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MMO Reference: DCO/2022/00003
Planning Inspectorate Reference: EN010136
Identification Number: 20048964

27 February 2025

Dear Susan Hunt,

Planning Act 2008, BP Alternative Energy Investments Ltd, Proposed Morgan Offshore Windfarm Generation Assets Order

Deadline 6 submission

On 30 May 2024 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 bp Alternative Energy Investments Ltd, (the Applicant) for determination of a development consent order (DCO) for the construction, maintenance and operation of the proposed Morgan Generation Offshore Windfarm (the DCO Application) (MMO ref: DCO/2022/00003 PINS ref: EN010136).

The DCO Application seeks authorisation for the construction, operation and maintenance of Morgan Offshore Windfarm Generation Assets (MOWF) located approximately 22 kilometres (km) from the Isle of Man Coastline and approximately 37 km from the Northwest coast of England; comprising of up to 96 wind turbine generators, all associated array area infrastructure and all associated development in an area approximately 280 square kilometres (km²).

Two Deemed Marine Licences (DML) are included in the draft DCO. One in relation to Wind Turbine Generators (WTG) and Associated Infrastructure, and one for Offshore Substation Platforms and Interconnector Cables.

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

This document comprises the MMO's submission for 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

[redacted]

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Marine Licensing Case Officer

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Contents

1. The MMO's Closing Statement

1.1. The 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 noise abatement systems (NAS).

1.2. The MMO understands that disagreements are reviewed, and recommendations are made to the SoS by the ExA, so the SoS can make a decision. However, the MMO would highlight that with the Applicant leaving some of the major issues for examination it has increased resource requirements during this process and some high priority issues remain unresolved, undermining the development consent order process. In addition to this, major decisions that should be a matter for the SoS are being included as conditions to resolve at the post consent stage. This causes additional work for all parties, increases/duplicates resources and occasionally can put the MMO in a difficult position. For example, if we require more information (at a cost to the Applicant), such as surveys which impacts the Applicants timeline and funding.

1.3. The MMO would highlight that the Applicant has engaged with the MMO throughout the process with the aim to agree as much as possible.

1.4. A summary of the remaining not agreed issues can be found in Section 5 and Section 6 of this document.

2. Response to Applicants Response to Examiner's Questions 2 (ExQ2) (REP5-015)

2.1. The MMO has reviewed the responses from the Applicant to the questions raised by the ExA contained within ExQ2 and has provided a response in Table 1 below.

Table 1. MMO Response to ExQ2

ExQ2	Question to:	Question:	Applicant Response	MMO Response
GEN Cross-Topic, General and Miscellaneous Questions				
GEN 2.9	Applicant Marine Management Organisation Natural England (NE)	**Monitoring - Adaptive Management** At ISH2 the Applicant stated that it continues to engage with Natural England regarding the need for additional ecological monitoring, including that for marine mammals; however, it was highlighted that Regulation 21(3) of the Infrastructure Planning (Environmental Impact Assessment Regulations) 2017 sets out that measures should be proportionate to the nature, location and size of the proposed development and the significance of its effects on the environment, and that this is the approach that the Applicant has taken [REP4-006]. The ExA notes that Regulation 21(3) of the Infrastructure Planning (Environmental Impact Assessment Regulations)	The Applicant cross refers the ExA to Annex 5.1 to the Applicant's response to EXQ2 GEN 2.9 (S_D5_5.1) where this response is provided.	The MMO welcomes the additional document REP5-010. However, the MMO still believes there should be a process in the DML stating what would happen should the monitoring reports show impacts higher than what has been agreed. The MMO would highlight that this is not blanket adaptive management for every impact identified but specifically linked to the agreed monitoring being undertaken. 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 that the Environmental Statement (ES) predicted rather than just a discussion upon review of the reports. The MMO notes that if impacts are higher than predicted we can utilise Section 72 of 2009 Marine and Coastal Access Act (MCAA) and vary the marine licence to request adaptive management, but believes this Condition gives a clear process to all and allows for proactive

		2017 is directed at the Secretary of State when considering whether to impose a monitoring measure if an order is made. The ExA therefore considers that the provisions of Regulation 21(3) have been misrepresented. Notwithstanding, the ExA notes the Applicant's response to ExQ1 GEN 1.8, whereby it states adherence to 2014 guidance issued by the MMO that monitoring should be used where there is uncertainty in the significance of an impact which could lead to a potentially significant impact on a sensitive receptor' and 'Monitoring should not be required for impacts where there is already high certainty' [REP3006]. The ExA notes that NPS EN-3 states *that "should impacts be greater than those predicted, an adaptive management process may need to be implemented and additional mitigation required, to ensure that so far as possible the effects are brought back within the*		management rather than reactive management by the MMO. The condition wording below should be added to Condition 29 and would be linked to those reports. *"(6). In the event that the reports provided to the MMO under sub-paragraph (4) identify a need for additional monitoring, the requirement for any additional monitoring will be agreed with the MMO in writing and implemented as agreed.* *(7). In the event that monitoring reports provided to the MMO under subparagraph (4), identifies impacts which are beyond those predicted within the Environmental Statement, adaptive management/mitigation may be required. An Adaptive Management/Mitigation Plan to reduce effects to within what was predicted within the Environmental Statement, unless otherwise agreed in writing by the MMO, must be submitted alongside the monitoring reports submitted under subparagraph (4), including timelines and associated monitoring to test effectiveness. This plan must be agreed with the MMO in consultation with the relevant SNCBs to reduce effects to a suitable level for this project.*

		range of those predicted" (paragraph 2.8.222). There is no clear provision in the In-Principle Monitoring Plan (IPMP) for adaptive management should the post-construction monitoring show impacts greater than anticipated. The Applicant should provide amendments to the IPMP to include references to a commitment to adaptive management measures (to be agreed with the MMO and Natural England if required), and if it chooses not to do so, provide an explanation. MMO and Natural England responses on the Applicant's submission are expected at D6.		*(8) 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."*
CF Commercial Fisheries				
CF 2.2	Applicant	**Standalone plan to secure Scallop Mitigation** The MMO submission at D4 noted that it has concerns about the proposed SMZ "*only being indicative at this stage*" and considers that the zone should be finalised before a decision is made on the DCO and that a standalone plan secured by the DCO "*could be beneficial*".	On 19 December 2024, the Applicant and the MMO discussed how the FLCP that included the SMZ could be discharged post-consent. The Applicant understands that the MMO is content with the principle of the SMZ being secured within the final Fisheries Liaison and Coexistence Plan (FLCP). The MMO does not consider that a standalone plan is now required. The Applicant has now updated the OFLCP to make the SMZ section more definitive, therefore removing any	The MMO has had a number of discussions with the Applicant in relation to this issue and understands the Applicant has updated documents and the SMZ requirements to provide assurance that there will be agreement on the size of the SMZ at this stage and that it will only be the location that will be discussed post consent in the discharge of documents. The MMO notes that the updated OFLCP submitted at Deadline 5 (REP5-027) now confirms the minimum area for the SMZ

		The ExA notes that a minimum area for the SMZ has been added as a commitment in the outline FLCP but requests the Applicant to submit by D5 a standalone plan sufficient to secure a definitive SMZ, with co-ordinates, subject only to minor refinement post-consent, or to give detailed justification why it is not appropriate to do so, cross-referenced to any response to the MMO if applicable.	potential for subjectivity or uncertainty in the discharge of the plan post-consent. This follows on from discussions with the MMO and further representations from the fisheries stakeholders, The updated OFLCP submitted at Deadline 5 (S_D5_13 OFLCP_F05) now confirms the minimum area for the SMZ (34 km^2) and a definitive location of the SMZ. Additionally, the Applicant following further discussions with the MMO has also considered the maximum extent of the SMZ, which would be 37 km^2 and would extend to the Order Limits in the western part of the Array Area. The final SMZ will therefore be either the minimum (34 km2) or maximum (37 km2) extent, depending on peripheral turbine installation. If it is the maximum extent, this can only be at the discretion of the Applicant, as informed by post consent detailed site investigation surveys that will feed into the final design process, and turbine procurement process. Under this maximum extent scenario, there will be no surface or subsurface infrastructure in this part of the Array Area. This has also been reflected in the update OFLCP submitted at Deadline 5 (S_D5_13 OFLCP_F05). The Applicant notes that the final Design Plan, that is discharged by the MMO, will also reflect the SMZ commitments with no WTGs being within the SMZ.	(34 km^2) and a definitive location of the SMZ along with a maximum size 37km^2 depending on the peripheral turbine installation. The MMO confirms agreement with the Scallop Mitigation Zone (SMZ) secured through the Outline Fisheries Liaison Co-existence Plan (REP5-027) which will be enforced by the MMO as a condition contained within the DML's. The MMO welcomes that the final Design Plan, which will be discharged by the MMO, will also reflect the SMZ commitments with no WTGs being within the SMZ.

DCO Draft Development Consent Order				
Parts 1 and 2				
DCO 2.1	Applicant	**Part 1 Article 2 Definition of Commence** The definition of commence in Article 2 relates to the carrying out of licensed activities rather than any other development. The ExA assumes that this is because the only works authorised by the DCO are works which are licensed activities authorised by the DMLs. If this is the case then the Applicant is asked to include a definition of licensed activities in Part 1, Article 2.	The Applicant has added the following definitions to the draft DCO: "deemed marine licences" means the marine licences set out in Schedules 3 (Deemed Marine Licence under the 2009 Act – Licence 1: Wind Turbine Generators and Associated Infrastructure) and 4 (Deemed Marine Licence under the 2009 Act – Licence 2: Offshore Substation Platforms and Interconnector Cables). "licensed activities" means the activities specified in Part 1 of the deemed marine licences	The MMO confirms they are content with the updated interpretations, which provide clarity.
DCO 2.2	Applicant	**Part 2 Article 7 Benefit of the Order (1)** At [REP4-009, Ref. REP3-037.41] the Applicant repeats its argument of precedent for this article in previous made orders and contends that there is no "*exceptional reason to depart from well-established precedent in respect of this matter*". The ExA notes, however, that the Applicant has not	The Applicant has copied below its response to the Marine Management Organisation's relevant representation (point RR-020.9 within PD1-017) where the Applicant provided a fuller explanation and justification. The key point is that, if the Applicant ever wished to transfer the powers in the DCO/DML, it is important that they can be transferred together to ensure that the same party has the benefit of the powers and liability for any breach. Having to pursue transfer of the DCO powers separately from the DML powers, and under different legislative provisions,	Please see Section 6.2 of this document.

		addressed the MMOs point that the Applicant has not identified any reasoned justification in any previous decision which explains why the transfer process which it proposes is justified and to be preferred over the existing statutory mechanism [REP2-029, paragraphs 2.2.18 – 2.2.20]. The ExA acknowledges the precedent point being made by the Applicant but requests the Applicant to provide specific justification for the inclusion of these provisions in this specific application and why the existing statutory regime set out in s72 of the Marine and Coastal Act 2009 are not suitable.	could result in an unsatisfactory situation where different parties held the benefit of the respective powers and liability for compliance with any requirements/conditions attached. Given the significant overlap in the activities that the DCO and DMLs authorise, this could lead to considerable legal uncertainty, which would be unsatisfactory. Such a situation can be avoided by the inclusion of Article 7 in its current, well precedented, form. Response to RR-020.9 in PD1-017: "Article 7 of the draft DCO (AS-003) contains provisions for the transfer or lease of powers under the DCO. As set out in the Explanatory Memorandum (AS005) these provisions are based on the Model Provisions and the drafting has developed through their inclusion in many offshore wind farm development consent orders. Following the precedent drafting from other offshore wind farm orders article 7(2) provides the transfer or grant of DCO powers to take place with the written consent of the Secretary of State and article 7(5) provides for this transfer or grant to take place without the need for consent in the circumstances specified in the paragraph. Both of these allow for the transfer or grant of powers under the deemed marine licence. Article 7(4) requires the Secretary of State to consult with the MMO before giving consent to the	

			transfer or grant to another person of the benefit of either deemed marine licence. Article 7(11) disapplies sections 72(7) and (8) of the Marine and Coastal Access Act 2009 in relation to a transfer or grant of the benefit of the deemed marine licence. The drafting in the draft DCO reflects a long-established precedent regarding the transfer of DCO powers and deemed marine licences that has been endorsed by the Secretary of State many times, including most recently in the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024. Where a transfer of the deemed marine licence is sought under Article 7(2), the Secretary of State would consider the appropriateness of the party to whom the transfer or grant is proposed and would also take into account any representations made by the MMO before determining whether to grant consent. From the procedural perspective it is important that the DCO and any deemed marine licence can be transferred together using the process set out in Article 7. It is considered important that the timing of any transfer or grant of powers/authorisations under the DCO and dMLs be aligned, as there is considerable overlap between the authorisations and the requirements/conditions. This justifies a departure from the procedure under the Marine and Coastal Access Act 2009. Having deemed the marine licence in the	

			DCO, it is also appropriate that any transfer under the Order include the deemed marine licence as part of the wider transfer – it is one element of the wider order powers and should not be separated out from the authority to construct, operate and maintain the NSIP granted by the Order. The Planning Act 2008 is clear that marine licences may be deemed in a DCO in appropriate areas (s149A) and that a DCO may include such further provisions ancillary to the operation of that dML (s122(3)), including transfer along with the benefit. Section 122(5)(a) and (c) set out that a DCO may "apply, modify or exclude a statutory provision. which relates to any matter for which provision may be made in the order" or "include any provision that appears to the Secretary of State to be necessary or expedient for giving full effect to any other provision of the order". The ability to transfer the dML is related to the deeming and is submitted to be a sensible, expedient part of the wider power to transfer the benefit of the order. There is accordingly no legal barrier to including these provisions in the draft DCO and there is a clear advantage to doing so for the reasons set out above. This has been accepted by the Secretary of State in a number of offshore wind farm DCOs and is well precedented."	
Schedules 3 & 4 – draft Deemed Marine Licences				

DCO 2.6	Marine Management Organisation	**Enforceability of Conditions 11 and 12** Conditions 11 and 12 in DMLs 1 and 2 seek to ensure that the works constructed under each DML cannot, when combined, exceed those consented by the DCO. Condition 11 states that the total number of offshore substation platforms in both licences cannot exceed 4 and Condition 12 states the total length of the interconnector cables in both licences cannot exceed 60km. However, in the event that the total works were to exceed those parameters, would there be a breach of one or both DMLs? Put another way, how will the MMO understand which works will be constructed under which licence and which licence is breached if the works exceed the parameters in Conditions 11 and 12? This is important for enforcement purposes. The view of the MMO on how best to address this quirk of identical parameter controls is invited. Could some wording be added to	The Applicant considers that this is provided for in condition 20(1)(a) of each DML, which requires the undertaker to have a design plan approved that includes, amongst other things, numbers of offshore substations and the proposed layout of all cables. The Applicant notes that the final line of condition 20(1)(a) states that information is provided "to ensure conformity with the description of Work No.1 and compliance with conditions 10, 11 and 12." The Applicant considers that this provides the MMO with sufficient information to control the maximum number of offshore substations and length of interconnector cables built under the licences, through approval of the design plans under condition 20(1)(a). To then build beyond that amount would be a clear departure from those approved plans, and enforcement action could be taken.	The MMO considers that the Applicant is correct in their response in that "the final line of condition 20(1)(a) states that information is provided "to ensure conformity with the description of Work No.1 and compliance with conditions 10, 11 and 12." The MMO is thereby provided with the sufficient information to control the maximum number of offshore substations and length of interconnector cables built under the licences, through approval of the design plans under condition 20(1)(a). The MMO considers that no further wording is required to be added to the condition.

		Condition 20 (Pre-construction plans and documents) for example, to assist the MMO at approval stage? If so please provide suggested wording.		
DCO 2.11	Applicant	**Pre-Construction Plans – Condition 20(1)(a)(v): Micrositing for Reef Habitats** Natural England has provided a suggested amendment for the wording of draft DML condition 20 (1)(a)(v), in the Risks and Issues Log at Deadline 4 [REP4-043 - rows A7 and G17]. Is the Applicant willing to update the draft DML with the wording suggested by Natural England? If not, why not?	The Applicant has updated this condition in the draft DML to include the wording suggested by Natural England. The Applicant notes that Natural England confirmed that if this change is made, this matter in its 'Risk and Issues Log' can be considered resolved.	The MMO notes that the Applicant has removed the wording "of conservation, ecological or economic importance" from condition 20 (1)(a)(v) in the Deadline 4 submissions. The MMO notes that NE requested the wording of this condition was changed to: *'relating to any benthic habitats of conservation, ecological or economic importance constituting reef habitats of principal importance as listed under Section 41 of the NERC act.'* Following this change to the wording, this issue can be readily resolved. The MMO considers that this issue has been resolved following the change to the condition in the latest update to the draft DCO (REP5-017)
DCO 2.12	Applicant Natural England Marine Management Organisation	**Pre-construction Plans - Condition 20(1)(c), Condition 21 and Condition 22** Could the Applicant, Natural England and the MMO provide an update on any progress made regarding the timescales included in the DML conditions for	The Applicant has amended the draft DML condition to include six months as the timescale for approval of this plan. This has been agreed with the MMO.	The MMO welcomes this update and would highlight further comments on the determination timescales within Section 6.10. of this document. The MMO considers the date of submission of 6 months agreed.

		approval of pre-construction documentation and agreement of documents, where 4 months can remain and those where 6 months can be accepted.		
DCO 2.13	Natural England Marine Management Organisation	**Pre-construction Plans – Condition 23(2)** Natural England and the MMO are asked to advise if they are content with a three-month approval period for the UXO Clearance method statement and associated MMM. If not, please advise what period of time would be acceptable with reasons.	The Applicant has amended the draft DML condition to include six months as the timescale for approval of this plan. This has been agreed with the MMO.	The MMO's position is UXO should not be included in the DML. However, the MMO has reviewed the latest draft DCO and understands the timescales have been updated to six months and the timescales point is considered agreed. The MMO would query if the methodologies for the UXO investigation work will be submitted to the MMO for review and, if so, how is this secured within the DML. The MMO would be content with the investigations document submission being three months and this would be prior to the UXO clearance document submission.
MM Marine Mammals				
MM 2.1	Applicant Marine Management Organisation	**Masking in Marine Mammals** At ExQ1 MM 1.5 the ExA asked the MMO, NRW and Natural England whether they agreed with the Applicant's statement in Paragraph 4.9.1.2 of ES Volume 2, Chapter 4 [AS-010] that there is insufficient evidence to properly evaluate masking. Whilst NRW and Natural England raised no issue with the	The Applicant confirms that they have provided a response to the Marine Management Organisation (MMO) at D5 (S_D5_4 Applicant's Response to IP submissions submitted at Deadline 4_F01). This response is as follows: 'The Applicant highlights that the ExA posed this question to the MMO, Natural England and Natural Resources Wales (NRW). As per the Applicant's Response to IPs response to Examining Authority's Written Questions (REP4-007) the Applicant refers to their response to point MM 1.5 at Deadline 3 regarding the lack	The MMO has had detailed discussions with the Applicant regarding this point and has concluded that there was a miscommunication between what the MMO was asking for. In the response to EXQ1 MM 1.5 the MMO pointed out that there was evidence to evaluate masking that could be used during examination. This should have been to raise awareness to the ExA that information existed to provide a review. The MMO thanks the Applicant for their review of Erbe et al., (2016, 2019) and

		Applicant's position, the MMO disagreed [REP4-041] and requested a submission from the Applicant discussing the relevant peer-reviewed literature (for instance, Erbe et al. (2016) and Erbe et al. (2019)). The Applicant is asked to submit a response to the MMO's request at D5. The MMO is requested to comment on the Applicant's submission at D6.	of published criteria and directs the ExA to NE's response at Deadline 3 (REP3-048.13 in S_D4_5 Applicants response to IPs responses to EXQ1 F01) which agrees that there is limited evidence to inform an assessment on masking and to the response by NRW (A) at Deadline 3 (REP3-051.10) which states that they are satisfied with the Applicant's assessment of masking. Paragraph 4.9.1.2 in Volume 4, Chapter 2 Marine Mammals (S_D5_11 Marine Mammals F03) highlighted there are four agreed zones of influence, which includes masking, and states there is insufficient scientific evidence to properly evaluate masking and no relevant threshold criteria to enable a quantitative assessment. The Applicant highlights that the MMO agrees with the Applicant that there is no threshold against which to assess masking of biological sounds. The Applicant has considered masking (such as hindering prey capture) where relevant within sections assessing the sensitivity of marine mammal receptors to behavioural disturbance, but it is not possible to assess masking alone quantitatively and robustly in the absence of agreed thresholds. The Applicant also carried out a detailed literature review which considered the effect of vessels on marine mammals (see PD1-010) and highlighted this did not change the outcome of the assessments in Volume 4, Chapter 2 Marine Mammals (AS-010).	agrees with the conclusions reached. The MMO considers this matter closed.

			Therefore the Applicant has completed as full an assessment as possible and is standard practice and sufficient for the EIA. The Applicant highlights the assessment methodology was agreed through the Expert Working Group process (see Table 4.5 in Volume 4, Chapter 2 Marine Mammals (AS-010)). The assessment methodology is also considered agreed by the MMO as set out in the SoCG between Morgan Offshore Wind Limited and the MMO (REP3-028) (the MMO deferred to relevant SNCBs). The request for further discussion of masking was not highlighted during the EWG process or during S42 consultation. The Applicant has reviewed Erbe et al. (2019) and highlights that, whilst the paper has useful information on studies of masking in mysticetes and pinnipeds, the authors conclude that understanding on the potential effects of watercraft noise is still lacking and a number of knowledge gaps remain. Similarly, Erbe et al. (2016) reviews the understanding and potential framework of assessment of masking in marine mammals, but the authors highlight predicting masking is complex and difficult given the variety of factors that must be accounted for, and more research is needed (particularly before masking can be incorporated into regulation strategies or approaches for mitigation). Therefore the Applicant considers that whilst the studies by Erbe et al. provide useful literature on the	

			effects of masking, it does not propose accepted approaches to the evaluation of masking (rather highlights research recommendations needed). The Applicant therefore considers that the inclusion of these papers in Volume 4, Chapter 2 Marine Mammals (S_D5_11 Marine Mammals F03) would not have made a material difference to the outcome of the assessment and is not required. The Applicant has developed the UWSMS to address the potential impacts on marine mammals (and fish) species.	
MM 2.5	Applicant	**Construction Monitoring – Piling** As part of the construction monitoring of the first four piled foundations (Condition 28 of the draft DMLs [REP4-013], Table 1.6 of the In Principle Monitoring Plan [REP2-013] and Co57, Co60, Co63 and Co92 of the Commitments Register [REP4-025]) the MMO has requested that at least two of the first four piles of each foundation are the worst-case scenario piles and that this is updated within the aforementioned documents. The MMO also noted that the	The Applicant can confirm that the Applicant has discussed this request detailed in REP4-041 with the MMO and the Applicant is in agreement and will update the Commitments Register and IPMP at Deadline 5 to state the monitoring will include measurements of underwater sound generated by the installation of the first four piles of each piled foundation type to be installed and measurements of underwater sound generated by the installation of the first two piles where it is anticipated hammer energies greater than 3,000kJ may be required for installation. Condition 28 of the draft DCO has been updated at Deadline 5 to reflect this. ii) The Applicant considers that the draft DCO(S_D5_7 Draft Development Consent Order F07) (at Condition 28) suitably includes this requirement. Condition 28 (2) through to (6) details how the Applicant will undertake and report on	The MMO is content with the updates to the DML (REP5-018) and considers this matter closed.

		objective of the noise monitoring is to test the validity of the predictions made in the ES. If the monitoring suggests that the noise levels may exceed those predicted, then the MMO may take remedial action. The MMO requests that an underwater sound monitoring plan or scope of works is to be developed which sets out further details of the proposed monitoring and methodologies. The Applicant is asked to: **i.** Make the requested change to the aforementioned documents or explain why not. **ii.** Advise how it intends to address the potential requirement for adaptive management if piling noise is found to be greater than the predictions made in the ES.	the underwater noise monitoring for a select number of piles. Condition 28(5) and (6) go on to describe the process that shall be followed in the unlikely event that monitoring identifies a difference in the measurements of underwater noise from those predicted within the ES. The full wording is set out below for sub-paragraph (5), with sub-paragraph (6) in similar terms: 5*) The results of the initial underwater sound measurements monitored in accordance with sub-paragraph (2) must be provided to the MMO within six weeks of the installation of the first four piled foundations. The assessment of this report by the MMO will determine whether any further underwater sound monitoring is required. If, in the reasonable opinion of the MMO in consultation with the relevant statutory nature conservation body, the assessment shows significantly different underwater sound modelling results to those assessed in the environmental statement or failures in mitigation, all piling activity must cease until an update to the marine mammal mitigation protocol and further* monitoring requirements have been agreed. The Applicant would highlight that this is standard wording for offshore wind farm DCOs, and establishes an adaptive process in the instance that a) noise levels are different from those predicted in the ES, and b) those differences are deemed	

			sufficient to trigger the need to adapt the approach to monitoring or potentially the mitigation associated with the piling itself. The nature of any specific adaptations are not speculated on here as they will be entirely dependent on the nature of the monitoring results. However, as identified by the wording of Condition 28(5), the MMO have the ability to control the piling activity to ensure that, if ultimately necessary, no further piling takes place until they are satisfied that appropriate controls are in place.	
MP Marine Physical Processes and Benthic Ecology				
MP 2.1	Applicant	**Monitoring of Invasive Non-Native Species (INNS)** The ExA notes that monitoring to detect the presence of INNS is now included as a commitment in the In Principle Monitoring Plan (IPMP) [REP2-013] and that the Applicant states in its SoCG with the MMO that it will commit to considering the feasibility of collecting samples of the communities colonising the seabed infrastructure for further analysis of INNS. The ExA notes that this is a matter that was agreed at D3 in the SoCG with the MMO, however, neither the IPMP	The Applicant has updated the Commitments Register at Deadline 5 (S_D5_14 Commitments Register F04) to include the commitment to considering the feasibility of collecting samples of the communities colonising the seabed infrastructure for further analysis of invasive nonnative species (INNS) as an adaptive measure.	The MMO welcomes this response and has no further comments to make with regards to benthic ecology and INNS monitoring. The MMO considers the approach to invasive non-native species (INNS) has been agreed and that adaptive management measures will be discussed post consent as part of the monitoring plan.

		[REP2-013] nor the Commitments Register [REP4-025] capture the commitment to undertake sampling. The Applicant is requested to update those documents to include the sampling commitment as an adaptive management measure, as outlined in the Applicant's D3 submission [REP3004]. If the Applicant considers it would be inappropriate to do so, then explain why.		

3. Response to the Report on the Implications for European Sites (RIES) (PD-011)

3.1. The MMO has reviewed the RIES and provided a response to the question raised to the MMO in Table 2 below.

Table 2: Summary of MMO responses to Questions raised in the RIES

ID	Issue	Details	ExA Question	MMO Response
3.2.3	Sites and features listed in Table 1.49 of [APP-097] – disturbance from elevated underwater sound during preconstruction site investigation surveys	Natural England [RR-026, REP1-053] did not agree with the conclusion regarding pre-construction site surveys, presented in paragraph 1.6.4.220 of the HRA Stage 2 SAC Report [APP097]: *"…all geotechnical and geophysical surveys will be of a very short duration (over a period of several months), activities are likely to be intermittent and animals are expected to recover quickly after cessation of the survey activities."* Natural England did not agree that a period of several months could be considered a "*very short duration".* The applicant subsequently clarified in its Errata Sheet [REP3-011] that this should read *"medium term duration".* In addition, Natural England referenced new data collected in Wales which showed that Sub-Bottom Profiler (SBP) surveys cause marked and prolonged reduction in acoustic porpoise detection [RR-026, REP1-053]. Natural England advised that appropriate mitigation should be considered for these surveys within the MMMP and UWSMP [RR-026, REP1-053] and at D3 advised that the applicant should follow the Joint Nature Conservation Committee (JNCC) guidelines for minimising the risk of injury to marine mammals from geophysical surveys	The MMO is requested to provide its view on the need for inclusion of monitoring of SBP surveys in the IPMP. Natural England may also wish to comment on the applicant's response to ExQ MM 2.10 [REP5-015].	The MMO does not believe monitoring of SBP surveys in the IPMP is required, noting the Applicant has already included mitigation measures within the Marine Mammal Mitigation Protocol (MMMP) (Marine Mammal Observers and Passive Acoustic Monitoring) and these align with the JNCC guidelines. The MMO also notes NE is content there is no AEoI. The MMO notes that although SBP does emit noise the MMO and the Department for Environment, Food and Rural Affairs (DEFRA) has classed these as low risk activities as these are within the Exempted Activities (extract from the MMO webpage below): ***3.1 Scientific instruments*** *A marine licence is not required to deposit a scientific instrument or equipment associated with such an instrument, if the purpose of the deposit is to carry out a*

		(JNCC, 2017) for mitigation, as a minimum [REP3-049]. The ExA pursued this matter in ExQ MM 1.23 [PD-004] which asked the applicant to identify appropriate mitigation measures that could be included in a future iteration of the oMMMP. In response, the applicant [REP3-006] highlighted that for SBP surveys, the only appropriate mitigation measures which are currently available are Marine Mammal Observers and Passive Acoustic Monitoring, which align with the JNCC guidelines and had already been included in the oMMMP. At D4, Natural England acknowledged that there are currently no other mitigation options available for SBP surveys (besides those outlined in the JNCC guidelines) and instead advised that monitoring should be considered with the aim to collect data before, during and after SBP surveys to examine changes in the baseline [REP4-043]. Natural England stated that inclusion of this monitoring in the IPMP would resolve this issue. The ExA asked the applicant whether it was willing to include the monitoring in the IPMP [ExQ MM 2.10, PD-009]. The applicant responded that there was no potential for significant effects as a result of site investigation survey sources (including SBP) and as such, it considered monitoring to be disproportionate to the risk [REP5-015]. The applicant therefore does not consider it necessary to include this monitoring in		*scientific experiment or survey at sea. A marine licence is not required to subsequently remove such a deposit at a later date. This exemption does not apply to any deposit:* • *that is tethered to the seabed* • *that reduces navigational clearance by more than 5% by reference to chart datum (see below)* • *that will cause, or be likely to cause obstruction or danger to navigation* • *likely to have a significant effect on a marine protected area* • *made for the purposes of disposal* *'Chart Datum' is the plane below which all depths are published on a navigational chart. It is also the plane to which all tidal heights are referred, so by adding the tidal height to the charted depth, the true depth of water is determined. By international agreement Chart Datum is defined as a level so low that the tide will not frequently fall below it. In the United Kingdom, this level is normally approximately the level of Lowest Astronomical Tide.*

		the outline IPMP and explained that following discussions with the MMO, it anticipated that the MMO would concur that monitoring is not required. Notwithstanding this concern, Natural England has agreed [REP5-080] that AEoI alone and in-combination can be excluded for the marine mammal qualifying features of the SACs within its remit.		***Administrative action(s) required:*** *Notification of the intention to carry on the activity must be submitted to the MMO.* *This is covered by Article 17 of the 2011 and 2019 Exempted Activities Orders* At this stage as there is no further evidence for the requirement of additional monitoring or mitigation, the MMO does not believe monitoring is proportionate and would meet the planning tests but believes that is a matter for the ExA and SoS to decide. The MMO will continue discussions with NE in relation to this topic for future offshore wind projects.

4. Response to Action Points raised at Issue Specific Hearing 3 (ISH3)

4.1. The MMO has reviewed the recordings of ISH3 and the subsequent ExA action points document that followed. The MMO has responded to these action points in the below table 3.

Table 3: Summary of MMO responses to Action Points raised by the ExA at ISH3

No.	Party	Action	MMO Response
Agenda Item 7 – Offshore Ecology and Ornithology			
11	Marine Management Organisation (MMO) Natural England Natural Resources Wales (NRW) JNCC	The ExA invites the MMO, Natural England, NRW and JNCC to submit any comments they may have on the Application's compliance (or not as the case may be) with the marine noise policy and guidance documents listed in Action Point 10 above. Identify, if necessary, any revisions that would need to be made to the application, its supporting documents and/ or the draft DCO to address any application shortcomings in light of the marine noise policy and guidance.	The MMO has reviewed the Applicant's documents submitted on 24 February 2025. The MMO is content that the documents have been updated to incorporate the policy and guidance documents listed in Action Point 10. The MMO defers to NE in relation to Compensation.
Agenda Item 8 – Draft Development Consent Order			
15	Applicant MMO	Applicant to revisit Condition 22 in Schedules 3 and 4 of the draft DCO to consider whether the requirement for an Underwater Sound Management Strategy (UWSMS) should be reinstated within that Condition to be submitted to the MMO for approval prior to any piling or low order UXO clearance taking place; or provide a detailed explanation as to why an UWSMS is no longer required for low order UXO clearance.	The MMO understands the Applicant is updating the DCO to include 'or low order unexploded ordnance clearance' within Condition 20(1). The MMO has provided further comments on Condition 20 in Section 6.12. of this document.

		The MMO is also requested to provide advice on Condition 22 (as amended by the Applicant in REP5- 018 Tracked) and whether there remains a need for an UWSMS to be required and submitted to the MMO for low order UXO clearance	
19	Applicant MMO	Provide an update on discussions on the preferred wording of condition 24 in Schedules 3 and 4 of the draft DCO relating to the Marine Noise Registry (including whether it should be confined to pile driving only) and ideally an agreed position and revised drafting of the condition.	The MMO and the Applicant has discussed this point and believes the Applicant is updating the condition 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 or for low order UXO clearance 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.
20	Applicant MMO	Without prejudice to its in-principle objection to Article 7 of the draft DCO relating to the Transfer of Benefit, the MMO is requested to provide comment on whether Article 7 could be improved by the inclusion of a specified notice period in Article 7(9) before a transfer could take effect, specifically whether the following underlined words should be added into Article 7(9)(a)(ii): (*ii) the date on which the transfer will take effect (<u>which must be at least 28 days after the date on which the notice is given</u>).* The Applicant is also invited to comment on the inclusion of the tailpiece as drafted above.	The MMO has not provided a full without prejudice Condition as fundamentally the MMO's position is that the DML should not be part of Article 7 and the final position is in Section 6.2. of this document. However, in relation to the addition of a date in Article 7(9)(a)(ii) the MMO does not have concerns in relation to the addition of this wording should the SoS be minded to maintain Article 7.
21	Applicant MMO	Without prejudice to its in-principle objection to Condition 19 of Schedules 3 and 4 of the draft DCO relating to Force Majeure, the MMO is requested to provide comment on whether condition 19 could be improved by the inclusion of a sub part as follows: *(2) The unauthorised deposits must be removed at the expense of the*	The MMO does note that sub part (2) is on other DMLs and should the SoS decide that the condition remains then part 2 should be included. However, 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?

		undertaker unless written approval is obtained from the MMO. The Applicant is also invited to comment on the inclusion of a part (2) as drafted above.	The MMO's position is that the Condition should be removed and has no additional comments than those in Section 4.11 of REP5-056a

5. The MMO's Position on the Environmental Statement

5.1. The MMO has been in constant contact with the Applicant and the MMO's scientific advisors, the Centre for Environment Fisheries and Aquaculture science (Cefas) throughout the examining process. Comments relating to ecological matters have been provided in tables in previous deadlines.

5.2. The MMO considers that the majority of concerns have been addressed throughout the examination process and detailed in the Deadline 5 submission (REP5-056a). The MMO will now provide the MMO's position on the remaining ecological concerns in this section.

5.3. **Benthic Ecology**

5.3.1. The MMO considers that all concerns regarding impacts to benthic ecology have been suitably addressed by the Applicant.

5.4. **Coastal Processes**

5.4.1. The MMO considers that all concerns regarding coastal processes have been addressed by the Applicant and thanks the Applicant for their resolution.

5.5. **Underwater Noise**

5.5.1. The MMO's position is UXO should not be within the DML but notes if the SoS is minded to include UXO low order clearance, this would be a welcomed decision by the Applicant and notes the Applicant has accepted the risk of the timescale for a new licence for any required high order detonations at the time if required.

5.5.2. As detailed in the MMO's Deadline 5 submission, the MMO strongly requests that a bubble curtain is deployed for all high-order detonations. The deployment of a bubble curtain is a well-established mitigation measure that can reduce underwater noise and its impact on marine life. This approach not only aligns with best practices but also ensures a consistent standard across developments. It would also demonstrate that the Project is taking all possible steps to minimise the potential impact of underwater noise on marine species. The MMO would request that this is updated within the UWSMS should high order be included in the licence. However, as the Applicant has confirmed high order has been removed from the project, the MMO believes this will be covered as part of the Marine Licence Application and therefore considers this matter closed.

5.6. **Shellfisheries**

5.6.1. The MMO thanks the Applicant for the inclusion of both King and Queen scallop (*Pecten maximus* and *Aequipecten opercularis*) species in the in-principle monitoring, which includes the commitment to monitoring scallop populations pre- and post-construction through dredge survey and a Fisheries Liaison and Coexistence Plan as part of an Offshore Environmental Management Plan secured through the DMLs.

5.6.2. The MMO agrees with the current mitigation and rationale to not include shellfish larval stages in the UWSMS unless more relatable data becomes available and adaptive management is required.

5.6.3. The MMO has no outstanding shellfisheries concerns and thanks the Applicant for the clarification.

5.7. **Fisheries**

5.7.1. A major issue that has persisted throughout the examination process has been the MMO's request for seasonal piling restrictions to be placed on the DCO/DML and be included in the UWSMS for both cod (15 February to 31 March (inclusive)) and Herring (01 September to 31 October (inclusive)). The MMO has been in direct contact with the Applicant regarding this and has reviewed the Underwater Sound Abatement Modelling: Fish Receptors report and an updated UWSMS, scheduled to be submitted into examination by the Applicant at Deadline 6.

5.7.2. In light of the Applicant's commitment to the use of two noise reduction systems (noise mitigation systems (NMS) and noise abatement systems (NAS)) for driven piling, during the herring spawning season, unless, through the UWSMS and following design refinement, the Applicant can demonstrate that a sufficient reduced overlap with the herring spawning grounds can be achieved through the application of a single noise reduction system to ensure no significant effects, the MMO is content that a temporal piling restriction for herring is no longer required on the DML.

5.7.3. However, the MMO highlights that some risk to herring still exists due to the slight overlap in noise disturbance at the spawning ground, and because adult herring migrating to the spawning ground from the surrounding area may also be at risk of disturbance. As part of their UWSMS the Applicant proposed the inclusion of secondary mitigation measures of spatial and temporal phasing of piling. With this in mind, the MMO requests that the Applicant implements spatial and temporal phasing of piling into their piling schedule so that piling in the westernmost part of the array takes place outside of the Manx herring spawning season (01 September to 31 October (inclusive)) and this should be clearly committed to within the UWSMS.

5.7.4. The MMO requests that UWN monitoring during piling is conditioned on the DML. The condition should provide details of how the monitoring will demonstrate the efficacy of the NMS and NAS during piling, so that the modelled sound levels can be validated.

5.7.5. With regards to the seasonal piling restrictions cod, the MMO considers that, as the Morgan array is in the centre of the high intensity cod spawning ground, there is potential for cumulative effects to occur on cod from underwater noise (UWN) from piling at Morgan and Morecambe Offshore Wind Farms (OWF), and, given the current state of the Irish sea cod stock, the MMO considers it judicious to exercise caution under the precautionary principle. Therefore, in the absence of accurate modelling to reflect all piling scenarios, and the unlikeliness of this

information being provided and reviewed prior to the close of examination, the MMO must maintain the request for a temporal piling restriction during the peak of Atlantic cod spawning season from **15 February to 31 March (inclusive).**

6. Comments on the Draft DCO and DML (REP5-017)

6.1. The MMO has reviewed the draft DCO submitted by the Applicant at Deadline 5 (REP5-017) and has provided the following comments.

6.2. **Transfer of the benefit of the order Article 7**

6.2.1. The MMO's position remains the same as set out within Section 4.3 of REP5-056a. The MMO strongly disagrees with the inclusion of Article 7 and requests reference to the DMLs is removed. The MMO notes the request for the Applicant to provide further justification on the interpretation in DCO 2.2. The MMO notes this was just a repeat of their response to our relevant representation.

6.2.2. The MMO believes that further reasoning was provided in Table 1 (DCO 1.1 and 1.2 and Table 2 response to REP2- 029.100) in relation to Section 120 of the PA 2008 which has not been responded to. The MMO also notes that it is not clearly explained within the Sheringham and Dudgeon Extension Recommendation report or Decision document on the inclusion of the transfer of Benefit. Since this Examination the MMO has provided more representation.

6.2.3. The MMO understands that the Applicant will not be providing a response to the additional points and this remains an area of disagreement.

6.3. **Schedule 2 Requirement 1 Time limits /Lifespan**

6.3.1. The MMO has noted that on some offshore windfarms that the ES has not assessed a number of years during the Operation and Maintenance (O&M) phase. This is not the case for the Project. However, the MMO wanted to highlight to the ExA and SoS that there may be a benefit to including an end date of the O&M 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. The MMO notes that Marine Licences have end dates for all construction and maintenance activities and there is a clear line when a new consent is required.

6.3.2. The MMO is still discussing a position internally and understand that it is too late to raise it with the Applicant but wanted to highlight to the ExA and SoS for consideration.

6.4. **Decommissioning – Schedule 2 Requirement 10 and Condition 18(1)**

6.4.1. The MMO has continued discussions with the Applicant providing the below via email and this is not agreed with the Applicant.

6.4.2. Decommissioning activities have not been fully considered and the MMO requests an outline decommissioning plan to be part of the consenting process. 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"

6.4.3. The MMO notes Examining Authority 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."

6.4.4. 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.

6.4.5. 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.

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

6.5. **Materiality & Provisions on variations and Approvals – Schedules 3 & 4 Part 1 Condition (9)**

6.5.1. The MMO has no outstanding comments on materiality and the definition of maintain. The MMO has outstanding comments linked to the wording of Part 1 (7) of the DMLs and Article 7 - as above.

6.6. **Notification and Inspections – Condition 15(6) & (7)**

6.6.1. The MMO requested some minor updates to these conditions via email to the Applicant on 20 February. The MMO hopes these will be updated in the DCO at Deadline 6.

6.6.2. *Condition 15(6) should be updated to allow coastal officers enough time to prepare and arrange coastal compliance checks. This update is on all Marine Licences.*

*15(6) Update notification to **14 days** to allow time for any required inspection to be undertaken.*

6.6.3. *Condition 15(7), Kingfisher has been in touch to ask if the condition 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

and confirmation of notification must be provided to the MMO within five days.

6.7. **Chemicals – Condition 18(1)**

6.7.1. The MMO has continued discussions with the Applicant in relation to the update of this condition and understands there is no agreement on the wording as the Applicant has a number of concerns on the practicalities of the condition and agree with their current wording.

6.7.2. The MMO has requested the Applicant to remove Condition 18 (1) and update Condition 20(1)(e) to include the following:

(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;

(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 Discharged Offshore which Are Considered to Pose Little or No Risk to the Environment (PLONOR) including;

(i) the function of the chemical,

(ii) the quantities being used and the frequency of use,

(iii) the physical, chemical, and ecotoxicological properties.

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

This would also include adding the following definitions to the 'interpretation' section of the 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;

6.7.3. At Deadline 5 (REP5-56a) the MMO requested the following wording:

6.7.4. *"Unless otherwise agreed in writing by the MMO, 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."*

6.7.5. Based on the best available evidence to date, the 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.

6.7.6. 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.

6.7.7. Past DML's have referenced the Offshore Chemical Notification Scheme (OCNS) definitive ranked list of registered products (or otherwise incorrectly termed "approved list of chemicals") for offshore petroleum activities, stating that chemicals for use should be chosen from this list or consent sought where unable. However, the use of this list for offshore petroleum activities does not remove the need for approval and reporting, as such, the use of this list for OWF should also not remove the need for approval and reporting. Noting that the list contains chemicals considered to be a threat to the marine environment (Chemicals of Priority Action) (as reported by OSPAR), the list should not be relied upon for assumption of safe use. The MMO has reviewed this past way of working,

alongside new available evidence and is proposing an improved process. The approach being sought through this new condition is explained below.

6.7.8. For all chemicals, written approval from the MMO must be obtained before their use, regardless of the risk of entering the marine environment. This is already standard practice and is conditioned by the requirement for a chemical risk assessment to be submitted to and approved by the MMO before the licensed activities or any phase of those activities may commence (usually held within the pre-construction plans and documentation of the DML conditions, e.g. the Project Environmental Management Plan). The condition generally reads as follows "*chemical risk assessment including information regarding how and when all chemicals are to be used, stored and transported in accordance with recognised best practice guidance and standards*". For completeness, the MMO outline that this should include information on chemical use including function (meaning what the chemical will be used for, e.g., use within engines, paint, degreaser), methodology, quantity, and frequency of use.

6.7.9. The MMO is proposing a change for chemicals with a pathway to the marine environment, where more information beyond the standard chemical risk assessment (above) is required.

6.7.10. A more detailed 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.

6.7.11. The MMO is aware that concerns may be raised around the 10-week submission timescale proposed within the condition and provide the following justification. Based on the information intended to be assessed by Cefas obtained through this condition, the MMO has accounted for an 8-week-period for their review. The MMO further anticipates a 2-week period within which to review the submission, regard Cefas advice, and make a determination. This is deemed to be acceptable considering the current timeframes for which projects currently receive post-consent chemical discharges.

6.7.12. 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.

6.7.13. The MMO further includes clarity on where other regulations/ agreements exempt chemicals from this process.

6.7.14. 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.

6.7.15. As the OSPAR Commission considers that the substances on the "OSPAR List of Substances Used and Discharged Offshore which Are Considered to Pose Little or No Risk to the Environment (PLONOR)" pose little or no risk to the environment and that they do not normally need to be strongly regulated they have been exempted from the need for approval.

6.7.16. The MMO notes that the same CRA can be used for submission across both conditions, as long as they contain the necessary information and presented in a format allowing for clear distinction between the two requirements.

6.7.17. The MMO is committed to supporting all of the UK government's environmental goals, this includes both net zero targets and nature and biodiversity targets by promoting sustainable practices to protect and enhance the marine environment. This new condition enables both, by ensuring the proactive collection, assessment and management of evidence regarding chemical use post-consent.

6.8. **Dropped Objects Condition 18 (11)**

6.8.1. The MMO has provided the following wording, agreed with the MCA to the Applicant:

(18) (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.

(b) All dropped objects including those in (a), must be reported to the MMO 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, unless otherwise agreed in writing with the MMO.

(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.

6.8.2. The MMO is currently reviewing the Dropped Object Procedure and there is a potential of a change of wording to align with Marine Directorate - https://www.gov.scot/publications/offshore-renewables-accidental-deposit-of-an-object-at-sea-form-and-guidance/. This change shouldn't alter the requirement by the Applicant or any changes to the DML as (b) identifies what should be submitted it would just be a change in wording.

6.8.3. The aim of this update is to ensure that reports must be made no later than 6 hours after the incident has been discovered for more major 'deposits' i.e. those that may be hazardous to shipping and within 24 hours of the incident being discovered in all other cases. A defined list of major deposits cannot be provided due to the nature of the activity. If the Project is in doubt whether an object is a danger/hazard to navigation then we would encourage them to assume it is and report it within 6 hours as per the condition.

6.8.4. If this is updated by the Applicant, the MMO considers this agreed.

6.9. **Force Majeure – Condition 19**

6.9.1. The MMO's position is that the Condition should be removed and has no additional comments than those in Section 4.11. of REP5-056a.

6.10. **Determination dates – Condition 20, 21, 22**

6.10.1. The MMO welcomes the update to all documents being submitted at six months by the Applicant and considers this matter closed.

6.10.2. The MMO also welcomes the update to Condition 21(2) of six months however, does not agree with the inclusion.

6.10.3. The MMO strongly considers that it is inappropriate to put timeframes on complex technical decisions of this nature. The time it takes the MMO to make such determinations depends on the quality of the application made, the complexity of the issues, and the amount of consultation the MMO is required to undertake with other organisations to seek resolutions. The MMO's position remains that it is inappropriate to apply a strict timeframe to the approvals the MMO is required to give under the conditions of the DML given this would create disparity between licences issued under the DCO process and those issued directly by the MMO, as marine licences issued by the MMO are not subject to set determination periods.

6.10.4. Whilst the MMO acknowledges that the Applicant may wish to create some certainty around when it can expect the MMO to determine any applications for an approval required under the conditions of a licence, and whilst the MMO acknowledges that delays can be problematic for developers and that they can have financial implications, the MMO stresses that it does not delay determining whether to grant or refuse such approvals unnecessarily. The MMO makes these determinations in a timely manner as it is able to do so. The MMO's view is that it is for the developer to ensure that it applies for any such approval in sufficient time as to allow the MMO to properly determine whether to grant or refuse the approval application.

6.10.5. The MMO would also question on what would happen should the MMO not make the approval within the six months approval period?

6.11. **Pre-construction plans and documentation – Condition 21(2)**

6.11.1. The MMO has reviewed the updated plans submitted to the ExA by the Applicant on 24 February below and is content with these updates.

6.11.2. **Outline Offshore Operations and Maintenance Plan (OOOMP)**

The MMO has reviewed the updated the maximum design scenario (MDS) table 1.13 in the physical processes chapter F2.1_Morgan_Gen_ES_Physical processes Which states:

Project lifetime of 35-years.

• Inter-array cables: repair of up 8 km of cable in one event every three years. Reburial of up to 20 km of cable in one event every five years.

• Interconnector cables: repair of up to 19.6 km of cable in each of three events every 10 years. Reburial of up to 3 km of cable in one event every five years.

The MMO agrees with the updated O&M plan, which is to be submitted in to examination by the Applicant at Deadline 6, and information regarding timeframes. Repairs must be within the EIA parameters.

6.11.3. **In Principle Monitoring Plan (IPMP)**

the MMO is content that the addition of text within section 1.3.1.1 of the IPMP is sufficient commitment to any new standards produced.

6.11.4. **Marine Mammal Mitigation Protocol (MMMP)**

In the MMO's Deadline 5 submission (REP5-56a), the MMO requested a minor edit to Section 1.4.4.4 of the MMMP with respect to the ranges within which there is a potential of injury (Permanent Threshold Shift (PTS)) occurring to marine mammals as a result of geophysical investigation activities, PTS is predicted to occur out to a maximum of 254 m for harbour porpoise due to Sub Bottom Profiler (SBP), not 54 m as suggested in the document. Providing that

this amendment is made to the MMMP submitted at Deadline 6, the MMO is content with the plan and has no further comments to make.

6.11.5. **Underwater Sound Management Strategy (UWSMS)**

The MMO is largely content with the principle of the Morgan UWSMS approach but still considers that, unless project design refinements can significantly reduce or remove the pathway for a significant effect to cod from UWN from piling, then the MMO considers additional secondary mitigation measures (likely in the form of NAS) will be needed before the MMO can consider not having a temporal piling restriction in place. The request for piling restrictions seeks to provide a safeguard for spawning cod by removing the pathway for a significant effect to occur from the Morgan project alone and cumulatively with other projects in the Irish Sea. To clarify if seasonal restrictions are on the face of the DML the UWSMS approach can be used to remove or reduce this requirement when more evidence and information is available at the post consent stage.

6.12. **Underwater Sound Management Strategy and Noise Abatement Condition 22**

6.12.1. The outstanding position on the requirement for the seasonal restriction the face of the DML in Condition 22 (1) is an area of disagreement with the Applicant.

6.12.2. The MMO understands the Applicant is proposing an update in relation to noise abatement on the face of the DML and the MMO is content with the updates.

6.12.3. The MMO has incorporated the wording into our proposed condition below – noting there may be some minor tweaks made by the Applicant:

Underwater Sound Management Strategy

1.No piling or low order unexploded ordnance clearance associated with the authorised development may be undertaken between 15 February to 31 March inclusive, unless otherwise agreed in writing by the MMO.

2.If driven or part-driven piling or low order unexploded ordnance clearance 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 MMO in consultation with the relevant statutory nature conservation body.

3.Where driven or part-driven pile foundations are proposed to be installed, the underwater sound management strategy submitted under sub-paragraph (2) must include details of any noise mitigation systems and/or noise abatement systems that will be utilised to manage sound from those piling activities, unless otherwise agreed in writing with the MMO.

4.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

5.The driven or part-driven piling and *low order unexploded ordnance clearance activities must be carried out in accordance with the approved underwater sound management strategy, unless otherwise agreed in writing by the MMO.*

6.13. **Reporting of impact pile driving/ Marine Noise Registry (MNR) – Condition 24**

6.13.1. The MMO believes the Applicant is content with the updates and this condition will be reflected within the DML submitted at Deadline 6. The MMO considers this matter closed.

6.14. **UXO and piling**

6.14.1. The MMO maintains the position that UXO should not be included in the DML but welcomed the removal of high order. The MMO welcomes the separation of UXO and piling conditions and the updates made in relation to high order. If the MMO believes other than the seasonal restriction the MMO has no further comments on UXO and piling conditions.