

**The Great Grid Upgrade**

Sea Link

# Sea Link

**Volume 9: Examination Submissions**

**Document 9.139: Applicant's Responses to the Questions in the Report on the Implications for European Sites**

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**nationalgrid**

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# 1. About this Document

## 1.1 Purpose of this Document

1.1.1 This document provides National Grid Electricity Transmission plc's (the Applicant's) responses to the Examining Authority's (ExA's) Report on the Implications for European Sites (RIES) [PD-022] in relation to the Sea Link Project. It includes responses to all questions directed to the Applicant.

## 1.2 Structure of the Document

1.2.1 This document is structured to align with the numbering used in the ExA's RIES [PD-022]. Accordingly, the questions are numbered from 'RIESQ1' through to 'RIESQ35', covering all relevant topic areas identified by the ExA.

1.2.2 Responses to RIESQ1 to RIESQ35 are provided in Section 2, Table 2.1. Table 2.1 is structured as follows:

- As provided by the ExA, Column 1 sets out the unique reference number of each question.
- As provided by the ExA, Column 2 of the table indicates which Interested Parties (IPs) each question is directed to.
- As provided by the ExA, Column 3 provides a written description of the question to be answered by Deadline 6; and
- As provided by the Applicant, Column 4 provides the Applicant's response to the question(s) raised, as required.

1.2.3 For completeness, the Applicant has included all of the ExA's RIES Questions, whether or not they are directed to the Applicant. However, the RIES Questions that are not directed at the Applicant have been greyed out.

1.2.4 Further detail in response to ExA's RIESQ35 is provided in Appendix A.

## 2. Response to RIESQ1 to RIESQ35

**Table 2.1 Applicant's responses to questions raised in the RIES [PD-022]**

Reference	Question to:	Question	Applicant's Response
RIESQ1	Applicant	Submit an updated HRA Report that considers potential for LSE to the Alde-Ore & Butley Estuaries SAC arising from changes to water quality due to the presence and operation of the proposed outfall.	References to the Alde-Ore & Butley Estuaries SAC and the outfall have been added to <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> , submitted at Deadline 6. However, it should be noted this is not a new impact and there is no change to the Applicant's conclusion that LSE can be screened out. While this specific outfall was not previously discussed, the potential for pollution impacts on European sites in Suffolk during construction was already covered in paragraphs 4.2.30 to 4.2.38 in <b>Application Document 6.6 (A) Habitats Regulations Assessment Report [APP-290]</b> , while pollution impacts on European sites in Suffolk during operation (i.e. from outfalls) was already covered in paragraphs 4.2.46 to 4.2.49 in <b>Application Document 6.6 (A) Habitats Regulations Assessment Report [APP-290]</b> . The control measures identified in those paragraphs would protect all receiving watercourses and thus all downstream European sites including, but not limited to, Alde-Ore & Butley Estuaries SAC. This is particularly the case since the outfall in question would only carry surface water runoff following attenuation, and given the SAC is 6 km downstream.
RIESQ2	Applicant	The REAC [REP5-115] states that the securing mechanism for the Outline Offshore Construction Environmental Management Plan (oOCEMP) [REP5-066] would be Requirement 6 of the dDCO [REP5-005]. Requirement 6 of the dDCO does not list the oOCEMP as a plan to be approved but Condition 4(1)(b) of the DML does. Confirm if this is an error in the REAC or if Requirement 6 of the dDCO should be amended.	The Applicant has updated <b>Application Document 9.84 (D) Register of Environmental Actions and Commitments (REAC)</b> so that it refers to Condition 4(1)(b) of the dML as a securing mechanism for the <b>Application Document 7.5.2 (D) Outline Offshore Construction Environmental Management Plan</b> . Both of these updated documents have been submitted at Deadline 6.
RIESQ3	Applicant	Explain, with reference to relevant case law (People Over Wind, Peter Sweetman v Coillte Teoranta (C-323/17) (CJEU, 2018), why use of trenchless landfall techniques are not mitigation (and therefore assessed at Stage 2).	<p>The Applicant's decision to commit to using trenchless techniques at the Kent Landfall provided the basis for the design of the Proposed Project at this location and was informed by environmental data acquired at the site selection and routing stage of the Proposed Project, prior to the completion of any impact assessment work.</p> <p>To assess potential effects in absence of the trenchless technique would not be appropriate as the Applicant has never considered the use of any alternative non-trenchless techniques in this location as part of the design of the Proposed Project and such an alternative non-trenchless technique would not be possible under the terms of the DCO if consented.</p> <p>In <i>People Over Wind and Sweetman v Coillte Teoranta</i> (Case C-323/17), the CJEU considered the proper approach to screening for appropriate assessment under Article 6(3) of the Habitats Directive. That case concerned 'protective measures' mitigating the risk of silt and sediment run-off into a river resulting from the installation of a connection cable. The Court held that these were mitigating measures that could not be taken into account at the screening stage (at [40]).</p>

Reference	Question to:	Question	Applicant's Response
			<p>In reaching its finding, the Court observed that:</p> <ul style="list-style-type: none"> <li>• It understood 'mitigating measures' should be understood as denoting "measures that are intended to avoid or reduce the harmful effects of the <i>envisaged project on the site concerned</i>" (at [26], <i>emphasis supplied</i>); and</li> <li>• The fact that mitigation measures have been imposed and considered at all presupposes the risk of a significant effect from the project envisaged (at [35]).</li> </ul> <p>As explained above, the Applicant's commitment to using trenchless landfall techniques preceded and formed the basis for the design. The Proposed Project, <i>as envisaged</i>, is therefore one which adopts trenchless techniques. It is illustrative that no version of the Proposed Project involving alternative techniques ('open-cut' or otherwise) had ever been contemplated. Any such alternative would plainly fall outside the meaning of the "envisaged project".</p> <p>What is more, the Applicant considers this to be a materially different position from "measures...intended to avoid or reduce...harmful effects...on the site concerned". The trenchless nature of the Kent landfall means that the Proposed Project avoids direct contact with the area of saltmarsh habitat altogether. The logically prior question of "harmful effects" does not arise. In such circumstances where the area concerned has been bypassed, there is little basis (and it would be highly unrealistic) to presuppose the risk of harmful effects (cf. <i>People Over Wind</i> at [35]).</p> <p>The Applicant's position is supported by subsequent decisions in which the CJEU has elaborated on <i>People Over Wind</i>. In <i>Eco-Advocacy CLG v An Bord Pleanála</i> (Case C-721/21), the Court confirmed that the approach advocated in <i>People Over Wind</i> "cannot have the effect of precluding the taking into account, during the screening phase of a project, of all the constituent elements of that project inherent in it which have the effect of reducing the harmful effects of the project on the site concerned" (at [48]). This is consistent with the precautionary principle (at [51]).</p> <p>This is applicable to the present case. The trenchless landfall techniques are a constituent element of the Proposed Project. They are an inherent feature. It would therefore be wrong to exclude them from consideration simply because they avoid harm to the saltmarsh habitat concerned. It would amount to assessing a different project.</p> <p>This "common sense" approach is also reflected in the domestic courts postdating the <i>People Over Wind</i> decision. In <i>R (Langton) v SSEFRA</i> [2018] EWHC 2190 (Admin), the claimant challenged the lawfulness of a number of HRAs conducted by Natural England. Specifically, the High Court had to consider the conditions which Natural England had attached to cull licences preventing badger culling activity from taking place in certain locations or at certain times of the year. The HRAs under challenge, which concluded that no significant effects were likely to result from the licensed culling, all took into account the measures imposed by the conditions attached to the licences. The claimant contended this was unlawful and contrary to <i>People Over Wind</i>.</p> <p>Sir Ross Cranston, however, held:</p> <p style="padding-left: 40px;"><i>157. In my view the licence conditions which Natural England attached to the licences in Areas 16 and 17 are not the mitigating or protective measures which</i></p>

Reference	Question to:	Question	Applicant's Response
			<p>featured in the <i>People Over Wind</i> ruling. They are properly characterised as integral features of the project which Natural England needed to assess under the <i>Habitats Regulations</i>. I accept Natural England's submission that it would be contrary to common sense for Natural England to have to assume that culling was going to take place at times and places where the applicants did not propose to do so.</p> <p>In the same vein, it would also be contrary to common sense for the Applicant to have to assume that the Kent landfall would be constructed using non-trenchless solutions in circumstances where there was never any proposal to do so.</p>
RIESQ4	NE	Provide any comments you have on the applicant's approach and LSE conclusion in the HRA Report.	
RIESQ5	Applicant	If mitigation (in the form of a structural integrity assessment and monitoring) is proposed, should this LSE impact pathway be considered at Stage 2 of the HRA?	<p>The Applicant does not consider a structural integrity assessment and monitoring to fall within 'mitigating measures' as understood in <i>People Over Wind and Sweetman v Coillte Teoranta</i> (Case C-323/17). They may lawfully be taken into account at the screening stage. Any relevant LSE impact pathways are screened out and therefore do not need to be considered at Stage 2 of the HRA.</p> <p>Specifically, the CJEU confirmed in <i>Eco-Advocacy CLG v An Bord Pleanála</i> (Case C-721/21) that the screening stage, properly conducted, cannot exclude constituent elements of a project inherent in it which have the effect of reducing the harmful effects of the project (at [48]). Importantly, "where such elements are incorporated into the design of a project not with the aim of reducing the negative effects of that project on the site concerned, but as standard features required for all projects of the same type, those elements cannot, inter alia, be regarded as indicative of probable significant harm to that site" (at [49]).</p> <p>A structural assessment would not be mitigation specifically introduced to protect the Sandwich Bay SAC, Thanet Coast SAC, or Thanet Coast &amp; Sandwich Bay SPA. Firstly, a structural survey would be undertaken of any potentially damaged or otherwise unstable ground, and any protection measures introduced, before tracking vehicles over it as part of the health &amp; safety duty of care and legal obligation the Applicant owes to its workforce and contractors and to minimise risk of damage to vehicles. Secondly, it is an offence to pollute waterbodies under the Environmental Damage (Prevention and Remediation) (England) Regulations 2015 and the Environmental Permitting (England and Wales) Regulations 2016. It would therefore be incumbent on the Applicant to ensure they did not exacerbate any existing pollution issue irrespective of whether there were any European sites involved. The above demonstrates that the measures in question are constituent elements of the Proposed Project inherent within it. Therefore, it is legally permissible to take these measures into account at LSE stage, along with all other pollution prevention measures.</p>
RIESQ6	NE	Does the applicant's commitment to further assessment and monitoring address your concerns about this impact pathway? If not, advise what further information you consider is needed.	

Reference	Question to:	Question	Applicant's Response
RIESQ7	NE	Does NE agree with the applicant's conclusion of no LSE for loss of FLL for hen harrier from Stodmarsh SPA?	
RIESQ8	NE	Are the applicant's commitments to DoL of 1.5m at the Kent landfall and monitoring of the River Stour channel migration and coastal erosion sufficient to address your concerns about this matter?	
RIESQ9	NE	Confirm if your response (2ECOL27. [REP5-199]) relates to bat qualifying features of a European site, and if so to which site.	
RIESQ10	Applicant	What is the applicants response to NE's request to be consulted on the final CSIP, LMS and DFMP prior to construction?	Natural England are already identified as a consultee on the Cable Specification and Installation Plan (CSIP) as part of draft DCO Schedule 16 Deemed Marine Licence Part 2 Condition 4; and on the HDD Landfall Method Statement (LMS) and Drilling Fluid Management Plan (DFMP) within REAC measure B59 [REP5-115]. The Applicant is also updating Condition 4 at Deadline 6 to include the LMS.
RIESQ11	Applicant	Can the applicant clarify whether the calculations made in paragraph 7.3.22 of the HRA Report [REP5-036] reflect the disturbance impact area per day or across the season?	The Applicant confirms that the area of disturbance calculated is based on the total area disturbed, across all days of sub-bottom profiling activities. An update to this paragraph, to convert this to both a daily and a seasonal disturbance, has been made to <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> , submitted at Deadline 6.
RIESQ12	Applicant	Can the applicant update the assessment of disturbance impacts to include those arising from cable laying activities?	<p>The impact assessment in relation to underwater sound assessed the most significant sound source, from the operation of sub-bottom profiling equipment, and found the worst case scenario (WCS) for underwater sound to result in an impact that is minor and not significant after the application of the JNCC recommended guidance for minimising impacts in relation to injury (JNCC, 2025).</p> <p>The Applicant refers to paragraph 7.3.27 <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b>, submitted at Deadline 6, which had included reference to cable lay activities themselves, the sound source for which is best described by the sound produced by a cable lay vessel operating under dynamic positioning, which has been assessed. However, to improve clarity regarding the specific activities included in the Applicant has made some updates to <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b>.</p>
RIESQ13	NE and JNCC	Comment on the applicant's updates to the in-combination assessment. Are you satisfied that AEoI of the Southern North Sea SAC can be excluded from in-combination effects of underwater noise to harbour porpoise.	
RIESQ14	Applicant	Noting that NE advised that AEoI could not be excluded for this impact pathway, the ExA requests that the summation exercise requested by NE is provided in an updated HRA Report at DL6. Where information is not available from the HRAs for other projects considered in the assessment, this should be stated and any implications explained.	The Applicant has updated the in-combination assessment within <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> submitted at Deadline 6 based on Natural England's request for a summation of all other projects that are within the Southern North Sea SAC with the Proposed Project.

Reference	Question to:	Question	Applicant's Response
RIESQ15	Applicant	Submit an updated HRA Report that includes an assessment of AEol of the Alde-Ore Estuary SPA and Ramsar site arising from changes to water quality due to the presence and operation of the proposed outfall. Identify any mitigation required to avoid AEol and confirm how it is secured.	This appears to be a repeat of RIESQ1 but regarding the overlapping SPA/Ramsar designations. The Applicant has addressed this point in response to that question and the same response and HRA update would also cover the SPA and Ramsar site.
RIESQ16	RSPB	Noting that the draft SoCG records agreement on use of the 60dB disturbance threshold, clarify your outstanding concerns about chronic noise.	
RIESQ17	RSPB	Noting the applicant's confirmation regarding the noise disturbance threshold and commitment to avoid illumination of boundary features, confirm if you agree that AEol can be excluded. If not, what further mitigation do you consider is required?	
RIESQ18	NE	What is NE's view on the RSPB's comment that construction noise could affect auditory cues of marsh harrier? Is NE content that the applicant's assessment accounts for such impacts?	
RIESQ19	NE	Provide any observations you have on the concerns raised by SEAS about the applicant's survey coverage for woodlark and nightjar.	
RIESQ20	Applicant	Update the HRA Report [REP5-036] to clarify the duration over which the FLL could be affected by construction noise and lighting. Provide an assessment of these effects on qualifying features alongside details of any necessary mitigation	<b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> , submitted at Deadline 6, has been updated to add greater clarity on the duration of impact on functionally-linked land (FLL) for nightjar and woodlark associated with Sandlings SPA. The Applicant confirms that the anticipated duration of the impact will be approximately 6-7 months, confined to a single breeding season, and confined to a localised area around the Order Limits. No new mitigation measures are required as the existing lighting and noise controls included in <b>Application Document 9.84 (C) Register of Environmental Actions and Commitments [REP5-115]</b> and referenced in the HRA Report will ensure no adverse effect on integrity.
RIESQ21	Applicant	On the basis that acid grassland enhancement is not being proposed as mitigation for the loss of FLL for Sandlings SPA, should reference to the acid grassland enhancement be removed from the HRA Report to avoid confusion?	Reference to acid grassland enhancement was provided for context but to avoid confusion, the Applicant has removed it from <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> , submitted at Deadline 6.
RIESQ22	NE	What further evidence do you consider is needed in the assessment to demonstrate that the committed mitigation would be sufficient to exclude AEol? What specific concerns do you have that the proposed mitigation would not be sufficient?	
RIESQ23	NE	NE has confirmed it was satisfied with the applicant's response on the basis that no excavations would be carried out beneath saltmarsh or shallow lagoon. Noting the applicant's update to the REAC [REP5-115] that no	

Reference	Question to:	Question	Applicant's Response
		excavations would take place 'in general', are you satisfied this matter can be resolved?	
RIESQ24	RSPB	Noting the applicant's commitments and NE's position, confirm if you are satisfied that this matter is resolved. If not, advise what further information you consider is needed to address your concerns.	
RIESQ25	Applicant	NE has requested revised wording in the REAC commitments to require the LMS and DFMP to be agreed with the MMO in consultation with the relevant SNCB. Update the wording or otherwise justify why this is not required.	REAC measure B59 already secures the preparation of an HDD Landfall Method Statement (LMS) and Drilling Fluid Management Plan (DFMP) and text has been updated to include the requirement for <b>approval</b> by the Marine Management Organisation (MMO) in consultation with SNCB (including NE).  The Applicant is also updating draft DCO Schedule 16 Deemed Marine Licence Part 2 Condition 4 at Deadline 6 to include the Landfall Method Statement.
RIESQ26	NE	Is NE satisfied that disturbance from vehicle movements within the intertidal area has been sufficiently assessed and that a conclusion of no AEol can be reached?	
RIESQ27	Applicant	Submit an updated REAC with a commitment to limiting the use of hovercraft to a last resort for emergencies.	A new measure has been included within <b>Application Document 9.84 (D) Register of Environmental Actions and Commitments (REAC)</b> , submitted at Deadline 6, to limit the use of hovercraft in Pegwell Bay for emergencies only.
RIESQ28	NE	Is NE satisfied that disturbance to qualifying features of Thanet Coast & Sandwich Bay SPA and Ramsar site from lighting of the cofferdams has been sufficiently assessed and that a conclusion of no AEol can be reached?	
RIESQ29	NE	Studies referenced in annex 1 to (2MO3, [REP5-199]) refer to displacement gradients for OWF. Explain why these are also applicable to subsea cables.	
RIESQ30	NE	The applicant has stated that there are high levels of existing vessel traffic present along most of the cable corridor and the studies referenced in annex 1 to (2MO3, [REP5-199]) suggest that frequency/ number of movements is a factor in the displacement of Red-Throated Diver. Can NE provide evidence that displacement could occur from the small number of vessels which would arise from pre-lay grapnel movements to such an extent that would result in AEol?	
RIESQ31	JNCC and NE	The applicant has extended the seasonal restriction to include non-emergency operation and maintenance activities and secured this in the Red-Throated Diver Protocol. Subject to discussion on extending the restriction to the 2km buffer, does this address your concerns on this	

Reference	Question to:	Question	Applicant's Response
		matter. If not, explain what further measures you consider are needed.	
RIESQ32	NE	Confirm if your advice is that AEol of the SPA arising from vessel disturbance undertaking emergency operation and maintenance activities during the wintering period can be excluded based on the applicant's commitments to reporting.	
RIESQ33	NE	The applicant has updated paragraph 1.5.9 of the Red-Throated Diver Protocol [REP5-080] to provide a report to NE regarding emergency operation and maintenance activities within the Outer Thames Estuary SPA. Should this commitment be extended to a 2km buffer of the SPA?	
RIESQ34	JNCC	Comment on the applicant's responses regarding its in-combination assessment for red-throated diver. Does the JNCC consider an AEol can be excluded from in-combination effects?	
RIESQ35	Applicant, NE and the JNCC	The applicant, NE and the JNCC are requested to confirm whether the ExA's understanding of their positions is correct and to provide clarifications where requested with a question mark ('?').	See Appendix A below.

# Appendix A Applicant's Detailed Response to RIESQ35

European site / qualifying feature	Potential impact (C, O, D unless otherwise stated)	LSE?		AEol		Applicant's Response
		Applicant's conclusion (alone or in combination)	Agreement with NE?	Applicant's conclusion (alone or in combination)	Agreement with NE?	
<b>Thanet Coast SAC</b>						
Reefs	Temporary increase in SSC and sediment deposition leading to increased turbidity and smothering effects (C, D).	✓ (reefs only for changes in SSC, both habitats for sediment deposition)	Not disputed	X (paras 7.3.7, 7.3.10 and 7.3.76)	? See ID 3.1.7 of RIES	The assessment of reef features has been updated in <b>Application Document 6.2.4.2 (F) Part 4 Marine Chapter 2 Benthic Ecology</b> and a reference to reef sensitivity to SSC added to <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> both submitted at Deadline 6.
Submerged or partially submerged sea caves	Changes to marine water quality from release of contaminants at the hoverport site (C)	N/A – not assessed by applicant in HRA Report.	No [REP4-189] [REP4-191] See ID 2.3.11 of RIES	N/A – not assessed by applicant in HRA Report.	? See ID 2.3.11 of RIES	<p>This impact pathway has been added into <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b>, submitted at Deadline 6. A conclusion of 'no likely significant effect' has been reached, as with other water quality impacts in Kent. This is due to the commitment made in measure W37 of <b>Application Document 9.84 (D) Register of Environmental Actions and Commitments (REAC)</b> and in <b>Application Document 7.5.1.2 (B) Outline Construction Traffic Management and Travel Plan – Kent</b> to undertake a structural assessment of the hoverport where vehicle traffic is expected and introduce protective measures such as metal or plastic trackway to ensure no further damage arises to the concrete. Both updated documents have been submitted at Deadline 6.</p> <p>A structural assessment and associated protective measures would not be mitigation specifically introduced to protect the Sandwich Bay SAC, Thanet Coast SAC, or Thanet Coast &amp; Sandwich Bay SPA. Firstly, a structural survey would be undertaken of any potentially damaged or otherwise unstable ground, and any protection measures introduced, before tracking vehicles over it as part of the health &amp; safety duty of care and legal obligation the Applicant owes to its workforce and contractors and to minimise risk of damage to vehicles. Secondly, is an offence to pollute waterbodies under the Environmental Damage (Prevention and Remediation) (England) Regulations</p>

European site / qualifying feature	Potential impact (C, O, D unless otherwise stated)	LSE?		AEol		Applicant's Response
		Applicant's conclusion (alone or in combination)	Agreement with NE?	Applicant's conclusion (alone or in combination)	Agreement with NE?	
<b>Alde-Ore &amp; Butley Estuaries SAC</b>						
Atlantic salt meadows Estuaries Mudflats and sandflats not covered by seawater at low tide	Pollution (terrestrial – changes in water quality) (C, O, D)	<b>N/A – not assessed by applicant in HRA Report.</b>	<b>No</b> [REP5-215] (appendix A5) See section 2.6 of RIES	n/a	<b>? See para 2.6.2 of RIES</b>	2015 and the Environmental Permitting (England and Wales) Regulations 2016. It would therefore be incumbent on the Applicant to ensure they did not exacerbate any existing pollution issue irrespective of whether there were any European sites involved. Therefore, it is legally permissible to take these measures into account at LSE stage, along with all other pollution prevention measures.  Reference to the Alde-Ore & Butley Estuaries SAC and the outfall has been added to the <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> , submitted at Deadline 6. However, it should be noted this is not a new impact and while this specific outfall was not previously discussed, the potential for pollution impacts on European sites in Suffolk during construction was already covered in paragraphs 4.2.30 to 4.2.38 in <b>Application Document 6.6 (A) Habitats Regulations Assessment Report [APP-290]</b> , while pollution impacts on European sites in Suffolk during operation (i.e. from outfalls) was already covered in paragraphs 4.2.46 to 4.2.49 in <b>Application Document 6.6 (A) Habitats Regulations Assessment Report [APP-290]</b> . The control measures identified in those paragraphs would protect all receiving watercourses and thus all downstream European sites including, but not limited to, Alde-Ore & Butley Estuaries SAC. This is particularly the case since the outfall in question would only carry surface water runoff following attenuation, and given the SAC is 6 km downstream.
<b>Berwickshire and North Northumberland Coast SAC</b>						
Grey seal ( <i>Halichoerus grypus</i> )	Underwater sound impacts (C, D)	<b>✓ (paras 4.3.24 and 4.3.57)</b>	<b>Not disputed</b>	<b>X</b> (paras 7.3.30 and 7.3.76)	<b>? See ID 3.2.1 of RIES</b>	The assessment of underwater sound impacts to marine mammals considered the MDS activity, which is sub-bottom profiling, to encompass all other activities that generate underwater sound. To make this more explicit some additional text, to detail exactly all the sound generating activities included in the assessment, has been added to 7.3.15 of <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> , submitted at Deadline 6.
<b>Humber Estuary SAC</b>						
Grey seal ( <i>Halichoerus grypus</i> )	Underwater sound impacts (C, D)	<b>✓ (paras 4.3.24 and 4.3.57)</b>	<b>Not disputed</b>	<b>X</b> (paras 7.3.30 and 7.3.76)	<b>? See ID 3.2.1 of RIES</b>	The assessment of underwater sound impacts to marine mammals considered the MDS activity, which is sub-bottom profiling, to encompass all other activities.

European site / qualifying feature	Potential impact (C, O, D unless otherwise stated)	LSE?		AEol		Applicant's Response
		Applicant's conclusion (alone or in combination)	Agreement with NE?	Applicant's conclusion (alone or in combination)	Agreement with NE?	
						To make this more explicit some additional text, to detail exactly all the sound generating activities included in the assessment, has been added to 7.3.15 of <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> , submitted at Deadline 6.
<b>Southern North Sea SAC</b>						
Harbour porpoise ( <i>Phocoena phocoena</i> )	Underwater sound impacts (C, D)	✓ (paras 4.3.24 and 4.3.57)	JNCC: <b>Yes</b> (2MM7, [REP5-194])	<b>X</b> (paras 7.3.30 and 7.3.76)	JNCC: Yes for project alone (2MM3, [REP5-194]) <b>? for in-combination. See ID 3.2.11 of RIES</b>	An updated in-combination assessment in relation to underwater sound impacts to the Southern North Sea SAC, including a summation of % of the winter area of the SNS SAC affected compared to the JNCC thresholds (JNCC, 2020), has been provided in <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> , submitted at Deadline 6. This is provided in the final heading ' <i>Southern North Sea SAC underwater sound in-combination assessment</i> ' of Section 8.3.
<b>Alde-Ore Estuary SPA</b>						
Ruff ( <i>Philomachus pugnax</i> ) Avocet ( <i>Recurvirostra avosetta</i> ) Redshank ( <i>Tringa tetanus</i> ) Marsh harrier ( <i>Circus aeruginosus</i> ) Lesser black-backed gull ( <i>Larus fuscus</i> ) Sandwich tern ( <i>Sterna sandvicensis</i> ) Litte tern ( <i>Sterna albifrons</i> ) Breeding and wintering assemblages	Pollution (terrestrial – changes in water quality) (C, O, D)	<b>X</b> (paras 4.2.36, 4.2.38, 4.2.29 and 4.2.50)	<b>No</b> See ID 2.3.14 of RIES	n/a	<b>?</b> See ID 3.3.2 of RIES	References to the Alde-Ore & Estuary SPA and the outfall have been added to the <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> , submitted at Deadline 6. However, it should be noted this is not a new impact and there is no change to the Applicant's conclusion that LSE can be screened out. While this specific outfall was not previously discussed, the potential for pollution impacts on European sites in Suffolk during construction was already covered in paragraphs 4.2.30 to 4.2.38 in <b>Application Document 6.6 (A) Habitats Regulations Assessment Report [APP-290]</b> , while pollution impacts on European sites in Suffolk during operation (i.e. from outfalls) was already covered in paragraphs 4.2.46 to 4.2.49 in <b>Application Document 6.6 (A) Habitats Regulations Assessment Report [APP-290]</b> . The control measures identified in those paragraphs would protect all receiving watercourses and thus all downstream European sites including, but not limited to, Alde-Ore & Butley SPA. This is particularly the case since the outfall in question would only carry surface water runoff following attenuation, and given the SPA is 6 km downstream.
<b>Alde-Ore Estuary Ramsar site</b>						
Criterion 2 – The site supports a number of nationally-scarce	Pollution (terrestrial changes in water quality) (C, O, D)	<b>X</b> (paras 4.2.36, 4.2.38, 4.2.49 and 4.2.50)	<b>No</b> See ID 2.3.14 of RIES	n/a	<b>?</b> See ID 3.3.2 of RIES	References to the Alde-Ore Estuary Ramsar site and the outfall have been added to the <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> , submitted at Deadline 6. However, it should be

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		Applicant's conclusion (alone or in combination)	Agreement with NE?	Applicant's conclusion (alone or in combination)	Agreement with NE?	
<p>plant species and British Red Data Book invertebrates.</p> <p>Criterion 3 – The site supports a notable assemblage of breeding and wintering wetland birds.</p> <p>Criterion 6 – species/populations occurring at levels of international importance (breeding lesser black-backed gull and non-breeding avocet and redshank)</p>						<p>noted this is not a new impact and there is no change to the Applicant's conclusion that LSE can be screened out. While this specific outfall was not previously discussed, the potential for pollution impacts on European sites in Suffolk during construction was already covered in paragraphs 4.2.30 to 4.2.38 in <b>Application Document 6.6 (A) Habitats Regulations Assessment Report [APP-290]</b>, while pollution impacts on European sites in Suffolk during operation (i.e. from outfalls) was already covered in paragraphs 4.2.46 to 4.2.49 in <b>Application Document 6.6 (A) Habitats Regulations Assessment Report [APP-290]</b>. The control measures identified in those paragraphs would protect all receiving watercourses and thus all downstream European sites including, but not limited to, Alde-Ore Estuary Ramsar site. This is particularly the case since the outfall in question would only carry surface water runoff following attenuation, and given the Ramsar site is 6 km downstream.</p>
<b>Thanet Coast &amp; Sandwich Bay SPA</b>						
<p>European golden plover (<i>Pluvialis apricaria</i>) (non-breeding)</p> <p>Ruddy turnstone (<i>Arenaria interpres</i>) (non-breeding)</p> <p>Little tern (<i>Sterna albifrons</i>) (breeding)</p>	<p>Changes to marine quality from release of contaminants at the hoverport site (C)</p>	<p><b>N/A – not assessed by applicant in HRA Report.</b></p>	<p><b>No</b> [REP4-189] [REP4-191] See ID 2.3.11 of RIES</p>	<p><b>N/A – not assessed by applicant in HRA Report.</b></p>	<p><b>?</b> See ID 2.3.11 of RIES</p>	<p>This impact pathway has been added into <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b>, submitted at Deadline 6. A conclusion of 'no likely significant effect' has been reached, as with other water quality impacts in Kent. This is due to the commitment made in measure W37 of <b>Application Document 9.84 (D) Register of Environmental Actions and Commitments (REAC)</b> and in <b>Application Document 7.5.1.2 (B) Outline Construction Traffic Management and Travel Plan – Kent</b> to undertake a structural assessment of the hoverport where vehicle traffic is expected and introduce protective measures such as metal or plastic trackway to ensure no further damage arises to the concrete. Both updated documents have been submitted at Deadline 6.</p> <p>A structural assessment and associated protective measures would not be mitigation specifically introduced to protect the Sandwich Bay SAC, Thanet Coast SAC, or Thanet Coast &amp; Sandwich Bay SPA. Firstly, a structural survey would be undertaken of any potentially damaged or otherwise unstable ground, and any protection measures introduced, before tracking vehicles over it as part of the health &amp; safety duty of care and legal obligation the Applicant owes to its</p>

European site / qualifying feature	Potential impact (C, O, D unless otherwise stated)	LSE?		AEol		Applicant's Response
		Applicant's conclusion (alone or in combination)	Agreement with NE?	Applicant's conclusion (alone or in combination)	Agreement with NE?	
						workforce and contractors and to minimise risk of damage to vehicles. Secondly, is an offence to pollute waterbodies under the Environmental Damage (Prevention and Remediation) (England) Regulations 2015 and the Environmental Permitting (England and Wales) Regulations 2016. It would therefore be incumbent on the Applicant to ensure they did not exacerbate any existing pollution issue irrespective of whether there were any European sites involved. Therefore, it is legally permissible to take these measures into account at LSE stage, along with all other pollution prevention measures.
	Temporary increase in SSC and sediment deposition leading to increased turbidity and smothering effects (C, D)	N/A – not assessed by applicant in HRA Report in respect of the SPA.	<b>No</b> NE advise pathway should be assessed. See ID 2.3.17 of RIES	N/A – not assessed by applicant in HRA Report in respect of the SPA.	No  See ID 2.3.17 of RIES	This impact has been added into <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> , submitted at Deadline 6. Specific updates can be found under the impact pathway heading 'Potential for indirect effects through impacts to prey species' and makes reference to updated sediment modelling submitted at Deadline 6: <b>Application Document 9.144 Additional Sediment Dispersion Modelling – Technical Note</b> .
	Indirect effects from coastal and marine process impacts during operation	<b>N/A – not assessed by applicant in HRA Report in respect of the SPA.</b>	<b>?</b> See ID 2.3.18 of RIES	<b>N/A – not assessed by applicant in HRA Report in respect of the SPA.</b>	<b>?</b> See ID 2.3.18 of RIES	The commitment to monitoring of the River Stour channel has been revised, as shown in <b>Application Document 9.84 (D) Register of Environmental Actions and Commitments (REAC)</b> .  The programme of monitoring, which has been developed in consultation with the Environment Agency is detailed in commitment MPE09 which states: <i>'The River Stour Channel in Pegwell Bay will be monitored throughout the operational life of the asset in line with a monitoring and contingency plan as a Requirement. The plan will set out the frequency and methods for monitoring the location of the channel, contingency actions to be undertaken should the River Stour migrate to a location close to the cable and a 'trigger' point for when actions would be taken'</i> .
	Temporary physical disturbance to supporting habitats (C, D)	<b>N/A – not assessed by applicant in HRA Report in respect of the SPA.</b>	<b>No</b> See ID 3.3.22 of RIES	<b>N/A – not assessed by applicant in HRA Report in respect of the SPA.</b>	<b>No</b> See ID 3.3.22 of RIES	The Applicant has addressed concerns in relation to disturbance to supporting habitats and prey times in an update to <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> , submitted at Deadline 6. The specific updates consider direct physical disturbance from construction and the movement of plant and equipment within the OL and indirect effects from sediment disturbance and subsequent dispersion which can be found under the impact pathway heading 'Potential for indirect effects

European site / qualifying feature	Potential impact (C, O, D unless otherwise stated)	LSE?		AEol		Applicant's Response
		Applicant's conclusion (alone or in combination)	Agreement with NE?	Applicant's conclusion (alone or in combination)	Agreement with NE?	
						through impacts to prey species'. This also makes reference to updated sediment modelling submitted at Deadline 6: <b>Application Document 9.144 Additional Sediment Dispersion Modelling – Technical Note</b> which evidences the assessment that such disturbance will be very short-term and localised.
	Airborne sounds and visual disturbance from offshore works (C, D)	✓ (paras 4.3.30 and 4.3.57)	Not disputed	X (paras 7.3.47 and 7.3.76)	? See IDs 3.3.25, 3.3.26 and 3.3.27 of RIES	The Applicant confirmed in their response in <b>Application Document 9.123 Applicant's Responses to Second Written Questions [REP5-135]</b> that vehicle movements, including noise generated, are considered as part of the airborne sounds and visual disturbance assessment in paragraphs 7.3.41 to 7.3.48 <b>Application Document 6.6 (G) Habitats Regulations Assessment Report [REP5-036]</b> .  The Applicant confirmed in their response in <b>Application Document 9.86 (A) Applicant's Comments on Other Submissions Received at Deadlines 3 and 3A [REP4-082]</b> that lighting would be required during construction of the cofferdams which would be directed inwards to the 21,600m <sup>2</sup> working area, with no impacts to birds in the intertidal area and no light spill to terrestrial habitats.
	Indirect effects through impacts to prey species (C, D)	✓ (paras 4.3.34 and 4.3.57)	Not disputed	X (paras 7.3.62 and 7.3.76)	No See ID 3.3.22 of RIES	The Applicant has addressed concerns in relation to disturbance to supporting habitats and prey availability in an update to <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> , submitted at Deadline 6. The specific updates consider direct physical disturbance from construction and the movement of plant and equipment within the OL and indirect effects from sediment disturbance and subsequent dispersion which can be found under the impact pathway heading 'Potential for indirect effects through impacts to prey species'. This also makes reference to updated sediment modelling submitted at Deadline 6: <b>Application Document 9.144 Additional Sediment Dispersion Modelling – Technical Note</b> which evidences the assessment that such disturbance will be very short-term and localised.
<b>Thanet Coast &amp; Sandwich Bay Ramsar site</b>						
Ramsar Criterion 2 – supports 15 British Red Data Book wetland invertebrates	Changes to marine quality from release of contaminants at the hoverport site (C)	N/A – not assessed by applicant in HRA Report.	No [REP4189] [REP4-191] See ID 2.3.11 of RIES	N/A – not assessed by applicant in HRA Report.	? See ID 2.3.11 of RIES	This impact pathway has been added into <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> , submitted at Deadline 6. A conclusion of 'no likely significant effect' has been reached, as with other water quality impacts in Kent. This is due to the commitment made in measure W37 of <b>Application</b>

European site / qualifying feature	Potential impact (C, O, D unless otherwise stated)	LSE?		AEol		Applicant's Response
		Applicant's conclusion (alone or in combination)	Agreement with NE?	Applicant's conclusion (alone or in combination)	Agreement with NE?	
Ramsar Criterion 6 – species / populations occurring at levels of international importance – ruddy turnstone ( <i>Arenaria interpres</i> )						<p><b>Document 9.84 (D) Register of Environmental Actions and Commitments (REAC)</b> and in <b>Application Document 7.5.1.2 (B) Outline Construction Traffic Management and Travel Plan – Kent</b> to undertake a structural assessment of the hoverport where vehicle traffic is expected and introduce protective measures such as metal or plastic trackway to ensure no further damage arises to the concrete. Both updated documents have been submitted at Deadline 6.</p> <p>A structural assessment and associated protective measures would not be mitigation specifically introduced to protect the Sandwich Bay SAC, Thanet Coast SAC, or Thanet Coast &amp; Sandwich Bay SPA. Firstly, a structural survey would be undertaken of any potentially damaged or otherwise unstable ground, and any protection measures introduced, before tracking vehicles over it as part of the health &amp; safety duty of care and legal obligation the Applicant owes to its workforce and contractors and to minimise risk of damage to vehicles. Secondly, is an offence to pollute waterbodies under the Environmental Damage (Prevention and Remediation) (England) Regulations 2015 and the Environmental Permitting (England and Wales) Regulations 2016. It would therefore be incumbent on the Applicant to ensure they did not exacerbate any existing pollution issue irrespective of whether there were any European sites involved. The above demonstrates that the measures in question are constituent elements of the Proposed Project inherent within it. Therefore, it is legally permissible to take these measures into account at LSE stage, along with all other pollution prevention measures.</p>
	Temporary increase in SSC and sediment deposition leading to increased turbidity and smothering effects (C, D)	N/A – not assessed by applicant in HRA Report in respect of the SPA.	<b>No</b> NE advise pathway should be assessed. See ID 2.3.17 of RIES	N/A – not assessed by applicant in HRA Report in respect of the SPA.	No  See ID 2.3.17 of RIES	This impact has been added into <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> , submitted at Deadline 6. Specific updates can be found under the impact pathway heading 'Potential for indirect effects through impacts to prey species' and makes reference to updated sediment modelling submitted at Deadline 6: <b>Application Document 9.144 Additional Sediment Dispersion Modelling – Technical Note</b> .
	Indirect effects from coastal and marine	<b>N/A – not assessed by applicant in HRA Report</b>	<b>?</b> See ID 2.3.18 of RIES	<b>N/A – not assessed by applicant in HRA Report in</b>	<b>?</b> See ID 2.3.18 of RIES	The commitment to monitoring of the River Stour channel has been revised, as shown in <b>Application</b>

European site / qualifying feature	Potential impact (C, O, D unless otherwise stated)	LSE?		AEol		Applicant's Response
		Applicant's conclusion (alone or in combination)	Agreement with NE?	Applicant's conclusion (alone or in combination)	Agreement with NE?	
	process impacts during operation	in respect of the Ramsar site.		respect of the Ramsar site.		<p><b>Document 9.84 (D) Register of Environmental Actions and Commitments (REAC).</b></p> <p>The programme of monitoring, which has been developed in consultation with the Environment Agency is detailed in commitment MPE09 which states:</p> <p><i>'The River Stour Channel in Pegwell Bay will be monitored throughout the operational life of the asset in line with a monitoring and contingency plan as a Requirement. The plan will set out the frequency and methods for monitoring the location of the channel, contingency actions to be undertaken should the River Stour migrate to a location close to the cable and a 'trigger' point for when actions would be taken'.</i></p>
	Temporary physical disturbance to supporting habitats (C, D)	N/A – not assessed by applicant in HRA Report in respect of the SPA.	No See ID 3.3.22 of RIES	N/A – not assessed by applicant in HRA Report in respect of the SPA.	No See ID 3.3.22 of RIES	<p>The Applicant has addressed concerns in relation to disturbance to supporting habitats and prey availability in an update to <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b>, submitted at Deadline 6. The specific updates consider direct physical disturbance from construction and the movement of plant and equipment within the OL and indirect effects from sediment disturbance and subsequent dispersion which can be found under the impact pathway heading 'Potential for indirect effects through impacts to prey species'. This also makes reference to updated sediment modelling submitted at Deadline 6: <b>Application Document 9.144 Additional Sediment Dispersion Modelling – Technical Note</b> which evidences the assessment that such disturbance will be very short-term and localised.</p>
	Airborne sounds and visual disturbance from offshore works (C, D)	✓ (paras 4.3.30 and 4.3.57)	Not disputed	X (paras 7.3.47 and 7.3.76)	? See IDs 3.3.25, 3.3.26 and 3.3.27 of RIES	<p>The Applicant confirmed in their response in <b>Application Document 9.123 Applicant's Responses to Second Written Questions [REP5-135]</b> that vehicle movements, including noise generated, are considered as part of the airborne sounds and visual disturbance assessment in paragraphs 7.3.41 to 7.3.48 of <b>Application Document 6.6 (G) Habitats Regulations Assessment Report [REP5-036]</b>.</p> <p>The Applicant confirmed in their response in <b>Application Document 9.86 (A) Applicant's Comments on Other Submissions Received at Deadlines 3 and 3A [REP4-082]</b> that lighting would be required during construction of the cofferdams which would be directed inwards to the 21,600m<sup>2</sup> working area, with no impacts to birds in the intertidal area and no light spill to terrestrial habitats.</p>

European site / qualifying feature	Potential impact (C, O, D unless otherwise stated)	LSE?		AEol		Applicant's Response
		Applicant's conclusion (alone or in combination)	Agreement with NE?	Applicant's conclusion (alone or in combination)	Agreement with NE?	
	Indirect effects through impacts to prey species (C, D)	✓ (paras 4.3.34 and 4.3.57)	Not disputed	X (paras 7.3.62 and 7.3.76)	No See ID 3.3.22 of RIES	The Applicant has addressed concerns in relation to disturbance to supporting habitats and prey times in an update to <b>Application Document 6.6 (H) Habitats Regulations Assessment Report</b> , submitted at Deadline 6. The specific updates consider direct physical disturbance from construction and the movement of plant and equipment within the OL and indirect effects from sediment disturbance and subsequent dispersion which can be found under the impact pathway heading 'Potential for indirect effects through impacts to prey species'. This also makes reference to updated sediment modelling submitted at Deadline 6: <b>Application Document 9.144 Additional Sediment Dispersion Modelling – Technical Note</b> which evidences the assessment that such disturbance will be very short-term and localised.
<b>Outer Thames Estuary SPA</b>						
Red-throated diver ( <i>G. Stellata</i> ) Common tern ( <i>Sterna hirundo</i> ) Little tern ( <i>Sterna albifrons</i> )	Airborne sounds and visual disturbance from offshore works (C, D)	✓ (paras 4.3.30 and 4.3.57)	JNCC: <b>Not disputed</b>	X (paras 7.3.47 and 7.3.76)	JNCC: ? See IDs 3.4.2 and 3.4.6 of RIES	The Applicant has now included a 2 km buffer around the Outer Thames Estuary SPA and the pre-lay grapnel run within the seasonal restriction.  <b>Application Document 6.6 (H) Habitats Regulations Assessment Report, Application Document 7.8 (C) Red Throated Diver Protocol and Application Document 6.2.4.5 (D) Part 4 Marine Chapter 5 Marine Ornithology</b> , all submitted at Deadline 6, have been updated to reflect these commitments.

# References

JNCC. 2020. Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs (England, Wales & Northern Ireland). JNCC Report No. 654, JNCC, Peterborough, ISSN 0963-8091.

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