

# MORGAN OFFSHORE WIND PROJECT: GENERATION ASSETS

## Applicant's Response to Rule 17 Letter

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Image of an offshore wind farm

MORGAN OFFSHORE WIND PROJECT: GENERATION ASSETS

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## MORGAN OFFSHORE WIND PROJECT: GENERATION ASSETS

### Glossary

Term	Meaning
Applicant	Morgan Offshore Wind Limited.
Development Consent Order (DCO)	An order made under the Planning Act 2008 granting development consent for a Nationally Significant Infrastructure Project (NSIP).
Morgan Array Area	The area within which the wind turbines, foundations, inter-array cables, interconnector cables, scour protection, cable protection and offshore substation platforms (OSPs) forming part of the Morgan Offshore Wind Project: Generation Assets will be located.
Morgan Offshore Wind Project: Generation Assets	This is the name given to the Morgan Generation Assets project as a whole (includes all infrastructure and activities associated with the project construction, operations and maintenance, and decommissioning).
The Planning Inspectorate	The agency responsible for operating the planning process for applications for development consent under the Planning Act 2008.

### Acronyms

Acronym	Description
AEol	Adverse Effects on Integrity
AIS	Automatic Identification System
ALARP	As Low As Reasonably Practicable
APDO	Approved Procedure Design Organisation
CAA	Civil Aviation Authority
CEA	Cumulative Effects Assessment
CMS	Construction Method Statement
CPA	Closest Point of Approach
DCO	Development Consent Order
DEFRA	Department for Environment, Food & Rural Affairs
dML	Deemed Marine License
EEA	European Economic Area
EIA	Environmental Impact Assessment
GBBG	Great black-backed gull
ES	Environmental Statement
IFP	Instrument Flight Procedures
IP	Interested Party
IPMP	In-Principle Monitoring Plan
IoMSPC	Isle of Man Steam Packet Company
ISAA	Information to Support Appropriate Assessment
JNCC	Joint Nature Conservation Committee

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Acronym	Description
LAT	Lowest Astronomical Tide
MCA	Maritime and Coastguard Agency
MMO	Marine Management Organisation
MNEF	Marine Navigation Engagement Forum
MoD	Ministry of Defence
MPCP	Marine Pollution Contingency Plan
MSA	Minimum Sector Altitude
MV	Moor Vannin
MVOWFL	Moor Vannin Offshore Wind Farm Limited
NATS	National Air Traffic Service
NDA	Non Disclosure Agreement
NE	Natural England
NFFO	National Federation of Fishermen's Organisation
NRA	Navigational Risk Assessment
NRW	Natural Resources Wales
NPS	National Policy Statement
OEMP	Offshore Environmental Management Plan
OSP	Offshore Substation Platform
OWF	Offshore Wind Farm
PADS	Principle Areas of Disagreement Summary
PSR	Primary Surveillance Radar
PVA	Population Viability Analysis
RAG	red, amber, green
RSPB	Royal Society for the Protection of Birds
SAR	Search and Rescue
SBP	Sub-bottom Profilers
SMZ	Scallop Mitigation Zone
SNCB	Statutory Nature Conservation Bodies
SoCG	Statement of Common Ground
SPA	Special Protection Area
UK	United Kingdom
UXO	Unexploded Ordnance
VHF	Very High Frequency
VTMP	Vessel Traffic Management Plan

## **1 INTRODUCTION**

- 1.1.1.1 Morgan Offshore Wind Limited (the Applicant) encloses its response to the Examining Authority's Rule 17 letter issued on 3<sup>rd</sup> March 2025 requesting further information and final comments from the Applicant for Deadline 7, 10<sup>th</sup> March 2025.
- 1.1.1.2 The Applicant's response is detailed below with the question and references included for each response.

## 2 REQUEST FOR FURTHER INFORMATION FROM NATURAL ENGLAND

2.1.1.1 The Examining Authority (ExA) requested that Natural England provide its final comments on the Applicant's D6 submissions by 23:59 on Thursday 6 March 2025. The Applicant was then asked to respond to this submission as part of its Deadline 7 response to the Rule 17. This response is set out in Section 2.1.2 below.

### 2.1.2 NE 3.1

2.1.2.1 NE 3.1: The Applicant is asked to provide a final response to Natural England's submissions by D7.

#### Applicant's Response to NE 3.1

2.1.2.2 The Applicant thanks Natural England for providing further response to the updated documents the Applicant submitted at Deadline 6. The Applicant is pleased to see that many outstanding matters in Natural England's Principle Areas of Disagreement Summary (PADS) are now recognised as being resolved (submitted as an additional submission on 6<sup>th</sup> March 2025 (AS-015)).

2.1.2.3 The Applicant has responded on the remaining outstanding matters within the PADS as well as other outstanding matters from the Natural England Risk and Issues Log below (submitted as an additional submission on 6<sup>th</sup> March 2025 (AS-016)).

#### Principle Areas of Disagreement

##### **Unexploded Ordnance (UXO)**

2.1.2.4 **Separate marine licence for UXO clearance (also relates to items: A1/A5 and C10 in the Risk and Issues Log):** The Applicant has set out its position on inclusion of UXO clearance in the DCO in its Deadline 6 submission (REP6-014). It is the Applicant's position that it is appropriate, logical and justified to include UXO clearance activities within the DMLs. The Applicant has included all necessary activities for the construction and operations and maintenance of the Morgan Generation Assets in the application for development consent, in order to ensure a comprehensive application, and all such activities have been subject to a robust assessment process. This includes UXO clearance activities, with maximum number of detonations (i.e. 13 detonations) set out in the DCO (as secured by condition 23(6) of the deemed Marine Licences (Schedules 3 and 4)) and comprehensively assessed in the relevant ES chapters based on a realistic worst case scenario and applying suitable mitigation to ensure significant effects are avoided. Furthermore, the Outline Marine Mammal Mitigation Protocol has been updated (e.g. see section 1.1.1.5 of REP6-047) to acknowledge that Noise Abatement Systems will be considered as part of the mitigation strategy for UXO clearance if required, in line with the comments from Natural England. Indeed the Marine Management Organisation (MMO) has confirmed the MMO is content that should the Secretary of State decide that low order UXO clearance remains within the DML, that the MMO would be able to manage the mitigation and impacts post consent and sufficient information has been provided by the Applicant (REP6-081). In the absence of any further comment from Natural England on the points made by the Applicant, the Applicant has nothing further to add beyond the points made at Deadline 6.



## Cable protection

- 2.1.2.5 **Cable protection and marine licences (also relates to items: A3/A8 and G16 in the Risk and Issues Log):** Natural England's comments under A3/A8 and G16 in Natural England's Risk and Issues Log (AS-016) advise that deployment of scour/cable protection under the DCO should be no later than 10 years post-construction. The Applicant has repeatedly set out its position in response to this comment (see for example REP4-009, REP5-009 and REP6-004). Natural England has not responded in any detail to justify or explain its position, a position which the Applicant considers to be legally incorrect. The Applicant does not consider it appropriate to change standard industry practice without clear justification or updated policy change. In the absence of any further comment from Natural England, the Applicant has nothing further to add beyond those points set out at Deadline 6.

## Ecological Monitoring

- 2.1.2.6 **Ornithological (also relates to items: B54 in risk and issues log) and marine mammal monitoring (also relates to items: A4/A11, C8/C32, C26, C37, G2, G19 in the Risk and Issues Log):** The Applicant has responded fully to Natural England's outstanding points on ornithological and marine mammal monitoring in its Deadline 6 submission (REP6-004). The focus of Natural England's written concerns with regard to marine mammal monitoring has been on surveys utilising Sub-Bottom Profilers (SBP). The Applicant notes that there are residual points in the PAD at C8/32 and C26 (AS-015) relating to monitoring associated with piling effects, however these pre-date the Applicant's commitment to the application of noise mitigation and/or abatement systems in line with the Defra Reducing marine noise policy (2025) (that was introduced specifically to remove the risk of significant effects on mammal and fish receptors). The Applicant highlights that boomers are an older system that have been replaced by chirp systems for site investigation surveys. In addition, the new JNCC guidance<sup>1</sup> states that the risk to marine mammals is negligible from hull-mounted parametric SBP and mitigation is not required (see section 3.3.3 of the guidelines<sup>1</sup>). Therefore, the Applicant is clear that such monitoring is not a material concern nor warranted (please see REP6-045 for further detail). Natural England have made a limited number of written submissions relating to the monitoring of Manx shearwater and for potential mammal disturbance from sound generated from SBP however, they have not provided any response to the detailed points made by the Applicant at Deadline 6. The Applicant has evidenced why, in this instance, such monitoring is not merited, not practical (in the case of SBP monitoring) and will not lead to meaningful outputs that could validate the EIA or inform theoretical knowledge gaps. The Applicant has sought throughout the examination to engage on a technical basis with Natural England on these two monitoring requests but has not managed to secure any in depth discussion on these matters to explore the concerns held by the Applicant. The Applicant's position remains as set out at Deadline 6.
- 2.1.2.7 **Adaptive monitoring (also relates to item: G3 in risk and issues log):** Natural England has welcomed the updates made by the Applicant to the Offshore In Principle Monitoring Plan (IPMP) but requests that adaptive monitoring should be secured across all of the ecological monitoring commitments. The Applicant has responded fully to Natural England's outstanding points on adaptive monitoring in its Deadline 6 submission (REP6-004) and the Closing Statement (REP6-014). The Applicant

<sup>1</sup> Draft JNCC guidelines for minimising the risk of injury to marine mammals from geophysical surveys.

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reiterates that it has committed to monitoring, including adaptive monitoring, where it considers appropriate and capable of delivering tangible benefit (as set out in the IPMP (REP6-053)). The Applicant has demonstrated why it has not committed to adaptive monitoring in certain instances with sound practical and evidential justification. Applying a blanket approach to all ecological monitoring and potential impacts without consideration of practicality, appropriateness and, without clear rationale and objectives, would not provide useful information relevant for future projects.

- 2.1.2.8 **Monitoring the impacts of operations and maintenance activities (also relates to item: G19 in risk and issues log):** The Applicant reiterates its response at Deadline 6 (REP6-004) that as described in the IPMP (REP6-053), monitoring of the cables and their burial status will take place, as secured by condition 20(1)(d)(cc) of the deemed Marine Licences (Schedules 3 and 4) within the draft DCO (S\_D7\_4).

### Decommissioning

- 2.1.2.9 **Outline decommissioning plan (also relates to items: D18, G7 in the Risk and Issues Log):** The Applicant reiterates its response at Deadline 6 (REP6-004) and maintains that no outline decommissioning plan is considered to be necessary for inclusion with this application, and (given this is controlled under the requirements of the Energy Act (2004)) nor has this been required at this stage of the process for any offshore wind farm in the UK.

- 2.1.2.10 **Removable scour/cable protection (relates to items: D4, D22, D24, F3, F16, G4):** Natural England has outstanding concerns relating to cable protection which the Applicant has responded to again at Deadline 6 (REP6-004) and in the Closing Statement (REP6-014). The Applicant reiterates that it will seek to reduce environmental impacts (by only using scour protection and cable protection where absolutely necessary) and has committed to considering removable scour and cable protection as detailed in the Commitments Register (S\_D6\_34). The Applicant reiterates that the prescribed use of removable scour/cable protection, or its removal, is not standard industry practice and has never been a requirement for offshore wind projects which are not located within a Special Area of Conservation. Scour/cable protection employed during construction must, in the first instance, prioritise asset integrity and fulfil the safety requirements for which it is intended, to protect the assets. The Applicant has also raised that it does not consider it appropriate to pre-judge what the policy position may be at the time of decommissioning on the removal of such material and the ecological communities that will develop around them over time.

### Risk and Issues Log

- 2.1.2.11 The Applicant notes that most of the outstanding matters within the updated Risk and Issues Log submitted by Natural England have been responded to in full within the Applicant's response to IP submissions (submitted as an additional submission on 6<sup>th</sup> March 2025 (AS-016)). The Applicant has summarised its response on these outstanding matters below for further clarity.

- 2.1.2.12 **Highly Pathogenic Avian Influenza (HPAI) (relates to item: B6; this point is also discussed in 4.3.1 under the RSPB SoCG clarification):** The Applicant notes that Natural England raised HPAI within their written representation (RR-026) and that impacts on seabirds in the region should be taken into account within the impact assessment. The Applicant responded at the Procedural Deadline to confirm that the effect of HPAI has been considered within the assessments for the Morgan Generation Assets in line with Natural England's guidance (paragraph 5.6.2.4 of in Volume 2, Chapter 5: Offshore ornithology (APP-023) and assessments for individual species in

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section 5.9). This matter remains purple within the risk and issues log at Deadline 1 but was considered resolved by Natural England from requiring further discussion through Examination.

- 2.1.2.13 Cumulative assessment for great black-backed gull (relates to item: B55):** A detailed assessment for cumulative collision impacts on great black-backed gull (GBBG) is provided in the Additional PVA Modelling for Great Black-Backed Gull Cumulative Assessment submitted at Deadline 5 (REP5-031). This document presents the cumulative impact for great black-backed gull using Natural England's parameter assumptions and presents the population viability analysis (PVA) with and without the contribution of the Morgan Generation Assets. The findings demonstrate that the inclusion of the Morgan Generation Assets in the cumulative total makes a negligible difference to the PVA outputs, with the mean counterfactual of growth rates being either identical or near identical for all scenarios (e.g. only one set of scenarios, Scenarios 5 and 6, showed any difference in counterfactual growth rate when Morgan was included: 0.989 compared with 0.990 after 35 years). The Applicant notes that Natural England has updated their Risk and Issues Log for Deadline 7 to state that they agree to disagree on this point however this is not included as a principle issue within Natural England's updated PADS (AS-015). Natural England also acknowledged that appropriate mitigation has been considered by the Applicant (i.e. increasing the air gap between the sea surface and turbine lower tip heights) but that further mitigation is not possible. This is the same conclusion reached on the Mona offshore wind farm project, where statutory nature conservation bodies (SNCBs) agreed that further mitigation is not possible for great black-backed gull; the SNCBs (NRW<sup>2</sup> and JNCC<sup>3</sup>) noted in closing submissions that the mitigation was proportionate and that no further action was required from the Applicant to reduce effects. This is also a similar conclusion with respect to that of NRW on effects of kittiwake feature of the Pen y Gogarth/Great Orme's Head SSSI (see NRW.OO.13 in REP6-083). The Applicant notes that significant effects on a cumulative scale have been concluded by Natural England on previous offshore wind farm projects (e.g. Hornsea Project Four, East Anglia One North). No additional measures including mitigation, beyond what had already been incorporated into the project design or compensation were required as part of these projects associated with these conclusions, applying the same increase in lower turbine draught height as applied for the Morgan Generation Assets.
- 2.1.2.14 Marine mammal assessment terminology (relates to items: C1/C11/C35):** The Applicant notes that Natural England's position on the assessment methodology terminology has not changed. The Applicant provided detailed justification in their response to Relevant Representations and maintains this position as set out within its Deadline 6 response (DL6-004).
- 2.1.2.15 Cable crossing locations (relates to items: D8, D13 and F7):** Natural England acknowledges that cable crossing locations are unlikely to be resolved until the post consent phase, and the Applicant agrees with this point given this is when there will be clarity on final scheme design. The Applicant notes that D13 has not been updated but as this relates to the same point in D8 and the Applicant considers this matter to be closed in Examination.

<sup>2</sup> Natural Resources Wales Deadline 7 Submission and Closing Statement for Mona Offshore Wind Farm: <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010137/EN010137-002003-Natural%20Resources%20Wales.pdf>

<sup>3</sup> Joint Nature Conservation Committee Final Closing Statement for Mona Offshore Wind Farm: EN010137-002003-Natural Resources Wales.pdf

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- 2.1.2.16 Cable repair (relates to item D9/D17):** The Applicant notes that Natural England has welcomed the updates made to the Physical processes chapter (REP6-026) and Outline Operations and Maintenance Plan (OOMP) (REP6-049) submitted at Deadline 6. Natural England has subsequently asked for a commitment to include the maximum design scenario (MDS) for maintenance in the OOMP. Operations and maintenance activities have been fully assessed within each chapter of the EIA, as relevant. The MDS including for inter-array and interconnector cables foundations, wind turbines and offshore substation platform repair and maintenance, is set out within Section 1.5 of the OOMP (REP6-049). Therefore the Applicant considers this matter to be resolved.
- 2.1.2.17 Cable protection (relates to items: G8, G9):** There remain two outstanding comments in relation to further detail being provided on cable protection, scour protection and cable burial options pre-consent. The Applicant has responded on this at Deadline 6 (REP6-004) and reiterates that the final details will be defined (within the Cable Specification and Installation Plan) post-consent, following the completion of detailed site investigation surveys and final design, which is standard practice, and that it is not in a position to provide further information on detailed design at the consenting stage, as is standard industry practice. The Applicant has no further comments to make.
- 2.1.2.18 Impact of seabed scour during the operations and maintenance phase (relates to items: D16):** The Applicant has responded to this at Deadline 6 (REP6-004) and noted the MMO considers that an assessment of the magnitude of scour in comparison to the volumes of scour protection at the locations where it is proposed is included in the Offshore Construction Method Statement (CMS) and that this is an acceptable course of action. The Applicant has no further comments to make beyond the response at Deadline 6 (REP6-004).
- 2.1.2.19 Survey reports (relates to items D11 and F9):** Natural England have continued to request that site specific survey reports should be provided into Examination. The Applicant reiterates its response at Deadline 6 (REP6-004) that all relevant documents which can be shared have been provided to Natural England and Natural England have confirmed they have received the reports.
- 2.1.2.20 Lessons learnt from other windfarms (relates to item: G6):** Natural England have continued to request that lessons learnt from other offshore wind projects (in relation to potential scour and cable exposure) are reflected within the assessment documents. The Applicant reiterates the points made in its Deadline 6 response (REP6-004) that the project design envelope has been developed by qualified engineers with experience working on other offshore wind farms and that it is not usual practice in offshore wind applications for a proponent to be required to set out engineering lessons learned which have influenced the project design envelope, many of which may also be confidential.
- 2.1.2.21 Further detail in the Offshore Environmental Management Plan on management measures (relates to items: G10, G13, G14):** The Applicant reiterates its response at Deadline 6 (REP6-004) that as much detail as can be realistically provided at this stage of the development process has been included within the Outline Offshore environmental management plan (REP4-018). The Applicant recognises that Natural England do acknowledge that full detail will come post consent when the design is finalised.



### **3 REQUEST FOR FURTHER INFORMATION FROM BLACKPOOL AIRPORT**

- 3.1.1.1 As acknowledged in the Rule 17 letter, the Applicant has aligned the requirement relating to Blackpool Airport to that recently agreed on the Mona Offshore Wind Project, as requested by the Airport. Blackpool Airport have since sought to further vary the wording to include the construction of the offshore substation platforms (OSPs) to the matters controlled by the requirement.
- 3.1.1.2 In regard for the potential for the OSP to impact VHF communications, the Applicant has submitted a quantitative technical Line of Site assessment (S\_D7\_3.1) which considers four theoretical OSP locations positioned at the closest potential foundation points to shore (i.e., worst-case scenario) using the maximum possible height for the OSPs. The technical Line of Site assessment is focused on the BAE Warton Aerodrome however, it is anticipated that similar results would be obtained for Blackpool Airport due to similar ranges and littoral profiles for the Airport. The OSPs are static and would not introduce any amplitude modulation effect. Blackpool Airport has not previously highlighted any detrimental impact on its communications systems, or done an operational assessment (in line with CAP670 Appendix A, Gen 02) for the existing intervening Morecambe Bay Oil & Gas current infrastructure (an area where it provides regular services to helicopters serving those oil & gas assets) which has platforms with similar characteristic to the Morgan OSPs.
- 3.1.1.3 The Applicant believes that the Line of Site assessment should provide the aerodrome stakeholders with a further level of comfort prior to their own operational assessments in line with CAP670 Appendix A, Gen 02. The Applicant considers the Line of Site assessment demonstrates that the OSPs do not need to be included within the aviation requirements, and has communicated this to Blackpool Airport with the technical justification.
- 3.1.1.4 It is noted that the Blackpool Airport DCO requirement (requirement 9) secures mitigation for air traffic services, IFP and MSA. Should a future MSA be implemented (not triggered by the Morgan Generation Project) over the Morgan Generation array area, it is reasonable to assume that it would be of a similar altitude as to that currently in place (2300ft) and therefore provide more than adequate clearance for the OSPs.

## 4 REQUEST FOR FURTHER INFORMATION AND FINAL COMMENTS FROM THE APPLICANT ONLY

### 4.1 Aviation and Radar

#### 4.1.1 AR 3.1

4.1.1.1 AR 3.1: The Applicant is asked to:

- a) Confirm agreement of BAE's preferred requirements 5 and 6.
- b) *Suggest a process (with indicative target dates) by which each of these matters (1, 2 and 3) might be resolved with BAE in the post-Examination period in order to facilitate a decision by the Secretary of State on whether a legally sound DCO could be made, not least with regard to EIA regulations.*
- c) *Indicate what liaison might need to be undertaken by the Secretary of State with any other concerned Government department or agency in order to assure the robustness of a decision on the DCO.*

#### Applicant response to AR 3.1

4.1.1.2 In line with the points noted above, the Applicant responds as follows:

#### **Response to comment a) Confirm agreement of BAE's preferred requirements 5 and 6**

4.1.1.3 The Applicant has held constructive dialogue with BAE since Deadline 6 on BAE preferred wording of the requirements. The Applicant had a number of minor proposed modifications, but was made aware that BAE were also in the process of discussing the requirements with Morecambe Offshore Wind Ltd. In order to maximise efficiency, the Applicant has engaged with Morecambe Offshore Wind Ltd and aligned on a common view of the proposed modifications to the requirements (thereby reducing an overlap of different requirements being discussed with BAE), which it has since returned to BAE for comment. Further detail on this matter is presented below under Matter 3.

#### **Response to comment b) *Suggest a process (with indicative target dates) by which each of these matters (1, 2 and 3) might be resolved with BAE in the post-Examination period in order to facilitate a decision by the Secretary of State on whether a legally sound DCO could be made, not least with regard to EIA regulations.***

#### **Matter 1- confirmation of the full extent of impacts of the project on air traffic services (ATS) at Walney and Warton**

#### **Instrument Flight procedures (IFP)**

4.1.1.4 As set out in The Applicant's Closing Statement (REP6-014), Section 11.9.2 of Volume 2: Chapter 11: Aviation and radar (APP-015) identifies the potential for the Morgan Generation Assets to have a significant adverse effect on Walney Aerodrome's Instrument Flight Procedure (IFP). The proposed mitigation for this effect is through an increase to the current Minimum Sector Altitude (MSA), which would reduce the residual impact to minor adverse, which is not significant in EIA terms. In terms of

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Warton Aerodrome, no significant impacts were predicted on IFPs in the Environmental Statement as there is no overlap between the array area and the MSA coverage. Following submission of the Morgan Generation Assets DCO application, BAE requested that the IFP assessment be updated for current and future IFPs for Walney Aerodrome using their Approved Procedure Design Organisation (APDO), NATS, to take account of an unpublished procedure that the Applicant and its consultants were unaware of. Similarly, Warton Aerodrome requested that the Applicant's IFP assessment be updated to take account of new information not in the public domain (again for future planned IFPs), using Warton Aerodrome's APDO, Osprey.

- 4.1.1.5 The scope of work required has evolved (to take account of the progression of matters through the Examination) but the Applicant has (as of 21st February 2025) commissioned NATS to undertake the IFP assessment. NATS have subsequently informed the Applicant that due to existing customer commitments, they may not be able to complete the IFP assessment any earlier than the contracted delivery of 20 weeks. Table A.1 in Appendix A sets out a high-level activity programme for finalising aviation and radar matters with BAE. Activity 4 in the table shows that resolution of the potential impact to current and future IFPs may not be completed (in a worst case scenario) until late in the Secretary of State decision period, but should be achievable prior to its end, and therefore, with time to confirm the mitigation requirements to Secretary of State, if that was required (as set out in Activities 5 and 6).
- 4.1.1.6 Whilst the Applicant will engage with NATS to establish if the timescale for completion of the assessment can be reduced, it should be noted that the Applicant expects the NATS assessment to confirm the findings of the Applicant's Environmental Statement, with mitigation comprising a change to the MSA and IFPs, actions which are entirely procedural in nature and for which there is no known reason why these could not be delivered. BAE have never contested the viability of procedural mitigation. Furthermore, requirement 7 in the draft DCO submitted at Deadline 7 secures the implementation of mitigation broadly adopting the wording requested by BAE at D6. Therefore, it is the Applicant's position that whilst the exact mitigation details are not known at this stage, the activity programme for determining any mitigation is understood and its implementation is secured in the draft DCO. It is also worth noting that irrespective of the timing of the NATS study in this process, implementation of the mitigation would be a post-consent activity, once the wind turbine model for installation is finalised and its associated maximum tip height is known. The robustness of the requirement is such that consent in itself does not present any risk to the aerodrome.
- 4.1.1.7 Regarding the update to the IFP assessment for Warton Aerodrome, Osprey, the aerodrome's APDO, have confirmed that they anticipate completion of the update by mid-May 2025, as set out under Activity 2 in Table A.1 of Appendix A. Therefore, there should be an opportunity for the Applicant and BAE to engage on the assessment results before the end of the Examining Authority recommendation period and update Secretary of State as required (Activity 3) during the determination phase. As set out above for Walney Aerodrome, should the assessment find the need for implementation of mitigation, it is procedural, and the Applicant has included requirement 5 in the draft DCO submitted at Deadline 7 to secure implementation of mitigation, again broadly in the form requested by BAE at Deadline 6.

### **Radio communications (UHF / VHF / DF)**

- 4.1.1.8 As stated above for IFPs, NATS have also been commissioned to assess the potential effects on radio communications at both Walney and Warton Aerodromes. NATS have confirmed to the Applicant that whilst the IFP assessment could take up to 20 weeks,

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the assessment on radio communications will be significantly quicker. Therefore, Activity 8 in Table A.1 of Appendix A assumes that the assessment will be complete in approximately 1 month. Following this the high-level activity programme allows for up to 6 weeks (Activity 9) for the Applicant and BAE to engage on the results and agree next steps including scope of any mitigation required. Activity 10 in Table A.1 of Appendix A provides for updating Secretary of State on the outcome.

- 4.1.1.9 The Applicant concedes that if (in the highly unlikely event) any mitigation is required for radio communications, then the nature of such mitigation is not yet confirmed. The Applicant would note that this is a more recent issue raised part way through examination on the basis of what the Applicant understands to be an evolving stance from the CAA (rather than any specific project level concerns relating to these specific aerodromes). This issue was not raised in EIA scoping, or in response to the statutory consultation PEIR document and therefore the Applicant does not consider it to be a matter that it could have anticipated would arise. It is also notable that the CAA's guidance over this period has not changed, and the interest in this matter arises from an emerging position relating to VHF communications at Prestwick Airport which may be suffering from degradation due to the presence of onshore wind turbines. The Applicant has now set out a high-level programme to understand the potential for effect on Walney and Warton Aerodromes and engage on any mitigation required within the timescales of the recommendation and decision periods with sufficient time to update Secretary of State. Additionally, the Applicant has secured implementation of mitigation, if necessary, through requirements 5 and 7 in the draft DCO submitted at Deadline 7, broadly in the form requested by BAE at Deadline 6.
- 4.1.1.10 Notwithstanding the above, in an effort to help provide further clarity on this matter in advance of the NATS report on radio communications, the Applicant commissioned a report from Osprey (and communicated this with BAE in their most recent engagements). Due to the timing of this clarification piece the Applicant has not been able to engage on it with BAE prior to the close of the examination.
- 4.1.1.11 The Applicant has submitted a quantitative technical Line of Site assessment (S\_D7\_3.1) which considers four theoretical OSP locations positioned at the closest potential points to shore within the array area (i.e., worst-case scenario) and used the maximum possible height for the OSPs. The technical Line of Site assessment is focused on the BAE Warton Aerodrome and given the OSPs will not be visible from this asset, the Applicant considers the outcome to clearly provide BAE with a further level of comfort prior to their own operational assessments in line with CAP670 Appendix A, Gen 02. Accordingly, the Applicant sees no technical basis for the inclusion of the OSPs within the DCO requirement.
- 4.1.1.12 BAE Walney Aerodrome is 10 nautical miles closer relative to the Development's OSPs (at the closest foundation point (worst-case)), therefore direct optical line of sight might exist in theory, although there are a number of existing windfarms (Walney and Ormonde) between the Morgan Generation Assets array area and the Walney Aerodrome. Irrespective of this the OSPs are static and would not introduce any amplitude modulation effect.
- 4.1.1.13 BAE Walney Aerodrome has not previously highlighted any detrimental effect on its communication system or done an assessment on the effect of operational wind farms in the Irish Sea which indicates that there will be no issue from the OSPs.

### **Matter 2 – identification of viable mitigation of PSR**

- 4.1.1.14 As set out in the Applicant's Closing Statement (REP6-014), following the request by MOD DIO in their response to Deadline 5 (REP5-063), The Applicant has submitted a



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'Mitigation Proposal' to the DIO, who have confirmed that the next step will be for BAE to undertake a technical and operational assessment of the proposed mitigation as set out in the final SoCG with BAE submitted at Deadline 6 (REP6-074).

- 4.1.1.15 The final SoCG with MOD DIO (REP5-049), states that MOD would normally aim to achieve a 6-week target for assessing the mitigation proposals it receives. In this case, the statutorily safeguarded asset is of a type that is new to the operator and consultee to the process (BAE), as such the Applicant understands that it is likely that MOD's target timescale will be exceeded. It is not currently possible for the Applicant to provide an estimate of the required timescale for assessment of the Mitigation Proposal. Further to this, BAE confirmed to the Applicant during a meeting on 5th March 2025, that they would not be able to complete the assessment within the 6-week period. The Applicant's high-level activity programme (Appendix A, Table A.1) therefore allows for the technical and operational assessment to be completed within a 10-week period (Activity 14). Subject to the results of the assessment, MOD DIO would still have sufficient time (Activity 15) to write to Secretary of State to confirm that their objection is removed and confirm whether Requirement 6 (which is broadly in the form requested by BAE at Deadline 6) in the Draft DCO is appropriate or provide a revised Requirement. Therefore, it is the Applicant's position that there is sufficient time for the technical and operational assessments to be undertaken on the mitigation strategy and for MOD DIO to update Secretary of State on its position.

### **Matter 3- agreement of suitable wording to requirements in the Draft Development Consent Order**

- 4.1.1.16 The Applicant notes that subject to minor amendments that have been provided to BAE the draft requirements suggested by BAE at Deadline 6 have been included in the DCO at Deadline 7
- 4.1.1.17 The Applicant does not believe that the Morgan Generation Project gives rise to any new or novel issues in relation to the potential impacts of wind turbines on aviation radar and safe operation of air traffic services. It also considers that there are appropriate solutions available to mitigate any identified adverse effects which will be secured through the DCO requirements.
- 4.1.1.18 As set out above, the Applicant is in the process of collating the technical information to address the points raised by BAE and other aviation stakeholders. The Applicant reiterates that these points were not raised by those stakeholders as part of EIA scoping, in response to the statutory consultation on the Preliminary Environmental Report where the Applicant presented the scope of its proposed EIA and assessment outcomes and therefore it was not possible for the Applicant to have anticipated that such technical information would be needed. This technical information will be shared with the relevant stakeholders after the close of examination in order to close out any remaining concerns regarding potential impacts and any required mitigation. An update, including provision of the technical information if required, will be provided to the Secretary of State.

### ***Response to comment c) Indicate what liaison might need to be undertaken by the Secretary of State with any other concerned Government department or agency in order to assure the robustness of a decision on the DCO***

- 4.1.1.19 As set out in the within the final SoCG (REP5-049), the Applicant understands that MOD DIO must maintain its objection to the Morgan Generation Assets and the DCO application until such time as the Warton Aerodrome PSR mitigation strategy has been

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technically and operationally assessed and it has been demonstrated that the mitigation strategy is viable. It will therefore be necessary for the MOD DIO to confirm to Secretary of State that it has removed its objection to Morgan Generation Assets prior to a decision on consent being made. As discussed above and set out in Activities 14 and 15 in Table A.1 of Appendix A, it is The Applicant's position that there is sufficient time for the technical and operational assessment of the mitigation strategy to be completed and for MOD DIO to confirm to Secretary of State that it has removed its objection. The Applicant does not consider it necessary for Secretary of State to liaise with any other Government department of agency to assure the robustness of a decision on the DCO.

## 4.2 Commercial Fisheries

### 4.2.1 CF 3.1 Compensation mechanism

4.2.1.1 CF 3.1: The Applicant is asked to reconsider and reconfirm its response as to what mechanism it could deploy for compensation as a last resort in this regard, if fishing is subsequently proved not able to return to the entirety of the proposed SMZ fishing grounds.

#### Applicant's response to CF 3.1

4.2.1.2 The Scallop Mitigation Zone (SMZ) (alongside other design and operational commitments) has been identified and promoted to minimise effects on fishing activity, in the areas of core scallop grounds within the Morgan Array Area which accords with NPS policy EN-3 para 2.8.322. It is not a policy requirement to ensure that there will be no residual effects, and the Morgan Generation Assets will not prevent or significantly impede fishing activities, because of the embedded mitigation provided by the SMZ. In considering the requirement for further mitigation it is important to note that there is existing spatial variability of scallop grounds in this region, which has been acknowledged by SFF/WCSP (REP6-103) as "*in some years there may be dense numbers of commercially viable queen scallops, but some beds can go years without any productivity*". Whilst the SMZ currently represents a productive and viable area, because of this inherent variability there is no guarantee that this will remain the case in the future, regardless of the presence of the Morgan Generation Assets.

4.2.1.3 Even if the final design of the Morgan Generation Assets includes the minimum SMZ of 34 km<sup>2</sup>, with a single row of peripheral turbines on the western side, spaced at 1,400m apart and associated buried cables and cable protection (which could equate to the presence of infrastructure within approximately 0.025% of the SMZ area), the Applicant is confident, based on evidence from other operational wind farms and information from the West Coast Sea Products (EV6-008), that the SMZ will be effective in maximising the ability for scallop fishing to continue throughout the SMZ so that the two industries can co-exist successfully. In the event the SMZ includes peripheral turbines on its western side with limited cabling through it which requires cable protection in places, and there is a minor level of disruption to the specific pre-installation fishing patterns in this area, it does not automatically follow that the affected vessels will have an overall reduction in annual landings income, as they would potentially achieve the same/similar level of landings from different areas in the wider Irish Sea region.

4.2.1.4 The Applicant would also note the position of the NFFO, which the MMO have stated that they will not challenge, that with the SMZ mitigation and fisheries monitoring "*the*

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*Applicant can't do anymore, with fisheries concerns being address with the mitigation put in place" (NFFO.EIA.6c in REP5-053).*

- 4.2.1.5 The Applicant recognises the SFF's concerns regarding access to fishing grounds but considers that they are not supported by evidence, there is huge natural variation in the resource both spatially and temporally and that through provision of the SMZ (which allows for continued access) it has met the relevant policy tests. With specific regard to the value of 53% presented by SFF (at REP1-059, REP1-065, REP4-050, REP4-052 and REP6-103), the Applicant would note that this is value is unsubstantiated, does not relate to either actual 'lost ground' nor have a direct correlation to income/landings. For this reason, the Applicant does not consider it necessary or appropriate to make detailed provision for an outcome that is not anticipated to occur or that could be solely attributable to the Project.

### 4.3 Ornithology

#### 4.3.1 MO 3.1

- 4.3.1.1 MO 3.1: The Applicant is asked to provide a brief summary of the matters outstanding with the RSPB, specifying which elements have been separately agreed with the Statutory Nature Conservation Bodies. The Applicant is also asked to confirm whether any post examination discussion with the RSPB is to take place on such matters.

#### Applicant's response to MO 3.1

- 4.3.1.2 The matters within the RSPB SoCG which remain 'not agreed' relate to their consideration of the baseline environment, assessment methodology and impact assessment. A summary of these outstanding matters is provided in the Examination Progress tracker (REP6-015).
- 4.3.1.3 These points relate to the RSPB's stance on wider national industry matters and methodologies, objections to SNCB guidance and/or the RPSB have not been able to draw conclusions due to their resource constraints (similar RSPB positions and approaches have been taken for other recent wind farms Examinations).
- 4.3.1.4 In Table 4. below the Applicant has set out the RSPB outstanding matters and the responses where the SNCBs have confirmed the points are resolved.

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**Table 4.1 Response on outstanding matters in RSPB SoCG**

Reference Number	Discussion point	Applicant's Position	RSPB's Position	Status	Rule 17 Additional Information
<b>EIA</b>					
RSPB.OO.3	Baseline environment	The baseline for offshore ornithology has been appropriately characterised and appropriate data, (including aerial surveys) has been used to inform assessment.	In their Relevant Representation (RR-035), RSPB expressed outstanding concerns that the Manx shearwater baseline characterisation using digital aerial surveys (DAS) does not adequately capture the activity of the species. Their position was that the diel variation in Manx shearwater activity means that the somewhat limited amount of time DAS were carried out is unlikely to properly characterise the activity of Manx shearwater at the Application site. RSPB also expressed concerns regarding whether the size and flight characteristics of the species make them harder to detect in the surveys. As a result, RSPB do not have confidence in the baseline densities of Manx Shearwater presented in the assessment.  These concerns relate to wider industry limitations on baseline survey methods and assessment of impacts on Manx shearwater and are therefore wider than a project specific issue.	Not agreed – material	Natural England and Natural Resources Wales are in agreement on the baseline characterisation for ornithology (see Table 1.12 of the Technical Engagement Plan (APP-094) and NRW SoCG NRW.OO.5 (REP6-083)).  Outstanding concerns from RSPB relate to wider industry limitations on survey methods and assessment for Manx shearwater (as explained in the SoCG (REP6-086)).  Concerns are not resolvable at a project level.  This matter therefore remains not agreed with RSPB and it is not possible to be resolved by the Applicant. Natural England and NRW are in agreement with the Applicant's approach.
RSPB.OO.4	Assessment methodology	The potential effects identified within the chapter represent a comprehensive list of potential effects on offshore ornithology	RSPB consider that the Assessment has not fully considered indirect ecosystem impacts (e.g. displacement from foraging areas, additional energy expenditure, potential impacts on	Not Agreed - material	Natural England, NRW and JNCC have confirmed that conclusions of no AEol can be reached for all relevant SPAs and associated qualifying features in relation to impacts from the Morgan Generation Assets alone and in-combination with other plans

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Reference Number	Discussion point	Applicant's Position	RSPB's Position	Status	Rule 17 Additional Information
		from the Morgan Generation Assets.	<p>forage fish and wider ecosystem impacts such as changes in stratification). RSPB would welcome consideration of the potential wider ecosystem impacts.</p> <p>These concerns relate to wider industry limitations on the assessment of indirect ecosystem impacts and are therefore wider than a project specific issue. There are a number of research projects seeking to address these limitations and the RSPB has direct involvement in several of these.</p>		<p>and projects (REP5-079, REP5-083a/AS-012 and REP5-067, respectively).</p> <p>Outstanding concerns from RSPB relate to wider industry limitations on assessment of indirect ecosystem impacts (as explained in the SoCG (REP6-086)).</p> <p>Concerns are not resolvable at a project level.</p> <p>This matter therefore remains not agreed with RSPB and will not be resolved. Natural England, JNCC and NRW have confirmed they have concluded no significant effect from indirect ecosystem impacts (REP5-083a, REP6-083, REP6-100 and REP5-067).</p>
RSPB.OO.5	Assessment methodology	The assessment methodology for offshore ornithology is appropriate (including interpretation of impact and levels of significance).	<p>The RSPB has outstanding concerns with the impact assessment methodology relating to:</p> <p>A lack of consideration of impacts compounded by Highly Pathogenic Avian Influenza (REP5-091).</p>	Not Agreed - material	<p>The Applicant has responded to concerns relating to Highly Pathogenic Avian Influenza (HPAI) throughout the Examination. The effect of HPAI has been considered within the assessments presented in line with Natural England's guidance (REP3-006).</p> <p>These concerns remain an outstanding matter for RSPB but have been resolved with the SNCBs.</p>
RSPB OO.6	Assessment methodology	<p>The assessment methodology for offshore ornithology is appropriate in respect of Gannet macro-avoidance correction factor to baseline densities for collision risk modelling.</p> <p>The application of a 70% correction factor to the densities of gannet used in collision risk modelling follows guidance from UK SNCBs (Natural England 2023; Natural England have</p>	<p>For the reasons set out in its Relevant Representation (RR-035), the RSPB does not agree with Natural England's advice in respect of the application of a reduction of 70% to the baseline densities inputted into the gannet collision risk modelling in order to account for macro-avoidance.</p> <p>The RSPB notes that the advice referred to by the Applicant is Natural England advice and not "UK SNCB" advice. It is not</p>	Not Agreed - material	<p>The RSPB acknowledge that the Applicant has to present the impact assessment in accordance with the relevant SNCB guidance but wish to be clear in the SoCG that the RSPB maintain their position that they do not agree with the Natural England guidance (REP6-086). The Applicant would highlight recent collision risk modelling guidance published by UK SNCBs JNCC <i>et al.</i> (2024) includes reference to the use of a percentage reduction in the densities of gannet to account for macro-avoidance with Natural England and NatureScot recommending the use of this guidance.</p>



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Reference Number	Discussion point	Applicant's Position	RSPB's Position	Status	Rule 17 Additional Information
		provided interim guidance on collision risk modelling avoidance rates when responding on offshore wind project applications, such as Hornsea Four in March 2023). The Applicant has also presented uncorrected density values for gannet in Volume 4, Annex 5.3: Offshore ornithology collision risk modelling technical report (APP-055).	NatureScot's advice in relation to Gannet macro-avoidance.  Therefore, while we recognise that the Applicant has followed Natural England's advice, we do not agree with this approach, are concerned that the predicted Gannet mortalities arising from collision are not robust and therefore cannot come to any conclusions with regard to any adverse effects on site integrity.		This matter therefore remains not agreed with the RSPB and will not be resolved as the Applicant has followed the SNCB guidance.
RSPB.OO.9	Assessment of the effects from the project alone	There will be no significant effects on ornithology receptors in EIA terms for the project alone.  A number of clarification notes have been provided. This includes the documents 'S_D5_16.1 Annex 16.1 to Ornithological assessment clarification data English sites (REP5-032), S_D5_16.2 Annex 16.2 to Ornithological assessment clarification data Welsh sites' (REP5-033) submitted at Deadline 5 and the Updated ornithological clarification data in relation to Natural Resources Wales submissions from the Applicant received on 31 January 2025 (AS-013) and S_D5_16.3 Annex 16.3 to Ornithological assessment clarification data offshore sites (RP5-034), which provides further clarification of the assessments as advised by the SNCBs. The Applicant submitted an Offshore Ornithology CEA and	As a result of methodological concerns, RSPB do not agree with the Applicant's conclusions on significance of effects.  The RSPB is aware that the Applicant has provided updated information relating to these concerns at Deadline 5 (e.g. see REP5-032-REP5-035).  However, due to resource constraints the RSPB has been unable to review the new information and reach conclusions on whether the RSPB's concerns have been addressed.  The RSPB's concerns on Manx Shearwater relate to wider industry limitations on baseline survey methods and assessment of impacts and are therefore wider than a project specific issue.  In respect of Gannet, the RSPB does not agree with the	Not agreed - material	The Applicant has responded to concerns relating to the baseline characterisation of Manx shearwater throughout the Examination. Baseline characterisation has been undertaken in line with Natural England's guidance (PD1-017).  No concerns have been raised by the SNCBs in relation to this issue. Outstanding RSPB concerns relate to wider industry limitations on assessment and are not resolvable at a project-level and therefore this remains an outstanding matter for RSPB (as explained in the SoCG (REP6-086)).

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Reference Number	Discussion point	Applicant's Position	RSPB's Position	Status	Rule 17 Additional Information
		In-combination Gap-filling of Historical Projects Note (REP1-010) at Deadline 1, following the SNCB methodology for quantifying impacts from historical projects.	application of a 70% macro-avoidance for Gannet recommended by Natural England for the collision risk assessment for the reasons set out in its Relevant Representation (RR-035).		
RSPB.OO.10	Assessment of the effects from the project cumulatively with other projects	There will be no significant effects on ornithology receptors in EIA terms for the project cumulatively with other plans and projects. The Applicant submitted an Offshore Ornithology CEA and In-combination Gap-filling of Historical Projects Note (REP1-010) at Deadline 1, following the SNCB methodology for quantifying impacts from historical projects.	<p>The RSPB are particularly concerned in regard to in combination impacts in relation to Great Black-backed Gull both in EIA terms and at the Isles of Scilly SPA.</p> <p>The RSPB recognise the difficulties with carrying out a full in combination assessment for a number of species SPA combinations because of the difficulties in obtaining historical data and the limitations in how it was collected and analyses.</p> <p>RSPB advise that such an assessment is carried out with in line with Natural England advice which RSPB consider to be a practical and pragmatic solution. RSPB expressed significant concerns relating to the project's in-combination and cumulative collision risk and displacement impacts including their assessment.</p> <p>RSPB welcomes the Applicant's engagement with the SNCBs on this matter.</p> <p>The RSPB is aware that the Applicant has provided updated</p>	Not Agreed - material	<p>At Deadline 5, the Applicant submitted REP5-032 which provides assessments following Natural England's guidance.</p> <p>REP5-031 explains the over-estimates and precautionary nature of the PVA parameters.</p> <p>NRW have concluded that the mitigation proposed by the Applicant is proportionate. NRW welcomed the commitment by the Applicant to raise the turbine draught height (Co8 in the Commitments Register (REP6-051)) and resolved the concerns (to not material) regarding potential EIA impacts (REP5-083a).</p> <p>Natural England have not raised the potential cumulative EIA impact for GBBG as a principal matter of disagreement and have also highlighted the mitigation by the Applicant to raise the air gap of the turbine blades. The Applicant notes that Natural England have concluded no adverse effect on the great black-backed gull feature of the Isles of Scilly SPA from the project alone and in-combination (REP5-079).</p> <p>The Applicant also notes that Natural England, NRW and JNCC have all concluded that there will be no adverse effects from the Morgan Generation Assets alone and in-combination with other plans and projects for all European sites (REP5-079, AS-012 and REP5-067).</p>

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Reference Number	Discussion point	Applicant's Position	RSPB's Position	Status	Rule 17 Additional Information
			<p>information relating to these concerns at Deadline 5 (e.g. see REP5-032-REP5-035).</p> <p>However, due to resource constraints the RSPB has been unable to review the new information and reach conclusions on whether the RSPB's concerns have been addressed.</p> <p>The RSPB has reviewed REP5-031 and can conclude that there will be significant effects on the regional population of Great Black-backed Gull in EIA terms as a result of the project cumulatively with other plans and projects.</p>		
<b>HRA</b>					
RSPB.OO.13	Outcomes of the Information to Support Appropriate Assessment (ISAA)	<p>There will be no adverse effects on integrity on SPAs with ornithology features for the project alone.</p> <p>A number of clarification notes have been provided. This includes the documents 'S_D5_16.1 Annex 16.1 to Ornithological assessment clarification data English sites (REP5-032), S_D5_16.2 Annex 16.2 to Ornithological assessment clarification data Welsh sites' (REP5-033) submitted at Deadline 5 and the Updated ornithological clarification data in relation to Natural Resources Wales submissions from the</p>	<p>The RSPB is aware that the Applicant has provided updated information relating to these concerns at Deadline 5 (e.g. see REP5-032-REP5-035).</p> <p>However, due to resource constraints the RSPB has been unable to review the new information and reach conclusions on whether the RSPB's concerns have been addressed.</p> <p>This updated information does not address RSPB's concerns on Manx Shearwater, which relate to wider industry limitations on baseline survey methods and assessment of impacts and are</p>	Not agreed - material	<p>The Applicant has responded to concerns relating to the baseline characterisation of Manx shearwater throughout the Examination. Baseline characterisation has been undertaken in line with Natural England's guidance (PD1-017).</p> <p>No concerns have been raised by the SNCBs in relation to this issue but this remains an outstanding matter for RSPB.</p> <p>The Applicant also notes that Natural England, NRW and JNCC have all concluded that there will be no adverse effects from the Morgan Generation Assets alone and in-combination with other plans and projects for all European sites (REP5-079, AS-012 and REP5-067).</p>



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Reference Number	Discussion point	Applicant's Position	RSPB's Position	Status	Rule 17 Additional Information
		Applicant received on 31 January 2025 (AS-013) and S_D5_16.3 Annex 16.3 to Ornithological assessment clarification data offshore sites (RP5-034), which provides further clarification of the assessments as advised by the SNCBs.	<p>therefore wider than a project specific issue.</p> <p>As a result of these concerns, the RSPB is unable to reach conclusions with regard to Adverse Effect on Integrity (AEOI) on Manx shearwater in relation to the following Special Protection Areas:</p> <ul style="list-style-type: none"> <li>• Copeland Islands SPA</li> <li>• Glannau Aberdaron ac Ynys Enlli/Aberdaron Coast and Bardsey Island SPA</li> <li>• Skomer, Skokholm and the Seas off Pembrokeshire/Sgomer, Sgogwm a Moroedd Penfro SPA</li> <li>• Rum SPA</li> <li>• Isles of Scilly SPA</li> <li>• St Kilda SPA.</li> </ul>		
RSPB.OO.14	Outcomes of the ISAA	<p>There will be no adverse effects on integrity on SPAs with ornithology features for the project in-combination with other plans and projects. The Applicant will produce a technical note regarding the 'gap-filling' exercise in accordance with the SNCB CEA historic projects Advice Note at Deadline 1.</p> <p>A number of clarification notes have been provided. This</p>	<p>RSPB expressed significant concerns relating to the project's in-combination and cumulative collision risk and displacement impacts including their assessment.</p> <p>RSPB conclude that there will be an adverse effect on site integrity on the following features of the Isles of Scilly SPA:</p> <ul style="list-style-type: none"> <li>• The impact of collision mortality on the Great</li> </ul>	Not agreed - material	<p>The Applicant has responded to concerns relating to the baseline characterisation of Manx shearwater throughout the Examination. Baseline characterisation has been undertaken in line with Natural England's guidance (PD1-017).</p> <p>Outstanding concerns relate to wider industry limitations on survey methods and assessment for Manx shearwater.</p> <p>Concerns are not resolvable at a project level.</p> <p>This matter therefore remains not agreed and will not be resolved.</p>

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Reference Number	Discussion point	Applicant's Position	RSPB's Position	Status	Rule 17 Additional Information
		includes the documents 'S_D5_16.1 Annex 16.1 to Ornithological assessment clarification data English sites (REP5-032), S_D5_16.2 Annex 16.2 to Ornithological assessment clarification data Welsh sites' (REP5-033) submitted at Deadline 5 and the Updated ornithological clarification data in relation to Natural Resources Wales submissions from the Applicant received on 31 January 2025 (AS-013) and S_D5_16.3 Annex 16.3 to Ornithological assessment clarification data offshore sites (RP5-034), which provides further clarification of the assessments as advised by the SNCBs. The Applicant submitted an Offshore Ornithology CEA and In-combination Gap-filling of Historical Projects Note (REP1-010) at Deadline 1, following the SNCB methodology for quantifying impacts from historical projects.	<p>Black-backed Gull (GBBG) population AEOI cannot be ruled out beyond reasonable scientific doubt for impacts arising through collision and distributional change arising through the project in combination with other projects on a range of species/SPA combinations due to methodological concerns as to how historical data were incorporated into these.</p> <p>The RSPB is aware that the Applicant has provided updated information relating to these concerns at Deadline 5 (e.g. see REP5-032-REP5-035).</p> <p>However, due to resource constraints the RSPB has been unable to review the new information and reach conclusions on whether the RSPB's concerns have been addressed.</p> <p>The RSPB's concerns on Manx Shearwater relate to wider industry limitations on baseline survey methods and assessment of impacts and are therefore wider than a project specific issue.</p>		<p>No concerns have been raised by the SNCBs in relation to this issue but this remains an outstanding matter for RSPB.</p> <p>The Applicant also notes that Natural England, NRW and JNCC have all concluded that there will be no adverse effects from the Morgan Generation Assets alone and in-combination with other plans and projects for all European sites including the Isles of Scilly SPA (REP5-079, AS-012 and REP5-067).</p>

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- 4.3.1.5 The majority of matters which remain ‘not agreed’ are not project specific points and relate to the RSPB’s broader industry wide concerns. This has been made clear in the SoCG, for example, point OO.3 *‘These concerns relate to wider industry limitations on baseline survey methods and assessment of impacts on Manx shearwater and are therefore wider than a project specific issue’* (REP6-086).
- 4.3.1.6 This is also illustrated at point OO.6 where RSPB state they disagree with Natural England’s guidance and therefore cannot agree with the impact assessment results *‘Therefore, while we recognise that the Applicant has followed Natural England’s advice, we do not agree with this approach, are concerned that the predicted Gannet mortalities arising from collision are not robust and therefore cannot come to any conclusions with regard to any adverse effects on site integrity.’* The RSPB acknowledge that the Applicant has to present the impact assessment in accordance with the relevant SNCB guidance, but wish to be clear in the SoCG and Examination responses that the RSPB maintain their position that they do not agree with the Natural England guidance.
- 4.3.1.7 Despite these outstanding matters on assessment methodology and impacts, all mitigation for the project alone is agreed in terms of EIA and HRA and the RSPB are content with the measures put forward by the Applicant.
- 4.3.1.8 The Applicant has resolved (to non-material) or agreed with the SNCBs all of the matters which remain outstanding with the RSPB (with the exception of the potential GBBG cumulative EIA impact, but this not a principal matter of disagreement for Natural England). The baseline, assessment methodology and impact assessment have all been agreed, deemed non-material or mitigation has been deemed sufficient and the Applicant has presented the information in the format requested. The SNCBs have confirmed this has resolved their outstanding concerns.
- 4.3.1.9 In relation to post examination discussions with the RSPB, the Applicant will be engaging with the MMO on the stakeholders they wish to consult in the development of the offshore environmental management plan. Although the Applicant recognises the limited resource capacity of the RPSB at this time, the Applicant will be consulting with statutory bodies in the development of the plans. The Applicant will also continue to engage with RSPB through strategic projects such as the OWEC MOTUS project on remote tracking of seabirds at sea and other ornithology and habitat projects.

## 4.4 Other Offshore Infrastructure and Sea Users

### 4.4.1 INF 3.1 Wake loss

- 4.4.1.1 In its D6 closing statement, Moor Vannin Offshore Wind Farm Limited (MVOWFL) contends that “wake loss is a transboundary matter which should have been assessed by the Applicant”.
- 4.4.1.2 INF 3.1: The Applicant is asked to:
- Comment whether this is potentially a transboundary matter for consideration by the Secretary of State in view of other evidence submitted to this Examination.
  - Provide a summary assessment of potential wake loss effects to the proposed Moor Vannin Offshore Wind Farm project.

### Applicant’s response to INF 3.1

- 4.4.1.3 a) The Applicant is not clear what the ExA is referring to in terms of the ‘other evidence submitted to this Examination’.

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- 4.4.1.4 The Applicant has set out clearly the legal position in respect of transboundary matters in its response to ExQ1 GEN 1.7 [REP3-006]. In summary the Isle of Man is not an EEA State and therefore Regulation 32 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the 'EIA Regulations') (which sets out the 'Espoo Convention') does not apply. No detail has been provided by Mooir Vannin Offshore Wind Farm Limited on why 'wake loss is considered to be a transboundary matter' and in particular the legal position as set out by the Applicant has not been challenged.
- 4.4.1.5 The Applicant is not aware of any legislation or policy that requires wake loss to be considered and therefore cannot see how this can be a transboundary matter.
- 4.4.1.6 b) The Applicant has set out in the previous submissions (REP1-016, REP2-005, REP3-006, REP4-004, REP4-006, REP4-007, REP4-009, REP5-008, REP5-009) why an assessment of potential wake loss effects for operational projects is not possible or required by policy or guidance, and the same principles apply to the proposed Mooir Vannin project with the added consideration that the Mooir Vannin application has not yet been made and in line with stated timelines will be consented and operational after Morgan Generation Assets.
- 4.4.1.7 These points are considered further below:
- The Mooir Vannin offshore wind project application has not yet been submitted to the Isle of Man Government. MVOWFL have provided an indicative layout and a turbine envelope within their consultation materials from July 2024, this is the only information in the public domain. From this information, it could not be determined what scenario and turbine model will eventually be installed, so even if it was required, there is no basis for which a third party (not privy to such information) could undertake a wake assessment of Mooir Vannin. Even when Mooir Vannin submit their application in March 2025, with a potentially updated turbine envelope, it will still not provide the information required to undertake a summary assessment. The information required to undertake a summary assessment would also be confidential.
  - If the Isle of Man Government requires a wake loss effects assessment as part of its determination of the Mooir Vannin application, it will be MVOWFL that needs to undertake the assessment, rather than the Applicant. Such assessment would be constrained in the same way for MVOWFL as it is for the Applicant.

### 4.4.2 INF 3.2 Harbour Energy

- 4.4.2.1 Harbour Energy were not present at ISH3 but submitted a post-hearing submission at Deadline 6.
- 4.4.2.2 INF 3.2: The Applicant is asked to respond to this submission.

#### Applicant's response to INF 3.2

- 4.4.2.3 The Applicant has provided a response to Harbour Energy's Deadline 6 submission in Appendix B.

## **4.5 Shipping and Navigation**

### **4.5.1 SN 3.1 Additional mitigation for IoMSPC**

4.5.1.1 SN 3.1: The Applicant is asked whether it proposes additional mitigation to satisfy IoMSPC on this point.

#### **Applicant's response to SN 3.1**

4.5.1.2 Rule 6 and Rule 19 of the COLREGs<sup>4</sup> requires a vessel to "proceed at a safe speed" accounting for the state of visibility amongst other conditions. This is independent of the presence of the Morgan Generation Assets and therefore the Applicant would not expect normal service speeds to be maintained in restricted visibility with the presence of other traffic.

4.5.1.3 The Applicant highlights that modelling of the impact on vessel traffic indicates that the likelihood of encountering another vessel within the gap between the Morgan Generation Assets and Moir Vannin is low (REP6-065). Furthermore, in accordance with Rule 5 (Look-out) and Rule 6 (Safe speed), navigating vessels will be able to detect other vessels in good time in restricted visibility, through for instance radar. In the unlikely event the IoMSPC encounters other vessels within the gap in reduced visibility, the availability of 4.1 nm would ensure there is ample opportunity for vessels to take positive action in ample time in accordance with Rule 8 of the COLREGs.

4.5.1.4 The Applicant has demonstrated that interference with shipborne radar in close proximity to wind turbines would be limited based on the best available evidence, as summarised in Section 1.8.12 of the NRA (APP-060/REP6-041) and Section 7.1.4 of the Closing Statement (REP6-014). Such effects are only significant when navigating within very close proximity of wind turbines (<0.5 nm as set out in MGN372 Amendment 1) which would be highly unusual for large passenger ferries and less than their stated minimum Closest Point of Approach (CPA). Masters are already familiar with operating at such distances from existing offshore wind farms within the Irish Sea. The Applicant has also presented a compelling case that the greater spacing between infrastructure of the Morgan Generation Assets compared to existing operational offshore wind farms will result in a notable reduction in these effects, as highlighted in the 2022 National Academies study<sup>5</sup>, further reducing this effect.

4.5.1.5 Finally, the choice of what constitutes safe speed is the responsibility of the Master, and therefore, the Applicant does not believe that it could propose any specific mitigation to address this, noting the above conclusion that there is adequate sea room for safe navigation.

### **4.5.2 SN 3.2 5nm gap**

4.5.2.1 SN 3.2: The Applicant is asked to:

<sup>4</sup> The COLREGs (International Regulations for Preventing Collisions at Sea 1972) are published by the IMO to ensure safe navigation and prevent collisions between vessels.

<sup>5</sup> National Academies of Sciences, Engineering, and Medicine (2022). Wind Turbine Generator Impacts to Marine Vessel Radar. Available at: <https://nap.nationalacademies.org/catalog/26430/wind-turbine-generator-impacts-to-marine-vessel-radar>. Accessed March 2025.



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- a) Comment on this D6 submission, in particular on its 5nm interpretation of MGN654 guidance on separation distance which differs from the approximately 4nm interpretation taken by the Applicant and agreed with the MCA.
- b) Comment on how that 5nm might best be achieved by mutual agreement with MVOWFL in the event that the Secretary of State is minded to agree with the IoMSPC position.

### Applicant's response to SN 3.2

#### 4.5.2.2

a) With respect to the application of the COLREGs, the Applicant would highlight the following points:

- Rule 8 describes the actions taken to avoid a collision and these apply to all vessels at all times. Therefore, any issues suggested by the IoMSPC with vessels not complying with the COLREGs is a general concern, a rare event and independent of the presence of the Morgan Generation Assets.
- The results of modelling and analysis demonstrate the likelihood of meeting another vessel within the gap is rare (REP6-065).
- Rule 8c states that alterations of course alone may be the most effective, provided there is sufficient sea room, and, as the COLREGs only mentions sea room twice, it would be incorrect to state that "much emphasis" is placed on this. The COLREGs are equally applicable in narrow waterways, constrained waters of ports and harbours as open sea.
- The Navigation Simulations undertaken in January 2025 (REP6-065) demonstrated that vessels were able to change course and/or reduce speed consistent with their obligations under Rule 8 with the presence of the offshore wind farms in realistic worst case traffic situations.

#### 4.5.2.3

With respect to the interpretation of MGN654, the Applicant notes this is the first submission by IoMSPC that sets out how their preference for a minimum separation distance of 5 nm has been derived based on a 2 nm offset from each offshore wind farm array area and a 1 nm CPA from another vessel. The Applicant would note that when directly asked what distance would be suitable during the Navigation Simulations, the IoMSPC responded to say "*there is no acceptable separation width between the Morgan Array Area and Moir Vannin Array Area*" (Appendix A, reference 15.3, REP6-065). A separation distance of 4.1 nm would afford 1 nm (CPA) from another vessel and 1.55 nm CPA from the boundaries of the offshore wind farm array areas. The Applicant would respond with the following points:

- MGN654 Annex 2 sets out that 3.5 nm is the "Minimum separation distance between turbines on opposite sides of a route" (see extract Figure 4-1) below).
- Whilst 2 nm passing distance is highlighted as low risk, the Applicant notes that a 1 nm to 2 nm distance is Tolerable if ALARP. The Applicant's Safety Justification (REP6-065) sets out that such hazards with the 4.1 nm separation are Medium Risk - Tolerable if ALARP, which is consistent with MGN654 Annex 2. The Applicant emphasises that the relevant policy test in National Policy Statement EN-3 Paragraph 2.8.331 is that risks are ALARP, not low risk.
- The MCA are in agreement and confirmed in discussions at Issue Specific Hearing 3 (ISH3) and their final SoCG (REP6-080) that they considered 4.1 nm to be ALARP. The Applicant emphasises that the MCA are the

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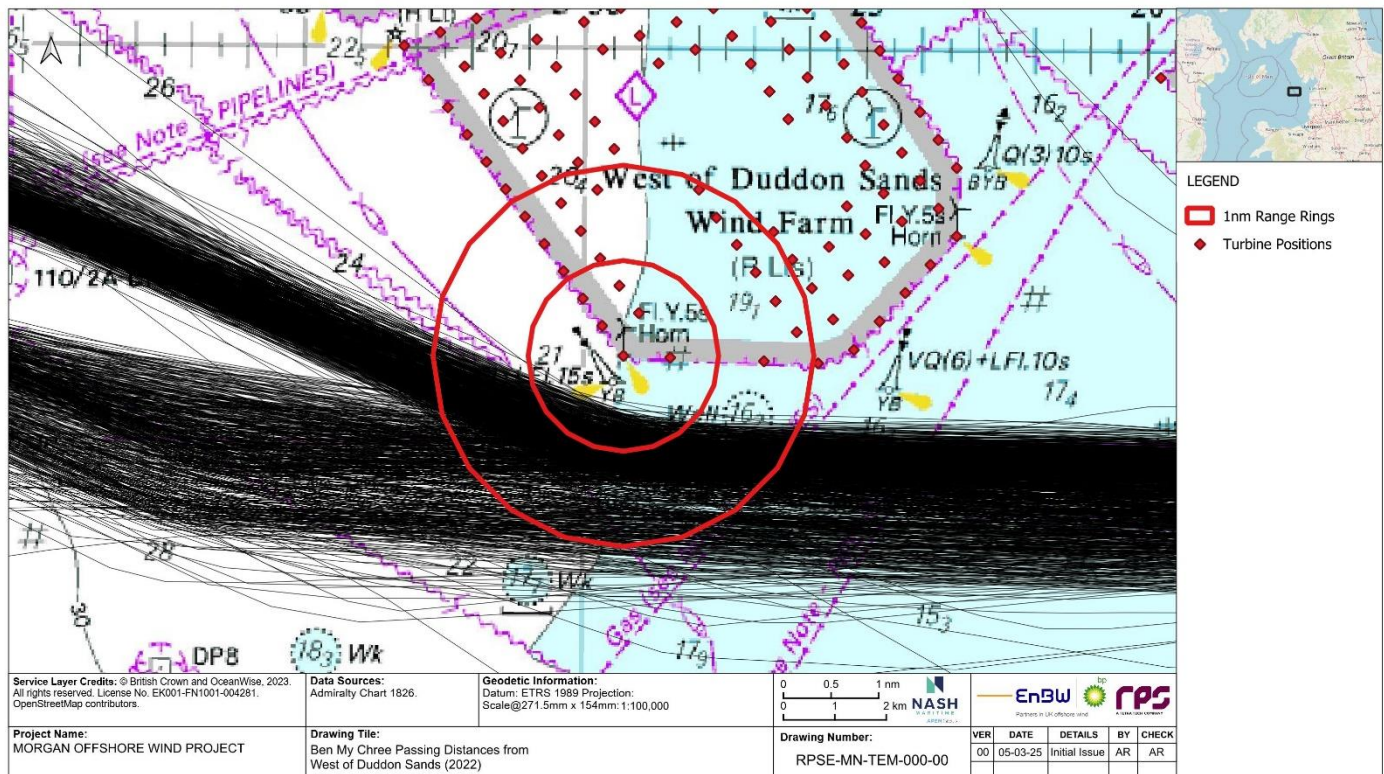
custodians of MGN654 and have confirmed compliance (REP5-069) and therefore their interpretation should be authoritative on this matter. Furthermore, the proponent of the Moor Vannin Offshore Wind Project has independently reached the same conclusions through their own assessment.

Distance of turbine boundary from shipping route (90% of traffic, as per Distance C) <sup>7</sup>	Factors for consideration	Risk	Tolerability
<0.5nm (<926m)	X-Band radar interference Vessels may generate multiple echoes on shore-based radars	<b>VERY HIGH</b>	<b>INTOLERABLE</b>
0.5nm to <1nm 926m to <1852m	Mariners' Ship Domain (vessel size and manoeuvrability)	<b>HIGH</b>	<b>TOLERABLE IF ALARP</b>  <b>Additional risk assessment and proposed mitigation measures required</b>  * Descriptions of ALARP can be found in: a) Health and Safety Executive (2001) 'Reducing Risks, Protecting People' b) IMO (2018) MSC-MEPC.2/Circ.12/Rev.2 dated 9 April 2018, 'Revised Guidelines for Formal Safety Assessment (FSA) in the IMO Rule-Making Process'
1nm to <2nm 1852m to <3704m	Minimum distance to parallel an IMO routing measure, as per Distance B.  S-Band radar interference ARPA affected (or other automatic target tracking means)	<b>MEDIUM</b>	
2nm to 3.5nm (3704m – 6482m)	Preferred distance to parallel boundary of an IMO routing measure, as per Distance B <sup>8</sup>  Compliance with COLREG becomes less challenging	<b>LOW</b>	
>3.5nm (>6482m)	Minimum separation distance between turbines on opposite sides of a route	<b>LOW</b>	<b>BROADLY ACCEPTABLE</b>
>5nm (>9260m)	Adjacent wind farm introduces cumulative effect  Minimum distance from TSS entry/exit	<b>VERY LOW</b>	<b>BROADLY ACCEPTABLE</b>

**Figure 4-1: Wind farm shipping route template (MGN654, Annex 2).**

- The Applicant also notes that 2 nm passing distance from the offshore wind farms is inconsistent with typical operational behaviour. For example, more than 80% of all transits of the Ben My Chree during 2022 between Heysham and Douglas passed within 1.5 nm of the most south-westerly turbine of West of Duddon Sands, and 52% passing within 1 nm (Figure 4.2).

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**Figure 4-2: Ben My Chree Transits during 2022 between Heysham and Douglas next to West of Duddon Sands.**

- It is noted that feedback from other operators elsewhere in the UK, including Stena Line within the Irish Sea (see Table 3.5 of Appendix E of the CRNRA APP-060), is that 1 nm is a suitable CPA from an offshore wind farm. Furthermore, during the navigation simulations of 2023 (APP-060) and 2025 (REP6-065), operators were content that runs were successful provided they were able to maintain approximately 1 nm passing distances from the offshore wind farms.
- Finally, the basis of 5 nm (2 nm-1 nm-2 nm) assumes that the vessel being encountered is also seeking to maintain 2 nm separation from the offshore wind farms. It would not be reasonable to maintain that all vessels would seek to maintain 2 nm separation from an offshore wind farm, with small craft such as fishing boats and yachts routinely passing much closer. As noted in the Safety Justification (REP6-065), the likelihood that two commercial vessels would meet in the gap is very rare (<0.1%).

### 4.5.2.4

With respect to the basis of the IoMSPC requesting 2 nm they have, in multiple submissions and as highlighted in the safety justification (REP6-065), noted the potential for vessels losing power and subsequently drifting into the offshore wind farms (EV6-004) and at Deadline 6 the IoMSPC provided two examples of such events (REP6-110). As set out in the Safety Justification (REP6-065), the Applicant reiterates that these are rare events, and it is unlikely that were such an event to occur, a vessel would strike an offshore wind turbine. On the two examples provided, the Applicant would note the following:

- Example 1: Manxman 08 October 2023 – a review of AIS data for the vessel on this date shows a momentary loss of propulsion to less than five knots for only a couple of minutes before increasing speed again up to 10 knots. The availability of some propulsion during this event would have enabled the Manxman to manoeuvre clear of the Morgan Generation Assets should it



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have been required to do so. The Applicant also notes that the Manxman chose to navigate within 1 nm of the North Morecambe Gas Field during this event.

- Example 2: Ben My Chree 13 January 2020 – a review of AIS data for the vessel on this date shows a reduction in speed but no sign of drifting. The Ben My Chree has two engines and can manoeuvre and proceed on passage with one which appears to have occurred on this event. Were this to have taken place when passing the Morgan Generation Assets, the vessel would have been able to manoeuvre well clear and no incident were to have occurred.
- In summary, whilst the Applicant notes these two examples, given the passing distances of ferries from offshore wind farms and either the immediate recovery of propulsion or redundancy afforded by multiple engines, in neither one would there have been a threat to the vessel were it to have occurred with the presence of the Morgan Generation Assets.

4.5.2.5 b) The Applicant reiterates its Closing Submissions (REP6-014) that 4.1 nm meets the guidance, is appropriate for the traffic conditions and ensures vessels can navigate in full compliance with the COLREGs and the practice of good seamanship. The Applicant also emphasises the relevant portion of the National Policy Statement EN-3 (Paragraph 2.8.334) which states that that the Secretary of State should make use of advice from the MCA, for which they have clearly stated satisfaction with 4.1 nm (REP6-080). Therefore, the Applicant has met the relevant policy tests and does not believe that such a measure is warranted. For the avoidance of doubt, it must be acknowledged that any further reduction to the Morgan Generation Assets boundary will result in a direct loss of capacity and any increase in the distance would not change the risk which is already agreed to be ALARP. It would therefore be a disproportionate course of action and contrary to the objectives of the NPS.

### 4.5.3 SN 3.3 Force majeure

4.5.3.1 SN 3.3: The Applicant is asked to give examples of what it considers “force majeure situations” might be.

#### Applicant's response to SN 3.3

4.5.3.2 The Applicant believes the most credible force majeure situation as suggested by Stena Line would be a vessel losing all propulsion or steering whereby the deployment of an anchor is necessary to prevent drift towards an offshore wind turbine that could damage the vessel. As set out in its safety justification at Deadline 6 (REP6-065), the Applicant notes that the likelihood of such an event is very low based on the historical record within the Irish Sea. Furthermore, to the Applicant's best knowledge, such a provision would be unprecedented for any offshore wind project in the UK.

4.5.3.3 Within Stena Line's closing statement (REP6-095 Paragraph 3.18-3.20), Stena Line conflate the need for indemnity with both navigational safety and operational impacts. An indemnity is not a risk control. The Applicant would expect that were a vessel in distress, the use of anchors to prevent an incident and protect the safety of life onboard would be entirely expected and consistent with the practice of good seamanship and the availability of indemnity would have no bearing on the action taken by the master in this situation.

4.5.3.4 The Applicant would also reiterate that contrary to Stena Line's claim, the Applicant has provided an extensive and comprehensive approach to the NRA, far exceeding

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what is typical for other applications, to better understand and reflect the routing of vessels between offshore wind farms. This includes undertaking an NRA in full compliance with the guidance, extensive analysis and modelling of vessel traffic, a combined total of 17 days of navigation simulations with ferry masters in attendance and engaging Captain Dominic Bell to advise the Applicant, who is a former IoMSPC master and superintendent of Seatruck Ferries with direct operational experience in the Irish Sea.

- 4.5.3.5 Furthermore, the Applicant notes that on only 20% of occasions in 2022 did vessels operating Stena Line's Liverpool to Belfast route pass east of the Isle of Man. Given it would be more than 4.0 nm further compared to a passage west of the Isle of Man with the Mona, Morgan and Morecambe projects in place (see Table 26 of the CRNRA APP-060), the Applicant would expect Stena Line to far less frequently take this route in the future. Therefore, as the Applicant's risk assessment has assumed that Stena Line vessels would continue taking this route just as frequently and that the risks are Tolerable and ALARP (REP6-065), the Applicant's assessment is precautionary in nature.

### 4.5.4 SN 3.4 Protective Provisions

- 4.5.4.1 SN 3.4: In view of the possibility of transfer of benefits of a DCO (if made), the Applicant is asked to provide a 'without prejudice' comment on these draft protective provisions or signpost if a suitable alternative draft already exists either in the documentation for this examination or for any documents in the public domain for other OWF DCO applications.

#### Applicant's response to SN 3.4

- 4.5.4.2 Although, the Applicant does not consider that the protective provisions provided by Stena Line in its Closing Statement [REP6-095] are necessary or justified it has, as requested, provided 'without prejudice' comments on Stena Line's proposed drafting below. However, the Applicant continues to disagree on the need for protective provisions as set out most recently in its Closing Statement [REP6-014] on the basis of the following two points:

- There is no policy or legislative requirement justifying the inclusion of such protective provisions. Stena Line does not have the status of a statutory undertaker with the related rights and obligations and the requested mitigation is not a matter that needs to be secured through the DCO to make the proposed development acceptable in planning terms. As a result, it does not meet the policy test as set out in paragraph 4.1.16 of NPS EN-1.
- Further, the use of protective provisions in this instance is not necessary or appropriate as this is a purely commercial matter to be resolved between the parties. The Applicant remains confident that a suitable agreement can be reached as stated in the Side Agreements Tracker [REP6-023]. If ultimately it is not possible to reach agreement on reasonable and appropriate terms the moderate adverse residual impacts to Stena Line are considerably outweighed by the benefits of the project as has been detailed throughout this Examination.

- 4.5.4.3 The Applicant's 'without prejudice' comments are as follows:

- Paragraph 3: The Applicant does not consider such notification is required given the standard notification and reporting requirements in condition 15 of the deemed Marine Licence and engagement facilitated through the Marine

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Navigation Engagement Forum. The Applicant is also not clear what 'having regard to any response from Stena Line' is seeking to secure and it cannot be the case that commencement of the Applicant's authorised development is in any way subject to Stena's approval.

- Paragraph 4: The drafting of this paragraph is unclear in terms of how any interference with Stena Line's operations would be measured and what would be considered reasonable interference.
- Paragraph 5: The Applicant understands Stena Line's concerns with the proposed development to be related to the impact of the wind turbine generators on steaming times and distances during adverse weather routing. This paragraph is both unnecessary and unjustified.
- Paragraph 6: The matters contained within this paragraph are excessive and unjustified and are purely matters for any commercial agreement between the parties. The Applicant is under no legal or policy obligation to secure such an agreement with Stena Line and therefore there is no basis for the provisions proposed.
- Paragraph 7: The Applicant is willing to consult with Stena Line (as well as other Interested Parties) in respect of the 'Vessel Traffic Management Plan' as part of its commitment to the Marine Navigation Engagement Forum but notes that it holds no requirement in policy or legislation to seek and have regard to the consultation of those additional to the MMO as the licensing authority. The Applicant, therefore, does not consider these provisions to be necessary or appropriate.

4.5.4.4 Subject to the above without prejudice comments, the Applicant does not have any specific comments in respect of paragraphs 8, 9 and 10.

### 4.5.5 SN 3.5 Radar and radio effects

4.5.5.1 SN 3.5: The Applicant is asked to comment on whether there is a relevant obligation or requirement secured in the existing draft DCO and DMLs and if not, please provide suitable 'without prejudice' additional wording to secure such an obligation for a DCO if made.

#### Applicant's response to SN 3.5

4.5.5.2 Condition 25 (Offshore safety management) in the deemed Marine Licences in Schedule 3 and Schedule 4 of the draft DCO (REP6-017) note that no part of the scheme may commence until the MMO, in consultation with the MCA, has confirmed the undertaker has adequately addressed all MCA recommendations contained within MGN654 and its annexes.

4.5.5.3 MGN654 Annex 5 Section 6.2 states that all new windfarm developments are required to carry out a radio reception survey to ascertain what level of mitigation may be required. The details of how these surveys should be conducted is set out in the subsequent paragraphs of that section. The MCA would also expect to see a SAR checklist is completed which includes a line item for radio reception surveys and mitigation.

4.5.5.4 Therefore, the Applicant confirms that this requirement is already suitably secured within the draft DCO.

## **4.5.6 SN 3.6 Post consent engagement**

- 4.5.6.1 SN 3.6: The Applicant is asked to respond to the specific request for the opportunity to review that plan prior to submission to the licencing authority and for the Ørsted IPs to be a named signatory in the Vessel Traffic Management Plan (VTMP), providing as appropriate additional wording for a DML condition to that effect.

### **Applicant's response to SN 3.6**

- 4.5.6.2 The Applicant reiterates its Closing Statement (REP6-014) and other submissions (REP2-005/REP4-009) that appropriate commitment to engagement with all stakeholders is already made in the Outline Vessel Traffic Management Plan (VTMP) (REP6-055) to "existing users of the relevant sea area" and the Marine Navigation Engagement Forum (MNEF) which would include the Ørsted IPs. The Outline Vessel Traffic Management Plan sets out in section 1.6.2 that consultation will be undertaken with relevant stakeholders and the MNEF in the development of the plan.
- 4.5.6.3 It is neither necessary or appropriate to name one party and not others and risks making the VTMP overly prescriptive. The Applicant will ensure that Ørsted IPs and other relevant stakeholders have copies of all relevant plans which will be operationally useful or support navigational safety in the eastern Irish Sea (including the VTMP, Emergency Response and Cooperation Plan (ERCoP) and the Marine Pollution Contingency Plan (MPCP)) following approval by the licencing authority in consultation with the MCA and Trinity House, as secured in the updated Outline VTMP at Deadline 5 (REP6-055).
- 4.5.6.4 Within the Ørsted IPs closing statement (REP6-092), they claim that the NRA was deficient in its assessment and so they should be named signatories of the VTMP. In December 2024, the Applicant directly provided the applicable Ørsted IPs explicit cross-referenced information to the relevant Navigation Risk Assessment sections, to show where the risk to the IPs assets has been adequately considered. No acknowledgement or request for further clarifications to this information was received by the Applicant. The Ørsted IPs have since provided no specific examples or justification in their submissions as to how the NRA has not adequately considered their assets. The Applicant reiterates that agreement on the scope, methodology and conclusions of the NRA was reached with key navigation stakeholders including the MCA (REP6-080), Trinity House (REP6-088) and Chamber of Shipping (REP6-075). Therefore, given the NRA meets the approval of guidance and regulators, and no evidence has been provided to the contrary by the Ørsted IPs, the Applicant considers the NRA does adequately consider Ørsted IPs and it would not be justified for the Ørsted IPs to be a named signatory of the VTMP on this basis.
- 4.5.6.5 The Applicant has undertaken a review of outline pre-consent plans and has found no examples where the Ørsted IPs have made such commitments to have non-statutory named signatories within the relevant plans of their own Projects, even those in close proximity to other offshore wind farms. The Applicant also considers that this is in line with the wider industry. The Applicant does not consider there to be anything unique about the Morgan Generation Assets project (with regard to this matter) that merits it to be treated differently to any previous scheme brought forward with other assets in the wider vicinity. As the Ørsted IPs have presented no further justification for this position, and no concerns have been raised by the MCA, the Applicant does not believe any additional wording for a DML condition is warranted.

## **4.5.7 SN 3.7 Vessel Traffic Management Plan**

- 4.5.7.1 SN 3.7: The Applicant is asked to provide a tracked changes version of that (VTMP) document.

### **Applicant's response to SN 3.7**

- 4.5.7.2 The Applicant has provided a tracked change version of the Outline VTMP at Deadline 7 (S\_D6\_35 Outline Vessel Traffic Management plan\_F03\_F04\_Tracked).

## **4.6 Socio-Economics**

### **4.6.1 SE 3.1 IoMSPC agreement**

- 4.6.1.1 SE 3.1: The Applicant is asked to provide confirmation from the SPC that the commercial side agreement has been agreed in principle.

### **Applicant's Response to SE 3.1**

- 4.6.1.2 As stated in the updated Commercial Side Agreement Tracker submitted at Deadline 6 (REP6-023), the Applicant has engaged with the Isle of Man Steam Packet Company on the terms for a commercial agreement since November 2024. These discussions are being held under a Non-Disclosure Agreement and both parties are limited in what they can report. The Applicant is still awaiting feedback from the IoMSPC on the terms of the agreement. However, it should be noted that as with Stena Line, the Applicant does not consider an agreement with IoMSPC to be required as it has demonstrated through its assessment that impacts are ALARP.
- 4.6.1.3 The Applicant will provide any update to the SoS.

## **4.7 Statements of Common Ground**

### **4.7.1 SoCG 3.1**

- 4.7.1.1 SoCG 3.1: The Applicant is asked to respond to the why these entries not colour-coded red, or annotated as 'no material impact'.

### **Applicant's response to SoCG 3.1**

- 4.7.1.2 For the MMO SoCG entries that state not agreed – material impact but were not colour coded red in the SoCG (consenting – determination dates and consenting - adaptive management), these points were amended close to the final deadline and the colour in the cell was mistakenly not updated. The Applicant can confirm the final position is as the text displays 'not agreed - material impact'.
- 4.7.1.3 The Applicant reiterates that it is important that there are clear timescales for determination to enable expeditious delivery of construction to meet key project objectives of generating electricity by 2030, in line with renewable energy targets under the Clean Power 2030 Action Plan. The Applicant maintains that due to the provision of the detailed outline management plans that have been submitted through the application and due to the fact that these are plans that are quite standard for a mature industry in offshore wind, the discharge of conditions within six months is justified. Indeed, the MMO requested the six month timeframe for determination and have confirmed they welcome the timeframe of six months in the SoCG (MMO.MP.7 in



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REP6-081). The Applicant therefore, considers that it is entirely reasonable for the MMO to be held to that.

- 4.7.1.4 In regard to the outstanding matter regarding adaptive management please see the responses in the Applicant's Closing Statement at Deadline 6 (section 8.4.2 in REP6-014), item RR-020.31 in PD1-017; item DCO 1.31 in REP3-006; and REP5-010. The Applicant understands that there has been a focus on the 'adaptive' element to monitoring in some recent DCOs following the inclusion of reference to the potential need for consideration of 'adaptive management' for some ecological monitoring in NPS EN-3 paragraph 3.8.237, and 'adaptive monitoring' within Natural England's Best Practice Advice for Evidence and Data Standards<sup>6</sup> (REP5-082). The Applicant has therefore, detailed throughout the IPMP (REP6-053) and the Commitments Register (REP6-052) where the monitoring proposed will be adaptive in its nature and/or have an adaptive management element associated with it, and notes both of these documents are secured within the DCO. Each monitoring commitment is unique and must be considered under the specific context under which it has been proposed. For example, it would be inappropriate for some commitments such as colonisation of novel structures to require adaptive measures as the monitoring is designed to inform industry of the colonisation rates of novel structures and is not specifically related to the outcome of an impact assessment. The Applicant notes the MMO have been clear in the SoCG that they are in agreement with the IPMP including the adaptive measures provisions (REP6-081).
- 4.7.1.5 Therefore, on both these outstanding matters of determination dates and adaptive management, the Applicant considers that both parties are closer on these points than the SoCG red categories imply.

## 4.8 Draft Development Consent Order/ Deemed Marine Licences

### 4.8.1 DCO 3.1

- 4.8.1.1 Draft DML Condition 18(10) relating to Dropped Objects:
- 4.8.1.2 DCO 3.1: The ExA requires commentary from the Applicant on the MMO's suggested revisions to Condition 18(10) on the basis that the suggested revisions have not been incorporated into the final draft DCO (S\_D7\_4) and is not discussed in Section 8.4.2 (Draft DCO – points of disagreement) of the Applicant's closing statement.

### Applicant's Response to DCO 3.1

- 4.8.1.3 The Applicant has reviewed the amended Condition 18(10) relating to dropped objects provided by the MMO in its Deadline 6 submission at [REP6-094]. Although the Applicant is willing to agree to this additional condition wording at Condition 18(10) and will include in the updated draft DCO to be submitted at Deadline 7, it is extremely unsatisfactory that this additional condition wording was only received at the last scheduled deadline of the examination process.
- 4.8.1.4 Additionally, following the Applicant's review of the MMO's Deadline 6 submission at [REP6-094] the Applicant has since engaged with the MMO and understands that the

<sup>6</sup> Parker, J., Fawcett, A., Rowson, T., Allen, S., Hodgkiss, R., Harwood, A., Caldow, R., Ludgate, C., Humphrey, O. & Copley, V. (2022). Offshore Wind Marine Environmental Assessments: Best Practice Advice for Evidence and Data Standards. Phase IV: Expectations for monitoring and environmental requirements at the post-consent phase. Natural England. Version 1.0. 117 pp.

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MMO will be making a number of updates to its Deadline 6 submission at Deadline 7. The Applicant understands that the updates include:

- revised amendments in respect of the chemical risk assessment secured through the offshore environmental management plan (in Condition 20(1)(e))
- further amendments in respect of Condition 22 (Underwater Sound Management Strategy).

4.8.1.5 The Applicant has sought to engage with the MMO on these updates but given the late submissions from the MMO has been unable to confirm agreement. However, the Applicant has sought to, where possible, incorporate the MMO's requested amends to the relevant conditions in the Deadline 7 DCO. The Applicant is willing to engage with the MMO further on these requested amendments (where not addressed and agreed following Deadline 7) on a 'without prejudice' and commit to update the Secretary of State accordingly and at the appropriate time.

### Removal of Condition 18(1)

4.8.1.6 This is agreed and has been removed from the DCO submitted at Deadline 7.

### Chemical Condition 20(1)(e) and Condition 13(3)

4.8.1.7 The Applicant has amended Condition 20(1)(e)(ii) to include 'in accordance with recognised best practice guidance and standards' as requested by the MMO.

4.8.1.8 The Applicant has also included additional wording in condition 13(3) to ensure a chemical risk assessment is included as part of the outline offshore operations and maintenance plan (OOOMP) to be approved under this condition. This addresses the MMO's request that a chemical risk assessment is provided for both the construction phase (through the OEMP) and the operations and maintenance phase (through the OOOMP).

### Condition 22

4.8.1.9 The Applicant understands that the MMO will be proposing the following wording:

1. *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.*
2. *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.*
3. *No piling or low order unexploded ordnance clearance associated with the authorised development may be undertaken between 15 February to 31 March inclusive, unless;*
  - (a) such activities are deemed necessary by the undertaker during this period*
  - (b) any additional mitigation requirements for such activities must be included in the underwater sound management strategy approved by the MMO under paragraph (1)*

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*(c) the activities must be undertaken with the additional mitigation requirements for such activities, as included within the underwater sound management strategy approved by the MMO under paragraph (1).*

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.*

4.8.1.10 The Applicant considers that the wording proposed by the MMO to condition 22 does not meet the tests of necessity, precision and reasonableness.

4.8.1.11 Paragraph 1 – unlike the Applicant's current drafting there is no prohibition on work being carried out before the UWSMS has been submitted to an approved by the MMO. This undermines the importance of the UWSMS as a mitigation measure. There is no indication as to what 'necessary' means and who would determine this. The tailpiece is also of concern.

4.8.1.12 Paragraph 3 – the Applicant has made numerous submissions on why any seasonal restriction should be considered as part of the development of the UWSMS which requires MMO approval before any driven piling can commence. The drafting proposed is unclear and confused and will lead to uncertainty and delay in discharge.

### Condition 29

4.8.1.13 The Applicant does not consider that any amendments are needed to the drafting of Condition 29. However, it notes the revisions proposed by the MMO at Deadline 6 and has provided the following 'without prejudice' comments on the proposed additional condition wording for Condition 29. The Applicant's amends and comments are included in italics below:

### Post-construction monitoring

*1.—(1) The undertaker must, in discharging condition 20(1)(c) submit details (~~which accord with the offshore in principle monitoring plan~~) for approval in writing by the MMO in consultation with relevant statutory nature conservation bodies of proposed post-construction monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results.*

*(2) The post-construction monitoring proposals must specify each monitoring proposal's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.*

*(3) The post-construction monitoring referred to in sub-paragraph (1) must, unless otherwise agreed in writing with the MMO, have due regard to, but not be limited to, the need to—*

*(a) undertake, within 12 months of completion of construction of the authorised scheme, a full sea floor coverage swath-bathymetry survey to IHO Order 1a standard that meets the requirements of MGN 654 and its supporting Hydrographic Guidelines for Offshore Renewable Energy Developers which includes the requirement for the full density data and reports to be delivered to the MCA and the UKHO for the update of nautical charts and publications, and side scan sonar, of the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform*



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*topography and such further monitoring or assessment as may be agreed to ensure that cables (including fibre optic cables) have been buried or protected; and*

*(b) undertake post-construction marine traffic monitoring in accordance with the offshore in principle monitoring plan, including the provision of reports on the results of that monitoring to the MMO, MCA and Trinity House.*

*(4) The undertaker must carry out the post-construction monitoring agreed under subparagraph (1) and provide the agreed reports to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.*

*(5) Following the installation of cables, details of cable monitoring required under 20(1)(d)(i) must be updated with the results of the post installation surveys.*

*(6) In the event that the reports provided to the MMO under subparagraph (4) identify a need for additional post-construction monitoring, the requirement for such additional monitoring will be agreed with the MMO in writing and implemented as agreed.*

*(7). In the event that the post-construction monitoring reports provided to the MMO under subparagraph (4), identify 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 statutory nature conversation bodies to reduce effects to a suitable level for this ~~project~~ authorised project.*

*(8) Any such agreed or approved adaptive management/mitigation should be implemented and monitored in full by the undertaker. In the event that this adaptive management/mitigation requires a separate consent, the Applicant shall apply for such consent.*

4.8.1.14 The Applicant considers that these amends to conditions 18, 20, 22 and 29 address the concerns raised by the MMO.

### 4.8.2 DCO 3.2

4.8.2.1 Certified Documents:

4.8.2.2 DCO 3.2: The Applicant is requested to clarify whether the following documents should be included in Schedule 5 of the final draft DCO (S\_D7\_4).

#### Applicant's Response to DCO 3.2

4.8.2.3 The Applicant has reviewed the list of documents provided by the ExA and, where relevant, updated the list of certified documents within Schedule 5 of the draft DCO submitted at Deadline 7 (S\_D7\_4). The Applicant notes that documents to inform the Habitats Regulations Assessment (HRA) which will be undertaken by the Secretary of State, should not be listed as certified under the draft DCO and therefore the Applicant has not included these in the updated list of certified documents within Schedule 5 of the draft DCO.

## **4.9 Explanatory Memorandum**

### **4.9.1 DCO 3.3**

- 4.9.1.1 DCO 3.3: The Applicant is asked to submit clean and tracked versions of the Explanatory Memorandum to include Dogger Bank Teesside, Triton Knoll and Yorkshire Green in section 4.4 (and any other made DCO referred to).

#### **Applicant's response to DCO 3.3**

- 4.9.1.2 The Applicant has amended the Explanatory Memorandum as requested. This also includes any changes that have been made to the DML conditions at the request of the MMO, (see S\_D7\_5).

## 5 CONCLUSION

5.1.1.1 The Applicant has addressed the specific questions raised by the Examining Authority in its Rule 17 letter in Sections 2 and 3 above. In its responses the Applicant has sought to address matters raised by IPs wherever it reasonably and practically can. However, in consideration of the content of the Deadline 6 submissions and the Rule 17 questions raised by the ExA, the Applicant wishes to highlight a number of matters that have affected its ability to address matters raised by IPs and the potential prejudice caused to the Applicant as a result:

- Adequacy of engagement
- Level and consistency of evidence to support positions
- Resolution of matters; policy context

5.1.1.2 The Applicant addresses each of these points in turn below.

### 5.1.1 Adequacy of engagement

5.1.1.1 The Applicant is aware that there have been submissions made throughout the examination (in either written or oral form) by a limited number of IPs regarding engagement. The Applicant is clear that it has adopted a comprehensive approach to IP engagement throughout the pre-application and Examination phases. Since application it has sought SoCGs with all parties or pursued alternative forms of dialogue and issue resolution where appropriate. Claims made (by Orsted for example) that the Applicant has not engaged must be considered in context. Where, as with the Orsted IPs there is a fundamental disagreement between the parties regarding the need for a particular aspect to be addressed such disagreement is not a basis on which to claim a lack of engagement.

5.1.1.2 The Applicant was particularly surprised by the tone and response of the first paragraphs of the MMO's closing statement (paragraph 1.1-1.2), as it is not accurate reflection of the Morgan Generation Assets nor the proactive engagement from the Applicant and progress that has been made to resolve issues with the MMO (REP6-094). The Applicant has identified that the exact same text was included the closing statement for another wind farm application (Rampion 2 Offshore Wind Farm paragraph 1.21). The majority of paragraph 1.1 is also from the Rampion 2 Closing Statement and is not reflective of the approach taken by the Applicant. The Applicant has raised this directly with the MMO who have acknowledged the error and have said they will consider revising the submission. The Applicant has asked for this text to be removed.

5.1.1.3 The Applicant is not unique in having struggled to secure engagement with a number of key statutory consultees due to resourcing constraints; it is an industry wide issue that is affecting all applicants at present. However, the lack of opportunity for the Applicant to technically engage with these key statutory consultees in an efficient manner creates significant challenge for the Applicant in being able to resolve matters raised at the outset of the examination. The lack of attendance by these key consultees at hearings (except for the MCA) has meant that the ExA has been unable to properly question and understand their positions and matters that could have been resolved have appeared to remain open until the close of the examination, and in the case of the MMO the introduction of new DCO drafting at Deadline 6 (and subsequent changes in position since Deadline 6) when there was more than adequate time for this to have been considered and discussed at ISH3. Despite the challenges this has caused, the Applicant considers it has resolved all matters with these bodies where

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possible (as evidence within the respective SoCGs and or position statements (in the case of Natural England)), and where this has not been possible the ExA and the SoS have a clear understanding of the respective parties' positions.

### 5.1.2 Level and consistency of evidence

- 5.1.2.1 A number of IPs have sporadically engaged in the Morgan Generation Assets examination and as a result it has been extremely challenging for the Applicant to understand whether they have material concerns or not. In addition, new points have been raised by a number of IPs at late stages of the examination that were not part of those IPs statutory consultation responses or relevant or written representations. The Applicant has been expected to consider and address those matters with little regard to the evidential basis or justification for them. Specific examples include, the MMO, Blackpool Airport, BAE, Natural England and Moor Vannin, which are discussed in turn below.
- 5.1.2.2 The MMO has submitted a number of proposed DCO requirements at Deadlines 5 and 6 relating to chemicals, time limits / life spans, decommissioning, dropped objects, determination dates, that demonstrate an evolving position being developed by the MMO. The Applicant considers it entirely inappropriate for the marine regulator to recommend the inclusion of any marine licence condition that has not been properly thought through and is drafted clearly and accurately with due regard to the relevant tests. The Applicant also understands that further unconsidered drafting for DML condition 22 will be proposed by the MMO at Deadline 7. The Applicant has sought to pre-empt further questions on this in its response to DCO 3.1, however this is further demonstration of the inappropriateness of the MMO's approach in this examination.
- 5.1.2.3 Blackpool Airport made material submissions at ISH3 which did not reflect the Applicant's understanding of engagement to date and the Airport's concerns. However, the Applicant has engaged with the Airport and understands that a late issue has been raised regarding the potential impact of the offshore substation platforms (OSPs) and the need for these to be restricted by the DCO requirement. The Applicant has explained that the OSPs are beyond line of sight of the Airport's asset and therefore will have no impact, but it has not received any further technical feedback from the Airport (despite multiple attempts by the Applicant to further engage), nor did they make a submission at Deadline 6. Requirements should only include reference to project parameters that are evidentially linked to specific concerns. This is not the case for the OSPs.
- 5.1.2.4 The Applicant had proposed industry standard DCO requirements that have been agreed on numerous previous offshore wind DCOs for BAE System's interests to provide absolute assurance and control that no structures that could affect those interests could either be installed or energised before appropriate mitigation was in place. BAE' submission at Deadline 6 calls into question the adequacy of the assessments undertaken and the robustness of the DCO. The Applicant has sought to engage with BAE on these points, but given the very short timeframe from receipt of these submissions to the close of the examination has only managed to meet once. At that meeting BAE explained that it was seeking to align the DCO requirements across the Morgan Generation Assets and Morecambe Generation Assets projects. The Applicant has also discussed this with the Morecambe Offshore Windfarm Generation Assets project and has included in the DCO at Deadline 7 drafting which it considers is appropriate to address BAE's concerns and align with the approach taken by the Morecambe Generation Assets project.

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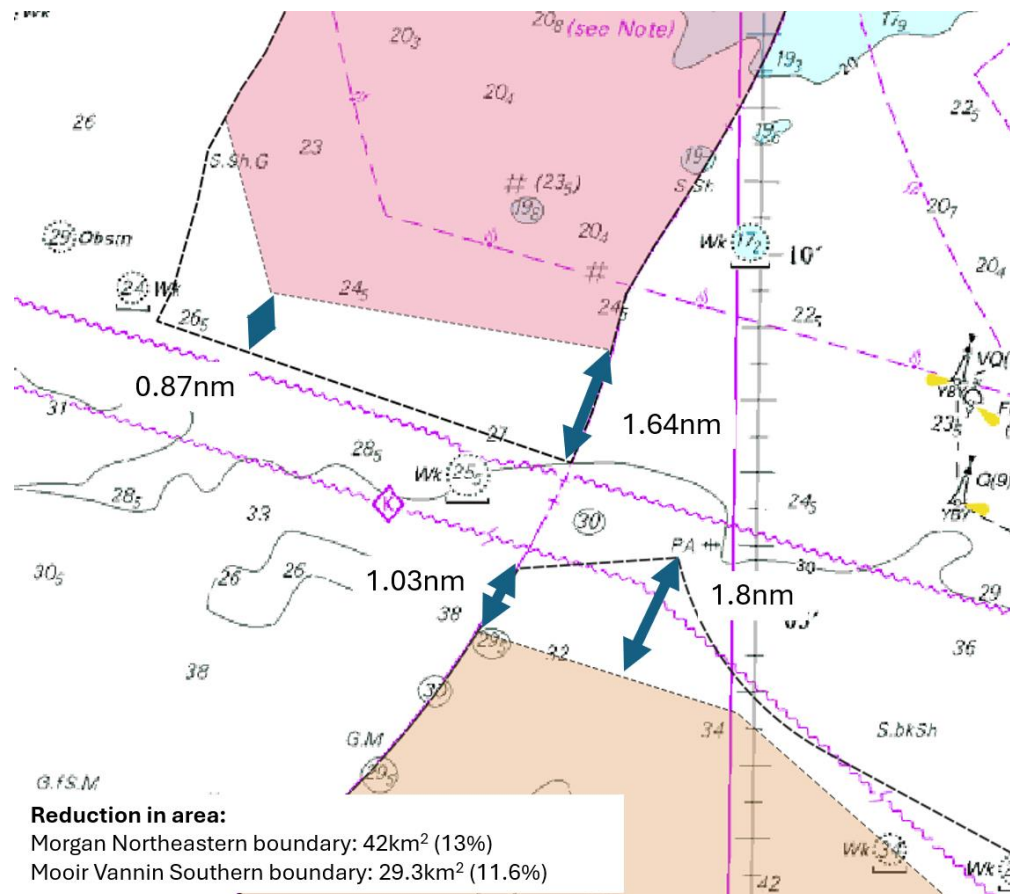
- 5.1.2.5 Natural England at Deadline 6 have requested a ML condition to secure the ability to expand spatially and temporally the sandwave monitoring (point G3 in the Risk and Issues Log (REP6-100). The Applicant considers this unnecessary as the Offshore in-principle monitoring plan (REP5-042) includes adaptive management of this monitoring in consultation with the MMO and statutory advisors.
- 5.1.2.6 MVOWFL in its Deadline 5 submission (REP5-075) included comment on the design refinement for each of the Morgan Generation Assets and the Moir Vannin Offshore Wind Farm to support a submission that there had been a greater reduction in the developable area of the Moir Vannin Offshore Wind Farm. The information included in MVOWFL's submission does not present the full picture, which the Applicant considers it important to clarify as a point of fact, and has detailed this in Table 5.1 and Figure 5-1 below. The Applicant reduced a greater proportion of array area directly relevant to the gap between the Morgan Generation Assets and the Moir Vannin Offshore Wind Farm, than MVOWFL presented in their Deadline 5 submission (REP5-075). Further the Applicant has also collectively mitigated for a quarter of the total developable area (25-26%) and any further reduction would lead to considerable capacity loss. The current boundary concessions for both the Applicant and MVOWFL have proven to be ALARP and there should be no further requirement for any increased separation.

**Table 5.1: Comparison between Morgan Generation Assets and Moir Vannin.**

Parameter	Morgan Generation Assets			Moor Vannin Offshore Wind Farm		
	<i>Scoping/AfL</i>	<i>Application</i>	<i>Change</i>	<i>Scoping</i>	<i>Application</i>	<i>Change</i>
Agreement for lease/Scoping boundary	322.2 km <sup>2</sup>	280 km <sup>2</sup>	13%	253 km <sup>2</sup>	211 km <sup>2</sup>	17%
<b>Boundary reduction relevant to gap</b>		42 km <sup>2</sup> (northeastern boundary)	13%		29.3 km <sup>2</sup> (southern boundary)	11.6%
SMZ (minimum and maximum)	n/a	34-37km <sup>2</sup>	12-13%	n/a	n/a	n/a
Total loss of developable area	n/a	n/a	25-26%	n/a	n/a	17%
WTGs (maximum)	107	96	10%	100	87	13%
<b>Setback from gap (see Figure 5-1 below)</b>		1.1 nm (at shortest point) 1.8 nm (at largest point)			0.87 nm (at shortest point) 1.64 nm (at largest point)	



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**Figure 5-1 Exact measurements from respective boundary set backs**

### 5.1.3 Resolution of outstanding matters; policy context for further mitigation or compensation

- 5.1.3.1 The Applicant has a significant concern at the approach that appears to be suggested where effects have clearly been managed down through the iterative EIA process and the securing of significant mitigation in accordance with the relevant policy requirements, further mitigation or compensation should be provided to ensure there is no residual effect.
- 5.1.3.2 Morgan Generation Assets reduced its array area from 322km<sup>2</sup> to 280km<sup>2</sup> (with a further commitment to the SMZ which will increase this reduction down to either 246km<sup>2</sup> or 243km<sup>2</sup> depending on the design scenario brought forward) in order to minimise environmental effects. The significant mitigation identified by the Applicant as part of its project development that is secured through the DCO (much of which goes far beyond commitments made by any offshore wind project to date) has minimised effects on commercial fishing, scallop populations, shipping and navigation, subsea infrastructure, wake effects (not that the Applicant considers this a planning matter), and oil and gas operations. The Applicant has taken a proactive approach to the Morgan Generation Assets array boundary refinements working closely with stakeholders in the pre-application phase to identify the need for and scale of these refinements during the pre-application phase and embedding them into the application rather than holding back to the examination phase.
- 5.1.3.3 Rather than being recognised (given the requests made by stakeholders and the Examining Authority through the course of this examination) the Applicant is concerned that this has been seen as the 'starting-point' and there has been an expectation that the project has more capacity to offer further design based mitigation.

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It must be absolutely clear that any further loss or reduction of the array area will result in loss of project capacity which potentially threatens the viability of the scheme. Through loss of capacity any further reduction of the array area will start to erode the overarching objectives of this scheme, which is in direct conflict with the raft of policy in NPS EN-1 that recognises the importance and urgent need for new offshore wind projects as well as EN-3 paragraph 2.8.2. Similarly, the Applicant also respectfully submits that any suggestion there should be a commercial settlement reached for any residual effect is also not supported by policy and clearly has the potential to impact on project viability if applied as a unilateral means of resolution.

### 5.1.3.4

The Applicant does not consider there to be a policy requirement within either NPS (EN-1 or EN-3) that developments such as the Morgan Offshore Wind Project: Generation Assets should have no impacts – on either environmental or on human receptors (such as commercial fishing, shipping and navigation, and other human sea users) or that there is a policy requirement to compensate for any residual effect. Indeed, it is recognised in EN-1 paragraph 3.1.2 that it will not be possible to develop the necessary amounts of such infrastructure without some significant residual adverse impacts. Furthermore, within EN-3 the emphasis is consistently on minimising effects (on human receptors) as far as reasonably practicable through the application of appropriate mitigation where necessary (for example 2.8.322, 328 and 342) as well as co-existence between different sea users which may inevitably mean a degree of residual impact through the change in baseline when new activities or infrastructure for which there is an acknowledged critical and urgent national need is brought forward. The Applicant has responded in detail to questions relating to matters relating to many of the interactions with human receptors in Section 3 and respectfully submits that it has met the relevant policy tests, the mitigation proposed and secured through the DCO is reasonable and appropriate and therefore that consent should be granted for the Morgan Generation Assets.

## Appendix A. Key tasks and high-level programme for finalisation of aviation and radar matters (AR 3.1)

Table A.1 Key tasks and high-level programme for finalisation of aviation and radar matters with BAE Operations Limited (Warton Aerodrome) and BAE Marine Limited (Walney Aerodrome).

Activity	Examining Authority Recommendation period			Secretary of State Decision Period		
	1	2	3	4	5	6
<i>Month post-examination</i>						
IFP / MSA						
<b>1.Applicant &amp; BAE:</b> Finalise commercial agreement for implementation of mitigation ( <i>commenced</i> )						
<b>2.Applicant:</b> Osprey to complete assessment for Warton Aerodrome ( <i>commenced</i> )						
<b>3.Applicant &amp; BAE:</b> Review Osprey report for Warton Aerodrome and confirm IFP / MSA requirements for maximum design scenario						
<b>4.Applicant:</b> NATS to complete assessment for Walney Aerodrome ( <i>commenced</i> <sup>7</sup> )						
<b>5.Applicant &amp; BAE:</b> Review NATS report for Walney Aerodrome and confirm IFP / MSA requirements for maximum design scenario						
<b>6.Applicant &amp; BAE:</b> Provide update to Secretary of State that mitigation requirements understood					★	
<b>7.BAE:</b> Implement mitigation ( <i>post-consent activity that will commence once final details of the wind turbine and max tip height are known</i> )						
VHF / UHF / DF communications						

<sup>7</sup> NATS have advised that due to existing customer commitments, completion of the IFP / MSA assessment could take up to 20-weeks

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Activity	Examining Authority Recommendation period			Secretary of State Decision Period		
<b>8.Applicant:</b> NATS to complete operational assessment on radio communications (commenced <sup>8</sup> )						
<b>9.Applicant &amp; BAE:</b> Engage on results of NATS assessment and subject to results, agree next steps including implementation of any mitigation required						
<b>10.Applicant &amp; BAE:</b> Provide update to Secretary of State						
DCO Requirement – inclusion of OSPs						
<b>11.Applicant:</b> Prepare 'line of sight' assessment to determine whether comms equipment at Walney and Warton can see the OSPs and whether reference to them in the Requirement X is required						
<b>12.BAE:</b> Review line of sight assessment						
<b>13.Applicant &amp; BAE:</b> Provide update to Secretary of State on DCO requirement wording						
PSR						
<b>14.BAE:</b> Undertake technical and operational assessments of mitigation to determine acceptability and feedback to MOD DIO Safeguarding Team						
<b>15.MOD DIO:</b> Subject to step above, MOD DIO to write to Secretary of State to confirm that 'objection' is removed and confirm whether Requirement 6 in the Draft DCO is appropriate or provide a revised Requirement.						

<sup>8</sup> Whilst VHF communications assessment being undertaken by NATS is part of the wider contract covering IFP and MSA, NATS have stated that completion is expected to be significantly faster than IFP / MSA. The Applicant has therefore assumed 4-weeks

## Appendix B. Response to INF 3.3

### B.1.1 Introduction

B.1.1.1.1 This appendix has been prepared in response to Harbour Energy's submission at Deadline 6.

### B.2.1 Harbour Energy

B.1.1.1.2 The Applicant has found engagement with Harbour Energy through the Morgan Generation Assets Examination process to be challenging with their submissions sporadic and not consistently focused on a particular concern. Nonetheless, the Applicant has sought to engage with Harbour Energy throughout the Examination phase.

B.1.1.1.3 The Applicant notes that Harbour Energy have made a Deadline 6 submission responding to the discussion at Agenda item 6b of Issue Specific Hearing 3 *Other offshore infrastructure and sea users: Harbour Energy*. The Applicant was fully prepared to discuss their position on matters previously raised by Harbour Energy, including the need for any mitigation and the rationale behind that in these hearings. However, Harbour Energy chose not to attend and therefore, the opportunity for the ExA to explore these matters was lost.

B.1.1.1.4 The Applicant has continued to facilitate engagement to resolve matters where possible and held a meeting with Harbour Energy on 5 March 2025. Following this meeting, the Applicant understands that Harbour Energy do consider the matter of helicopter access to be a residual concern and that Harbour Energy may make a detailed submission at Deadline 7. Given that the Examination will close at this deadline, the Applicant would like to provide further information on the following key matters for consideration by the ExA:

1. Any potential impact on Harbour Energy's decommissioning operations at their Millom East subsea facilities would only occur if their decommissioning program is delayed, such that it takes place during or after turbines have been erected in a very specific part of the Morgan Generation Assets area. It is important context that there is no certainty that disruption to Harbour Energy's decommissioning operations would be caused by the construction or operational period of the Morgan Generation Assets.
2. It is agreed that if such an overlap of activity occurred then there could be restrictions on nighttime flights and flights which are required to take place during Instrument Meteorological Conditions (IMC). The Applicant's assessment (Volume 4, Annex 11.1: Aviation and radar technical report), which is based on the analysis of meteorological data, identifies that historically, in daylight, an annual mean of 94% Visual Meteorological Conditions (VMC) was available for access to a non-production installation (NPI). This was validated by real time historical flight data to NPI's working at Millom West obtained by the Applicant (REP6-007 and REP6-008), which identifies that very few flights take place during either night and/or IMC, thereby supporting the Applicant's assessment of the impacts presented in Volume 4, Annex 11.1: Aviation and radar technical report. The Applicant has therefore demonstrated, with evidence, the very limited magnitude of impact (which would only occur in unlikely circumstances).



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3. Harbour Energy have acknowledged that they can undertake their operations in daytime only and their mitigation proposal (around installation scheduling) demonstrates that a residual minor effect is viable.
4. There are no safety case concerns on this matter, as evidenced by Harbour Energy acknowledging that flights can safely be conducted to an offshore installation within 2.07nm of the nearest wind turbine rotor tip.
5. Any residual concerns held by Harbour Energy are therefore solely commercial in nature. Whilst Harbour has come to commercial terms on other offshore wind projects, the Applicant considers that these relate to scenarios where there has been a clear route to impact and a long term effect. This is not an analogous case and therefore does not warrant an analogous solution. This is reflected by Harbour Energy themselves who have proposed the mitigation solution which clearly demonstrates they can tolerate the impact should it arise.

B.1.1.1.5 With specific regard to the solutions proposed by Harbour Energy, the Applicant wishes to note the following:

- Any further refinement of the Morgan Array Area will directly impact on project capacity and viability (as further detailed in Table B.1). Imposition of a 3nm buffer would be at odds with the objective of the project (and the NPS) and would be entirely disproportionate to any short term, tolerable effect that could potentially occur to Harbour Energy.
- The Applicant does not consider it necessary to compensate for what is only a possible effect that would only occur under very specific overlap of activity, which has no certainty of occurring, and has been acknowledged by Harbour Energy as tolerable.
- The mitigation solution proposed would require project scheduling which it is not possible to confirm in detail at this stage of development for an offshore wind farm project, as detailed in the Applicant's Deadline 6 response (REP6-006) and in response to REP6-111.6 in Table B.1 below. Harbour Energy's submissions to the Examination state that the timing remains uncertain, but there is every possibility that it takes place before construction of the wind farm commences. In addition, the decommissioning programme would take place over a relatively short period of time – with Harbour Energy indicating around 120 days split through a number of years (see REP5-064a). That of itself limits the likelihood and extent of conflict, which the Applicant considers to be relevant when considering what mitigation is appropriate. Therefore, the impact any such commitment would have on the Applicant is entirely disproportionate to the effect on Harbour Energy and therefore cannot be accepted by the Applicant.

B.1.1.1.6 The Applicant will maintain dialogue with Harbour Energy with regard to the ongoing scheduling of the two project activities to ensure early visibility of any potential overlap.

B.1.1.1.7 In addition to these key points, the Applicant has provided further detail on Harbour Energy's Deadline 6 submission in Table B.1 below, which replicates the table form of their submission.

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**Table B.1: The Applicant's response to Harbour Energy's submission on ISH3.**

Reference	Harbour Energy's submission	Applicant's response
REP6-111.1	<p><b>ISH3 Comment (from transcript)</b>  01:03:58:16 - 01:04:29:09  [Examiner:] Yeah. Just two, two very quick items before lunch. Hope that's okay. And then we can come on cleanly to the next agenda item after lunch. Um, item B is relating to Harbour Energy, and obviously they're there. They're not present today. So it was really just an update. Um, and we said we do. We do still expect those written responses to be received at deadline six, together with a final statement of common ground, um, with Harbor Energy.</p> <p><b>Harbour Energy Response</b>  Harbour Energy is responding at this DL6 to the Applicant's oral evidence at ISH3.</p>	N/A
REP6-111.2	<p><b>ISH3 Comment (from transcript)</b>  01:04:29:11 - 01:05:12:23  But I just just wanted, um, the applicant's comments on, uh, the potential protective provisions, um, that were noted by Harbor Energy in their deadline five submission. Um, understanding that you've said that previously that there would be an inappropriate and an unnecessary issue could go through the Marine Navigation Forum instead. But I understand there's precedent for for similar protective provisions in other offshore wind farms where the where the operator is not within the order limits, but are nearby or helicopters passing passing by. 01:05:13:08 - 01:05:16:18 Is there any any comments that you have on that for me, please?</p> <p><b>Harbour Energy Response</b>  Harbour Energy notes the Examiner's reference to there being precedent for protective provisions being included to protect activity outside of the order limits. Examples include: Hornsea Project One (for the protection of ConocoPhillips (UK) Limited; Hornsea Project Two (Part 3: Requirements and Schedule 12 protective provisions for the protection of Centrica, Phillips 66 and ConocoPhillips); Dudgeon and Sheringham Shoal Extension Projects (for the protection of Perenco).</p>	The Applicant is aware that other offshore wind projects have included protective provisions to protect activity outside the order limits, and in each of the examples cited the Applicant expects that these were justified based on the individual circumstances of the potential interaction. As the Applicant has made clear in the responses below it does not consider that protective provisions are either necessary or justified in this case.

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Reference	Harbour Energy's submission	Applicant's response
REP6-111.3	<p><b>ISH3 Comment (from transcript)</b>  01:05:17:22 - 01:05:58:10  Yes, Patrick, for the applicant: Um, madam, what proposed to do is just do a bit of a summary of the applicant will, of course, respond to Harbour's deadline five submission at deadline six. But I can just go through the headline points now for the examining authority, which will explain why is still the applicant's position that protected provisions are necessary. The applicant has been engaged, continuing to engage with Harbor Energy, as you'd expect on trying to reach an agreed position. There are a number of points in the statement of common ground that were not agreed at this point, and that primarily is around the a difference in opinion about the need for further mitigation to be secured.</p> <p><b>Harbour Energy Response</b>  As the Applicant has indicated here that they will set out their arguments more fully at DL6, Harbour Energy may supplement this DL6 response at DL7.</p>	N/A
REP6-111.4	<p><b>ISH3 Comment (from transcript)</b>  01:05:59:14 - 01:06:32:26  Um, as I set out in our deadline five submission, their concerns relate to three aspects of the decommissioning of the platform. Um, the first aspect is potential restrictions on helicopter access to Nonproduction installation that would be used for decommissioning. The second act. The second point is potential simultaneous operations in the marine environment. And the third point is marine access. And for each of those aspects, the applicant does not consider that any further mitigation is necessary, based in part on some of the recent precedent that you have alluded to. 01:06:32:28 - 01:06:35:01 And I will come on to comment on in a moment.</p> <p><b>Harbour Energy Response</b>  Firstly it should be clarified that Harbour Energy's concerns relate to the decommissioning of Millom East wells rather than decommissioning of a platform as stated here by the Applicant. Harbour Energy agrees that the concerns raised in our DL5 submission can reasonably be summarised as relating to:  - Restrictions on helicopter access</p>	<p>The Applicant agrees the correct asset of interest is the Millon East subsea wells. The Applicant has addressed matters raised by Harbour Energy in relation to mutually exclusive simultaneous operations, and marine access at Deadline 5 (REP5-015) and at Deadline 6 (REP6-006). Similarly, the Applicant has also addressed matters relating to helicopter access (as and when they have been raised by Harbour Energy or the ExA) at Deadline 1 in response to relevant representations (REP1-017), Deadline 2 in response to written representations (REP2-005), Deadline 3 in response to ExQ1 (REP3-006), at Deadline 6 in response to IP submission (REP6-006), the hearing summaries (REP6-012) and closing statement (REP6-014) and within this Deadline 7 response.</p>

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Reference	Harbour Energy's submission	Applicant's response
	<ul style="list-style-type: none"> <li>- Management of mutually exclusive simultaneous operations; and</li> <li>- Ensuring marine access.</li> </ul>	
REP6-111.5	<p><b>ISH3 Comment (from transcript)</b> 01:06:36:21 - 01:07:02:02 Um, just before I turn to the precedent point, the applicant does note that there is no certainty that there will be disruption to Harbour's decommissioning operations as a result of either the construction or operation of the Morgan Generation wind farm.</p> <p><b>Harbour Energy Response</b> Harbour Energy notes the Applicant's acknowledgement that construction and operation of the Morgan Generation Assets will result in disruption to Harbour Energy's decommissioning operations.</p>	<p>The Applicant does not contest that wind turbine erection at Morgan Generation Assets and decommissioning of Millom East could take place concurrently, but critically there is <u>no certainty</u> that disruption will occur, as this is dependent on construction of a specific (and very limited) portion of the Morgan Generation Assets and decommissioning of Millom East subsea wells taking place at the same time and the activities not being co-ordinated. The Applicant has repeatedly noted that this uncertainty and the short-term nature of the decommissioning works are critical factors in considering the potential for an impact and the likely scale of any effect.</p>
REP6-111.6	<p><b>ISH3 Comment (from transcript)</b> And the applicant understands that the timing of Harbor's decommissioning activity does remain uncertain, and there is every possibility that this takes place before the wind farm development commences.</p> <p><b>Harbour Energy Response</b> Harbour Energy agree that the timing of decommissioning is uncertain but there is a possibility that Harbour Energy's decommissioning activity could be completed prior to operation of the wind farm. In recognition of this, Harbour Energy proposed at DL5 (Section 3.3 of REP5-054) a mitigation that we believe balances the inconvenience experienced by each party. Harbour Energy is disappointed that the Applicant's comments at ISH3 make no reference to this proposal.</p>	<p>The Applicant did provide a brief response in S_D6_3.2 at REP5-054.13/REP5-064a.13 at Deadline 6 on this matter. To clarify further, Harbour Energy's proposal was a protective provision for the benefit of Harbour Energy based on the following principles:</p> <ul style="list-style-type: none"> <li>• A "3nm buffer" shall be defined as the overlap of a circle of radius 3nm centred upon the Millom East PLEM and the Order Limits.</li> <li>• Until the earlier of <ul style="list-style-type: none"> <li>○ completion by Harbour Energy of Millom Field decommissioning; or</li> <li>○ completion by the Applicant of construction activities out with the 3nm buffer,</li> </ul> no construction of wind turbine towers and/or rotors shall be undertaken by the Applicant within the 3nm buffer.</li> </ul> <p>The Applicant had expected Harbour to attend ISH3, and had prepared further submissions in response to points it expected Harbour to make. To expand on the position stated above, the reason why the Applicant cannot commit to installing the WTG towers and rotors within a specific portion of the Eastern extent of the array area at the end of the installation programme is twofold:</p> <p>Firstly, the Applicant has identified within its assessment that there are design scenarios where more than one type of foundation could be utilised. Different foundation types will have different lead fabrication times, and it may be necessary to install the foundations with an earlier lead in time first in order to ensure the construction, commissioning and energisation sequencing is optimised, thereby reducing the overall construction timetable and related effects. Secondly, the energisation strategy is not yet defined, as</p>

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Reference	Harbour Energy's submission	Applicant's response
		<p>it will be based on a number of factors that cannot be determined until after consent, including the selection of turbine supplier, OFTO (offshore transmission operator) asset strategy, inter-array cable routing to the wind turbines, foundation type selection and the foundation allocation throughout array. The number and locations of the OSPs (between 1 and 4) are not yet known and it is possible that the wind turbines in the eastern side of the array area will be connected to one or more OSPs. It is therefore not possible for the Project to commit to a construction sequence at this stage and to do so could place significant constraints on project design, construction programme and potentially the overall business case. The consequence of this would be disproportionate to any potential effects associated with a potential overlap with Harbour Energy's short-term decommissioning operations.</p>
<p>REP6-111.7</p>	<p><b>ISH3 Comment (from transcript)</b>  01:07:03:28 - 01:07:23:22  In addition, the decommissioning program would take place over a relatively short period. Um Harbor have indicated that around 120 days, split through a number of years. And that in itself limits the likelihood and extent of any conflict which would occur, and the applicant does consider that a relevant factor when considering what mitigation is reasonable or appropriate.</p> <p><b>Harbour Energy Response</b>  The main aviation impact on Harbour Energy's decommissioning programme would be during the plugging and abandoning of the Millom East wells. This is expected to take place over a contiguous period of about 120 days. Harbour Energy has acknowledged at DL5 (Section 3.3 of REP5-054) that the period required for Millom East decommissioning activity is relatively short in the context of the life of the Morgan Generation Assets.</p>	<p>The Applicant notes the clarification and acknowledgement from Harbour Energy on this matter, confirming the short term and concentrated duration of their decommissioning activities.</p>
<p>REP6-111.8</p>	<p><b>ISH3 Comment (from transcript)</b>  01:07:26:06 - 01:08:06:20  Just turning now to the points of detail that Harbor have raised. First on helicopter access. The applicant's position is that the site selection and design has of the boundary area meets the policy tests that are set out in paragraph 2.8.345 of three, which requires that the design has to be made with a view to avoiding or minimizing disruption or economic loss, or any adverse effect on safety to other offshore industries.</p> <p><b>Harbour Energy Response</b></p>	<p>The Applicant undertook boundary refinement following Section 42 consultation. This mitigation more than doubled the distance from the Millom East subsea asset to the closest point of the array from 1.01 nm to 2.07 nm (as concluded in Table 4.4 of the Site selection and consideration of alternatives ES Chapter (APP-011)). This increase in separation distance has ensured that through good design the potential for impact on the Harbour Energy decommissioning activity has been significantly reduced in magnitude, to an extent that Harbour Energy have agreed that there is not a safety concern, and that the residual disruption could actually be tolerated. Accordingly, the Applicant would reiterate its case that the relevant policy tests of EN-3 (paragraph 2.8.345) are met.</p> <p>In the worst theoretical scenario that Harbour Energy wishes to undertake the decommissioning in a contiguous block (which the Applicant considers is by no means</p>



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Reference	Harbour Energy's submission	Applicant's response
	<p>Harbour Energy agrees that site selection and design should avoid or minimize disruption, economic loss and any adverse effect on safety. Harbour Energy does not agree that the current proposal meets these tests.</p>	<p>certain) and has yet to commence any of the decommissioning before the Applicant has installed WTGs on any foundations that lie within 3nm of the Millom East assets, then there would be up to 120 days of overlap. The likelihood of such an outcome must be considered extremely low. Even if such an outcome was to occur, the imposition of a 3nm sterilisation zone (in whatever form) would have a disproportionate effect on the construction and also operation, of the Morgan Generation Project.</p>
REP6-111.9	<p><b>ISH3 Comment (from transcript)</b>  Now, the distance between the Mill and East pipeline end manifold and the closest point of the DCO boundary for the Morgan generation assets is 2.07 nautical miles. 01:08:08:03 - 01:08:39:16  On the safety limb of the of the policy. The applicant does not consider that there is any suggestion by Harbour Energy that that distance would be unsafe, and smaller distances have been agreed. As you referred to previously and are being undertaken in practice. So, for example, there is an NPI working within the nearby Walney Extension and NPI has been working at the Whitehaven and Rural Wells inside a wind farm. And the turbines in those instances are located between 1.1 and 1.3 nautical miles from the NPI.</p> <p><b>Harbour Energy Response</b>  Harbour Energy accepts that flights can safely be conducted to an offshore installation within 2.07nm of the nearest wind turbine rotor tip. The proximity of the wind farm will however introduce restrictions on when such flights could be made. The reduction in availability of flights will however introduce a minor adverse effect on safety for personnel on such an installation.</p>	<p>The Applicant welcomes the confirmation that flights can be safely conducted with a distance of 2.07nm.</p> <p>The Applicant would reiterate that the restriction to flight availability is marginal, and therefore the impact on safety arising from this is also marginal.</p> <p>It is agreed that there are restrictions on nighttime flights and flights which are required to take place during Instrument Meteorological Conditions (IMC). The Applicant's assessment (ES Volume 4, Annex 11.1: Aviation and radar technical report), based on the analysis of meteorological data, identifies that historically in daylight an annual mean of 94% Visual Meteorological Conditions (VMC) was available for access to an NPI with real time historical flight data to NPI's working at Millom West (REP6-007 and REP6-008) validating this and showing that very few flights take place during either night and/or IMC thereby supporting the Applicant's assessment of the minimal nature of any impacts.</p> <p>Addressing the safety point specifically; even though night and IMC could be marginally reduced, SAR helicopters will still be available for emergency events and medevacs. This is because they do not have to comply with CAT regulations but are State Aircraft operated in accordance with CAP 999. They have additional equipment and training to safely approach and land on a helideck located at less than 2.07 nm from a wind turbine. CAT helicopters may have a role to play in emergency situations, but only when the weather meets CAT regulations, the airport is open, the aircraft and crew are available, and there are no explosions, fire or release of hydrocarbons, as helicopters are unable to be utilised in such events.</p>
REP6-111.10	<p><b>ISH3 Comment (from transcript)</b>  01:08:41:04 - 01:09:13:13  The protected provisions that you referred to are included in the Hornsea Four Development Consent Order. I believe that's the example that you were referring to. Um, that imposed a buffer distance around the Johnson wellhead. Excuse me? Inside the offshore wind farm, which had an aviation corridor which was 0.76 nautical miles wide, measured from tip to tip of any wind turbine generator and a wind turbine exclusion zone of 0.86 nautical miles.</p>	<ol style="list-style-type: none"> <li>1. The Applicant notes that the AW169 helicopter which is typically used in the East Irish Sea for oil and gas activities has been doing daily flights in Hornsea 1&amp;2 offshore wind farms under the same Commercial Air Transport regulations as oil and gas flights, for several years. At these locations, wind turbines are within 1,200 m of the Hornsea substation helidecks. So, the AW169 or AW139, based on the east coast, can be used for Millom decommissioning with a distance of 2.07nm, which significantly exceeds the 1.26nm agreed in the SEP and DEP protective provisions for the Waveney platform. It is also noted that these protective provisions did not define a helicopter type. The distance available is</li> </ol>

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Reference	Harbour Energy's submission	Applicant's response
	<p>Radius of airspace measured from the center of each of the Johnson production well heads. 01:09:13:26 - 01:09:26:11 Now, that's a clearly a much smaller distance than the 2.07 nautical miles that the applicant has achieved through design, and therefore they do not consider there be any impact on safety.</p> <p><b>Harbour Energy Response</b></p> <p>As Harbour Energy understood the Examiner at ISH2, reference was made to precedents in which protective provisions were attached to an approved DCO to protect operations outside of the Order Limits. The Applicant is here seeking to suggest that the acceptance of distances less than 2.07nm in other DCOs demonstrates that 2.07nm would have no adverse effect on safety for Millom field decommissioning. The Applicant is ignoring two material differences between the examples cited and the current situation.</p> <p>1. The Johnston Field is in the Southern North Sea and is supported by a different model of helicopter to those in use in the East Irish Sea in support of Millom Field operations. Accordingly the distances required for aviation operations are not the same.</p> <p>2. The protective provisions applied to the Hornsea Project 4 DCO were, as stipulated by the Secretary of State in his decision letter, associated with a compensation mechanism to compensate the Johnston owners for the restrictions that would be required to their operations. Accordingly, the Johnston Owners would be able to modify their operations as necessary to maintain the safety of the installation and receive compensation for the associated disruption and economic loss.</p>	<p>considered to be sufficient for day VMC operations using the AW169 or AW139 helicopters.</p> <p>2. As set out in the Applicant's response to REP6-111.2 above, the Applicant is aware that protective provisions have been included in other offshore wind farm DCOs, and that it is not unusual for these to be combined with agreements between the respective parties that provide further detail about how the potential project interactions and protective provisions will operate.</p> <p>The Applicant's reference to consented projects was in the context of a safe operating distance between operating well heads and wind turbines. The existence of commercial agreements are, and must be, irrelevant to determining whether there is a safe passage distance for helicopters. The Applicant notes that Harbour has confirmed in REP6-111.9 above that the 2.07nm provided by the Applicant is a safe distance.</p> <p>For the reasons set out above, the Applicant does not consider that the potential interaction between the decommissioning of the Millom East wells and the construction of the Morgan Generation project is such that it requires either unnecessarily onerous protective provisions or the payment of compensation. The interaction can and should be managed through the sharing of information through the Marine Navigation Forum.</p>
REP6-111.11	<p><b>ISH3 Comment (from transcript)</b></p> <p>01:09:28:07 - 01:10:03:00</p> <p>Turning to the second limb of the policy, which is about avoiding or minimizing disruption or economic loss, the NPS directs that a pragmatic approach should be taken when considering these issues. That's at paragraph 3.8.342 of NPS three,</p> <p><b>Harbour Energy Response</b></p> <p>Harbour Energy is fully aware of the direction provided by National Policy Statement EN3. Harbour Energy observes that its proposed mitigation set out in Section 3.3 of REP5-054 is just such a pragmatic solution in compliance with EN3.</p>	<p>The Applicant acknowledges the intent of Harbour Energy's proposal but is clear this has to be in the context of the potential and scale of any impact. The Applicant refers Harbour Energy to its response to REP6-111.8 for further detail.</p>

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Reference	Harbour Energy's submission	Applicant's response
REP6-111.12	<p><b>ISH3 Comment (from transcript)</b></p> <p>and the most recent DCO precedent, where this was an issue considered by the examining authority and the Secretary of State was the Sheringham Shoal and an extension offshore Wind Farm Order 2024. In that examination, the Waveney platform, which was operated by Prudential, had an ongoing operational life to approximately 2030.</p> <p>01:10:03:02 - 01:10:23:18 At which point it would be decommissioned. So it is a slightly different set of set of circumstances where there was an operational element to that as well. And the applicant in that DCO examination initially proposed a 1.01 nautical mile buffer, with the platform operator seeking 3.3.0 nautical miles.</p> <p>01:10:26:27 - 01:10:46:24 Towards the end of the examination, and the reason that this is a relevant precedent is that the applicant proposed a 1.26 nautical mile buffer zone between the wind farm and the platform, again a much smaller distance than would exist between the Morgan generation DCO order limits and Harbour Energies interests.</p> <p>01:10:48:21 - 01:11:21:20 The examining authority within their report on that in their recommendation. And that's at paragraph 14.4 .29 and 14 .4. 30, acknowledged that there would be a residual economic impact on perennial at a distance of 1.26 nautical miles. But consider that that Harbour Energy Response was sufficient mitigation for the purposes of the NPC in three policy. It would not impose an unacceptable safety risk, and it does mitigate the disruption and economic losses that would occur both throughout the operation and decommissioning periods.</p> <p>01:11:21:24 - 01:11:32:24 And that was the conclusion with which the Secretary of State agreed within that DCO that was secured through protected provisions, but there was no provisions for compensation related to that was sufficient mitigation for the purposes of the NPC in three policy. It would not impose an unacceptable safety risk, and it does mitigate the disruption and economic losses that would occur both throughout the operation and decommissioning periods.</p> <p>01:11:21:24 - 01:11:32:24 And that was the conclusion with which the Secretary of State agreed within that DCO that was secured through protected</p>	<p>The Applicant does not agree that the precedent has been misrepresented. At the close of the Examination the Perenco objection was outstanding and the Examining Authority's recommendation was made on that basis. Paragraph 14.4.28 referred to by Harbour Energy stated:</p> <p><i>"There may still be a commercial agreement between the Applicant and Perenco for the payment of compensation, but this is not a factor in the ExA coming to the conclusion that the installation could remain viable with the proposed DEP-N development and the 1.26nm buffer, despite the extra restrictions on helicopter access."</i></p> <p>The Examining Authority did recommend that further consultation be undertaken with Perenco to reflect the fact there were ongoing discussions see paragraphs 14.4.31 and 32), however the Examining Authority did reach a conclusion that the distance was safe and otherwise met the requirements of the NPS.</p> <p>The Applicant is unable to comment on any commercial agreement between the parties on the Sheringham and Dudgeon Extension project but would note that the different factual circumstances would suggest in that case there is far greater potential interaction than is anticipated to occur between Harbour and the Morgan Generation project.</p>

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Reference	Harbour Energy's submission	Applicant's response
	<p>provisions, but there was no provisions for compensation related to that.</p> <p><b>Harbour Energy Response</b></p> <p>The Applicant has seriously misrepresented a key aspect of this precedent. Throughout the Examination, Perenco, as Owner of the Waveney Field, had maintained that no turbines should be installed within 3nm of the Waveney platform as otherwise the development would not meet the NPS EN3 requirements of avoiding or minimising disruption and economic loss. Perenco's notification during the Secretary of State consultation following the end of the Examination is instructive and accordingly is quoted in full below:</p> <p>Dear Mr Wheadon</p> <p><b>Perenco withdrawal of objection</b></p> <p>In response to your request for information dated 23rd November 2023 and specifically item 9, following discussions with the Applicant,</p> <p>Perenco has reached an agreed position with the Applicant and protective provisions satisfactory to Perenco have been included in the most recent draft DCO submitted by the Applicant. Accordingly, we hereby confirm withdrawal of our objection and confirm withdrawal of the protective provisions for the protection of Perenco's interests submitted by Perenco at Deadline 7 (Examination library reference REP7-122).</p> <p>Yours sincerely</p> <p>The Applicant has overlooked the fact that acceptance of protective provisions specifying a distance less than the 3nm originally sought by Perenco was reached as part of an agreement between Perenco and the Sheringham Shoal and Dudgeon Extension Project developers. The terms of this agreement have not been disclosed but it would not be unreasonable to suppose that some pragmatic mechanism such as compensation (as suggested in paragraph 14.4.28 of the Examiners' Report and recommendations to the Secretary of State) to mitigate the disruption and economic loss to Perenco would have been a part of this agreement.</p>	

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Reference	Harbour Energy's submission	Applicant's response
	<p>In referring to paragraphs 14.4.29 and 14.4.30 of the Examiners' Report and recommendations to the Secretary of State, the Applicant has omitted to note that at paragraph 14.4.28, the Examiners recommended to the Secretary of State that further consultation should be undertaken with Perenco. It was this consultation that led to an agreement between Perenco and the Sheringham Shoal and Dudgeon Extension Project developers. It should also be noted that the distance of 1.26nm is not relevant to the Millom Field as, like the Johnston Field cited earlier, the Waveney field is in the Southern North Sea and is supported by a different model of helicopter to that used in the East Irish Sea to support the Millom Field.</p>	
REP6-111.13	<p><b>ISH3 Comment (from transcript)</b> 01:11:35:12 - 01:12:04:05</p> <p>So the applicant's position is that the proposed distance of 2.07 nautical miles already adequately mitigates the potential impact exceeding precedent that has been imposed on protected provisions elsewhere, and therefore, it does not consider that any of the proposals that Harbour Energy put forward in its deadline five submission as proposed mitigation are necessary and would be entirely disproportionate to include due to Harbour Energy Response the operational and construction impact they would have on the Morgan generation assets.</p> <p><b>Harbour Energy Response</b></p> <p>This precedent does not, as the Applicant suggests, contradict Harbour Energy's position that the Applicant's currently proposed development would result in material disruption and economic loss. Harbour Energy accepts that the Applicant may consider the proposed mitigation set out in Section 3.1 of REP5-054 to have a disproportionate impact upon the Applicant but does not agree that the other proposed mitigations (in Sections 3.2 and 3.3 respectively of REP5-054) could be considered to be disproportionate. The Applicant has not provided any explanation to support its position. Harbour Energy maintains that its proposal in Section 3.3 of REP5-054 in particular represents a reasonable and pragmatic solution which balances the impact on each party and so fosters coexistence.</p>	<p>The Applicant maintains its position that the level of impact has already been adequately mitigated by design.</p> <p>Notwithstanding this, the Applicant notes three mitigations proposed by the IP were as follows:</p> <ul style="list-style-type: none"> <li>• Exclusion of the turbines that would lie with 3nm of the wellheads - the Applicant notes that exclusion of the turbines would have a significant commercial impact on the project, to the extent that the viability of the project could be in question. This is therefore not a reasonable mitigation to a short term and limited effect on Harbour that may not even occur.</li> <li>• Commercial compensation – the Applicant has made its position clear that they do not consider the short term potential impacts to be of magnitude requiring compensation.</li> <li>• Phased development – the Applicant's position on the current proposal is noted above in response to REP6.111.6.</li> </ul>



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Reference	Harbour Energy's submission	Applicant's response
REP6-111.14	<p><b>ISH3 Comment (from transcript)</b>  01:12:06:25 - 01:12:27:03  Just turning on to the second and third limbs. Um, of harbors concern, which I'll take together the mutually exclusive simultaneous marine operations and marine access. Um, the applicant maintains its position that this is a logistical matter that can be managed through normal customer and practice for marine industry, coordination  01:12:28:24 - 01:12:46:00  and notification of mutually exclusive simultaneous operations can be facilitated through the MNF, as was discussed earlier, and would ordinarily be managed through issuing notices to mariners advising of piling works commencing, for example. And the applicant considers this as an entirely standard practice.</p> <p><b>Harbour Energy Response</b>  Harbour Energy echoes the Examiner's observation that there is significant precedent for the use of protective provisions to secure such safeguards. Protective provisions that cover mutually exclusive simultaneous operations were for example included in the DCO approved for each of: Hornsea Project One (for the protection of each of Centrica, Phillips 66, and ConocoPhillips); Hornsea Project Two (for the protection of each of Centrica, Phillips 66, and ConocoPhillips); and Hornsea Project Four (for the protection of the Kumutage Field and for the protection of Harbour Energy and its coventurers). Protective provisions that cover pipeline access were for example included in the DCO approved for each of: Hornsea Project One (for the protection of each of Centrica, Phillips 66, and ConocoPhillips); Hornsea Project Two (for the protection of each of Centrica, Phillips 66, and ConocoPhillips); and Hornsea Project Four (for the protection of the Kumutage Field and for the protection of Harbour Energy and its coventurers).</p> <p>Whilst Harbour Energy accepts that the issuing of Notices to Mariners through the Marine Navigation Forum is routinely undertaken, relying solely on this method allows for little, if any, advance planning and coordination of activities and provides neither party with safeguards to prevent disruption and economic loss should operations have to be suspended to allow other</p>	<p>The Applicant has set out in its Deadline 6 closing statement, and reiterated in response to REP6-111.6 as to why it is not able to accommodate a restrictive build out commitment (and how the consequence of such a restriction would be entirely disproportionate to the potential effect in question). The Applicant has identified in response to REP6-111.8 that for any interaction to occur would require a number of worst case scenarios from a scheduling and activity perspective, and even were all of those to occur, ultimately Harbour Energy have established that they could tolerate the residual effect, and manage the logistics through established post consent engagement and notification channels. As made clear the Applicant does not consider protective provisions are merited.</p>

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	<p>operations to take precedence. Harbour Energy's proposed provisions within protective provisions would ensure more proactive coordination of activities to the mutual benefit of both parties. Harbour Energy believes this to be an appropriate and pragmatic mitigation. The Applicant has failed to provide any reason why it would limit its operations.</p> <p>It is worth noting that notwithstanding the foregoing, a part of Harbour Energy's proposal set out in Section 3.3 of REP5-054 is that, if the Applicant accepts a phased installation of the Morgan Generation Assets, (i.e. that installation of the towers and rotors of those wind turbine generators to be placed within 3nm of the Millom East PLEM is deferred until the end of the installation programme), Harbour Energy would seek no further protections (through protective provisions or otherwise) from the Applicant with respect to aviation or mutually exclusive simultaneous operations or marine access, other than normal custom and practice for marine and industry co-ordination.</p>	
REP6-111.15	<p><b>ISH3 Comment (from transcript)</b> 01:12:47:24 - 01:13:01:03 So whilst the applicant and Harbour Energy will continue to explore the need for coordination of these, the applicant doesn't consider that now is the appropriate time to do so. It doesn't consider that it needs to be secured through the development consent order.</p> <p><b>Harbour Energy Response</b> Whilst unable to disclose confidential information concerning the detail of discussions regarding any potential agreement, Harbour Energy has not been encouraged that the Applicant is open to a pragmatic and balanced approach.</p>	<p>The Applicant disputes this assertion by Harbour. It considers that if Harbour had material concerns they would have attended one of the 3 issue specific hearing that were held (and noting Harbour were specifically invited to ISH 3) to make their case clearly. The Applicant was fully prepared to discuss its response to matters raised by Harbour including the need for any mitigation and the rationale behind that.</p> <p>The Applicant notes that where Harbour had material concerns with R3 projects, and indeed another ongoing examination in the Irish Sea, they are fully engaged in the process. That is evidently not the case here. Their submissions have been sporadic and lacking in detail or evidential justification. As set out above, the Applicant considers its position to be reasonable, proportionate and justified based on the likely potential and scale of interactions and effects.</p>
REP6-111.16	<p><b>ISH3 Comment (from transcript)</b> 01:13:09:11 - 01:13:26:17 And yeah, as as a final point, that which the applicant will expand on in its, um, deadline six commission. The applicant thinks it is wholly compliant with the NPS policy in this respect, and that there wouldn't be a reasonable basis to impose further protected provisions in the draft DCO as a result.</p> <p><b>Harbour Energy Response</b> Until the Applicant has elaborated this point, Harbour Energy is unable to comment further. Throughout the foregoing and in its</p>	<p>The Applicant maintains its position that development is compliant with policy, as demonstrated in detail in the documents that have been submitted to this Examination.</p>

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	DL5 submission (REP5-054) Harbour Energy has sought to apply the requirements of National Policy Statements, in particular EN1 and EN3.	