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Examining Authority
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Kent Wildlife Trust

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RE: Sea Link (EN020026) Nationally Significant Infrastructure Project (NSIP) Application – Written post hearing submissions including written summaries of oral cases made at hearings the w/c 26 January 2026 (Deadline 4) – Kent Wildlife Trust [redacted]

Issue Specific Hearing 2 – Environmental Matters

Kent Wildlife Trust's (KWT) Deadline 4 submission address matters that were discussed across the three days of Issue Specific Hearing 2 (ISH2). In doing so, KWT does not seek to reiterate in full the concerns already set out in our previous written submissions; nor should this be taken to imply that any issues not expressly revisited within this Deadline 4 response have been resolved or are no longer of concern. Rather, this submission builds upon concerns raised during ISH2, requesting further clarification and evidence in relation to key matters that remain of significant importance to KWT. Where relevant, KWT also raises additional questions to the Applicant and, where appropriate, to statutory bodies, to assist the ExA in its consideration of these outstanding issues.

3. Ecology and Biodiversity

3.1 Kent Landfall

Implications of previous cable works for impact assessment and mitigation

During ISH2, the Examining Authority ("ExA") asked the Applicant whether they were aware of any studies that had been undertaken to assess impacts on the intertidal area arising from the installation of the previous Nemo Link cable. In response, the Applicant stated:

"We're not aware of any specific monitoring studies that have been completed or any monitoring data that has been completed specifically relating to the intertidal mudflats."

KWT considers this response to be highly concerning.

Despite the Applicant's response, the Nemo Link Marine Licence required a programme of post-construction monitoring of intertidal habitats and its invertebrate community over at least three years, secured by conditions imposed by the Marine Management Organisation ("MMO"). These reports are publicly available on the MMO register. Given that Nemo Link and Sea Link are both National Grid projects, with National Grid Electricity Transmission ("NGET") and National Grid Ventures ("NGV") both part of the National Grid Plc group, it is deeply concerning that the Applicant has made no effort to understand the causes and extent of the damage caused by their sister company, to review monitoring data, learn from the documented impacts of Nemo Link, or to take lessons into account in preparing the Sea Link application and its Environmental Impact Assessment ("EIA"). This calls into serious question the adequacy and credibility of Sea Link's EIA and is inconsistent with the requirements of the EIA Regulations 2017, which require a robust, evidence-based assessment informed by all relevant available information. The Applicant's complacency is further evidenced by their failure to act on a

clear action point from the ExA at Issue Specific Hearing 1 on 11th November 2025, which required the Applicant to engage with NGV to understand why Horizontal Directional Dilling ("HDD") was ultimately abandoned for Nemo, raising serious doubts about their commitment to avoiding repeat environmental harm.

KWT also disagrees with the Applicant's assertion that any residual impacts from Nemo Link have no bearing on the conclusions of the Sea Link impact assessment. This position is not credible where site-specific post-construction monitoring demonstrates that intertidal habitats, particularly saltmarsh, have not recovered to pre-construction condition. In these circumstances, it is unreasonable for the Applicant to conclude that there are no relevant residual impacts. Omitting Nemo Link's monitoring reports also calls into question the reliability of Sea Link's Cumulative Impact Assessment ("CIA"), mitigation measures and recovery assumptions. This goes against the precautionary principle, which is embedded in UK environmental law and planning policy (e.g. *R (Mott) v Environment Agency* [2016] UKSC 10; and National Policy Statement EN-5).

Of particular relevance is Nemo Link's Marine Licence Condition 5.2.22, which required 5-years of post-construction saltmarsh monitoring. This condition remains **Open** and has not been discharged. The Year 5 monitoring report concluded that there has been "*no recovery*" of the saltmarsh ridgeline and "*tidal incursion into the saline lagoon remains more frequent than before the cable installation works were undertaken*."[1] The monitoring report also concludes that topographic monitoring has "*indicated significant variation in the extent of standing water and largely unvegetated ground from survey to survey*", and even criticises the baseline assessment methodology, stating "*the analysis of vegetation change through quadrat monitoring has been severely constrained by the relatively small number and locations of quadrats established before and immediately following the cable installation works, and in particular by the lack of systematic pre- and post-works data sets*". Concluding the 5-years of monitoring, the MMO recommended the continued monitoring of the saltmarsh, including the request for National Grid Nemo Link Ltd to consider "*next steps which take into account the long-term recoverability of the saltmarsh habitat. The MMO note that it has not been possible to agree a suitable restoration programme (MLA/2021/00474 withdrawn). The MMO advise that post-construction monitoring continues as vegetation is still visibly recovering and there remains to be tidal inundation of the lagoon as the seaward ridge is slowly developing. The MMO require high confidence in the continued recoverability of the saltmarsh from the impacts of the cable landfall [...] The MMO advise discussion with Natural England through their Discretionary Advice Service on this point. The MMO is available to attend a meeting to discuss extended monitoring requirements.*"[2] National Grid Nemo Link Ltd. disagreed with this position, stating: "*Further monitoring, beyond that already undertaken, is not proportionate to the outstanding issue around the topography of the original high marsh ridge and the emerging establishment of a new high marsh ridge*." [3] The unresolved status of this condition demonstrates that habitat recovery following cable installation at this landfall has not been straightforward, and that agreed mitigation has not delivered full recovery in practice.

Whilst failure to discharge this condition does not on its own prohibit the grant of consent for Sea Link, it is clearly material to the lawfulness and robustness of decision-making. The outstanding condition evidences that mitigation for previous cable works at this landfall has not delivered habitat recovery as anticipated, which directly bears upon the accuracy of the environmental baseline, the assessment of cumulative effects, and the credibility of any mitigation relied upon for Sea Link. Proceeding with further intertidal works in circumstances where existing impacts remain unresolved raises serious concerns

[1] KPAL Report EX051222_NEMO Link Year 5 Monitoring Report V2.0_18.07.23 - Optimized (3).pdf
[2] 20210616_MMO_Response_NemoLink (6).pdf
[3] C01432 Nemo Link covering letter to Y5 monitoring report (2).pdf

under the EIA Regulations 2017 and the precautionary principle embedded in the Habitats Regulations and undermines confidence that future conditions will be effective or enforceable in practice. Accurate consideration of the Nemo Link monitoring reports would likely have resulted in a more comprehensive assessment of impacts and stronger mitigation and remediation commitments for Sea Link.

Taking all of this into consideration, **KWT poses the following question to the MMO**:

> Given that Marine Licence condition 5.2.22 for the Nemo Link project remains Open due to the conclusion that saltmarsh has not recovered, how does the MMO take this unresolved legacy impact into account when assessing the acceptability of further cable works within the same intertidal habitats under the Sea Link project, and would the MMO require resolution of the Nemo condition, or additional safeguards, before permitting Sea Link's intertidal works to commence?

Additionally, we believe that it would be pertinent to ask the MMO and Natural England whether the meeting mentioned within the MMO's letter to National Grid Nemo Link Ltd took place, and what were the outcomes of that meeting?

Given that NGV and NGET are sister companies within the National Grid Group, there is both an opportunity and a responsibility to address outstanding issues from Nemo Link and ensure they are not repeated. The current situation suggests either a lack of company learning, or a troubling complacency toward environmental harm, undermining confidence in the Applicant's approach to environmental protection at this sensitive landfall.

KWT also has concerns regarding the transparency and robustness of the discharge of Nemo Link Marine Licence conditions. Some condition returns appear missing, incomplete, or unclear without access to underlying correspondence. KWT has therefore submitted Freedom of Information ("FOI") requests to the MMO for all associated documentation and to Dover District Council ("DDC") for the complete planning condition record and discharge documentation. We expect responses by 3rd March 2026 and respectfully request the ExA permit a supplementary submission from KWT if new, relevant information arises which is applicable to Sea Link's Examination process.

Overall, the Nemo Link experience has significant implications for confidence in the effectiveness and enforceability of conditions associated with Sea Link. If monitoring shows that habitats have not recovered as expected, yet conditions are nevertheless discharged or allowed to lapse, this undermines trust that conditions will deliver real environmental protection in practice.

Impacts on the intertidal area

A central issue for this agenda item is whether the Applicant can realistically and reliably deliver HDD at the Kent landfall location, and what the implications are if they cannot. KWT has serious concerns that the current approach, treating HDD as a preferred but ultimately unproven technique, fails to provide the level of certainty required for a project of this scale in such a highly sensitive intertidal environment.

Given the lack of engagement with their sister company NGV and that further ground investigation surveys are still required to determine HDD feasibility, KWT has little to no confidence that HDD can be delivered as proposed. It is unacceptable for the feasibility of a technique that fundamentally determines the scale and nature of environmental impacts to remain unresolved at this stage of the Examination.

Experience from other major infrastructure projects demonstrates that HDD is frequently proposed at the consenting stage but later abandoned due to ground conditions, technical failure, or programme

constraints, often resulting in far more damaging open-cut methods being used instead. This is not a hypothetical risk but a well-documented pattern. For example:

- **Lincs Offshore Wind Farm**: The project was consented with the condition that HDD was to be used across the saltmarsh. However, during the construction phase, multiple HDD attempts failed due to unstable soils; after six unsuccessful attempts, HDD was abandoned and the applicant obtained alternative consent to use more intrusive trenching techniques such as chain trenching and cable laying with rollers for nearshore burial. This is one of the clearest documented UK examples where HDD was proposed, consented but effectively abandoned due to site conditions and replaced with more traditional open-cut trenching methods.
- **Seagreen 1A, export cable (Cockenzie, Scotland)**: HDD was originally consented for the intertidal landfall method, but post-consent ground investigations led to a revised application for open-cut trenching due to technical difficulties. The post-consent investigations found that HDD could "*pose significant technical challenges due to ground conditions*", therefore the applicant applied for an alternative landfall method, which was approved, using ploughing and open-cut method across the intertidal zone.
- **Seagreen (Carnoustie, Scotland)**: Similarly to Seagreen 1A Cockenzie, HDD was consented, yet the project ultimately proceeded with open-cut trenching at the landfall location.
- **Hornsea Project Four and North Falls**: Within the planning documents it's noted that onshore export cables will be installed in mechanically excavated trenches (open-cut), with HDD used only where feasible. This highlights our concern that open-cut trenching appears to be the default when HDD fails.
- **HyNet CO_2 Pipeline and River Colne crossing:** These two projects demonstrate cases where HDD was ruled out at specific crossings due to engineering difficulties, leading to open-cut methods being adopted instead.

These examples collectively show that HDD is far from a guaranteed technique, particularly in complex coastal and intertidal geology. The implication for Sea Link is clear: if HDD cannot be delivered, the likely fallback would involve open-cut trenching or other more invasive methods. KWT therefore urges that HDD feasibility must be resolved pre-consent, not secured through a post-consent commitment. Deferring this issue is inconsistent with the EIA Regulations 2017, which require that the worst-case scenario is properly assessed at the time of decision-making, not left to be managed later. Similarly, reliance on a post-consent "Rochdale Envelope" approach (see *R (Rochdale MBC) v Secretary of State for Transport* [2005] EWHC 1469) is inappropriate here, because the choice between HDD and open-cut methods represents a fundamental change in the likely significant effects, not a minor construction detail.

Given the presence of internationally designated sites (SPA, Ramsar, SAC), the Applicant must comply with the Habitats Regulations and the precautionary principle (as affirmed in *R (Mott) v Environment Agency* [2016] UKSC 10). Proceeding without firm evidence that HDD is feasible risks a consent being granted on an overly optimistic impact scenario, which would undermine the integrity of the Appropriate Assessment process.

In light of the clear track record from other projects, KWT considers that:

- NGV must respond to the ExA's questions around why HDD was abandoned for Nemo Link;
- The Applicant must demonstrate during the Examination process, and based on robust site-specific geotechnical evidence, that HDD is assertively feasible at Pegwell Bay;
- The Examination must consider, and the Applicant must assess, a realistic worst-case scenario in which HDD cannot be delivered; and

- Clear, enforceable limits must be set on what construction methods could be used if HDD fails, rather than allowing an open-ended fallback to more damaging techniques.

KWT also poses the following question to the Applicant:

> If during construction, HDD were to fail at Pegwell Bay in a manner similar to Lincs Offshore Wind Farm, would the Applicant seek to revert to open-cut trenching or other more intrusive methods, or would they instead be required to reconsider alternative landfall options?

Until the Applicant provides this certainty, KWT remains fundamentally unconvinced that HDD is a reliable or deliverable measure for Sea Link.

Access via the hoverport

At ISH2, KWT sought to question the Applicant regarding how it had determined that the proposed access route across the hoverport is "unvegetated," but was unable to complete this line of questioning within the hearing. The Applicant has previously stated that it has been unable to undertake detailed ecological surveys across the hoverport due to access restrictions. It is therefore unclear on what basis they have concluded that the preferred access route lacks vegetation, specifically, whether this assumption is based primarily on aerial imagery rather than on-ground survey data. This is concerning because, as KWT has previously highlighted, food plant species for fully protected invertebrates are known to grow within cracks and fissures in the tarmac across the hoverport. The Applicant's assumption that the route is devoid of ecological value may therefore be incorrect. The use of heavy machinery and repeated tracking across such ruderal habitats would constitute habitat loss and could adversely affect protected species. Likewise, the use of ground protection mats has the potential to smother food plant species, destroying habitats and killing protected invertebrate species in their larvae stage. KWT considers that targeted invertebrate surveys and vegetation habitat surveys across the hoverport are required before the access route is finalised, so that any sensitive areas can be identified and avoided or appropriately mitigated. KWT are pleased the Applicant has agreed for KWT to review the proposed access route prior to its approval, however we remain concerned that the Applicant continues to push for no ecological baseline surveys. We strongly urge that ecological surveys (botanical, invertebrate and reptile) are undertaken to identify a suitable access route, for KWT and Natural England to then review.

Taking this into account, **KWT poses the following question to Natural England:**

> Given your statutory role in enforcing environmental legislation and in licensing activities that may affect protected species, what is Natural England's position on whether baseline ecological surveys of the hoverport should be undertaken before the access route is finalised? In particular, if licences were required for any aspect of the proposed works, would Natural England expect such surveys to be carried out to inform and support any licensing decisions?

In addition, KWT is concerned that the Applicant's preliminary access route appears to utilise the southern fringe of the hoverport as the point of entry and exit onto the intertidal mudflat. This area lies immediately adjacent to the saltmarsh. It is unclear whether the Applicant has properly considered using the northern fringe of the hoverport instead, which may present fewer risks to saltmarsh and associated habitats. Greater justification is therefore required as to why the route must pass so close to the saltmarsh, rather than utilising an alternative alignment that would minimise encroachment onto this habitat.

The need for access by 40-tonne vehicles raises additional concerns. Such traffic has the potential to erode or fracture the existing sealed surface, with a risk that broken sections could collapse into the sea, causing debris or contamination to enter the intertidal environment. KWT notes that the Applicant pushed back on proposals to repair the sections most at risk of failure, although they indicated that temporary matting could be used along the access route. It is unclear whether such measures would be sufficient to prevent environmental harm.

Overall, KWT considers that the current understanding of ecological conditions on the hoverport is insufficient to justify the proposed access route, and that further surveys and clearer commitments to surface integrity and habitat protection are required.

4. Ornithology

4.1 Construction impacts

In ISH2, concerns were raised regarding the Applicant's approach to breeding birds and disturbance. The Applicant confirmed that it intends to define the breeding bird season as March – June, stating that this would only be extended to March – September if required by Natural England ("NE"). KWT considers March – June to narrow, given that many relevant species, including Schedule 1 and red-listed birds, routinely breed beyond June. This is particularly concerning since the substation and converter station are to be built adjacent to an area of woodland designated as part of Sandwich Bay to Hacklinge Marshes SSSI. Reasons for its designation include its breeding bird assemblage. Reliance on a restricted breeding season risks underestimating potential disturbance and habitat impacts unless NE explicitly intervenes.

With respect to noise and visual disturbance, the Applicant was asked whether its assessment would remain valid if construction activities deviated within the revised Order Limits. National Grid was unable to confirm what the implications would be for ornithological receptors in that scenario, highlighting uncertainty in the robustness of the assessment.

Within the hearing, it was also queried how Operation Turtle Dove had been taken into account. The Applicant stated that this initiative had not been specifically considered but suggested that proposed woodland edge habitat around the converter station would provide suitable habitat for the species. KWT notes that this response failed to acknowledge that, while some habitat creation is proposed, existing suitable habitat will also be lost. This is a material concern, as turtle dove fledglings have been recorded (and photographed) by a Save Minster Marshes ("SMM") birder along a hedgerow that is proposed to be removed as part of the scheme, confirming that breeding turtle doves are currently using onsite habitats. This evidence indicates that impacts on this species may be greater than the Applicant has recognised and requires more careful assessment and mitigation.

4.3 Collision risk and mitigation

At ISH2, the Applicant's position was that collision risk with the proposed overhead lines ("OHL") would be limited because birds are already habituated to existing lines in the area, with most species flying over the cables and some smaller species flying underneath. The Applicant stated that this conclusion was informed by vantage point surveys of flight paths. However, KWT considers that this reliance on existing habituation is insufficient, particularly given that the introduction of new lines into an already complex "wirescape" could alter existing flight behaviour and collision risk, a matter which remains untested and unresolved.

KWT disagrees with the Applicant's statement that bird diverters are not needed on the existing lines because birds are already taking avoidance action. The introduction of additional overhead lines has

the potential to change established flight patterns and avoidance behaviour, with birds displaced from the new cables potentially being funnelled into, or diverted towards, existing lines, thereby increasing rather than reducing collision risk across the wider wirescape.

Since ISH2 and listening to the Applicant's response about how the proposed bird diverters for new OHL work (absorbing light during the day and emit it at night), KWT have undertaken preliminary research into the proposed diverters. Research indicates that such devices require sustained sunlight with a UV Index of at least 3 to function effectively. During periods of heavy cloud cover, or when the UV Index drops to 1 or below, their effectiveness is significantly reduced or nullified. Notably, the UV Index at Pegwell Bay during the three days of ISH2 peaked at only 0.7, well below the minimum threshold, raising serious doubts about their efficacy during winter or overcast conditions, when collision risk may remain high. KWT shared these findings and concerns with Kent Ornithological Society ("KOS"), who raised further concerns that there is little scientific evidence demonstrating the effectiveness of these specific fluorescent deterrents. **Therefore, we pose the following question to the Applicant**:

> Can the Applicant confirm whether the proposed fluorescent bird deterrents have been used elsewhere on comparable overhead line projects, including whether they have been used for other National Grid projects, and if so, provide details of their history of use, relevant case studies, and any monitoring or evidence demonstrating their effectiveness in reducing bird collision risk.

Until this information is provided, KWT considers that the Applicant has not demonstrated that the proposed mitigation is robust, evidence-led or effective. Clearer justification supported by independent studies or case evidence is required before reliance can be placed on these deterrents as a meaningful collision risk mitigation measure.

7. Marine Mammals

In response to the ExA's action point seeking clarification on evidence for increasing cetacean presence near the Kent landfall, KWT draws attention to the findings of the Kent Dolphin Project ("KDP") 2025 report, which provides the most comprehensive amalgamation to date of cetacean records for Kent's coastal waters. As concluded within the report, cetacean populations are in decline due to pressures including bycatch, vessel strikes, and anthropogenic noise. Kent specifically, encompassing the Greater Thames Estuary, sits within a busy seascape of anthropogenic marine activity such as vessel traffic, aggregate dredging and marine development which may pose threats to local cetacean populations. As such, it is important to focus research efforts on cetaceans to better understand potential effects of anthropogenic activity in today's seascape. The KDP, a collaborative effort between the Sussex Dolphin Project and Adonis Blue Environmental Consultants ("ABEC"), part of the KWT Group, was established in 2024 to improve our understanding of cetacean abundance and health in Kent's waters, using a collaborative model of citizen science through marine mammal landwatch monitoring sessions, recording of opportunistic sightings ('ad-hoc' sightings of cetaceans from the public) and raising awareness of cetacean conservation importance. This report forms part of KDP's work, mapping cetacean sightings data from a range of available sources to provide a baseline of understanding, informing current knowledge of species occurrence and distribution in Kent. Historical data was also collated from the Sea Watch Foundation, the National Biodiversity Network Atlas, the National History Museum's Historical Strandings database and Joint Cetacean Data Programme, totalling 2,378 records and 12,769 individual marine mammals.

The below figures are sourced from the KDP report, with Sea Watch Foundation having kindly provided permission for their use in this Examination. They illustrate the growing body of evidence that cetaceans regularly occur in waters around Thanet and the wider Kent coastline. Figure 2 – Common Cetacean Species, shows the collated species records from MDE, NBN Atlas, Sea Watch Foundation, JCDP, KEIFCA and the Natural History Museum, and Figure 6 shows the composite heatmap of cetacean sightings, which together highlight consistent use of the wider area rather than sporadic or exceptional occurrences.

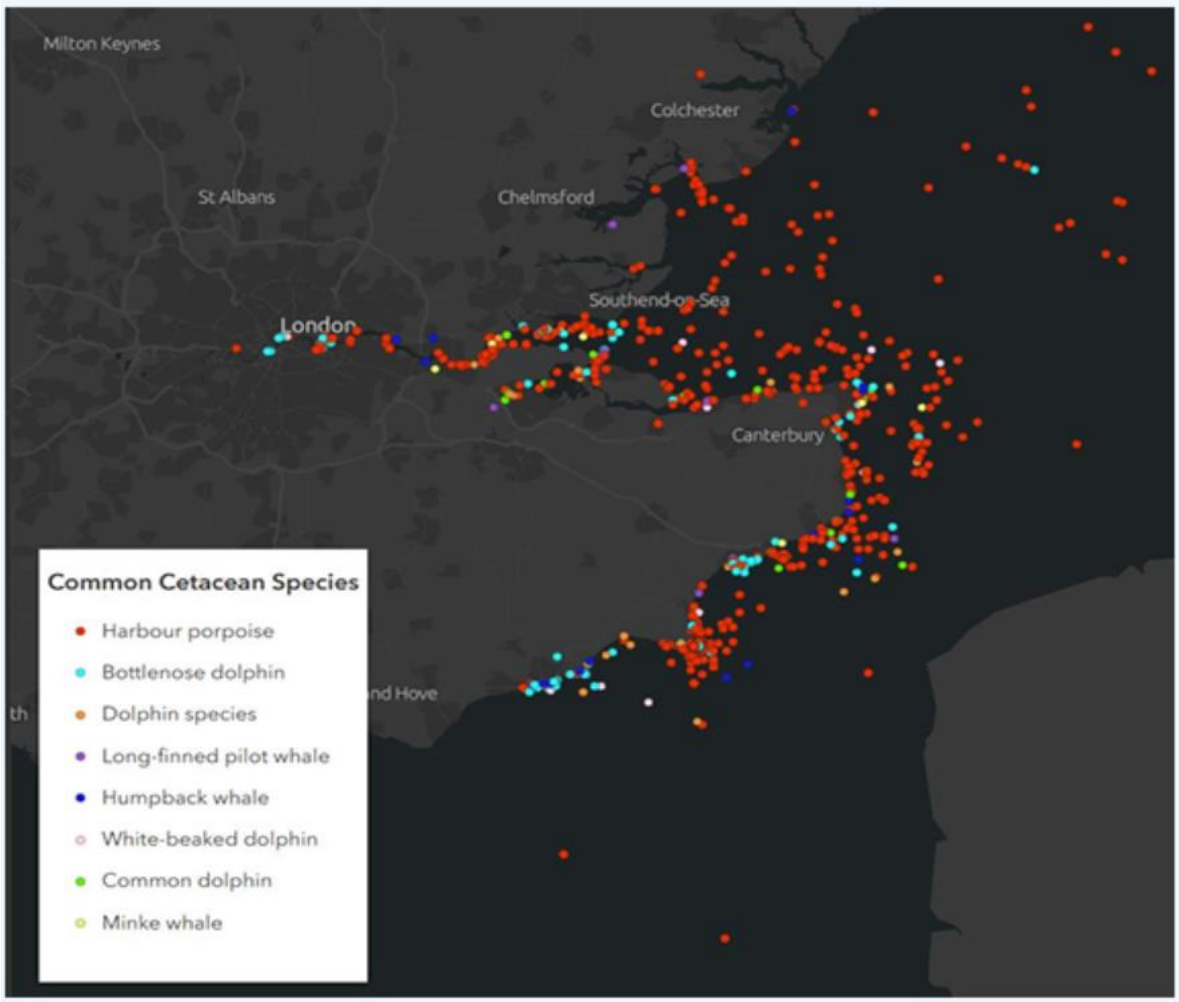

Figure 2. Recordings of most common cetacean species within the dataset. Data collected from the following sources: Marine Data Exchange, National Biodiversity Network Atlas, Sea Watch Foundation, Joint Cetacean Data Programme, Kent & Essex IFCA, National History Museum strandings.

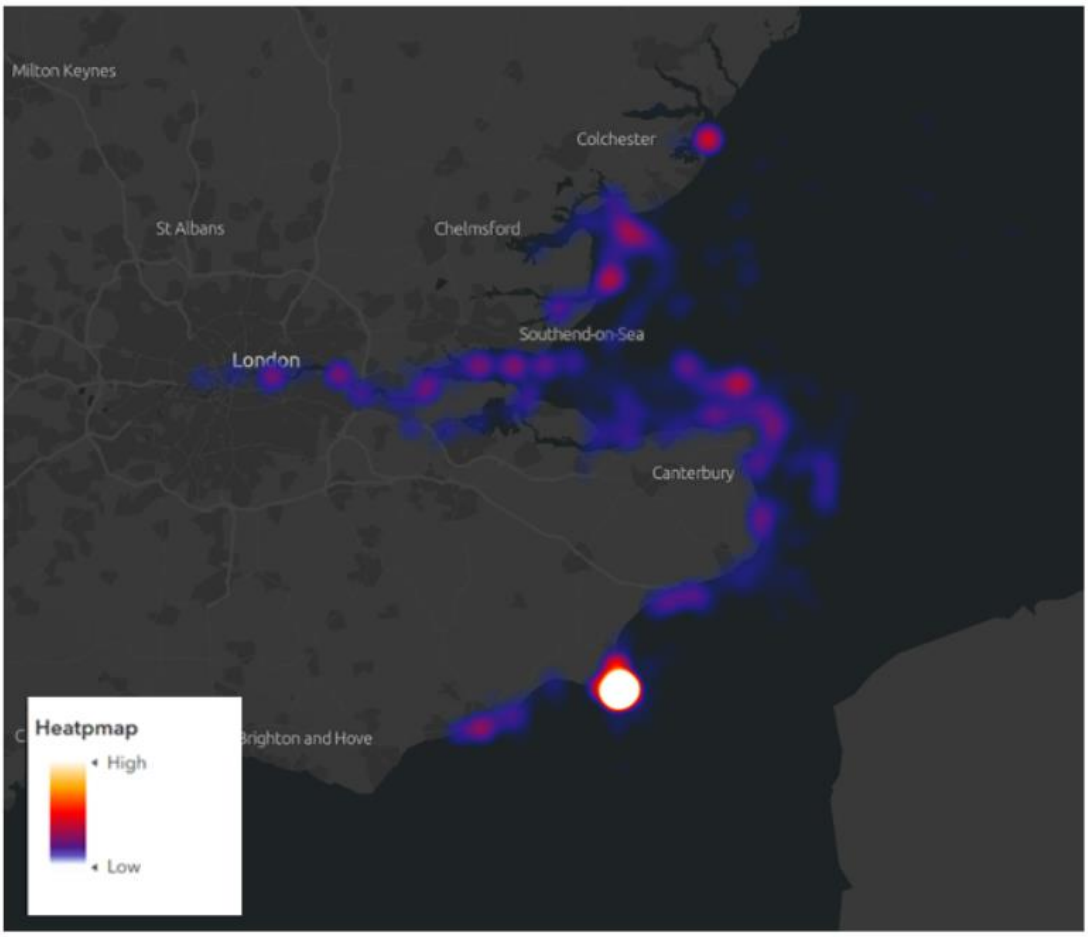

Figure 6. Heatmap of all cetacean sightings within the dataset. Data collected from the following sources: MDE, NBN Atlas, SeaWatch Foundation, JCDP, KEIFCA, NHM strandings database.

The KDP analysis demonstrates that Kent's waters support a diverse and regularly used cetacean assemblage, including harbour porpoise, bottlenose dolphin, common dolphin, long-finned pilot whale and white-beaked dolphin, with additional occasional records of rarer species. Spatial mapping identified clear "hotspots" along the North and East Kent coast, including the Thanet coastline and areas adjacent to the wider Thames Estuary, indicating that cetaceans are not merely transient but make repeated use of this region. The findings within the KDP report directly contradict the Applicant's marine mammal assessment and the maps included in REP1-011: Marine Mammals – Figures, which appear to suggest that species such as bottlenose dolphin, minke whale and harbour porpoise are absent from, or only rarely present within or near the Order Limits. The KDP datasets, by contrast, demonstrate regular and widespread cetacean occurrence in the wider Thanet and Kent coastal waters. It is therefore concerning that the Applicant's assessment is so evidently out of step with this locally relevant evidence base, raising questions about the reliability of its baseline and the conclusions drawn from it.

Species of marine mammal recorded specifically at the Kent landfall location include:

- Harbour porpoise
- Bottlenose dolphin
- Minke whale

- Common seal
- Grey seal

Absence of species records does not indicate absence of species.

Regarding bottlenose dolphin specifically, the KDP report concludes that sightings were broadly distributed along Kent's coastline, with notable hotspots at Dungeness and Folkestone, and the coastline around Margate and Ramsgate emerging as the third most frequently recorded area for the species in Kent. The species has also been specifically recorded at Sandwich and Pegwell Bay. Overall, the evidence within the KDP report fundamentally undermines the Applicant's assertion in their Marine Mammal report, which states: "*given the paucity of records for the region and predicted distribution modelling, this species* [bottlenose dolphin] *is unlikely to occur within the Study Area*."

Taken together, the research, data and evidence outlined within the KDP report indicates that:

- Kent's coastal waters form part of an important and ecologically connected cetacean range within the Greater Thames and Eastern English Channel;
- The increase in records is likely a combination of genuinely high use and improved detection through structured monitoring; and
- There is no sound basis to treat waters near the Kent landfall as low-value or low-use for cetaceans.

KWT therefore considers that the Applicant's Marine Mammal assessment, which relies heavily on broad-scale datasets and does not engage with this more localised and up-to-date evidence, risks underestimating baseline cetacean use and sensitivity in the vicinity of the landfall and offshore cable route. This has implications for the assessment of underwater noise, vessel disturbance, and construction risk, and supports the need for more precautionary mitigation, including robust marine mammal monitoring and clear construction noise thresholds.

8. Marine physical environment

8.1 Coastal erosion

Following on from discussions around cable depth, KWT remains concerned about the interaction between proposed cable depth, coastal dynamics and the feasibility of HDD. The Applicant is currently proposing a cable burial depth of 1.5m within the intertidal habitats, whereas the Environment Agency ("EA") indicated that a depth of approximately 4.5m (an additional 3m) may be required to account for long-term coastal change and estuary migration. The EA further noted that if only 1.5m of cover were provided, a retaining structure might be required to prevent cable exposure or movement as the river mouth evolves over the project's lifetime. Following a worst-case scenario basis, we request the Applicant to include the use of a retaining structure within their EIA, as this potentially raises series concerns around additional impacts to marine and benthic ecology. **KWT would also like further clarification on:**

- Would increasing the required burial depth to 4.5m necessitate a deeper or longer HDD bore, thereby increasing technical risk and discrediting the current feasibility of using HDD?
- Would additional ground investigation be required to confirm HDD viability at this greater depth?
- Would a deeper trench across the mudflats exacerbate habitat disturbance or recovery times?
- Would a deeper trench result in increased feasibility of using HDD beneath the mudflats, reducing impacts to designated sites?

14. Noise and vibration

KWT do not wish to repeat what we have already stated within our Written Representations; however, we wish to emphasise that our concerns and requests for a more comprehensive assessment of noise and vibration impacts on seals remain unchanged. We therefore reiterate our request for further information on:

- Likely feeding areas and impacts on prey species and prey habitat;
- Known birthing areas used for breeding and pupping; and
- Migration routes.

KWT welcomed the ExA's detailed questioning regarding potential impacts on foraging seals, particularly when the Applicant was asked whether they had scientific evidence to support their assertion that foraging seals would not be disturbed because they are underwater. KWT reiterates this request and asks that the Applicant provide robust, peer-reviewed scientific evidence to substantiate their claim that seals can tolerate higher levels of disturbance while foraging. This should explicitly address impacts from underwater noise and vibration, not solely visual disturbance.

Additionally, KWT is extremely concerned that when questioned about impacts on prey availability and the potential for noise and vibration to displace fish, the Applicant appeared to suggest that this would not be problematic because "*seals have very wide foraging ranges, so in terms of the actual extent of the impact it is minor or negligible*." KWT fundamentally disagrees with this reasoning. The availability of prey within a reasonable distance of haul-out and breeding sites is critical to seal ecology, and assuming that seals can simply relocate to alternative foraging areas fails to account for the energetic costs and ecological realities of displacement. Forcing seals to travel further to find food would increase energy expenditure, which is particularly significant during sensitive life stages such as the moulting and breeding seasons when seals are already under physiological stress. Increased foraging effort during these periods could reduce body condition, compromise pup provisioning, and in worst cases affect survival rates of both adults and pups. Treating prey displacement as negligible because "*seals have very wide foraging ranges*" risks underestimating both individual and population-level impacts, contrary to a precautionary approach.

Overall, KWT considers that the Applicant's current noise and vibration assessment materially underestimates the potential for significant adverse effects on seals and cannot be relied upon as a sound basis for decision-making without further evidence and more robust impact assessments.

20. Cumulative effects

In our Written Representations (Deadline 1) we noted that the EIA Regulations, the Habitats Regulations, the Planning Act 2008, NPS EN-1, NPS EN-5 all impose a clear and mandatory duty to assess cumulative impacts comprehensively. This duty to fully consider cumulative impacts is further supported by European caselaw. Those comments made at Deadline 1 still apply and are further reiterated and supported below.

To summarise, under relevant legislation and policy, applicants must consider existing projects, approved projects and **reasonably foreseeable projects** within their assessment of cumulative impacts. Applicants are required to assess cumulative impacts with other plans or projects, **regardless of who is responsible for them**. Projects do not need to be under the same developer, applicant or authority. Past projects, ongoing projects and proposed developments in the same area must be considered **if their effects could overlap spatially or temporally**.

The need to include reasonably foreseeable plans and projects is further supported by the Nationally Significant Infrastructure Projects: Advice on Cumulative Effects Assessment[4] which states that "*In this advice, 'other existing and, or approved development' is taken to include existing developments and existing plans and projects that are 'reasonably foreseeable'*."

On the basis of the above, we re-iterate our verbal representation at ISH2, that the applicant has failed to consider all reasonably foreseeable projects and has therefore failed to fully assess the cumulative impacts of the Sea Link project. We wish to draw your attention to the National Energy System Operator's Holistic Network Design ("HND"). The HND is a government-commissioned assessment that identifies the offshore and onshore transmission network required by 2030. For context, Sea Link itself was identified within the HND, and has since progressed through the consenting process to this DCO application. Following consultation with Ofgem and Transmission Owners ("TO"), the Holistic Network Design Follow-Up Exercise ("HNDFUE") identified a number of projects omitted from the original HND. This included a new proposed offshore cable between Aberdeenshire and Richborough, using Pegwell Bay as the landfall location. This would represent the third interconnector cable to make landfall at Pegwell Bay, following Nemo Link and the proposed Sea Link project. This Aberdeenshire to Richborough cable was recommended for inclusion by Ofgem, accepted by NESO, and is now included within the HND Implementation Plan. As such, it cannot reasonably be described as speculative.

The HND, HNDFUE and the HND Implementation Plan are not aspirational strategies. They have been repeatedly relied upon by the Applicant within Sea Link project documents and written submissions to justify the need for the project. For example, in Document 7.2 Strategic Options Back Check Report (APP-320), the Applicant states that "*The HND sets out a single integrated transmission network design that supports the large-scale delivery of electricity generated from offshore wind*". The Applicant later goes on to describe HND projects as "critical", and referencing Ofgem's Accelerated Strategic Transmission Investment ("ASTI"), which "*aims to facilitate the achievement of Government targets by streamlining the regulatory approval of the HND critical projects*." Within the 'Summary of need case' section, the Applicant refers to the HND as "*essential to meet the UK Government's 2030 offshore wind targets*."

It is apparent that projects outlined within the HND are intended to be delivered in line with national strategy. This is to such an extent that the HND Implementation Plan consultation states that "*Deviations from the recommendations may have wider implications for the transmission network and other industry processes. It is important that we understand the full impact of any design changes, as there may be consequences that are not immediately obvious, and we are best placed to conduct this holistic assessment.*" In short, it is clear that the entirety of the projects mapped in the HND Implementation Plan is expected to be delivered, with no expectation that new/additional projects would be proposed, or that projects would not be delivered.

The importance of the HND is also reflected in NPS EN-5, which states that the HND "*helps reduce the overall impact of infrastructure by identifying opportunities for co-ordination*". That objective can only be achieved if all reasonably foreseeable projects within the HND are properly considered in environmental assessments.

Against this backdrop, it is concerning that the proposed Aberdeenshire to Richborough cable has not been included within Sea Link's Cumulative Impact Assessment, despite the significant and well-evidenced ecological sensitivity of Pegwell Bay and the long-term impacts already associated with

[4] Nationally Significant Infrastructure Projects: Advice on Cumulative Effects Assessment - GOV.UK

repeated cable landfalls at this location. In response to KWT's query in ISH2 regarding the HND and awareness of the Aberdeenshire to Richborough cable, the Applicant stated:

"*We are aware of the project, which is in the NESO report, but they have not passed anything over at this time to develop*."

The argument that the Aberdeenshire to Richborough cable has not "*been passed over* [to National Grid Electricity Transmission (NGET)] *at this time to develop*" is not a valid reason for omitting this project from the cumulative assessment. The Habitats Regulations do not limit "other plans or projects" by the same applicant, promoter or decision-maker. To do so would introduce a precedent for taking a narrow interpretation of "reasonably foreseeable" which would be contrary to established regulations and guidance. Further, it should be noted that NGET were involved in the HND process as a TO and therefore should be fully aware of its outcomes and intentions. Attempts to put up "solid walls" between the various subsidiaries of National Grid Plc speaks to the failure of these organisations to coordinate and attempts to distance themselves when it suits. This seriously risks undermining successful delivery of a coordinated energy infrastructure network.

We therefore conclude that projects set out in the HND Implementation Plan, including the Aberdeenshire to Richborough connection, clearly meets the test of being reasonably foreseeable and should be included within Sea Link's Cumulative Impact Assessment.

KWT recognises the critical importance of decarbonising the energy sector in order to mitigate the effects of climate change. However, it is both counterproductive and illogical to undermine that objective by causing potentially irreversible harm to the very ecosystems that help regulate climate, store carbon, and protect communities from flooding and coastal change. It is our view that throughout the process of bringing forward the DCO application for Sea Link, from site selection to ongoing project design, that economic sustainability has been valued much higher than environmental/ecological sustainability. Saltmarsh and intertidal habitats are among the most effective natural carbon sinks in the UK, providing long-term carbon storage, coastal resilience, and biodiversity value. Damaging or degrading these habitats in the name of renewable energy delivery risks achieving supposed "decarbonisation" at the expense of releasing stored carbon, damaging vital natural climate defences and ecological integrity.

In this context, KWT notes that the UK Government's own national security assessment has concluded that ecosystem degradation and collapse pose a direct risk to UK national security and prosperity[5]. The assessment warns that global ecosystem degradation is already driving increased flooding, food insecurity, and wider geopolitical instability, and that every critical ecosystem is on a pathway to collapse without urgent intervention. It further recognises that protecting and restoring ecosystems is not only environmentally necessary but also a more reliable and cost-effective means of safeguarding societal resilience than attempting to manage the consequences of ecological failure.

Overall, from reviewing the matters raised and examined at ISH2, it's clear significant uncertainties and deficiencies remain in the Applicant's approach to environmental assessment, mitigation, and cumulative effects. The evidence and exchanges at ISH2 have reinforced KWT's view that the Applicant has failed to properly engage with the lessons from Nemo Link, has not provided adequate certainty on the deliverability of HDD, and has unjustifiably excluded a clearly foreseeable HND project from its Cumulative Impact Assessment. KWT therefore considers that the Sea Link application in its current

[5] National security assessment - global biodiversity loss ecosystem collapse and national security

form does not provide a robust, precautionary, or lawful basis for decision-making. Unless these fundamental concerns are addressed through further evidence, assessment, and commitments, there remains a real risk of significant and irreversible harm to internationally important habitats and species at Pegwell Bay.

Kind regards,

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