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RE: Sea Link (EN020026) Nationally Significant Infrastructure Project (NSIP) Application, Deadline 7 – Kent Wildlife Trust [REDACTED]

1. Summary statements from parties regarding matters that they have previously raised during the Examination and that have not been resolved to their satisfaction: Outstanding areas of significant concern at the close of the Examination

Kent Wildlife Trust (“KWT”) has, throughout the Sea Link Development Consent Order (“DCO”) process, consistently raised serious and substantive concerns regarding the potential impacts of the proposed project on the internationally important habitats and species of Pegwell Bay and Minster Marshes. These concerns have been voiced from the pre-application stage through to the close of Examination, via Written Representations, responses to the Examining Authority’s Written Questions, oral submissions at hearings, and ongoing engagement with the Applicant.

KWT acknowledges that some limited progress has been made, including the Applicant’s commitment to use trenchless techniques beneath the saltmarsh (Requirement 16), the undertaking of dedicated seal surveys, albeit limited to a single survey season, and the inclusion of data from the Kent Dolphin Project 2025 report. However, it is notable that where our concerns have been addressed, this has largely been at the Examining Authority’s (“ExA”) request, rather than in direct response to KWT’s advice. Despite these incremental changes, the majority of KWT’s concerns remain unresolved at the close of Examination.

For more detail on these issues, please read our previous consultation and deadline responses, as the issues raised in this Deadline 7 response are an outline of outstanding concerns. KWT maintains that the following principal issues remain unresolved:

1. **Inadequate application of the Mitigation Hierarchy** – the Applicant has not demonstrated that impacts have been avoided in the first instance, as required by National Policy Statement (“NPS”) EN-1 and Planning Inspectorate guidance. The Mitigation Hierarchy requires a clear and sequential approach: avoid, reduce, mitigate, compensate. That approach has not been followed in this case.
 - Failure to adequately consider reasonable alternatives – the Applicant has not robustly explored alternative landfall locations, routing options, or design approaches that could avoid the most sensitive receptors, including Pegwell Bay and Minster Marshes. Options that would reduce or avoid impacts to internationally designated sites and Functionally Linked Land (“FLL”) have been discounted at an early stage, without sufficient evidence or transparent justification.
 - Over-reliance on embedded mitigation rather than avoidance – the design has been progressed on the assumption that impacts can be managed through mitigation (e.g.

trenchless techniques, construction controls), rather than first demonstrating that they can be avoided. This reverses the required hierarchy and places reliance on measures that are, in several cases, uncertain or unproven in this location.

- Premature reliance on compensation measures – the Applicant has moved to compensation without exhausting opportunities for avoidance or reduction. A clear example is the proposed golden plover mitigation, which seeks to offset the permanent loss of FLL rather than demonstrating that such loss could be avoided through alternative siting of infrastructure. The proposed mitigation itself lacks sufficient evidence of effectiveness and deliverability, further heightening this failure.
- Failure to respond to known constraints – in several instances, including the use of the Hoverport and construction within sensitive intertidal habitats, the Applicant has proceeded with design options despite known ecological risks, rather than redesigning to avoid those impacts. This is inconsistent with the fundamental purpose of the Mitigation Hierarchy.
- Deferral of key decisions – important elements of impact avoidance and reduction have been deferred to post-consent stages, including aspects of construction methodology, pollution control, ecological surveys and species mitigation. This approach is not compatible with the Mitigation Hierarchy, which must be applied at the point of decision-making, based on a complete and robust evidence base.

As confirmed by the ExA during Issue Specific Hearing 3, the Applicant has not demonstrated that residual impacts to European designated sites are genuinely unavoidable. In the absence of such demonstration, the Application cannot rely on the policy support afforded to Critical National Priority (“CNP”) infrastructure under NPS EN-1 as explained in more detail within our Deadline 6 submission.

2. Impacts to Designated Sites – Sandwich and Pegwell Bay forms part of a network of internationally important sites designated for their function within the East Atlantic Flyway, a transboundary system supporting millions of migratory birds each year and recognised as a nominated UNESCO World Heritage Site. Its value is therefore not only local, but integral to the coherence of this wider ecological network. The proposed Sea Link project would directly and indirectly affect several qualifying and supporting habitats of the SPA and associated designations. In particular:

- Saltmarsh – an irreplaceable habitat that is at significant risk to direct habitat loss if Horizontal Directional Drilling (“HDD”) and other trenchless techniques fail.
- Intertidal mudflats – a Priority Habitat and key foraging resource, would be directly affected by open-cut trenching and the construction of a cofferdam within the habitat itself. These activities would result in habitat loss, alteration of sediment structure, and disturbance to invertebrate communities critical to SPA bird species.

Crucially, these impact pathways have not been adequately assessed in combination. The Environmental Statement and Habitats Regulations Assessment (“HRA”) appear to consider effects in isolation, failing to address the cumulative consequences of:

- Habitat loss, both permanent and temporary;
- Habitat degradation;
- Construction disturbance (noise, vibration, visual presence, and activity); and
- Displacement from foraging and roosting areas.

This is a fundamental omission given the ecological function of the site. The SPA supports very large assemblages of overwintering and passage birds, whose survival depends on

uninterrupted access to a network of suitable foraging and resting habitats along the flyway. Displacement or reduced habitat availability at a key site such as Pegwell Bay cannot be assumed to be absorbed elsewhere, particularly in the context of already constrained and declining intertidal habitats.

In light of these combined pressures, it is not clear how the Applicant can conclude no Likely Significant Effect (“LSE”) or rule out adverse effects on the integrity of the SPA. The integrity test requires confidence that the site’s conservation objectives, particularly the maintenance of habitat extent, structure, and function supporting qualifying bird species will not be undermined. Given the acknowledged loss of FLL, direct impacts to priority and irreplaceable habitats, and the absence of a robust in-combination assessment, such a conclusion is not supported by the evidence.

3. **Uncertainty over the feasibility and deliverability of trenchless techniques** – whilst Requirement 16 seeks to secure trenchless installation beneath the saltmarsh, there remains:
- Insufficient geotechnical evidence to demonstrate deliverability;
 - A material risk of HDD failure;
 - No robust assessment of open-cut trenching as a realistic worst-case scenario; and
 - No safeguards to prevent the Applicant from seeking a post-consent change request to use open-cut trenching if HDD and other trenchless methods fail.

Given the precedent set by the Applicant’s sister company (National Grid Ventures) with Nemo Link, where predicted “temporary” impacts resulted in long-term ecological damage, reliance on uncertain delivery mechanisms is not consistent with the precautionary principle.

4. **Deficiencies in the Habitats Regulations Assessment** – the HRA fails to meet the legal standard established under Regulation 63 of the Conservation of Habitats and Species Regulations 2017. In particular, it does not provide “complete, precise and definitive findings” required by case law (including *Waddenzee C-127/02* and *Sweetman C-258/11*) to exclude adverse effects on site integrity. Key deficiencies include:
- Inadequate baseline data;
 - Unresolved uncertainty across multiple impact pathways;
 - Reliance on mitigation and compensation measures that are not fully evidenced or secured; and
 - Incorrect reliance on trenchless techniques at the screening stage to exclude LSE.

Despite the Applicant’s claims within Document 9.137: *Applicant’s Response to Legal Submissions from Objector Groups*, that KWT’s case against their HRA is “unparticularised” and “vague”, KWT has provided a detailed and evidence-led critique within our Written Representations (Deadline 1), comprising eight pages of specific concerns. Those submissions set out, in full, the legal and technical deficiencies in the HRA and should be read in conjunction with this summary. The issues raised have not been meaningfully addressed or resolved during the Examination. Accordingly, KWT maintains that the HRA remains legally deficient, and the ExA or Secretary of State cannot lawfully conclude that adverse effects on site integrity can be excluded beyond reasonable scientific doubt.

5. **Impacts on Functionally Linked Land** – the project results in the permanent loss of FLL supporting the Thanet Coast and Sandwich Bay SPA and Ramsar site.
- This loss could have been avoided through alternative siting.

- The proposed mitigation for golden plover is unsuitable, unproven, and lacks certainty of delivery with no safeguards for adaptive management should the site prove to not be working as intended.
- When considered alongside additional losses of FLL (~160ha) from other surrounding development, the cumulative impact is significant.

KWT considers that this will result in adverse effects on the integrity of the SPA.

6. Impacts on Protected Species (including marine mammals) – KWT maintains significant concerns regarding impacts on protected species and marine mammals including seals.

- Inufficient baseline data – survey effort remains limited across receptors, with data collected over a single survey season for most protected species, or none as in the case of the Hoverport. This is inadequate to robustly characterise presence, behaviour, and sensitivity to disturbance.
- Inadequate species-specific assessment – the Applicant’s approach to beavers is flawed, relying on presence/absence surveys based on identification of dams only. Eurasian beavers typically burrow within riverbanks and do not always construct dams, particularly where water levels are already suitable. This approach has resulted in false negatives and a failure to identify active territories that are known to be present within the impact zone.
- Annex II species – survey data indicates at least 15 recorded barbastelle passes across multiple months (May – October) between 2023 and 2024. This is highly significant given that a barbastelle roost has never previously been confirmed in Kent and may indicate a new unknown population. Despite this, the Applicant has not undertaken advanced survey techniques (e.g. trapping and radio-tracking) to confirm roost locations or key commuting and foraging routes. This is contrary to Bat Conservation Trust (2024) guidance, which states such methods should be used for NSIPs affecting rare or Annex II species. The absence of this survey effort represents a significant deficiency in the evidence base and a failure to apply the Mitigation Hierarchy through avoidance.
- Disturbance impacts not robustly assessed – construction activities (including HDD, offshore works, lighting, and vessel movements) present clear pathways for disturbance, displacement, and behavioural effects on marine mammals, birds and invertebrates.
- Inadequate assessment of underwater noise and vibrations – impacts to seals and cetaceans from underwater noise and vibrations have not been sufficiently assessed, despite being a primary impact pathway.
- Uncertainty regarding new evidence – the Applicant has obtained data from the Kent Dolphin Project 2025 report; however, Interested Parties have not had the opportunity within the Examination to review how this data has been interpreted or applied. This represents a clear evidential gap at the point of decision-making.

7. Insufficient cumulative impact assessment – the cumulative impact assessment (“CIA”) is fundamentally flawed and does not comply with NSP EN-1 policy or NSIP guidance. It does not provide a robust, precautionary assessment of in-combination effects, as required to inform lawful decision-making. In particular, the CIA fails to adequately account for:

- The unresolved impacts of Nemo Link – the Applicant has not properly considered the ongoing and unresolved ecological impacts arising from the Nemo Link project, including long-term habitat disturbance and recovery uncertainty. The failure to appropriately incorporate these effects results in an artificially reduced baseline, thereby underestimating cumulative harm.

- Exclusion of relevant and reasonably foreseeable projects – the CIA omits or inadequately considers other projects that are clearly relevant, including the proposed Aberdeenshire to Richborough connection, as well as other infrastructure within the same strategic corridor. This is particularly concerning given that Sea Link is justified by reference to the Holistic Network Design (“HND”). It is not consistent or reasonable to rely on the HND to establish need, whilst excluding other HND-related projects from cumulative assessment where they introduce additional environmental pressures.
- Failure to assess combined and synergistic effects – the assessment does not adequately consider how multiple impact pathways may interact, including habitat loss and fragmentation, disturbance from construction activity (noise, vibration, lighting etc), changes to hydrology and water quality and increased pressure on mobile species (including SPA birds and marine mammals).

These effects are likely to act in combination, resulting in impacts greater than the sum of their parts. The CIA does not meaningfully assess these interactions, nor does it adopt a precautionary approach where uncertainty exists.

- Reliance on high-level or qualitative assessment – in several instances, cumulative effects are dismissed on the basis of limited or high-level information, without sufficient quantitative analysis or evidence. This approach is not consistent with the requirement for a robust and evidence-based assessment, particularly where internationally designated sites are affected. For example, cumulative effects on mobile receptors such as SPA birds and marine mammals are addressed using high-level assumptions, without robust quantitative assessment of overlapping disturbance, habitat loss, and behavioural effects across multiple projects, resulting in an underestimation of in-combination impacts.
- Lack of alignment with the HRA – the deficiencies in the CIA are mirrored in the HRA, where in-combination effects have not been fully or properly assessed. This further undermines the ability of the ExA and Secretary of State to conclude no adverse effect on site integrity.

Taken together, these issues result in a cumulative assessment that systematically underestimates the scale and significance of environmental effects. This represents a clear inconsistency within the Application: the Applicant relies on a strategic, Government framework (the HND) to justify the need for the project, whilst failing to assess the environmental consequences of that same strategy. As such, the CIA does not meet the requirements of NPS EN-1 or the precautionary principle and cannot be relied upon to support a lawful conclusion on cumulative effects.

8. Unresolved impacts from construction access and the Hoverport – The proposed use of the Hoverport represents a clear and substantive example of the Applicant’s failure to properly apply the Mitigation Hierarchy, contrary to the requirements of NPS EN-1.

- Failure to recognise ecological value and avoid harm – the site is a functioning rewilded habitat, which has developed over decades into a mosaic of coastal habitats supporting protected and priority species, including legally protected invertebrates and rare orchids. Despite this, the Applicant has not demonstrated that the use of this site for construction access has been avoided, nor that alternative access arrangements have been properly explored.
- Risk of committing wildlife offences – construction activities, including repeated vehicle movements, compaction, and disturbance, present a credible risk of damage or destruction of habitat supporting legally protected species, which may constitute offences under relevant wildlife legislation. These risks have not been adequately assessed or resolved at

the point of decision-making due to the Applicant refusing to undertake ecological surveys of the site prior to decision-making.

- Mobilisation of contamination – there is a clear and evidenced risk that construction activity could mobilise historic contamination, including heavy metals and coal residues, altering water chemistry and introducing pollutants into the adjacent European designated site. This presents a direct pathway for harm to intertidal habitats and the species that depend on them.
- Impacts on adjacent designated sites – the Hoverport is functionally connected to surrounding designated sites due to its importance for invertebrates. Disturbance, pollution, and changes in substrate condition have the potential to result in direct and indirect impacts on the trophic food chain, which have not been robustly assessed.
- Deferral of surveys and mitigation – the Applicant has not undertaken sufficient baseline surveys to properly understand the ecological value of the site, nor has it been demonstrated that effective mitigation can be secured. Instead, there is reliance on post-consent surveys and future mitigation design, which is not consistent with the requirements of the Mitigation Hierarchy or the Habitats Regulations.

Taken together, these issues demonstrate a systemic failure to avoid impacts at source, with reliance instead placed on uncertain and deferred mitigation. This approach is directly contrary to NPS EN-1, which requires that significant adverse impacts are avoided wherever possible before mitigation or compensation is considered. This failure is not merely procedural; it has direct implications for the application of CNP policy. The presumption in favour of granting consent for CNP infrastructure is explicitly contingent upon compliance with environmental law and the proper application of the Mitigation Hierarchy. Where impacts have not been demonstrably avoided, and where there is uncertainty as to whether harm can be prevented, that presumption cannot apply. The Hoverport proposals therefore illustrate a broader issue within the Application: impacts are being accepted in principle, with the expectation that they can be managed later. This is not consistent with the precautionary principle, nor with the legal and policy framework governing this decision-making process.

In this context, the unresolved impacts associated with the Hoverport and saltmarsh habitat provide a clear and compelling example of why the application cannot rely on CNP policy support, and why consent should not be granted.

9. **Fundamental gaps in the water environment assessment** – there remains significant uncertainty regarding:
- Floodplain function and flood risk;
 - Groundwater interactions;
 - Dewatering and discharge strategy;
 - Pollution pathways and sediment mobilisation;
 - Climate change resilience.

These matters are not sufficiently resolved and cannot lawfully be deferred to post-consent stages.

10. **Legal and Policy Position** – the HRA requires that consent may only be granted where the competent authority is certain that the project will not adversely affect the integrity of a European site. The Courts have consistently confirmed that this requires the absence of all reasonable scientific doubt (*Waddenzee C-127/02*). Where uncertainty remains, consent must

be refused, unless the derogation tests are met. In addition, the Applicant fails to comply with NPS EN-1 which requires:

- Proper application of the Mitigation Hierarchy;
- Avoidance of significant harm to biodiversity; and
- Robust assessment of cumulative effects.

The presumption in favour of CNP infrastructure does not apply where certain requirements are not satisfied, such as the application of the Mitigation Hierarchy.

KWT's Final Position Statement

KWT recognises the urgent need to decarbonise the energy system and supports the delivery of renewable energy infrastructure as part of a transition to net zero. However, this transition must be delivered in a way that is legally compliant and genuinely sustainable and must not come at the expense of irreplaceable habitats and protected species.

Pegwell Bay and the surrounding landscape represent one of the most important coastal ecosystems in the UK. Sandwich and Pegwell Bay National Nature Reserve is one of the original 'Rothschild Reserves'. In the early 20th century, Charles Rothschild undertook the first national survey of sites "worthy of preservation", identifying places of irreplaceable ecological value. Pegwell Bay was included within this original list, recognised for its complex mosaic of habitats and exceptional biodiversity. This work laid the foundation for what is now The Wildlife Trusts and established a principle that remains central to modern conservation: the protection of whole ecosystems, not just individual species. More than a century later, that importance has only increased. Pegwell Bay and the surrounding landscape are designated at international, national and local levels, reflecting their critical role in supporting biodiversity and delivering essential ecosystem services, including carbon storage, flood regulation and climate resilience. These habitats are not only important for wildlife, but they are also essential natural infrastructure. Since the 1860s, 85% of England's saltmarsh has been lost, making what remains both scarce and irreplaceable. Saltmarshes are widely recognised as climate "superhabitats", capable of storing carbon at rates up to 40 times faster than forests, with UK saltmarshes sequestering around 700,000 tonnes of carbon annually. They also play a critical role in protecting coastal communities, with evidence showing they can reduce flood damage by up to 20%. Damage to these systems therefore undermines not only biodiversity, but also climate resilience and adaptation objectives that sit at the heart of national policy.

The UK Government's own national security assessment has concluded that ecosystem degradation and collapse pose a direct risk to UK national security and prosperity¹. 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. In this context, there is a clear and profound contradiction in promoting the Sea Link project as essential to achieving net zero, whilst accepting damage to habitats such as saltmarsh that are among the most effective natural systems for carbon sequestration and climate adaptation.

¹ [National security assessment - global biodiversity loss ecosystem collapse and national security](#)

KWT has set out, throughout this Examination, clear and detailed evidence on the risks posed by the Sea Link project. Those submissions demonstrate that key impacts remain uncertain, mitigation remains unproven, and important matters have been deferred beyond the point at which they can lawfully be assessed. These are not simply technical disagreements; they go directly to the ability of the decision-maker to comply with the requirements of the Habitats Regulations, the precautionary principle, and NPS EN-1. The legal framework is clear; consent can only be granted where there is certainty, where adverse effects on site integrity can be excluded beyond reasonable scientific doubt, and where protected species can be safeguarded without reliance on speculation or future resolution. That bar has not been met.

This Examination has highlighted a fundamental tension: the desire to deliver infrastructure at pace, and the need to ensure that such delivery does not result in irreversible environmental harm. The law resolves that tension unambiguously. Where doubt remains, the benefit of that doubt must rest with the environment.

Pegwell Bay is not a site that can be replaced, recreated, or restored once damaged. Its ecological value has been recognised for over a century, and the evidence before the ExA and Secretary of State does not demonstrate that this value can be protected if the DCO is granted. The Nemo Link evidence further supports the conclusion that these habitats do not recover once destroyed, emphasising that any significant loss would be effectively irreversible rather than capable of meaningful restoration.

The outstanding uncertainties identified throughout this Examination are not marginal, they are fundamental. To grant consent in their presence would be to depart from the requirements of environmental law and established policy. If the Habitats Regulations, NSIP guidance, nationally designated and protected sites are to have meaning, they must be applied here.

For these reasons, KWT strongly asserts that the Sea Link application should **not be granted development consent**.

2. Additional Information – Marine Management Organisation Freedom of Information Response and Concerns Regarding Marine Licence Compliance and Enforcement

At Deadline 4, KWT stated that a Freedom of Information (“FOI”) request had been submitted to the Marine Management Organisation (“MMO”) in relation to the Nemo Link marine licence, and that any relevant information would be shared. KWT now provides this update, as the information received raises material concerns regarding the adequacy of monitoring, compliance, and enforcement, which are directly relevant to the consideration of the Sea Link application.

KWT’s original FOI request sought copies of, or access to, all records held by the MMO in relation to the Nemo Link marine licence, including confirmation of whether relevant licence conditions had been discharged and whether all required licence returns had been submitted and approved. This was due to missing information on the MMO’s public register. Disappointingly, the MMO responded that fulfilling this request would require a manual review of a large number of archived case notes dating back to 2013 and subsequently refused our FOI request due to it being “manifestly unreasonable”.

As a result, KWT was required to refine and significantly narrow the scope of the request. The revised request focused on two specific marine licence conditions and their associated returns:

- Baseline invertebrate monitoring (Licence Return R12 / Condition 5.2.15); and

- Post-construction saltmarsh monitoring (Licence Return R14 / Condition 5.2.22).

Due to the MMO responding to our FOI request on 27th April 2026, we have prioritised reviewing the documents for Condition 5.2.22 only, in time for this Deadline 7 response. We have not reviewed the documents associated with Condition 5.2.15 and therefore a lack of mention of this condition does not mean an absence of similar concerns. If acceptable, and if relevant, KWT request that we provide an additional submission as soon as possible after the 29th of April 2026.

The information provided by the FOI request demonstrates a consistent and unresolved pattern of concern across the full monitoring period and are not reflected in the MMO's final decision to discharge Condition 5.2.22. This is directly relevant to the consideration of the Sea Link application, which similarly relies on post-consent ecological surveys, monitoring, mitigation and regulatory oversight to manage environmental risk. The Nemo Link experience raises fundamental concerns as to whether such mechanisms can be relied upon to ensure that impacts to designated sites are properly understood, avoided, and, where necessary, effectively addressed in practice.

Year 1 Monitoring

Natural England's Year 1 consultation response² identified that "*the saltmarsh is not recovering as predicted*" and raised significant concerns that "*the original saline lagoon in the area has changed into a tidal pool [...] and may also be growing at the expense of saltmarsh.*" Natural England further warned that this change "*may cause further hydrodynamic changes in the area and therefore could potentially damage and/or change the composition of established saltmarsh*". This demonstrates that impacts to the functioning and extent of the saltmarsh system, including within designated sites, were identified at an early stage and have persisted throughout the monitoring period.

These concerns are further heightened by the Centre for Environment Fisheries & Aquaculture Science ("Cefas") consultation response³ for the Year 1 Monitoring Report. Cefas identified significant concerns relating to the assessment of the saltmarsh monitoring methodology. They highlighted fundamental flaws in the baseline data underpinning the entire monitoring framework. In particular, their response identified that the pre-construction survey undertaken in 2017 consisted only of photographic records, which are not suitable for quantitative monitoring and cannot be meaningfully compared with post-construction survey data. Cefas also noted that the earlier 2011 baseline surveys were carried out six years prior to construction, rendering the data too historic to reliably represent conditions immediately prior to the works. As a result, Cefas concluded that the ability to establish an accurate and robust baseline against which change can be measured was significantly compromised. Cefas also raised concerns regarding inconsistencies in survey timing, with baseline and monitoring surveys undertaken in different months (August, April, June and December), introducing potential seasonal variability that further limited comparability. They also raised concerns that there was no clearly defined framework for determining what would constitute "recovery", meaning that the assessment lacked objective criteria against which outcomes could be judged.

² [MLA2013000724 Consultation 5 Nemo Link - UK to Belgium Interconnector. Saltmarsh survey](#)

³ [20180228_L201300373_PC01_Nemo Link_Cefas Benthic Advice.pdf](#)

Year 2 Monitoring

Subsequent consultation responses reviewing the Year 2 Monitoring Report⁴ reinforce that previous issues were ignored by the licence holder (National Grid Nemo Link Ltd). For example, Natural England's Year 2 response raised concerns again regarding the reduced ridgeline and noted that the expansion of the lagoon had damaged the remaining saltmarsh vegetation through erosion⁵.

Cefas mirrored these concerns, highlighting that the Year 2 Monitoring Report concluded that the saltmarsh ridge was notably lower than pre-construction levels as a direct result from the cable installation. They also raised concerns that the directly impacted saltmarsh remained “*very different from the unimpacted areas of the saltmarsh ridge*”⁶ emphasising that the saltmarsh was not recovering as anticipated.

Year 3 Monitoring

Alarming, the Year 3 Monitoring Report⁷ identified impacts to saltmarsh outside the immediate works area due to the ongoing erosion from tidal incursion into the saline lagoon. The Environment Agency's (“EA”) Year 3 consultation response⁸ identified that the lagoon had “*expanded considerably beyond the survey corridor resulting in huge loss of [saltmarsh] habitat*”.

Cefas's Year 3 consultation response⁹ expressed significant concerns regarding the saltmarsh ridge, stating that it “*continues to be up to 30 cm lower than before the cable installation works, allowing more frequent tidal exchange between the lagoon and Pegwell Bay [...] In line with the project's understanding from the Year 1 (2018) and Year 2 (2019) surveys, it is considered highly unlikely that the original elevation and vegetation character of the former high marsh ridge will recover naturally (i.e., without physical intervention).*” As a result of the significant impacts, Cefas recommended remedial actions to be taken immediately.

Natural England emphasised that the recovery of the saltmarsh as described within the Environmental Statement was not progressing as predicted and expressed concerns that no remediation works had been carried out in response to the Year 1 and Year 2 Monitoring Reports and at the recommendation of statutory bodies. They stated: “*Until successful saltmarsh remediation works have been completed to restore the mid-shore saltmarsh to pre-construction levels and recovery of the saltmarsh communities, our concerns and advice remain the same as outlined in our previous responses to Year 1 and 2 post construction saltmarsh survey reports*”.¹⁰

Year 4 Monitoring

The Year 4 Monitoring Report¹¹ presented the same results; that the saltmarsh was not recovering and that due to an increase in tidal incursion from the reduced ridgeline, additional saltmarsh habitat was eroding. Despite Natural England, the EA and Cefas concerns and recommendations, National Grid

⁴ [KPAL Report EX151119_NEMO Link Second Year Monitoring Report V3.0_05.06.20.pdf](#)

⁵ [285415_MLA2013000724_NE_Consult5_Nemo-Link_Saltmarsh_survey.pdf](#)

⁶ [20201014_MLA201700072_4_Nemo Link Saltmarsh yr2 Cefas Benthic \(1\).pdf](#)

⁷ [KPAL Report EX131120_NEMO Link Year 3 Monitoring Report V2.0_30.11.20.pdf](#)

⁸ [128276_Response - MLA2013000724 - EA consultation response \(1\).pdf](#)

⁹ [202104~1.PDF](#)

¹⁰ [MLA201~1.PDF](#)

¹¹ [KPAL_Report_EX211011_NEMO_Link_Yr_4_Monitoring_Report16.12.22.pdf](#)

Nemo Link Ltd continued to take no remedial action or adaptive mitigation to protect and restore the saltmarsh.

The EA's Year 4 consultation response explicitly highlighted severe damage to saltmarsh habitat and without remedial action it would continue to degrade.¹² The EA emphasised that Condition 5.2.22 obligated the licence holder to restore the saltmarsh habitat to its pre-disturbed form and therefore urged actions to be taken to address the current and ongoing situation. Likewise, Natural England's Year 4 consultation response recommended that the licence holder needed to consider adaptive steps to take into account the long-term recovery of the saltmarsh habitat.¹³ They strongly advised post-construction monitoring of the saltmarsh is extended beyond five-years.

Following the Year 4 Monitoring Report, National Grid Nemo Link Ltd disagreed with the above recommendations, and following a consultation with the MMO, decided to withdraw a linked marine licence condition (reference MLA/2021/00474) for saltmarsh remediation.

Year 5 Monitoring

Cefas's Year 5 consultation response identified clear physical and ecological changes to the saltmarsh, including the presence of areas of standing water where saltmarsh previously, an increase in both the size and permanence of the adjacent lagoon due to more frequent and extensive tidal inundation, and a reduction in the elevation of the higher saltmarsh ridge within the cable corridor compared to its pre-construction state.¹⁴

Importantly, Cefas concluded that these changes represent a direct loss and alteration of saltmarsh habitat and recommended that post-construction monitoring should be continued in order to better understand the long-term impacts of the works and to assess both recovery within the cable corridor and the ongoing decline associated with the expanded lagoon footprint. Whilst acknowledging that physical intervention to rebuild the ridge may carry risks, Cefas deferred to the relevant statutory nature conservation bodies on appropriate remedial actions, rather than suggesting that intervention is not required.

A consultation response of the Year 5 Monitoring Report¹⁵ from the EA raised further and significant concerns regarding the condition of the saltmarsh and the need for active intervention.¹⁶ The EA explicitly disagreed with National Grid Nemo Link Ltd's conclusion that allowing the habitat to recover naturally, without restoration, would be beneficial. The EA identified that tidal inundation had already caused severe damage to the saltmarsh along the ridge and warned that, if this process continued, the habitat would be subject to ongoing degradation.

Most significantly, Natural England's consultation response to the Year 5 Monitoring Report stated unequivocally:

"It is Natural England's view that the report indicates recovery of coastal saltmarsh is far from complete, and the Applicant does not provide a robust and objective review of the Conservation Objectives of the

¹² [129315 - Nemo Link- EA Response.pdf](#)

¹³ [427240 Nemo Y4 V4 report response NE FINAL.pdf](#)

¹⁴ [202310~1.PDF](#)

¹⁵ [KPALRE~1.PDF](#)

¹⁶ [129315 - Nemo Link- EA Response.pdf](#)

designated sites against the Year 5 monitoring report. Therefore, Natural England's position remains that we strongly recommend continued monitoring of the designated site.”¹⁷

Within their response, Natural England made clear that ecological and geomorphological changes had occurred within the Sandwich Bay SAC, Thanet Coast and Sandwich Bay SPA and Sandwich Bay to Hacklinge Marshes SSSI following the Nemo Link cable installation. This is a highly significant point; it confirms that the Nemo Link project resulted in measurable change to designated sites and their supporting habitats. Natural England further highlighted that *“there does not appear to be any accountability for the damage that has been caused to the saltmarsh”* and requested monitoring to continue for a period of 10 years, reflecting the slow recovery rates and ongoing uncertainty associated with saltmarsh habitats. Natural England also identified the need for additional survey work, including lagoon monitoring, water quality, soil samples and invertebrate monitoring, to understand the trajectory of change.

Whilst Natural England acknowledged that physical restoration interventions, such as rebuilding the saltmarsh ridge, could risk further damage, they were clear that this did not remove the need for a robust assessment of the long-term recoverability of the habitat and that National Grid Nemo Link Ltd. needed to take accountability. They identified significant gaps in the Applicant’s assessment, including the need for further evaluation of impacts on the Conservation Objectives of the Sandwich Bay SAC, Thanet Coast and Sandwich Bay SPA and Sandwich to Hacklinge Marshes SSSI. In addition, Natural England explicitly requested consideration of compensation for damage to the coastal saltmarsh feature of the SSSI.

KWT has appended Natural England’s full Year 5 consultation response as an Appendix to this Deadline 7 submission. If the ExA would like to view all consultation responses, we can share these at their request.

The MMO’s Decision Making

Initially, the MMO’s position aligned with the other statutory bodies, where between the reviews of the Year 1 to Year 4 Monitoring Reports, they advised that monitoring should be continued beyond the original five-year period, and that further work, including potential remediation, may be required due to the lack of saltmarsh recovery. However, despite the results of the Year 5 Monitoring Report, which concluded:

“The results of the Year 5 topographic monitoring show that there has still been no recovery of the former high marsh ridge in the vicinity of the transition joint bay and that tidal incursion into the saline lagoon remains more frequent than before the cable installation works. [...] 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, and by limitations of the vegetation community zonation framework proposed in the Year 1 post works monitoring report. A direct comparison of pre- and post-works changes between quadrats located within and outside the works corridor has been severely constrained, and statistical comparison has not been possible.”

And the prolonged concerns from statutory bodies, including Natural England who are the Statutory Nature Conservation Body for England and therefore their position carries considerable weight in the

¹⁷ [MLA_2013_00072_5_Nemo_NE_Response.pdf](#)

assessment of impacts on designated sites, the MMO concluded that the saltmarsh was recovering and that no further monitoring or remediation was required, leading to the full discharge of Condition 5.2.22.

This conclusion from the MMO is difficult to reconcile. The divergence from Natural England, Cefas and the EA's positions, without sufficient evidence to back up their claim is extremely alarming. This raises fundamental concerns not only about the adequacy of the monitoring framework itself, but also about the application of that framework in practice and the evidential basis upon which regulatory decisions are being made. It also calls into question the degree to which compliance with marine licence conditions can be relied upon to secure meaningful environmental outcomes. Where clear statutory body and expert-led criteria for recovery have not been met, yet conditions are nevertheless discharged, there is a real and evidenced risk that impacts are being accepted in practice despite not being resolved.

KWT has sought clarification from the MMO as to how they concluded that the saltmarsh was recovering sufficiently to justify cessation of monitoring and to discharge the condition, given the collected results of the monitoring reports and consistent and clearly evidenced positions of Natural England, Cefas and the EA, all of whom identified ongoing habitat change, incomplete recovery, and the need for continued monitoring and/or intervention. The MMO's conclusion appears inconsistent with the available expert and statutory body evidence and advice. No response to KWT's request for clarification has been received at the time of submission.

Applicability to Sea Link

This issue sits within a broader context of concern regarding compliance and enforcement. Whilst the MMO has confirmed that it holds enforcement powers in relation to marine licences, they have also confirmed in response to our FOI request that no enforcement action, compliance notices, warnings, or formal communications have been issued in relation to the Nemo Link marine licence. This is despite evidence of long-term habitat change, including habitat damage to European designated sites, acknowledged limitations in monitoring and the repeated requests from statutory bodies for remedial action. The absence of any enforcement response in these circumstances raises questions as to how effectively marine licence conditions are implemented and upheld in practice.

This has direct implications for the present Examination. The Sea Link application similarly relies on post-consent monitoring and regulatory oversight to manage environmental risk. The experience of Nemo Link has significant implications for confidence in the effectiveness and enforceability of post-consent conditions associated with Sea Link. If monitoring shows that habitats have not recovered as expected, yet conditions are nevertheless discharged, this undermines trust that conditions will deliver real environmental protection in practice. This is particularly critical given that, as evidenced above, impacts to designated sites (SAC, SPA and SSSI) have already occurred and that these significant adverse effects have not been accounted for within Sea Link's impact assessments, particularly when the evidence concludes that the saltmarsh is continuing to erode as a result of the damaged ridgeline. This reinforces KWT's position that environmental impacts must be fully understood, avoided, and resolved prior to consent being granted. We strongly urge that these residual impacts are included and addressed within Sea Link's EIA and impact assessments.

In these circumstances, it would not be reasonable for the ExA or the Secretary of State to ignore these residual impacts or place reliance on future monitoring or regulatory intervention to address uncertainty. The Habitats Regulations and relevant national policy require that these matters are

resolved at the point of decision-making, based on a complete and robust evidence base. The Nemo Link experience illustrates the consequences of failing to meet that standard and reinforces the need for a precautionary approach.

KWT considers that the information obtained through this FOI request provides important and relevant context for the Examination of Sea Link and further supports its position that the Sea Link application does not meet the legal and policy tests required for consent.

Kind regards,

[REDACTED]
Senior Planning & Policy Officer
Kent Wildlife Trust
[REDACTED]

