not all EA's queries were adequately resolved following receiving the updated noise bund modelling that EA requested in Q1 NV 1.3 [REP2-067]. The MMO is aware that EA is continuing to discuss the outstanding issues with the Applicant.

Update regarding Protective Provisions

- 2.13.4. The MMO notes that EA has continued to have constructive conversations with the Applicant in respect of Protective Provisions and a side agreement to ensure the installation of the ECC does not adversely affect or delay the annual beach nourishment works that take place annually along the Lincolnshire Coast.
- 2.13.5. The MMO is aware of the of the disagreements noted in REP4-127. The MMO is also aware that these may require further amendments if additional tie-ins are found to be required when the draft of the beach agreement is finalised.

2.14 The Royal Society for the Protection of Birds (RSPB) (REP4-146)

- 2.14.1. The MMO notes that RSPB disagrees with the Applicant and considers that the approach follows the correct application of the precautionary principle relating to the assessment of collision and displacement effects and defers to NE on these points.



3. Action Points from Issue Specific Hearing 5

3.1 Action Point 33:

Applicant and MMO to set out why there is such a gap in their relative interpretations of Article 6 and what further steps each party will undertake to reach agreement prior to the close of the examination.

3.1.1 The MMO notes that there is a gap between interpretations of Article 6. The MMO and the Applicant have engaged with discussions to attempt to reach an agreement, and most recently during a meeting held on 20 February 2025, however Transfer of Benefit remains a large concern for the MMO. The MMO's position remains the same as set out within Section 1.3 of REP4-129. The MMO strongly disagrees with the inclusion of Article 6 and requests reference to the DMLs is removed.

3.1.2 The MMO believes that further reasoning was provided in Section 1.3 of our Deadline 4 response (Ref REP4-129) to assist the ExA's understanding of the MMO's position and our disagreement to the Article 6 inclusion. The MMO would highlight that we are the authority for managing/regulating under the provisions of the Marine and Coastal Access Act (MCAA) once the DCO is granted, and we have already stressed that the MMO was considered to be the expert in this area (see PINS note Annex 11 B - MMO) giving regulatory powers to manage the marine licenses, and that the DCOs only deem the Marine Licence to be granted. Full management after consent should sit with the MMO, with the MMO being the decision maker. By having an Article that may override and/or unsatisfactorily duplicate provision that already exists within MCAA, causes confusion from a regulatory perspective (which legislation are we supposed to be working under?) and for enforcement.

3.1.3 In addition to this the MMO does not believe the SoS can vary a DML therefore there would not be alignment with the consents, as the Applicant is trying to achieve with the inclusion of DMLs within the Article, therefore a variation would still have to be undertaken by the MMO and a notification of a transfer is not an official variation request.

3.1.4 The MMO maintains its position, and this is likely to remain an area of disagreement at the end of Examination.

3.2 Action Point 34:

Applicant and MMO to seek alignment of the wording in paragraph 29 of Schedule 1 with the wording set out in the DMLs.

3.2.1 The MMO and the Applicant has come to an agreement regarding requirement 29 of Schedule 1 during discussions in the meeting held on 20 February 2025 to discuss outstanding matters relating to the DMLs. Following clarification provided by ODOW, the MMO confirmed this point was now agreed. See Table 4 below for further detail.

3.3 Action Point 35:

Applicant and MMO to provide reports updating on their most recent discussions following the meeting proposed to be held after the hearings.

3.3.1. The MMO met with ODOW to discuss impacts to herring and the proposed piling restriction on 16 January 2025. Additionally, the DEFRA policy document Reducing Marine Noise (DEFRA, 2025, published 21/1/2025), and the use of noise abatement



Systems was discussed. The MMO notes that the Applicant is currently considering the advice received and will provide further detail on this matter to the ExA at Deadline 5.

- 3.3.2. Tables 2, 3 and 4 below outlines the discussions held between the Applicant and the MMO during the meetings held on 16 January 2025, 20 January 2025 and 20 February respectively.



Table 2: Summary of discussions held between the Applicant and the MMO during the meeting held on 16 January 2025 to discuss impacts to Herring.

Area of Disagreement	ODOW Proposal	Position agreed with MMO during meeting.	Post meeting comments
Impacts to Herring – Piling restriction	ODOW discussed a without prejudice East/West split in the Array area based on the potential disturbance threshold. This East/West line was drawn on the disturbance contour (direct North South line). This was an initial proposal to work out roughly where an appropriate point would be for this East/West line.	<p>The MMO noted that it would be beneficial if the proposal was represented by using more detailed data (individual years for example) and that the East/West line should be shifted further to the East to avoid the higher concentration area near Triton Knoll.</p> <p>The MMO noted that the proposed map just focusses on the array at the moment and queried whether there would be any work on the ORCP and northern ANS.</p> <p>ODOW planned to submit a without prejudice position at Deadline 5.</p>	The MMO awaits the planned without prejudice position from ODOW at Deadline 5.
Impacts to Herring – Piling restriction – Noise Abatement	ODOW and the MMO discussed proposed changes to the piling restriction if noise abatement were to be used.	The MMO noted that typically if max design scenario had decreased post consent (i.e. number of piles reduced, or array area reduced) as it was considered that restriction wasn't needed/or potential to look at modelling. Common place to refine project parameters. The MMO will look at revised	The MMO will review any evidence for reduction in noise from the use of Noise Abatement Systems, once provided.

		<p>modelling, and if noise contours are lowered, then there is potential to look at the conditions.</p> <p>The MMO noted that it was a good idea to present data for noise abatement to see the reductions in noise and that it is better to do this now rather than later.</p> <p>The MMO agreed to review any evidence provided and the possibility of modelling being linked to a decibel (db) reduction by a noise abatement condition.</p>	
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Table 3: Summary of discussions held between the Applicant and the MMO during the meeting held on 20 January 2025 to discuss the DCO and DMLs.

Area of Disagreement	ODOW Proposal	Position agreed with MMO during meeting.	Post meeting comments
Article 6 Transfer of Benefit	<p>Unless the MMO amends its position to be consistent with previous granted DCOs, this matter will not be agreed.</p> <p>ODOW queried what has changed in the MMO's position since other DCOs.</p>	<p>The MMO have raised similar concerns on Five Estuaries and Morgan Generation DCOs. The MMO explained how this has not been brought up historically which is an oversight, but that this does not reduce the importance in MMO's view of the requirement for change. The MMO have a 'moved on' position since the previous DCOs that ODOW is referring to.</p> <p>The MMO noted that the likelihood is that this will remain unagreed.</p> <p>Both ODOW and MMO remained open to further discussions to move forward to the best position.</p>	The MMO maintains that we are unlikely to reach an agreement on this matter.
Maintain and Materiality	ODOW noted that they were awaiting an update from the MMO.	The MMO noted that this should be agreed and were undertaking a sense check across all cases for consistency.	The MMO confirms that this is now agreed.

Determination of condition discharge	<p>ODOW noted the importance of the Project as Critical National Priority (CNP) Infrastructure and stressed the 2030 targets for offshore wind and net zero targets set by the Government.</p> <p>ODOW noted that they would be open to agreeing 6 months for specific technically complex conditions but not a blanket 6 months for all conditions.</p>	<p>The MMO reiterated its concern which included having sufficient time for further rounds of consultation and added that the Cable Specification and Installation Plan (CSIP) is proving to be difficult in approving within 4 months.</p> <p>The MMO noted that it is trying to manage expectations at this stage.</p> <p>The MMO requested a list to be provided of which documents were proposed to be 6 months, and which would be 4 months.</p>	<p>The MMO and ODOW maintains existing positions.</p> <p>Agreement unlikely.</p>
Maintenance Reporting	<p>ODOW considers that the MMO will already have all relevant information to enable the understanding of activities undertaken and considers the condition to be unnecessary.</p>	<p>The MMO provided further reasoning behind the request. The maintenance report is to know what's happened during the year. The 5-year consolidation report is a reflection is everything is still valid/required. It enables parties to easily understand if any of the operations and maintenance (O&M) work is causing any concerns. The MMO will review whether this can be incorporated in the 3-year O&M report.</p>	<p>The MMO confirms that this is now agreed, noting that ODOW will add a reference to the Outline O&M Plan on DML condition 4.</p>
Stages of Construction	<p>ODOW considers that this is not required and is a duplication of</p>	<p>The MMO explained the reasoning behind the request</p>	<p>Agreed. However, the MMO would like assurance that it will</p>

	construction programmes that will be provided.	noting that the original comment was relating to timescale of approval which is already noted above.	be updated during monthly meetings on the full timetable for construction.
Adaptive Management	<p>ODOW maintains that this condition is unnecessary and it considers that the ES has assessed the worst-case scenario.</p> <p>ODOW disagreed with the blanket approach noting that no specific receptor have been identified by the MMO.</p>	<p>The MMO explained that we require this to be on the face of the DML as a requirement and that the monitoring plan is just to provide the monitoring, but all parties need to be sure what would happen if significant impacts are found.</p> <p>Difficulties arise post consent (i.e. particularly after the pass to OFTO). The MMO plan to discuss internally, to see if further justification can be provided.</p>	<p>Further justification has been provided in our Deadline 4 response (Section 1.3.17, REP4-129).</p> <p>Remains disagreed.</p>
Force Majeure	ODOW maintains its position that this is appropriate for a statutory instrument, and noted that similar provisions are included in the majority of made offshore wind farm DCOs.	The MMO noted that the condition wording does not meet the 5 tests for enforcement and noted the difference between the wording and the defence. The MMO is considering how it works in practice, and the liability side, and will provide more comments at Deadline 4.	<p>Further justification has been provided in our Deadline 4 response (Section 1.3.10-1.3.16, REP4-129).</p> <p>Remains disagreed.</p>
Dropped Objects	ODOW have amended conditions based on MCA feedback. The timescale for	The MMO is currently discussing with the MCA regarding the requested 6 hour timeframe for reporting.	The MMO noted at Deadline 4 (Section 2.1.26, REP4-129) that the current drafting does not meet the five tests and that the

	<p>dropped objects (6 hours) in impractical.</p> <p>ODOW noted that all Navigation conditions were updated at Deadline 3.</p>	<p>The MMO understands that the 6 hour requirement is directed towards those objects that are deemed as a danger or hazard to navigation. The MMO will work with MCA to gain an understanding of the danger or hazard to navigation so that it's clear for everyone. Everything else is 24hrs.</p>	<p>MMO will revert to the ExA and the Applicant to provide updated wording. Please note that this is now provided within Table 4 below.</p>
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Table 4: Summary of discussions held between the Applicant and the MMO during the meeting held on 20 February 2025 for outstanding DML matters.

Area of Disagreement	ODOW Proposal	Position agreed with MMO during meeting.	Post meeting comments sent to ODOW 24 February 2025.
General Update – Without Prejudice	<p>For information, ODOW has now submitted a Change Notification setting out our intention to make the following changes. It is expected that this letter will be published on the PINS ODOW webpage in the coming days.</p> <ul style="list-style-type: none"> •Change 1: a commitment to the installation of removeable cable protection on defined areas of supporting habitat for <i>S. spinulosa</i> reef within the Inner Dowsing, Race Bank and North Ridge Special Area of Conservation (“IDRBNR SAC”) (as shown on Plan 1) as further mitigation for the impacts of the Project on the IDRBNR SAC; •Change 2: narrowing the options that may be pursued as compensation measures for impacts on the sandbank and biogenic reef features of the IDRBNR SAC; 	<p>The MMO generally welcomed progress made by ODOW. In relation to Change 5, the MMO suggested ODOW issue the proposal in writing via email rather than seeking a meeting with Cefas to aid in a quicker response.</p> <p>ODOW provided a post meeting note:</p> <p>Post meeting note:</p> <p>1.1 ODOW proposes the following draft condition in relation to Change 5</p> <p>2.1 on a without prejudice basis based on the wording provided by the</p> <p>3.1 MMO:</p> <p>4.1 (1) No piling activity can commence within the spawning herring piling</p>	<p>The MMO welcomes Change 1 and the commitment of installing removable cable protection on defined areas in the IDRBNR SAC. Are these defined areas outing to be fully outlined in the Schedule of Mitigation? Are examples of removable cable protection being provided?</p> <p>The MMO welcomes Change 2 regarding narrowing of options for compensation measures (sandbank and reef features of IDRBNR SAC). The MMO defers to NE regarding compensation measures.</p> <p>The MMO welcomes Change 3 and the removal of gravity base structures for the ORCP. A reduction in the maximum design scenario is welcomed.</p> <p>The MMO welcomes Change 4 and defers to Natural England</p>

	<p>•Change 3: removal of the option to install gravity base structure (“GBS”) foundations for the Offshore Reactive Compensation Platforms (“ORCP”) to reduce the maximum design scenario for marine physical processes effects; and</p> <p>•Change 4: the introduction of a seasonal restriction for construction works within the Greater Wash Special Protection Area to further mitigate impacts on overwintering red-throated diver. In addition to the above four changes, the Applicant is considering the potential introduction of a temporal piling restrictions for the protection of herring during the spawning season, covering a defined areas where underwater noise modelling following the Applicant's commitment to use best endeavours to use noise abatement solutions (“NAS”) indicates there may be an interaction between piling activities and herring spawning (“Change 5”).</p>	<p>5.1 restriction area during the herring spawning season until a spawning</p> <p>6.1 piling restriction plan (in accordance with the outline spawning</p> <p>7.1 herring piling restriction plan) containing updated underwater noise modelling has been submitted to and approved by the MMO. The updated underwater noise model shall be based on final project parameters to be used to install piles in the spawning herring piling restriction area and shall include details of any verified mitigation measures to be employed.</p> <p>(2) If the underwater noise modelling demonstrates that noise levels associated with piling activity in the spawning herring piling restriction area during the herring spawning season will exceed the levels shown on the spawning herring piling restriction plan then no piling activity may be undertaken within the spawning herring piling restriction area during the</p>	<p>for mitigation to reduce impacts to red throated divers.</p> <p>The MMO is largely content with the proposed draft condition wording for the temporal piling restriction. The MMO would require to see the outline plan and double check the specific restriction period and area before confirming agreement this will be provided to the ExA at Deadline 5 (but aim to provide to ODOF prior to Deadline 5).</p>
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		<p>herring spawning season without the approval of the MMO.</p> <p>(3) All piling activity within the spawning herring piling restriction area during the herring spawning season must be undertaken in accordance with the details approved under sub-paragraph (1) or as required as a condition of approval under sub-paragraph (2).</p> <p>(4) In this condition:</p> <p>“herring spawning season” means 1 September and 16 October inclusive;</p> <p>“outline spawning herring piling restriction plan” means the plan certified as the outline spawning herring piling restriction plan by the Secretary of State for the purposes of the Order under article 41; and</p> <p>“spawning herring piling restriction area” means the area identified as the spawning herring piling restriction area within the</p>	
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		spawning herring piling restriction plan.	
Transfer of Benefit	Agree statement with MMO that ODOW does not expect to reach agreement on this topic.	<p>The MMO agrees that it is unlikely agreement will be reached on this matter and agreed to inform ExA of that.</p> <p>Proposed wording was added post meeting:</p> <p>“The Applicant and the MMO have continued to engage in relation to their differing views on the inclusion of Article 6 (Benefit of the Order) of the Development Consent Order, including most recently at a meeting on 20 February 2025. Both parties acknowledge that provisions similar to those set out in Article 6 have been included in numerous previous DCOs for offshore wind farms. However, the Applicant and the MMO disagree on the principle of whether such a mechanism ought to be included in DCOs. The Applicant and the MMO consider it unlikely that a resolution will be reached in respect of this issue prior to the close of Examination.”</p>	The MMO is content that we are unlikely to reach an agreement on this matter. The MMO agrees with the statement that was provided post meeting.

Force Majeure	<p>ODOW noted that this drafting is included in almost all made DCOs for OWFs implying that the SoS is of the view that it does pass the tests set out in the NPPF that MMO is using as a proxy for imposition of DML conditions.</p> <p>However, ODOW understands the MMO concerns and proposed the following amendment:</p> <p>Action taken in an emergency Force majeure 12.—(1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.</p> <p>(2) The unauthorised deposits must be removed at the expense of the undertaker unless written</p>	<p>The MMO broadly welcomed the change but stated that it was unlikely to entirely satisfy the concerns raised thus far.</p> <p>The MMO will provide comment on any revised wording at Deadline 5.</p> <p>ODOW provided a post meeting note providing a revised condition:</p> <p>Force majeure</p> <p>Notification of unauthorised deposits</p> <p>12.— If, due to stress of weather or any other cause (1) <i>If the master of a vessel determines that it is necessary to make an unauthorised deposit the authorised deposits within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.</i></p> <p>(2) The unauthorised deposits must be removed at the expense of the undertaker</p>	<p>The MMO welcomes the update and removal of the vague wording, but this does not change our position. The MMO requests full removal of the Force Majeure condition. ODOW have noted that the updated wording includes stricter time frames, more information and requires unauthorised deposits must be removed at the expense of the undertaker and that this should be favourable to the MMO, but the MMO notes that this requirement is included in the dropped objects condition and should remain there. In relation to the time frames and more information, the MMO has fundamental issues with the inclusion of the Condition in relation to enforcement and liability issues – the MMO would question if the current wording would allow additional disposal activities that have not been consented?</p>

	<p>approval is obtained from the MMO.</p> <p>While the MMO refers to S86 of Marine and Coastal Access Act 2009 this drafting is more favourable to the MMO than reliance on S86 as it sets a stricter timeframe for providing details to the MMO and requires full details to be provided to the MMO rather than the limited details needed under S86. We have also included a provision that requires the removal of unauthorised deposits at the expense of the undertaker which goes beyond the equivalent condition in other OWF DCOs such as the most recently made OWF DCO for SEP and DEP.</p>	<p><i>unless written approval is obtained from the MMO.</i></p>	
Adaptive Management	<p>ODOW considers that the MMO has not provided justification for the need for adaptive management on the face of the DMLs and the EIA does not identify any significant effects that justify the need for an adaptive management approach.</p>	<p>The MMO stated that it maintains its position but explained it seeks to implement a process to manage issues in the event that monitoring shows a greater impact than that assessed in the Environmental Statement.</p> <p>ODOW's position remains unchanged that it considers that adaptive management is</p>	<p>Example condition drafting has already been provided in our S56 response (RR-042). The wording has been updated slightly as follows:</p> <p>“(5). In the event that the reports provided to the MMO under subparagraph (3) identify a need for additional monitoring, the requirement for any additional monitoring will be agreed with</p>

		<p>not necessary, and asked the MMO for clarity on what is being asked, including example drafting.</p>	<p>the MMO in writing and implemented as agreed.”</p> <p>“(6). In the event that monitoring reports provided to the MMO under sub-paragraph (3), identifies impacts which are beyond those predicted within the Environmental Statement/Habitat Regulations Assessment/Marine Conservation Zone Assessment, adaptive management/mitigation may be required. An Adaptive Management/Mitigation Plan to reduce effects to within what was predicted within the Environmental Statement/Habitat Regulations Assessment/Marine Conservation Zone Assessment, unless otherwise agreed in writing by the MMO, must be submitted alongside the monitoring reports submitted under sub-paragraph (3), including timelines and associated monitoring to test effectiveness. This plan must be agreed with the MMO in consultation with the relevant</p>
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			<p>SNCB's to reduce effects to a suitable level for this project.</p> <p>(7) Any such agreed or approved adaptive management/mitigation should be implemented and monitored in full. In the event that this adaptive management/mitigation requires a separate consent, the Applicant shall apply for such consent."</p> <p>The conditions ensure that all parties are clear what is required if the monitoring shows higher impacts than predicted during the assessment stage. It also allows ODOW to themselves provide potential solutions when reviewing the results of monitoring, to be discussed with the MMO and SNCBs.</p> <p>The aim of the condition is to provide a clear process to the Applicant, the MMO and any consultees, if in preparing the monitoring reports the Applicant identifies greater impact than the Environmental Statement (ES) predicted rather than just a</p>
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			<p>discussion upon review of the reports.</p> <p>The MMO notes that if impacts are higher than predicted we can utilise Section 72 of 2009 Act and vary the marine licence to request adaptive management, but believes this Condition gives a clear process to all and allows for proactive management rather than reactive management by the MMO.</p>
Outline Decommissioning Plan	<p>ODOW requested that the MMO provides an indication of the content of the outline Decommissioning Plan or an explanation for its necessity.</p> <p>ODOW noted that the Project will be required to submit a Decommissioning Plan to the Secretary of State for approval under DCO requirement 7 in accordance with the provisions of the Energy Act.</p> <p>Offshore decommissioning</p> <p><i>7 Work Nos. 1 to 7 must not commence until a written decommissioning programme in compliance with any notice served upon the undertaker by the Secretary of State pursuant</i></p>		<p>Please see Section 1.1 of this document for our most up to date comments.</p>

	<i>to section 105(2) of the 2004 Act has been submitted to the Secretary of State for approval.</i>		
Noise Abatement for piling	<p>ODOW has now committed to make best endeavours to use NAS for piling in line with new Defra guidance. Outline MMMP and In Principle SIP have been updated to reflect this and will be updated again at Deadline 4a to provide further clarity.</p> <p>ODOW disagrees that this should be on the face of the DMLs, and that the commitment is secured in a certified document. ODOW considers that its is unnecessary and inconsistent to include on the face of the DMLs, for example the other mitigation measures such as use of MMObs, PAM etc are not listed on the face of the DMLs.</p> <p>ODOW plan to update the Outline MMMPs and In Principle SIP again at Deadline 4a to ensure clarity on the commitment to best endeavours for NAS.</p> <p>ODOW has have undertaken a supply chain review and discussed the project with</p>	<p>The MMO explained that Morgan OWF had agreed to include NAS on the face of the DMLS. ODOW explained it does not consider this to be necessary.</p> <p>The MMO noted Morgan OWF has included a different UWN condition within the DMLs: Underwater Sound Management Strategy</p> <p>1. — No piling associated with the authorised development may be undertaken between XX to XX inclusive, unless otherwise agreed in writing by the MMO.</p> <p>2. If activities are deemed necessary in this period and to confirm any additional mitigation requirements an underwater sound management strategy for those activities, which accords with the outline underwater sound management strategy, must be submitted to and approved in writing by the</p>	Please see points 2.10.10 to 2.10.12 of this document for our most up to date comments.

	<p>potential suppliers and are confident that NAS will be available on the market for ODOW but until final detailed design is undertaken, final hammer energy known, and further geotechnical site investigation is undertaken, ODOW considers it is not practical to commit to a specific form of NAS now.</p> <p>ODOW are aware of the Defra monitoring pilot of two different types of NAS for Sofia and East Anglia 3 and the outcome from those pilots will also be useful to the Project when making final NAS decisions post consent prior to submission of condition discharge applications to MMO.</p>	<p>MMO in consultation with the relevant statutory nature conservation body.</p> <p>3. The underwater sound management strategy must be submitted to the MMO no later than six months prior to the commencement of the relevant activities unless otherwise agreed in writing by the MMO.</p> <p>4. The piling activities must be carried out in accordance with the approved underwater sound management strategy, unless otherwise agreed in writing by the MMO.</p> <p>This was noted by ODOW, who will review the wording shared by the MMO but do not expect any changes to their current position.</p>	
UXO Detonation and Noise Abatement	<p>ODOW noted that the Outline MMMP for UXO is provided for information only as we are not seeking consent for this in the DCO and will be subject to a separate marine licence application as previously agreed with MMO.</p>	<p>The proposed update was noted by the MMO.</p>	<p>The MMO welcomes that the Outline MMMP for UXO will be updated with that high order clearance would be last resort only. This position is agreed.</p>

		<p>ODOW plan to update the Outline MMMP for UXO at Deadline 4a to make it clear that low order technology is the Project's base assumption for any UXO clearance and that high order would only ever be used as a measure of last resort in agreement with MMO and that if high order used then expected that NAS would be used.</p>		
Maintain and Materiality		<p>ODOW explained the wording of requirement 29(2) is substantially the same as the wording in paragraph 9 of the DMLs in Schedules 10-15 and paragraph 8 of the DMLs in Schedule 16, which is stated to be agreed by the MMO in their Deadline 4 response (para 2.1.11).</p>	<p>Following clarification provided by ODOW, the MMO confirmed this point was now agreed.</p>	<p>The MMO confirms that this is now agreed.</p>
Maintenance Reporting		<p>ODOW disagrees that it is required but proposed to include in DMLs but pointed out that it will include information already at the MMOs disposal. An offshore operations and maintenance plan, in accordance with the outline offshore operations and maintenance plan, to be submitted to the MMO at least four months prior to</p>	<p>ODOW to consider MMO's request when incorporating updates in the DMLS.</p>	<p>The MMO confirms that this is now agreed, noting that ODOW will add a reference to the Outline O&M Plan on DML condition 4.</p>

	commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase.		
Navigational Conditions and Dropped Objects	<p>ODOW noted that it has agreed wording of all updated conditions with MCA and Trinity House and expressed concerns for waiting for MMOs comments on condition wording. MCA and TH have reached a pragmatic interim agreement on this and ODOW asked the MMO to do the same given there is now just over 7 weeks left of the DCO Examination.</p>	<p>ODOW explained the revised navigational conditions included had been agreed with MCA and Trinity House. The MMO welcomed this but noted that it had now agreed a new condition with MCA and requested ODOW insert this into the DMLS:</p> <p>(7) (10) (a) Debris or dropped objects which are considered a danger or hazard to navigation must be reported as soon as reasonably practicable but no later than six hours from the undertaker becoming aware of an incident, to the relevant HM Coastguard Maritime Rescue Co-ordination Centre by telephone (add number), and the UK Hydrographic Office email: navwarnings@btconnect.com.</p> <p>(b) All dropped objects including those in (a), must be reported to the MMO using the</p>	<p>As the authority for managing/regulating the DMLs under the provisions of MCAA once the DCO is granted, it is imperative that the MMO is provided with the time to consider each proposed change in condition wording to respond accordingly. It is entirely correct and appropriate that the MMO has final sight of any conditions amendments even if they are agreed with other parties, as it is the MMO who is responsible for enforcing condition adherence.</p> <p>The updated condition has been provided to ODOW and the MMO requires that this is included in the DMLs. The MMO will include this wording in our Deadline 4a response. The MMO notes that ODOW will also seek agreement with MCA and TH on this revised wording.</p>

		<p>Dropped Object Procedure Form (including any updated form as provided by the MMO) as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident, unless otherwise agreed in writing with the MMO.</p> <p>8.1 (c) On receipt of notification or the Dropped Object Procedure Form the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the marine environment at the undertaker's expense if reasonable to do so.</p> <p>ODOW asked who at MCA had agreed the wording and MMO confirmed this was Vaughan Jackson. ODOW confirmed Vaughan had agreed the ODOW wording with the project. The MMO stated it will submit this wording into Examination at Deadline 4a. ODOW noted</p>	
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		that it will not update the DMLs at this stage and that it would need to discuss any change from its agreement position with MCA and TH with them directly.	
Chemicals	The project environmental management plan under condition 13(1) was discussed. ODOW plan to update 13(1) and provide a copy of the drafting to the MMO shortly.	The MMO welcomed ODOW agreement and is open to how this is captured in the DMLs but noted the MMO Strategic Renewables Unit is currently working on standard drafting and the MMO will share this with ODOW as soon as possible. ODOW explained it cannot wait for standard drafting if it is still a work in progress given there are now 7 weeks left of examination. ODOW will update DMLS as required at Deadline 4a and will comment in due course.	<p>The MMO welcomes the acceptance of the original condition. The MMO has added more clarity in relation to the condition and propose the following changes to DML drafting:</p> <p>Remove condition 11(1) and update Condition 13(1)(e) to include the following:</p> <p>(ii) a chemical risk assessment, including information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance and standards;</p> <p>(X) a chemical risk assessment for all chemicals that have a pathway to the marine environment used for the marine licensed activities, outside the course of normal navigation, and are not present on the OSPAR List of Substances Used and</p>

			<p>Discharged Offshore which Are Considered to Pose Little or No Risk to the Environment (PLONOR) including;</p> <ul style="list-style-type: none"> (i) the function of the chemical, (ii) the quantities being used and the frequency of use, (iii) the physical, chemical, and ecotoxicological properties. <p>Submissions for approval must take place no later than ten weeks prior to use.</p> <p>The following interpretations should also be added:</p> <p>"pathway to the marine environment" open systems or closed systems that require top up.</p> <p>"chemicals" comprise both substances and preparations.</p> <p>"preparation" means a mixture or solution composed of two or more substances</p> <p>"substance" means a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any</p>
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			impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition;
Disposal Sites	ODOW agreed to add reference to disposal sites once known. ODOW queried if the MMO can confirm what is needed to provide these to the Project and further clarity on changes to timing.	<p>The MMO explained it will provide disposal site codes once it has received shapefiles of the disposal sites from ODOW.</p> <p>ODOW to confirm is these have already been issued and if not to issue to MMO. MMO to check dates in DMLs and provide update to ODOW via email.</p>	<p>The MMO has checked the dates in the DMLs and requests that the dates in Condition 11(4) are amended to the following:</p> <p>The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 31st January 15 February each year for the months JulyAugust to December January inclusive, and by 31st July15 August each year for the months JanuaryFebruary to JuneJuly inclusive.</p>
Agents and Contractors (Condition 16)	<p>ODOW proposed alternative drafting entirely as per Hornsea 4:</p> <p>“unless otherwise agreed in writing by MMO the name, company number, address and function of any agent, contractor or sub-contractor appointed to engage in the licensed activities</p>	The MMO’s initial view is that this should be acceptable but will review the proposed change and provide any comments to ODOW.	The MMO agrees with this wording.

	not less than ten working days prior to such agent or contractor commencing any licensed activity”.		
Impacts to Herring (array)	ODOW propose two different piling restrictions with different spatial extents depending on use of NAS. ODOW are awaiting modelling updates from GoBe (consultants) and internal approvals.	The MMO welcomed the forthcoming modelling.	The MMO awaits the forthcoming modelling.
Impacts to Herring (northern ANS)	ODOW will not be in a position to seek to agree this with MMO before Deadline 4a but would hope to find common ground before Deadline 5. In January ODOW presented a proposed piling restriction on a without prejudice basis. ODOW has been undertaking additional modelling on the basis of the Project's commitment to made best endeavours to use NAS. It is expected that ODOW will have the outputs from this modelling at the end of February.	<p>Welcomed by the MMO. Additionally, the MMO shared the following drafting that would need to be adapted for the Project:</p> <ol style="list-style-type: none"> 1. No piling activity can commence within the eastern array area during the herring spawning season until a spawning piling restriction plan (in accordance with the outline spawning herring piling restriction plan) containing updated underwater noise modelling has been submitted to and approved by the MMO. The updated underwater noise model shall be based on final project parameters to be used to install piles in the eastern 	The MMO shared drafting that would need to be adapted for ODOW and is awaiting further comment from ODOW.

		<p>array area and shall include details of any verified mitigation measures to be employed.</p> <p>2.If the herring spawning plan demonstrates that noise levels associated with piling activity in the eastern array area during the herring spawning season will exceed the levels shown on the spawning herring piling restriction plan then no piling activity may be undertaken within the eastern array area during the herring spawning season without the approval of the MMO</p> <p>3.All piling activity within the eastern array area during the herring spawning season must be undertaken in accordance with the details approved under sub-paragraph (1) or as required as a condition of approval under sub-paragraph (2) In this condition:</p> <p>“eastern array area” means the area identified as the eastern array area within the spawning herring piling restriction plan;</p>	
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		<p>“outline spawning herring piling restriction plan” means the plan certified as the outline spawning herring piling restriction plan by the Secretary of State for the purposes of the Order under article 51; and</p> <p>“herring spawning season” means XX MONTH to XX Month inclusive.</p>	
INNS monitoring	ODOW plan to update IPMP to include INNS monitoring. The details of monitoring should be agreed post consent and approved by MMO.	MMO welcomed this change and agreed it will close out this issue.	Agreed.
Fish monitoring	ODOW does not consider sandeel monitoring to be required or justified and considers it to be a ‘nice to have’ and therefore does not pass NPPF tests MMO refer to.	<p>The MMO to consider position on this and provide an update to ODOW.</p> <p>The MMO asked if NE had raised this issue. ODOW said would check and revert. Post meeting note: NE have not requested sandeel monitoring or raised impacts on sandeel as an issue.</p>	The MMO to consider position on this. Action ongoing.
IPMP	A request from MMO to update to reference MMO Standardisation of Offshore Wind Post-Consent Monitoring, forthcoming. ODOW notes that they cannot consider	ODOW to ensure wording is included in the IPMP to state that the final MP will follow best available guidance at the time. Subject to this inclusion	The MMO is in agreement if ODOW ensures wording is included in the IPMP to state that

	<p>this unless MMO provides a copy of the report for review. ODOW proposed that it can add wording to state will follow best practice at the time.</p>	<p>MMO confirmed this will be agreed.</p> <p>Post meeting note: The IPMP already includes several references to best practice and guidance etc, but ODOW will also update the IPMP at Deadline 4a to ensure this is clear.</p>	<p>the final MP will follow best available guidance at the time.</p>
IPMP – UWN monitoring	<p>The MMO is currently discussing changes to this requirement and condition after issues raised by the SNCBs. The MMO requests that two of the four piles are the worst-case scenario piles. ODOW proposes no change and noted that there is flexibility already in DML condition and the MMO will have to sign off final monitoring proposal. ODOW noted that it will not be known the actual worst-case piles until in the field undertaking construction works. ODOW noted that the base case of monitoring the first four allows adjustments to be made during the remainder of the piling campaign if required.</p>	<p>The MMO queried if the IPMP can be updated to state the approach will be discussed with and agreed with MMO. ODOW plan to review the request but noted that it would not expect this to be necessary given it is the MMO that have to approval the monitoring plan and will be best on current practice and guidance at the time.</p>	<p>The MMO is awaiting ODOW's comments on whether the MMO's request to add in wording to IPMP will be included.</p>
Pre-construction plans and documentation	<p>ODOW proposed no changes and noted that the MMMP is six months</p>	<p>The MMO noted that 4 months is better than 3 months but maintains its position that</p>	<p>The MMO maintains that MMMPs and SIPs should be 6 months. Agree to disagree.</p>

		<p>MMMPs and SIPs should be 6 months primarily due to the MMOs call for evidence that takes place in September each year.</p> <p>ODOW explained that the maximum number of structures is two and therefore this should not be a particularly complex plan, but notes the need for coordination and that the Project would coordinate with other OWFs e.g. through the SNSOWF UWN Forum. ODOW also considers that the six-month time frame is not relevant to the evidence call in September as that would in theory only take you to March / April the following year. ODOW maintain for up to a maximum of two structures a shorter time frame is appropriate.</p> <p>ODOW will update DMLs at D4a to reflect 4 months.</p> <p>The MMO will consider its position but suspect this will be an agree to disagree point.</p>	
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Determination of condition discharge	ODOW proposed no changes and noted that timely determination of condition discharge applications is critical to ensuring the Project is delivered to contribute to UK government 2030 targets.	The MMO maintains existing position. ODOW maintains existing position. Agreement unlikely.	Agree to disagree.
Schedule 10, 22(3) SIP	Six-month period already agreed with MMO. ODOW propose to introduce additional drafting similar to that in condition 14(4) to ensure consistency and also intends to introduce drafting to state that there must compliance with the approved SIP as this is currently not captured.	The MMO maintains existing position. ODOW maintains existing position. Agreement unlikely.	The SIP must be submitted to the MMO no later than six months - MMO welcomes the 6-month timescale and notes the proposed change to condition wording to capture compliance with the SIP.
ORCP Design principles statement	ODOW provided revised wording for the design plan to include: <i>(ii) details of the design of the offshore reactive compensation platform, which must accord with the principles set out in the offshore reactive compensation platform design principles statement.</i>	ODOW explained the ExA had asked for the ORCP Design Principles Statement to be secured and ODOW stated in ISH6 it wanted to discuss this with MMO before introducing new drafting. The MMO requested clarification as to what this would entail from a post consent compliance perspective. ODOW confirmed it would be for MMO to be satisfied that the relevant pre-construction plans and document accord with the detail set out in the ORCP	The MMO agrees with the revised drafting.

		Design Principles Statement. On that basis, MMO agreed with the revised drafting. ODOW to update transmission assets DML at Deadline 4a.	
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3.4 Action Point 36:

MMO to provide a response to any and all relevant points covered in the hearings not already covered by action points.

3.4.1. The MMO notes that this action point is extremely broad. The MMO has reviewed the Issue Specific Hearings and does not wish to provide additional comments to those outlined above at this stage. The MMO notes that there are further action points for the MMO to respond to at Deadline 5.

Yours sincerely,

[Redacted signature]

Amelia Clarke
Marine Licensing Case Officer

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