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(Email only)

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

04 April 2025

Dear [REDACTED]

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

### **Deadline 6 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 6.

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,



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# 1 The MMO's Closing Statement

- 1.1 MMO is committed to supporting the UK government's environmental goals, this includes both net zero targets and nature and biodiversity targets by promoting sustainable practices to protect and enhance the marine environment.
- 1.2 MMO would like to highlight to the Examining Authority (ExA) and Secretary of State (SoS) that requests for information from the Applicant were made during the pre-application process, specifically in relation to fisheries and noise abatement systems (NAS). One of the concerns MMO raised at Preliminary Environmental Information Report (PEIR) stage was in relation to disturbance to herring at their spawning grounds from piling noise, and we had requested the inclusion of further underwater noise (UWN) modelling (Section 4.5 of the MMO Section 56 Response).
- 1.3 MMO has participated in discussions with the Applicant regarding the proposed piling restrictions to minimise impacts to the Banks Herring spawning ground, including our most recent meeting held on 27 March 2025, whereby the modelling that was requested was provided. The MMO stresses that it should not be in the position so late into the examination process, one week prior to the final deadline, in examining technical modelling to inform necessary mitigation.
- 1.4 MO is an enabling regulator but without the confidence in the evidence provided, must take the precautionary approach, especially in relation to mitigation and impacts to species. The delay in providing the information means that MMO has not been able to engage in detailed discussions within the time scales of the examination period. The consequences of such a late review leads to a strain on resources, a rushed assessment and a likelihood that an agreement cannot be reached.
- 1.5 MMO engaged with the Applicant via numerous meetings to ensure clarity on topics of importance throughout Examination with the aim to agree to greatest extent feasible. However, MMO note that there is still a number of issues outstanding that are 'agree to disagree'. Please see the Principle Areas of Disagreement document submitted alongside this Deadline 6 document.
- 1.6 MMO understands that the ExA will review the Principle Areas of Disagreement before making a recommendation to the SoS to inform their decision. MMO request the ExA and SoS make clear the decision against each of these issues to enable a smooth transition into the post-consent phase, and assist with the discharge process to enable the project to meet the project programme





## 2 Response to the Rule 17 letter

- 2.1 MMO notes no actions were directed to us and the MMO has no comments on the Rule 17 letter.

## 3 The MMO's Position on the Environmental Statement

### 3.1 General Comments

- 3.1.1 The MMO has been in regular contact with the Applicant throughout examination to resolve and address any concerns. Comments relating to any of these have been further detailed in tables in previous deadline responses.
- 3.1.2 The MMO considers that the majority of concerns have been addressed throughout examination and the most updated positions have been detailed in the Deadline 5 response (REP5-174).
- 3.1.3 Please see sections below for the MMO's position on the remaining Environmental Statement concerns.

### 3.2 Coastal Processes

- 3.2.1 As detailed in the MMO's Deadline 5 submission (REP5-174), MMO request additional evidence to address the concerns regarding scour. There is concern that the potential radius of impact could be modified under certain conditions. The MMO requests that the Applicant considers establishing a maximum radius to ensure that this does not exceed the seabed preparation footprint.
- 3.2.2 MMO requests clarification of Paragraph 13 of the Outline Scour Protection and Cable Protection Management Plan (REP4-079) and Paragraph 23 of the same document as it could constitute a potentially contradictory position.

### 3.3 Dredge, Disposal and Chemical Use

#### Chemicals

- 3.3.1 The MMO outlined a revised Chemical condition in REP5-174. We have since further revised this position to clarify what information is required. Based on the best available evidence to date, MMO aims to create a revised, consistent, and thorough approach to chemical consenting for OWF. This should proactively avoid last minute delays and provide robust evidence regarding environmental impacts.
- 3.3.2 The current approach for consented OWF projects requires chemical information to be submitted in an inconsistent manner across different projects. This results in many chargeable hours from both the MMO and Centre for Environment Fisheries and Aquaculture Science (Cefas) for reviewing, assessing and requesting information from applicants.
- 3.3.3 A more detailed site-specific chemical risk assessment (CRA) should be provided for any chemical with a "pathway to the marine environment", this includes chemicals used in both open systems, and closed systems where "top-up" is required (i.e., repeated use or maintenance). The CRA should include information on the physical, chemical, and ecotoxicological (bioaccumulation, biodegradability and aquatic toxicity) properties, and function of the chemical, alongside the quantities and frequency of use. This should be submitted to the MMO no later than 10 weeks prior to use. The review of this information and/or in consultation with Cefas, will allow the MMO to make a determination on an approval for chemicals use by a project.



- 3.3.4 The MMO further includes clarity on where other regulations/ agreements exempt chemicals from this process. This approach should exempt fluids used within gears and machinery (closed systems) from requiring a more detailed CRA, and disregards chemicals used on vessels and accommodation type chemicals (bleaches/toilet cleaners/grey water etc.), which are covered by alternative regulations.
- 3.3.5 The Applicant has misinterpreted our comments regarding the chemicals condition. The intention was for it not to be included within the PEMP (Condition 13(1)(e) of Part 2, Schedules 10 and 11).
- 3.3.6 The MMO has been requesting to replace condition 11(1), Part 2, Schedules 10-11, condition 8(1), Part 2, Schedules 12-15 and condition 6(1), Part 2, Schedule 16 to include the above.
- 3.3.7 Regarding the Applicant's concerns regarding benign substances, some PLONOR chemicals still have issues in that although they may pose little or no risk say for toxicity their physical presence maybe an issue, as is the case for bentonite. Bentonite for example, is a thickening agent added to drilling fluid but some components of the drilling mud can have impacts on the filtration activity and survival of bivalve molluscs impairing gill function. Under OSPARs list Bentonite is PLONOR and no aquatic toxicity data is required, however under Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) there is no registration dossier as it is a naturally occurring mineral and therefore exempt from REACH registration under Annex V. Due to it's potential for impact for smothering the MMO needs to see site specific information and quantity of use to ensure the location of use is still acceptable, as noted in i and ii above.
- 3.3.8 Please see Section 4.8 below for condition wording.

#### Disposal sites

- 3.3.9 The MMO received the necessary Shapefiles for disposal site designation on 24 March 2025. The MMO is now content that the Applicant has addressed the concerns raised by Natural England regarding the Inner Dowsing Race Bank North Ridge (IDRBNR) SAC (PD1-097, Table 1.1). The MMO has now received confirmation from the Applicant that drill arisings have been taken into account in the maximum figures. The MMO is now currently in the process of designating the disposal site.
- 3.3.10 It is standard to have the disposal site reference numbers on the DML. Once the MMO has the disposal site reference, this will be provided. The MMO is satisfied with the current wording of the disposal site conditions and considers that the references can be added as soon as they are available.

### **3.4 Benthic Ecology**

#### Invasive Non-Native Species (INNS)



- 3.4.1 The MMO considers that the inclusion of INNS monitoring in the Offshore IPMP (REP4a-073) addresses the concerns raised previously by the MMO in Deadline 5 (Table 5, REP5-174). The MMO notes that the monitoring options proposed by the Applicant as outlined in Table 3.2 of the Offshore IPMP (REP4a-073) are appropriate for consideration. The MMO also supports the Applicant's commitment to submit survey methodologies to the MMO for approval before surveys are conducted as stated in Section 3.3.2 and Table 3.2 of the Offshore IPMP (REP4a-073).
- 3.4.2 The MMO notes that the inclusion of Hypothesis 2, which relates to the introduction and/or spread of marine INNS, in the Offshore IPMP (REP4a-073) in Section 3.3.3, is appropriate. The MMO has no further comments regarding INNS at this stage.

#### *Sabellaria spinulosa*

- 3.4.3 The MMO notes that the overall approach outlined for the pre-construction survey of habitats of principal importance or Annex I habitats, such as *Sabellaria spinulosa* reef, is appropriate and aligns with best practice (Table 3.2 of the Offshore IPMP, REP4a-073). As with INNS, the MMO supports the Applicant's commitment to submit detailed survey methodologies to the MMO for approval prior to the commencement of any surveys (Section 3.3.2 and Table 3.2 of the Offshore IPMP, REP4a-073).
- 3.4.4 The Offshore IPMP (REP4a-073) stipulates that monitoring will be extended to '*habitats of principal importance or Annex 1 habitat*' and the MMO confirms that this closes out concerns relating to other types of protected biogenic reef that may be identified.

#### *Sabellaria Spinulosa* images

- 3.4.5 The MMO noted at Deadline 5 (Table 5, REP5-174) that additional information is needed from the Applicant regarding the assessment of *Sabellaria Spinulosa* reefiness using seafloor imagery to ensure robust interpretation of future surveys.
- 3.4.6 The MMO notes the changes made by the Applicant to the *Sabellaria spinulosa* Reef Supporting Habitat Technical Note (REP5-146). The MMO notes that NE's advice regarding methodology used to identify supporting habitat and proposed mitigation measures for areas of supporting habitat/processes have been included.

#### Sediment Macrofauna Communities

- 3.4.7 The MMO stated at Deadline 5 (Section 3.3, REP5-174) that MMO would generally expect the impact of the array on sediment macrofauna communities to be monitored as standard. The Applicant considers this is not necessary and has stated that generally the offshore wind industry has moved away from assessing impacts on general sediment macrofauna communities, as existing evidence indicates that the effects of offshore wind development on the benthic environment generally fall within the range of natural variability and recover well. The MMO does not agree with the assertion that "the offshore wind industry has moved away from assessing impacts on general sediment macrofauna communities", as this issue should be evaluated on a case-by-case basis. The MMO considers that the default position should be that such monitoring is undertaken unless there are clear and well-justified reasons for omitting it. The MMO would certainly expect monitoring to be implemented where an offshore windfarm is proposed in areas with relatively low levels of natural disturbance and/or where notable populations or assemblages of sensitive sediment macrofauna are present.
- 3.4.8 However, whilst the MMO would not have significant concerns if the development were approved without the inclusion of sediment macrofauna monitoring as a licence





condition in this particular case, this is because the physical and ecological characteristics of the sediment habitats within the proposed development footprint suggest that significant and persistent impacts are unlikely, the MMO points this out to the ExA to make a risk-based decision regarding the monitoring of sediment macrofauna communities.

### Compensation

- 3.4.9 The MMO notes the changes made to the Without Prejudice Sandbank Compensation Plan (REP5-106). The MMO note that NE have raised that certain compensation options as proposed by the Applicant are no longer being considered as a compensation option and note the Applicant's amendments. MMO note that this has been updated at Deadline 5 to reflect the publication of Strategic compensation measures for offshore wind activities: Marine Recovery Fund interim guidance (DESNZ, 2025).
- 3.4.10 The MMO notes the changes made by the Applicant to the Without Prejudice Biogenic Reef Compensation Plan (REP5-108) and the Without Prejudice Benthic Compensation Evidence Base and Roadmap (REP5-110). The MMO notes the removal of some compensation measures as raised by NE in (ref).
- 3.4.11 The MMO defers to NE regarding the appropriateness of compensation measures.

### **3.5 Fish Ecology**

- 3.5.1 The MMO would like to highlight that it attended a meeting with the Applicant on the 27 March 2025 to discuss noise modelling to inform the herring piling restriction in the array area.
- 3.5.2 The MMO considers the modelling presented by the Applicant has used appropriate parameters to calculate the predicted impact ranges. The maximum hammer energies of 3,500 kilojoules (kJ) and 6,600KJ have been used in the modelling for the piling of jacket foundations and monopile foundations respectively. The maximum pile diameters of 5 metre (m) (jacket foundations) and 14m (monopiles) have been modelled, and all scenarios are based on a stationary receptor using a 135 decibel (dB) sound exposure level single strike (SELss) threshold for behavioural responses in herring (based on Hawkins *et al.*, 2014). These parameters are considered appropriate for modelling the worst-case scenario, i.e. the maximum impact ranges in relation to herring at their spawning grounds.
- 3.5.3 The revised modelling based on the northeast and southeast modelled locations for the piling of jacket foundations and monopile foundations shows that there is a slight overlap in the range of impact with the portion of the spawning ground where larval densities are higher (between 3,000.1 – 4,500 larvae per metre squared). The MMO considers the small overlap in the range of impact to be acceptable for the purpose of determining the spawning herring piling restriction area, which shows the revised piling restriction area based on the northeast and southeast piling locations, and the original piling restriction area based on the north and south piling locations.
- 3.5.4 The MMO considers that while there is still a slight overlap of noise impact with a portion of the herring spawning ground, based on the information reviewed, the MMO is satisfied that the likelihood of significant adverse impacts to spawning herring at this location is unlikely to occur as a result of noise disturbance.
- 3.5.5 Please see Section 4.6 below for the updated herring striction condition.





### 3.6 Shellfish Ecology

3.6.1 The MMO considers that all concerns regarding shellfish ecology have been addressed by the Applicant and thanks the Applicant for their resolution.

### 3.7 Underwater Noise

3.7.1 The MMO notes that the Applicant has included their position on why they cannot commit to particular NAS technologies at this stage and have summarised potential noise technologies and their efficacy in Section 4.4 and Table 4.1 of the Outline Marine Mammal Mitigation Protocol for Piling Activities (REP4a-099).

#### Noise Abatement and Best Endeavours

- 3.7.2 MMO previously noted (REP5-174) that it was undertaking a review of the Clarification Note Use of 'best endeavours' in the context of Policy Paper Reducing Marine Noise (REP4a-118).
- 3.7.3 MMO stressed the intention of the policy paper in managing the increasing level of noise anticipated over the coming years. The MMO reminded the Applicant that if noise thresholds are likely to be breached, alone or in-combination with other Projects, the Project may not get approval of the SNS SAC SIP without the use of Noise Abatement or Mitigation Systems.
- 3.7.4 It should be stressed that the argument for using NAS is not limited to Marine Protected Areas (MPAs). The Applicant is required to outline that it has sought satisfactory alternatives to NAS in order to secure their Wildlife Licence. NAS is now considered to be a primary and expected mitigation. The MMO outlined this in Section 4.2 of REP5-174 and explained the justifications required from the Project.
- 3.7.5 Developers who have secured the greatest possible noise reductions through NAS are less likely to face requests to further explore satisfactory alternatives, and therefore delays in consenting, as they have demonstrated they have utilised best endeavours to secure a "satisfactory alternative".
- 3.7.6 The MMO notes and welcomed the recent inclusion of a commitment to using NAS by Morgan Generation OWF (Project EN010136) in its Underwater Sound Management Strategy (UWSMS). However, the MMO understand that the Applicant does not have a similar document and noting this late stage, the MMO attended a meeting with the Applicant on 27 March 2025 and understands that the Applicant is planning on adding a commitment to NAS on the face of the DML. The proposed wording has been provided:

*'(j) In the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol in accordance with the outline marine mammal mitigation protocol (piling), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation body, and including details of any noise mitigation systems or noise abatement system that will be utilised to manage sounds from those piling activities, to be submitted to the MMO at least six months prior to the commencement of piling activities.'*

3.7.7 The MMO welcomes the inclusion on the face of the DML, however, the MMO and NE have agreed the following updated condition with the Applicant. The MMO has been informed by the Applicant that this will be included in their documentation at Deadline 6:



*(j) In the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol in accordance with the outline marine mammal mitigation protocol (piling), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation body, to be submitted to the MMO at least six months prior to the commencement of piling activities. The marine mammal mitigation protocol must include consideration of deployment of noise mitigation systems or noise abatement systems that will be utilised to manage sounds from those piling activities. The marine mammal mitigation protocol must include full details and justification for the mitigation chosen or excluded for deployment.*



## 4 Comments on the Draft DCO and DML (REP5-002)

### 4.1 Transfer of Benefit

4.1.1 The MMO's position remains the same as set out within Section 4.3 of REP5-056a. The MMO strongly disagrees with the purpose of the inclusion of the DML as set out in previous representations. The creation of a new route to transfer the DML is unnecessary as there is already an established route to transfer and vary a marine licence and the Article will not work in practice. There is no good reason to move away from the process already set out in the Marine and Coastal Access Act 2009 (MCAA 2009), save for operator convenience, and our strongest preference remains for the DMLs not to be made subject to the Transfer of Benefit provisions in the main body of the order, in full or in part.

4.1.2 Even if the Secretary of State (SoS) approves a transfer of benefit for the DML the SoS has no power under the Planning Act 2008 to change the DML once consented. As set out in Schedule 6 Paragraph 2 (13) and Paragraph 5 (6):

*"The power may not be exercised in relation to provision included in an order granting development consent by virtue of paragraph 30A or 30B of Schedule 5 (deemed marine licence under Marine and Coastal Access Act 2009)."*

4.1.3 Therefore, the transfer and variation completed by the MMO is the right and proper way to amend the DML. As per Section 72 (7) & (8) of MCAA 2009:

*'Variation, suspension, revocation and transfer*

*...(7)On an application made by a licensee, the licensing authority which granted the licence—*

*(a) may transfer the licence from the licensee to another person, and*

*(b) if it does so, must vary the licence accordingly.*

*(8) A licence may not be transferred except in accordance with subsection (7).'*

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

### 4.2 Lifespan

4.2.1 The MMO considers that DMLs should have an end date included to keep them in line with other Marine Licenses that include construction and maintenance activities. The MMO considers that there is a benefit to including an end date of the Operations and Maintenance phase within the DCO and DML in relation to the lifespan of the project to ensure that it is clear that any repowering etc. would be subject to a new consent or variation.

4.2.2 By having this clear date within the DCO, it makes it clear that a full reassessment will be required at the end date to ensure that required modelling is reviewed and reassessed. The MMO notes this is also supported by Natural England – especially in relation to the assessments.



### 4.3 Force Majeure/Notification of Unauthorised Deposits

- 4.3.1 The MMO noted the changes made to the wording in the DMLs in REP5-174. The MMO maintains that this condition should be removed as per Table 1 in REP5-174. The dropped object condition already serves as a notification to the MMO.

### 4.4 Determination Timescales

- 4.4.1 The MMO does not agree with the inclusion of Schedule 10 and 11, Condition 22 (6) (and all similarly worded conditions) as per the comments in REP4a-133:

*'... (6) The MMO must determine an application for approval made under condition 22 within a period of six months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.'*

- 4.4.2 The MMO maintains that the DML should not place determination timescales on the regulator. The MMO will work closely with the Applicant and advisors to determine documents submitted for approval in a timely manner but in a manner that addresses all concerns/impacts. The MMO would not/does not cause unnecessary delays, any issues raised during consultation are fully reviewed and decided upon.
- 4.4.3 As set out in Section 1.6 of this document, the MMO would welcome any disagreement being clearly decided upon within the decision documents to ensure this can be relied upon post consent.

### 4.5 Timescales of Schedule 12 to 15 documents

- 4.5.1 The MMO welcomes the increase from three to four months for the submission of the MMMP (piling) and the Site Integrity Plan (SIP) for the Artificial Nesting Structures (ANSs), however the MMO maintains its position that it must be six months for all MMMPs regardless of the scale of the activity. The reasoning has been provided in Table 4 in the MMO's Deadline 4a response (REP4a-133).
- 4.5.2 The MMO stresses the difficulties in managing noise in the Southern North Sea (SNS) Special Area of Conservation (SAC) without the most up to date information at the earliest opportunity to ensure a thorough in-combination assessment with other activities taking place can be completed.

### 4.6 Schedule 10, Herring Restriction

- 4.6.1 The MMO has been liaising with the Applicant regarding the proposed piling restrictions to minimise impacts to the Banks Herring spawning ground. Our most recent meeting was held on 27 March 2025, whereby the modelling that was requested was provided. Please see Section 3.5 above for detailed comments regarding this modelling.
- 4.6.2 The MMO originally requested that the following condition is added:

*'(1) No piling activity can commence within the spawning array area, as defined in Work No 1a, Work No. 2 and Work No. 3. during the herring spawning season between 1 September and 16 October 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 spawning herring piling restriction area and shall include details of any verified mitigation measures to be employed.'*





*(2) If the underwater noise modelling demonstrates that noise levels associated with piling activity in the 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 array area during the herring spawning season without the approval of the MMO.*

*(3) All piling activity within the 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).*

*(4) In this condition:*

*“herring spawning season” means 1 September and 16 October inclusive;*

*“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*

*“spawning herring piling restriction area” means the area identified as the spawning herring piling restriction area within the spawning herring piling restriction plan.’*

- 4.6.3 The MMO notes as part of the discussions with the Applicant, they have proposed an amended condition as set out within REP5-002, which the MMO was satisfied with, subject to the inclusion of modelling being submitted to the MMO at least six months prior to commencement of the piling activities. The MMO notes that the Applicant has now proposed to remove Condition 13 (1)(j), (4) and (5), and instead plans to replace it with the below condition:

**Condition 25**

*25.-(1) – No piling activity may be undertaken within the spawning herring piling restriction area during the herring spawning season, unless otherwise approved in writing by the MMO.*

*(2) In this condition:*

*(a) “herring spawning season” means 1 September and 16 October inclusive;*

*(b) “spawning herring piling restriction area” means the area identified as the spawning herring piling restriction area within the spawning herring piling restriction plan; and*

*(c) “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.*

- 4.6.4 The MMO is satisfied with the above wording, and this can now be agreed.

- 4.6.5 The flexibility in the original condition was linked to a plan being submitted with an agreed outline plan, to ensure it was clear to all now, what is required to enable works to take place within the herring spawning season at the post consent stage, if the Applicant used Noise Abatement Systems and the level of disturbance was significantly lower. The MMO understands that the Applicant is no longer looking for this flexibility in the condition.



## 4.7 Decommissioning

4.7.1 Decommissioning activities have not been fully considered and the MMO requested an outline decommissioning plan to be part of the consenting process ((REP4-129 and REP4a-143). 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"*

4.7.2 The MMO notes 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."*

4.7.3 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.

4.7.4 The MMO understands that there is a requirement for a decommissioning programme to be submitted to the SoS in Schedule 2, Requirement 10 however believes that this information should be provided at this stage.

4.7.5 However, in noting the stage in Examination the MMO would welcome a commitment to review the decommissioning programme and all updated programmes prior to the SoS decision. The MMO notes the SoS does consult the MMO on the initial programme but would welcome earlier engagement.

## 4.8 Chemicals

4.8.1 Chemicals, drilling and debris should be updated to the following:

*11 (1) Unless otherwise agreed in writing by the MMO, all chemicals with a pathway to the marine environment, used for the marine licensed activities, outside the course of normal navigation, must be approved in writing by the MMO prior to use. Submissions should include a site-specific chemical risk assessment that includes:*

*(i) the function of the chemical;*

*(ii) the quantities being used and the frequency of use;*

*(iii) the physical, chemical, and ecotoxicological properties of the chemical. Chemicals present on the OSPAR List of Substances Used and Discharged Offshore which Are Considered to Pose Little or No Risk to the Environment (PLONOR) are exempt from this requirement;*

*Submissions for approval must take place no later than ten weeks prior to use.*

4.8.2 Definitions must be added to 'Interpretation' section of DML:

*"pathway to the marine environment" open systems or closed systems that require top up.*

*"chemicals" comprise both substances and preparations.*

*"preparation" means a mixture or solution composed of two or more substances.*



*"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 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.*

- 4.8.3 The definitions to be included within the consents pertaining to the new condition wording, come from the definition for 'chemicals', 'preparation' and 'substance' given within OSPAR Decision 2002/2 on a Harmonised Mandatory Control System for the Use and Reduction of the Discharge of Offshore Chemicals.

#### **4.9 Disposal Sites**

- 4.9.1 Should the disposal site reference be provided Paragraph 2(i) and Condition 11(5) should be updated to the following:

*...(a) the deposit at sea within the Order limits seaward of MHWS of the substances and articles specified in paragraph 4 below and within Work No. 1 when combined with the disposal authorised within the cable corridor disposal site by the deemed marine licence granted under Schedule 11 of the Order, of up to 24,556,610 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable installation preparation works within the array area disposal site reference XX;...*

*11(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation or seabed preparation for foundations, vessels or cables, and drilling mud is disposed of within disposal site reference XX within the Order limits seaward of MHWS.*

- 4.9.2 The MMO notes that the conditions already states 'within the disposal site reference(s) to be provided by the MMO within the extent of the Order limits seaward of MHWS' the MMO welcomes this update and believes this should be updated to include 'in writing'.

#### **4.10 Cable Protection**

- 4.10.1 The Applicant has stated different units of measurement in the DCO relating to cable areas. Some of these have been stated as lengths and some as percentages. For example, in the table in Schedule 10 Part 2, 3. For consistency the MMO requests the Applicant area and volumes as units of measurement for cable protection throughout the DCO.

- 4.10.2 The MMO has reviewed the condition wording in correspondence and agreement with Natural England, and has proposed to the Applicant, the below wording to be included within the DCO/DML in relation to cable protection:

*'21. No cable protection granted by this licence may be deployed within the IDRBNR SAC after the construction period has ended.*

*Any cable protection to be installed outside of the IDRBNR SAC following completion of construction in locations where cable protection was not installed during construction must be deployed within 10 years of completion of construction, unless otherwise agreed by the MMO in writing.'*



#### 4.11 Comments on recent DCO/DML Updates (REP5-002)

4.11.1 Please see Table 1 below detailing MMO's comments on the most recent updates to the DCO/DMLs.





**Table 1.** Table detailing MMO’s comments on the most recent updates to the DCO/DMLs.

DCO Reference	Applicant comments	Change made	DCO Version	MMO comment
Article 10(2)(h); Schedule 18, Part 3, Paragraph 9(2) and (3), Part 8, Paragraph 1(2)(a), Part 10, Paragraph 15(7)	The Applicant has substituted references to “subparagraph” with “sub-paragraph” as requested by the ExA in the ExA’s recommended changes to the dDCO (PD-026).	The Applicant has substituted references to “subparagraphs” with “sub-paragraphs” throughout.	9	The MMO notes this change.
Article 2(1), definition of “maintain”	The Applicant has updated the definition of “maintain” to make it consistent with the now updated terms in the DMLs.	“maintain” includes inspect, upkeep, repair, adjust, and 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 offshore works, to the extent assessed in the environmental statement; and “maintenance” and any derivative of maintain must be construed accordingly;	9	The MMO welcomes this change.
Article 2(1), definition of “offshore accommodation	The definition of “offshore accommodation platform” has been updated to delete the oxford comma, as requested by	“offshore accommodation platform” means a structure attached to the seabed by means of a foundation, with one or more decks and a	9	The MMO notes this change.

platform” Schedule 10, Part 1, Paragraph 1	the ExA in the ExA’s recommended changes to the dDCO (PD-026).	helicopter platform (including bird deterrents), containing housing accommodation, storage, workshop, auxiliary equipment, and facilities for operating, maintaining and controlling the wind turbine generators and offshore electrical installations;		
Schedule 10, Part 1, Paragraph 1  Schedule 11, Part 1, Paragraph 1  Schedules 12 and 13, Part 1, Paragraph 1  Schedules 14 and 15, Part 1, Paragraph 1  Schedule 16, Part 1, Paragraph 1 (first part only)	The Applicant has amended the references to article 41 in the definitions of “environmental statement”, “in principle monitoring plan” and “in principle Southern North Sea SAC Site Integrity Plan” to include references to its title, as requested by the ExA in the ExA’s recommended changes to the dDCO (PD-026).	“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);  ...“in principle monitoring plan” means the document certified as the in principle monitoring plan by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);  “in principle Southern North Sea SAC Site Integrity Plan” means the document certified as the in principle Southern North Sea SAC Site Integrity Plan by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);	9	The MMO notes these changes.

<p>Schedule 10, Part 1, Paragraph 1</p> <p>Schedule 11, Part 1, Paragraph 1</p> <p>Schedules 12 and 13, Part 1, Paragraph 1</p> <p>Schedules 14 and 15, Part 1, Paragraph 1</p> <p>Schedule 16, Part 1, Paragraph 1</p>	<p>The Applicant has updated the definition of “maintain” to ensure consistency with other similarly structured definition within article 2, as requested by the ExA in the ExA’s Recommended changes to the dDCO (PD-026).</p>	<p>“maintain” includes inspect, upkeep, repair, adjust, and 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 offshore works, to the extent assessed in the environmental statement; and “maintenance” and any derivative of maintain must be construed accordingly;</p>	9	<p>The MMO welcomes this change.</p>
<p>Schedule 10, Part 1, Paragraph 1</p> <p>Schedule 11, Part 1, Paragraph 1</p>	<p>The definition of “works plans” has been updated for consistency with other similarly structured definition within article 2, as requested by the ExA in the ExA’s recommended changes to the dDCO (PD-026).</p>	<p>“works plans” means the plans certified as the works plans onshore and works plans offshore by the Secretary of State for the purposes of the Order. under article 41 (certification of plans etc.).</p>	9	<p>The MMO notes this change.</p>

<p>Schedule 13, Part 1, Paragraph 1</p> <p>Schedules 14 and 15, Part 1, Paragraph 1</p> <p>Schedule 16, Part 1, Paragraph 1</p>				
<p>Schedule 10, Part 2, Condition 7</p> <p>Schedule 11, Part 2, Condition 7</p> <p>Schedules 12 and 13, Part 2, Condition 5</p> <p>Schedules 14 and 15, Part 2, Condition 5</p>	<p>The Applicant has updated the timescale for notifying the MMO of commencement of the licensed activities following consultation with the MMO.</p>	<p>(6) The undertaker must inform the MMO Local Office in writing at least <del>five</del>14 days prior to commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.</p>	9	<p>The MMO welcomes and thanks the Applicant for this change.</p>



Schedule 16, Part 2, Condition 5				
Schedule 10, Part 2, Condition 7	The Applicant has updated the wording of Condition 7(7) following comments received from the MMO.	(7) The <del>undertaker must inform the</del> Kingfisher Information Service of Seafish <del>by email to kingfisher@seafish.co.uk</del> must be informed of details <del>regarding</del> of the vessel routes, timings and locations relating to the construction of the authorised scheme or <del>relevant</del> part thereof by including the information in a notice via the Kingfisher Service of Seafish portal ( <a href="https://kingfisherbulletin.org/submit-notice">https://kingfisherbulletin.org/submit-notice</a> ) and sent by email to kingfisher@seafish.co.uk—	9	The MMO welcomes and thanks the Applicant for this change.
Schedule 11, Part 2, Condition 7				
Schedules 12 and 13, Part 2, Condition 5				
Schedules 14 and 15, Part 2, Condition 5		(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		
Schedule 16, Part 2, Condition 5		(b) as soon as reasonably practicable and no later than 24 hours after completion of construction of <del>all offshore activities</del> the authorised scheme.		
Schedule 10, Part 2, Condition 11	Updated following comments received from the MMO.	(1) Unless otherwise agreed in writing by the MMO, <del>the carriage and use of chemicals in the construction of the authorised scheme must comply with</del>	9	Please see section 4.8 above, regarding specific chemicals condition wording. The MMO believes the additional

<p>Schedule 11, Part 2, Condition 11</p> <p>Schedules 12 and 13, Part 2, Condition 8</p> <p>Schedules 14 and 15, Part 2, Condition 8</p> <p>Schedule 16, Part 2, Condition 6</p>		<p><del>the International Convention for the Prevention of Pollution from Ships</del>all chemicals and substances, including paints and coatings, used below MHWS for the undertaking of the licensed activities must be approved in writing by the MMO prior to use. Submission for approval to the MMO must take place no later than ten weeks prior to use, unless otherwise agreed by the MMO in writing.</p>		<p>information will make it clear what is required at the post consent stage.</p>
<p>Schedule 10, Part 2, Condition 11</p> <p>Schedule 11, Part 2, Condition 11</p> <p>Schedules 12 and 13, Part 2, Condition 8</p>	<p>Updated following comments received from the MMO.</p>	<p>(4) 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 <del>31st January</del>15 February each year for the months <del>July to December</del>August to January inclusive, and by <del>31st July</del>15 August each year for the months <del>January to June</del>February to July inclusive.</p>	9	<p>The MMO welcomes and thanks the Applicant for this change.</p>

Schedules 14 and 15, Part 2, Condition 8				
Schedule 10, Part 2, Condition 11	Updated following comments received from the MMO and the Maritime and Coastguard Agency.	(10) 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 (0344 382 0580), and the UK Hydrographic Office email: navwarnings@btconnect.com.	9	The MMO notes the additional condition for those objects that are considered a risk to navigation and although not the requested condition is content with the wording.
Schedule 11, Part 2, Condition 11				
Schedules 12 and 13, Part 2, Condition 8				
Schedules 14 and 15, Part 2, Condition 8				
Schedule 16, Part 2, Condition 6				
Schedule 10, Part 2, Condition 11	Updated following comments received from the Marine Management Organisation and	(11) <del>(10)</del> All dropped objects including those in sub-paragraph (10), must be reported to the MMO	9	The MMO welcomes and thanks the Applicant for this change.

<p>Schedule 11, Part 2, Condition 11</p> <p>Schedules 12 and 13, Part 2, Condition 8</p> <p>Schedules 14 and 15, Part 2, Condition 8</p> <p>Schedule 16, Part 2, Condition 6</p>	<p>the Maritime and Coastguard Agency.</p>	<p>using the 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. <del>Immediate</del>, unless otherwise agreed in writing with the MMO.</p> <p><del>(12) notification should be made to HM Coastguard via telephone where there is a perceived danger or hazard to navigation.</del> 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 seabed marine environment at the undertaker's expense if reasonable to do so.</p>		
<p>Schedule 10, Part 2, Condition 13(1)(c)</p> <p>Schedule 11, Part 2,</p>	<p>Updated following consultation with the MMO.</p>	<p>(c) A monitoring plan (which accords with the in principle monitoring plan) to include details of proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with conditions 17, 18</p>	<p>9</p>	<p>The MMO welcomes and thanks the Applicant for this change.</p>

Condition 13(1)(c)		<p>and 19 to be submitted to the MMO in accordance with the following—</p> <p>(i) at least <del>four</del>six months prior to the first survey, detail of the pre-construction surveys</p> <p>and an outline of all proposed monitoring;</p> <p>(ii) at least <del>four</del>six months prior to construction, detail of construction monitoring</p> <p>(iii) at least <del>four</del>six months prior to completion of construction, detail of postconstruction (and operational) monitoring;</p>		
<p>Schedule 10, Part 2, Condition 13(1)(d)</p> <p>Schedule 11, Part 2, Condition 13(1)(d)</p>	Updated following consultation with the MMO.	(d) A construction method statement in accordance with the construction methods assessed in the environmental statement, to be submitted to the MMO at least six months prior to commencement of licensed activities, and including details of—	9	The MMO welcomes and thanks the Applicant for this change.
Schedule 10, Part 2, Condition 13(1)(h)	Updated following consultation with the MMO.	(h) An offshore operations and maintenance plan, in accordance with the outline offshore operations and maintenance plan, to be submitted to the MMO at least <del>four</del> six months prior to commencement of	9	The MMO welcomes and thanks the Applicant for this change.



Schedule 11, Part 2, Condition 13(1)(h)		operation of the licensed activities and to provide for review and resubmission every three years during the operational phase.		
Schedule 10, Part 2, Condition 13(1)(j)	Updated following consultation with the MMO.	(j) In the event that driven or part-driven pile foundations are proposed to be used, a spawning herring piling restriction plan (in accordance with the outline spawning herring piling restriction plan) containing updated underwater noise modelling. The updated underwater noise model must be based on final project parameters to be used to install piles in the spawning herring piling restriction area and must include details of any verified mitigation measures to be employed.	9	<p>The MMO would like the condition updated to the following:</p> <p><i>(1)...(j) In the event that driven or part-driven pile foundations are proposed to be used, a spawning herring piling restriction plan (in accordance with the outline spawning herring piling restriction plan) containing updated underwater noise modelling must be submitted to the MMO at least six months prior to commencement of the piling activities. The updated underwater noise model must be based on final project parameters to be used to install piles in the spawning herring piling restriction area and must include details of any verified mitigation measures to be employed.</i></p> <p>The MMO considers that this should be provided alongside</p>

				the Site Integrity Plan and considers that six months prior to activities is required.
Schedule 10, Part 2, Condition 13(4) and 13(5)	Updated following consultation with the MMO.	<p>(4) If the underwater noise modelling undertaken for the spawning herring piling restriction plan pursuant to subparagraph (1)(j) 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 outline spawning herring piling restriction plan then no piling activity may be undertaken within the spawning herring piling restriction area during the herring spawning season without the approval of the MMO.</p> <p>(5) In this condition:</p> <p>(a) “herring spawning season” means 1 September and 16 October inclusive;</p> <p>(b) “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>(c) “spawning herring piling restriction area” means the area identified as</p>	9	Please see Sections 3.5 and 4.6 above. The MMO is content with this wording.

		the spawning herring piling restriction area within the outline spawning herring piling restriction plan.		
Schedule 10, Part 2, Condition 14	Updated following consultation with the MMO.	(6) Where an application for approval is made under condition 13(1)(c), (d), (f) or (h), the MMO must determine the application for approval within a period of six months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.	9	The MMO welcomes the update to six months but still has fundamental issues on determination dates. Please see Section 4.4 above regarding determination timescales.
Schedule 11, Part 2, Condition 14				
Schedule 10, Part 2, Condition 16	The Applicant has updated condition 16 following consultation with the MMO.	16.— (1) The undertaker must provide the following information to the MMO, unless otherwise agreed in writing by the MMO—  (a) the name, company number (if applicable), address and function of any agent or, contractor or subcontractor appointed to engage in the licensed activities within seven days of <del>appointment</del> not less than ten working days prior to such agent or contractor commencing any licensed activity...	9	The MMO welcomes and thanks the Applicant for this change.
Schedule 11, Part 2, Condition 25	The Applicant has updated condition 25 following consultation with Natural England.	(1) The undertaker must not carry out any offshore cable installation works or works associated with the installation of the offshore reactive compensation platforms seaward of mean high water springs within the	9	The MMO welcomes and thanks the Applicant for this change.

		<p><del>site designated as the Greater Wash Special Protection Area</del>SPA restriction area between 1 November to 31 March inclusive, unless otherwise agreed with the MMO, in consultation with the statutory nature conservation body.</p>		
Schedules 12 and 13, Part 2, Condition 17	The Applicant has included a new condition 17 in response to comments from the MMO and the ExA's proposed changes to the draft DCO (PD026)	Piling restriction for spawning herring 17. No piling of any type is permitted between 1 September and 16 October each year.	9	The MMO welcomes and thanks the Applicant for this change.

**Table 1:** Comments on Applicant's changes to the draft DCO (revision 9).

Yours sincerely,

[Redacted Signature]

[Redacted Name]  
Marine Licensing Case Officer

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

## 5 References

Hawkins, A., Roberts, L., & Cheesman, S. (2014). Responses of free-living coastal pelagic fish to impulsive sounds. *The Journal of the Acoustical Society of America*, 135, 3101–3116.

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