UK Government

Habitats Regulations Assessment for an Application Under the Planning Act 2008
SEA LINK

Regulations 63, 64 and 68 of the Conservation of Habitats and Species Regulations 2017

Department for Energy Security and Net Zero (October 2026)

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Glossary

Term	Abbreviation
Adverse Effect on Integrity	AEoI
Appropriate Assessment	AA
Campaign to Protect Rural England	CPRE
Deemed Marine Licence	DML
Department for Energy Security and Net Zero	DESNZ
Development Consent Order	DCO
Development Coordination Forum	DCF
Dover District Council	DDC
Drilling Fluid Management Plan	DFMP
Dynamic Positioning	DP
East Suffolk Council	ESC
Effective Deterrent Ranges	EDR
Electromagnetic field	EMF
Environment Agency	EA
Environmental Impact Assessment	EIA
European Court of Justice	ECJ
European Economic Area	EEA
European Nature Information System	EUNIS
Examining Authority	ExA
Exclusive Economic Zone	EEZ
Functionally Linked Land	FLL
Habitat Regulations Assessment	HRA
High Voltage Alternating Current	HVAC
High Voltage Direct Current	HVDC
Horizontal Directional Drilling	HDD
Interested Parties	IPs
Intergovernmental Panel on Climate Change	IPCC
Interim Population Consequences of Disturbance Model	iPCoD
Invasive Non-Native Species	INNS
Joint Nature Conservation Committee	JNCC
Kent County Council	KCC
Kent Wildlife Trust	KWT
Landfall Management Plan	LMP
Lesser black-backed gull	LBBG
Likely Significant Effect	LSE
Lowest Astronomical Tide	LAT

Term	Abbreviation
Management Unit	MU
Marine Management Organisation	MMO
Marine Protected Area	MPA
Maximum Design Scenario	MDS
Mean High Water Spring	MHWS
Mean Low Water Spring	MLWS
Multibeam echo sounder	MBES
National Policy Statement	NPS
National Site Network	NSN
National Trust	NT
Nationally Significant Infrastructure Project	NSIP
Natural England	NE
Offshore Invasive Non-Native Species Management Plan	OIMP
Onshore Substation Zone	OSZ
Outline Air Quality Management Plan	oAQMP
Outline Cable Specification and Installation Plan	oCIMP
Outline In-Principle Monitoring Plan	oIPMP
Outline Marine Mammal Mitigation Plan	oMMMP
Outline Offshore Construction Environmental Management Plan	oOCEMP
Outline Offshore Invasive Non-Native Species Management Plan	oOIMP
Outline Onshore Construction Environmental Management Plan	oCEMP
Outline Red-Throated Diver Protocol	oRTD
Pegwell Bay Construction Method Technical Note	PBCMTN
Pegwell Bay Landfall Construction Method Statement	PBLCMS
Permanent Threshold Shift	PTS
Planning Act 2008	PA 2008
Planning Inspectorate	PINS
Poses Little or No Risk	PLONOR
Preliminary Environmental Information Report	PEIR
Procedural Decision	PD
Register of Environmental Actions and Commitments	REAC
Remotely Operated Vehicle	ROV
Report on the Implications for European Sites	RIES
Report to Inform Habitats Regulations Assessment	RIHRA
Royal Society for the Protection of Birds	RSPB
Sandwich Bay Bird Observatory Trust	SBBOT
Save Minster Marshes	SMM
Site of Special Scientific Interest	SSSI

Term	Abbreviation
Southern North Sea SAC	SNS SAC
Statement of Common Ground	SoCG
Statutory Nature Conservation Body	SNCB
Sub-Bottom Profiler	SBP
Suffolk County Council	SCC
Suffolk Energy Action Solutions	SEAS
Supplementary Advice on Conservation Objectives	SACO
Sustainable Drainage Systems	SuDS
Temporary Threshold Shift	TTS
Thanet Coast and Sandwich Bay SPA	TCSB SPA
Thanet District Council	TDC
Transition Joint Bay	TJB
Ulta-Short Baseline	USBL
Unexploded Ordnance	UXO
Worst Case Scenario	WCS
Zone of Influence	ZoI

1 Introduction

1.1 Background

This is a record of the Habitats Regulations Assessment ("HRA") that the Secretary of State for Energy Security and Net Zero ("the Secretary of State") has undertaken under the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations") and the Conservation of Offshore Marine Habitats and Species Regulations 2017 ("the Offshore Habitats Regulations") in respect of the Development Consent Order ("DCO") and Deemed Marine Licence ("DML") for the Sea Link Interconnector. The Examining Authority ("ExA") defines this as the "Proposed Development". It is defined as the "Project" within this HRA for consistency with the terminology of the Habitats Regulations. For the purposes of these Regulations the Secretary of State is the competent authority.

The Project will comprise the construction and operation of a High Voltage Direct Current (HVDC) interconnector, reinforcing the electricity transmission network between Kent and Suffolk. The cable would connect a proposed substation near Sizewell in Suffolk and the existing Richborough to Canterbury 400kV overhead line close to Richborough in Kent. The project comprises an onshore scheme in Suffolk and Kent, and an offshore scheme wholly in UK territorial waters. The Project application is described in more detail in Section 2.

The Project does not fall within the definition of a Nationally Significant Infrastructure Project ("NSIP") as defined in part 3 of the Planning Act 2008. However, on 4 March 2022, the Applicant submitted a request to the Secretary of State for Business, Energy and Industrial Strategy (now the Secretary of State for DESNZ) for a direction pursuant to s35(1) of the Planning Act 2008 that the Project be treated as a project of national significance. In a direction letter dated 31 March 2022[1], the Secretary of State confirmed that the Project is nationally significant and directed that it should be treated as a development for which development consent is required. The annex to the letter provides the Secretary of State's reasoning why the direction should be issued. On this basis, the Project requires development consent in accordance with s31 of the Planning Act 2008.

The Project was accepted for Examination by the Planning Inspectorate ("PINS") on 23 April 2025 and a five-member Panel of Inspectors ("the Panel") was appointed as the ExA for the application. The examination of the Project application began on 5 November 2025 and completed on 5 May 2026. The ExA submitted its report of the Examination, including its recommendation ("the ExA's Report"), to the Secretary of State on 30 July 2026.

1.2 Habitats Regulations Assessment

The Habitats Regulations and Offshore Habitats Regulations aim to ensure the long-term conservation of certain species and habitats by protecting them from possible adverse effects of

[1] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN020026-000008-Sea%20Link%20s35%20Direction%20Letter.pdf

plans and projects. In the UK, the Habitats Regulations apply as far as the 12 nautical miles ("nm") limit of territorial waters. Beyond territorial waters, the Offshore Habitats Regulations serve the same function for the UK's offshore marine area. The Secretary of State notes the Application covers areas onshore and offshore within the 12 nm limit, so only the Habitats Regulations apply. This does not limit the Secretary of State's consideration of relevant protected sites in the offshore area beyond the 12 nm limit.

Following the UK's departure from the European Union, the Habitats Regulations were amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. Reference to the Habitat Regulations in this HRA Report are therefore to the latest amended version at the time of publication, unless otherwise stated.

The Habitats Regulations provide for the designation of sites for the protection of habitats and species of international importance. These sites are called Special Areas of Conservation ("SACs"). They also provide for the classification of sites for the protection of rare and vulnerable birds and for regularly occurring migratory species within the UK and internationally. These sites are called Special Protection Areas ("SPAs"). SACs and SPAs together from part of the UK's National Site Network ("NSN").

The Convention on Wetlands of International Importance 1972 ("the Ramsar Convention") provides for the listing of wetlands of international importance. These sites are called Ramsar sites. Government policy is to afford Ramsar sites in the United Kingdom the same protection as sites within the NSN (collectively referred to in this HRA as "protected sites"). Amendments made to the Habitats Regulations 2017 under the Planning and Infrastructure Act 2025 place this policy on a statutory basis[2]. Candidate SACs ("cSACs"), SACs and SPAs are afforded protection as protected sites. As a matter of policy[3] the Government affords potential SPAs ("pSPAs") the same level of protection.

Regulation 63 of the Habitats Regulations provides that:

…before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in-combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, [the competent authority] must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

And that:

In the light of the conclusions of the assessment, and subject to regulation 64, the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

The Project is not directly connected with, or necessary to, the management of a protected site. The Habitats Regulations require that, where the Project is likely to have a significant effect ("LSE") on any such site, alone or in-combination with other plans and projects, an appropriate assessment ("AA") is carried out to determine whether or not the Project will have an adverse

[2] The Planning and Infrastructure Act 2025 (Commencement No. 3 and Transitional Provisions) Regulations 2026

[3] NPS EN-1 para 5.4.5

effect on the integrity ("AEoI'') of the site in view of that site's conservation objectives. In this document, the following assessments are collectively referred to as the HRA:

- Stage 1: Assessment of LSE,
- Stage 2: AA to determine whether there is an adverse effect on the integrity of a site

The Secretary of State has had regard to relevant guidance on the application of the HRA including that of the PINS (2024)[4], European Commission guidance[5], as well as joint guidance by Department for Environment, Food and Rural Affairs ("DEFRA"), Natural England ("NE"), the Welsh Government, and Natural Resources Wales (2021) on 'Habitats Regulations Assessment: protecting a European site'[6].

1.3 Site Conservation Objectives

Where an AA is required in respect of a protected site, regulation 63(1) of the Habitats Regulations requires that it be an AA of the implications of the plan or project for the site in view of its conservation objectives. Government guidance also recommends that in carrying out the LSE screening, Applicants must check if the proposal could have a significant effect on a European site that could affect its conservation objectives.

Defra Guidance indicates that disturbance to a species or deterioration of a protected site must be considered in relation to the integrity of that site and its conservation objectives[7]. It states that *"the integrity of a site is the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was designated"*.

Conservation objectives have been established by NE and/or the Joint Nature Conservation Committee ("JNCC"). When met, each site will contribute to the overall favourable conservation status of the species or habitat feature across its natural range. Conservation objectives outline the desired state for a protected site, in terms of the interest features for which it has been designated. If these interest features are being managed in a way which maintains their nature conservation value, they are assessed as being in a 'favourable condition'. An AEoI is likely to be one which prevents the site from making the same contribution to favourable conservation status for the relevant feature as it did at the time of its designation. There are no set thresholds at which impacts on site integrity are considered adverse. This is a matter for interpretation on a site-by-site basis, depending on the designated feature and nature, scale, and significance of the impact.

NE has issued generic conservation objectives, which should be applied to each interest feature of the site. Supplementary advice on conservation objectives ("SACOs") for each site underpins these generic objectives to provide site-specific information and give greater clarity to what might

[4] https://www.gov.uk/guidance/nationally-significant-infrastructure-projects-advice-on-habitats-regulations-assessments

[5] European Commission (2019). Managing Natura 2000 sites. The provision of the Article 6 of the 'Habitats' Directive 92/43/ECC. 70pp + appendices.

[6] https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site

[7] https://www.gov.uk/guidance/appropriate-assessment

constitute an adverse effect on a site interest feature. SACOs are subject to availability and are currently being updated on a rolling basis.

Where supplementary advice is not yet available for a site, NE advises that HRAs should use the generic objectives[8] and apply them to the site-specific situation. For SPAs, the overarching objective is to avoid the deterioration of the habitats of qualifying features, and the significant disturbance of the qualifying features, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving the aims of the Habitats Regulations. This is achieved by, subject to natural change, maintaining and restoring:

- The extent and distribution of the habitats of the qualifying features;
- The structure and function of the habitats of the qualifying features;
- The supporting processes on which the habitats of the qualifying features rely;
- The populations of the qualifying features; and
- The distribution of the qualifying features within the site.

For SACs, the overarching objective is to avoid the deterioration of the qualifying natural habitats and the habitats of qualifying species, and the significant disturbance of those qualifying species, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving favourable conservation status of each of the qualifying features. This is achieved by, subject to natural change, maintaining and restoring:

- The extent and distribution of the qualifying natural habitats and habitats of qualifying species;
- The structure and function (including typical species) of qualifying natural habitats;
- The structure and function of the habitats of qualifying species;
- The supporting processes on which qualifying natural habitats and habitats of qualifying species rely;
- The populations of qualifying species; and
- The distribution of qualifying species within the site.

The conservation objectives and, where available, SACOs have been used by the Secretary of State to consider whether the Project has the potential to have an AEoI of sites, either alone or in-combination with other plans or projects. The potential for the Project to have an adverse effect on site integrity is considered for each site in turn. The conservation objectives for the European sites and features for which a LSE was identified by the Applicant are set out in their Report to Inform Habitats Regulations Assessment ("RIHRA") [REP7-119].

The SACOs relevant to this HRA Report, as published by NE and the JNCC, are referenced in Table 1 of this HRA Report, and in relation to each relevant site in the AA (Section 4).

[8] Natural England Standard: Conservation Objectives for European Sites in England - NESTND031

1.4 The Report on the Implications for European Sites ("RIES") and Statutory Consultation

Under Regulation 63(3) of the Habitats Regulations the competent authority must, for the purposes of an AA, consult the appropriate Statutory Nature Conservation Body ("SNCB") and have regard to any representation made by that body within such reasonable time as the authority specifies.

NE is the SNCB for England and for English waters within the 12 nm limit. The JNCC is the SNCB beyond 12 nm, but this duty has been delegated to NE following the 2013 Triennial Review of both organisations[9,10]. However, JNCC retains responsibility as the statutory advisor for protected sites that are located outside the territorial sea and UK internal waters (i.e. more than 12 nautical miles offshore) and as such continues to provide advice to NE on the significance of any potential effects on interest features of such sites.

The ExA, with support from the Planning Inspectorate's Environmental Services Team, produced a Report on the Implications for European Sites ("the RIES") [PD-022]. The purpose of the RIES was to compile, document and signpost HRA relevant information submitted by the Applicant and Interested Parties ("IPs") during the Examination (up until Deadline ("DL") 5, 10 March 2026). It was issued to ensure that IPs, including NE as the appropriate SNCB in respect of the Application for the Project, had been formally consulted on Habitats Regulations matters during the Examination.

The RIES was published on the PINS Nationally Significant Infrastructure Project web pages and the ExA notified IPs that it had been published. Consultation on the RIES was undertaken between 18 March 2026 and 13 April 2026, with comments received at DL6 from the Applicant [REP6-115], NE [REP6-251) and the JNCC [REP6-239]. A number of Examination submissions at DL7 included HRA-relevant information, some of which NE or the Applicant did not have a chance to respond to as the Examination had ended (e.g. NE concerns in relation to contamination containment from the hoverport surface, and in relation to the scale of intertidal works in Pegwell Bay).

For the avoidance of doubt, the Secretary of State considers all representations made by all IPs on HRA matters throughout the entirety of the Examination and post-Examination process. She does not rely solely on consultation on the RIES to inform her conclusions on matters relevant to the HRA, but does consider that the RIES can formally support her duties to consult on AAs. The Secretary of State considers that the further round of information requests which she has issued since the close of Examination, including consulting with NE as the SNCB, in addition to the extensive consultation undertaken during Examination have adequately fulfilled her duties to consult on the AA under Regulation 63(3) of the Habitats Regulations.

[9] https://www.gov.uk/government/publications/triennial-review-of-the-environment-agency-ea-and-natural-england-ne

[10] https://www.gov.uk/government/publications/triennial-review-of-the-joint-nature-conservation-committee-jncc

1.5 Documents Referred to in this HRA Report

This HRA Report has taken account of, and should be read in conjunction with, the documents produced as part of the Application and Examination, together with the responses to the Secretary of State's request for comment and further information which are available on the PINS Nationally Significant Infrastructure Project web pages[11]. These include, but not limited to:

- The ExA's Recommendation Report
- The Report on the Implications for European Sites ("RIES") [PD-022]
- Applicant's Report to Inform Habitats Regulations Assessment ("RIHRA") [REP7-119]
- Applicant's outline Offshore Construction Environmental Management Plan ("oOCEMP") [REP7-127, C3-008]
- Applicant's outline Onshore Construction Environmental Management Plan ("oCEMP") [REP7-129, C3-010]
- Applicant's Suffolk Drainage Strategy [REP7-148, C1-211]
- Applicant's Outline Cable Specification and Installation Plan ("oCSIP") [REP7-159, C3-016]
- Applicant's outline Marine Mammal Management Plan ("oMMMP") [REP7-125]
- Applicant's 6.2.4.1 (H) Environmental Statement Part 4 Marine Chapter 1 Physical Environment [REP7-097]
- Applicant's 6.2.4.2 (G) Environmental Statement Part 4 Marine Chapter 2 Benthic Ecology [REP7-099]
- Applicant's Register of Environmental Commitments ("REAC") [REP7-359, C3-014]
- Applicant's Red Throated Diver Protocol [REP7-142, C1-206]
- NE's Risks and Issues Log [REP7-364], and updates following close of Examination [C1-147, C2-027 and other representations]
- NE's Comments on the deadline 6 submissions and any other information requested by the ExA for deadline 7 - Appendix K7 - Natural England's Response to the Rule 17 letter [REP7-277]
- RSPB's Final Submission and Summary of Position [REP7-209]
- The Statement of Common Ground with RSPB [REP7-054]
- Kent Wildlife Trust's Comments on the deadline 6 submissions and any other information requested by the ExA for deadline 7 [REP7-265]

Plus, other information submitted during the Examination, during the Secretary of State's consideration of the Application and her consultation[12]. References to other submissions during the Examination and consultation are made throughout the report.

[11] For a list of document references and related links to these documents, see the examination library here: https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN020026-000502-Sea%20Link%20Examination%20Library%20PDF.pdf

[12] Post-examination submissions and their document references and links may be found here: https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN020026-004000-Sea%20Link%20-%20Post%20examination%20consultation%20submissions%20Decision%20stage.pdf

2 Project description

A detailed description of the Project is presented in the Environmental Statement ("ES") Chapter 4 (Project Description) [REP7-089] and each Work No. can be found in Schedule 1 to the Development Consent Order ("DCO"). The Project comprises the following components:

The Suffolk Onshore Scheme

- A connection from the existing transmission network via Kiln Lane Substation[13], including the substation itself. Friston Substation already has development consent as part of other third-party projects. If Friston Substation has already been constructed under another consent, only a connection into the substation would be constructed as part of the Proposed Project[14].
- A High Voltage Alternating Current ("HVAC") underground cable ~1.9km in length between Friston Substation and a proposed 2GW converter station near Saxmundham (including permanent access from the B1121 and a new bridge over the River Fromus).
- A ~10km HVDC underground cable between the proposed converter station, and a transition joint bay ("TJB") approximately 900m inshore from a landfall point on the Suffolk coast between Aldeburgh and Thorpeness.

The Kent Onshore Scheme

- A landfall point on the Kent coast at Pegwell Bay.
- A TJB approximately 800m inshore if the landfall and a ~1.7km onshore underground HVDC cable connected to a new converter station.
- A 2GW HVDC converter station (including a new permanent access off the A256) near Minster. A new substation would be located immediately adjacent.
- Removal of approximately 2.2km of existing HVAC overhead line and installation of two sections of new HVAC overhead line, together totalling approximately 3.5 km, each connecting from the substation near Minster and the existing Richborough to Canterbury overhead line.

Offshore Scheme

- The proposed bundled marine HVDC cables (two HVDC cables and one fibre optic cable) would be routed from the TJB at the Suffolk landfall located at Aldeburgh and the TJB at the Kent landfall located within Pegwell Bay to the south of the settlement of Cliffsend, with a total length of 122km.

[13] The Applicant uses the "Friston Substation" as a geographic name to identify its location, but this is not intended to establish a permanent name for the site.

[14] Friston Substation is also part of the development consent granted to Scottish Power Renewables (SPR) in relation to 'The East Anglia ONE North (EA1N) Offshore Wind Farm Order 2022' and 'The East Anglia TWO (EA2) Offshore Wind Farm Order 2022'.

- The connection between the intertidal area in Pegwell Bay and the TJB at the Kent landfall would be made by a trenchless crossing method, avoiding interaction with the saltmarsh and emerging in the intertidal area in Pegwell Bay. At the Suffolk landfall, the trenchless crossing exit would be in the subtidal area. The proposed trenchless crossing methods are Horizontal Directional Drilling ("HDD"), or "DirectPipe". The Applicant considered HDD to represent the reasonable worst case installation method [REP7-089] such that it forms the basis for its assessment.
- Noting the change request below (Section 2.2), access to the intertidal area to the HDD exit pit by machinery will be via the former hoverport in Pegwell Bay.

The Applicant has sought some flexibility in submitting a final design, and as such adopted a Project Design Envelope in accordance with PINS Advice[15] (Rochdale Envelope) to take a worst-case scenario approach in presenting and assessing effects, as set out in the Environmental Impact Assessment Methodology [APP-046]. The Secretary of State's Habitats Regulations Assessment ("HRA") is based upon the maximum extent or worst-case potential impact of the Project for each parameter and assumes that the Friston Substation is constructed as part of this Project, and not as part of the orders made in relation to East Anglia One North, or East Anglia Two offshore wind farms.

2.1 Project Location

The Project is located within Suffolk County Council ("SCC"), East Suffolk Council ("ESC"), Kent County Council ("KCC"), Thanet District Council ("TDC") and Dover District Council ("DDC") administrative areas and is wholly in England. The offshore scheme is located wholly within English Territorial Waters (Figure 1, [CR1-002]).

[15] Note that Advice None 7 on preliminary environmental information and environmental statements, and Advice Note 9 on the Rochdale Envelope were replaced in July 2026 by, Pre-application advice on Environmental Impact Assessment: https://www.gov.uk/guidance/nationally-significant-infrastructure-projects-pre-application-advice-on-environmental-impact-assessment



Figure 1: The Project area

2.2 Changes to the Application During Examination

The Applicant submitted a formal change request on 26 November 2025 [CR1-001 to CR1-070].

The change request related to onshore aspects of the Project. The changes included:

- Change 1: removal of proposed gravity base structure foundations.
- Change 2: removal of the proposed electrical switching platform from the design envelope.
- Change 3: reduction of the number of proposed platforms in the design envelope, plus associated scour protection.
- Change 4: reduction of proposed cabling within the array areas, plus associated seabed preparation and cable protection.
- Change 5: removal of the proposed short trenchless crossing option at landfall.

Change request 2 related to the onshore aspects of the Project, specifically within the onshore substation zone ("OSZ"). The change reduced the footprint of the proposed onshore convertor station(s) within the OSZ and resulted in the following changes:

- Change 1: change to access at the former Hoverport, Pegwell Bay, Kent.
- Change 2: change to limits of deviation for Friston (Kiln Lane) Substation, Suffolk.
- Change 3: change to the order limits east of Friston to provide flexibility in relation to heritage feature, Suffolk.
- Change 4: change to the order limits to include any works required to Benhall Railway Bridge, Suffolk.
- Change 5: increase in area for maintenance of a new hedge to south of B1119.

The ExA agreed with the Applicant that none of the proposed changes were so substantial that it constituted a materially different project from what which was applied for [PD-015]. The proposed changes were not considered, individually or cumulatively, to lead to the Project being different in nature or substance to that which was originally applied for. Additionally, parties that may have been affected by the proposed changes were given an appropriate opportunity to engage and sufficient time remained in the Examination to allow for their full and proper consideration.

The ExA therefore issued a Procedural Decision ("PD") [PD-015] to accept the changes into the Examination.

3 Stage 1: Screening for Likely Significant Effects

Under regulation 63 of the Habitats Regulations, the Secretary of State must consider whether a project will have an LSE on a protected site, either alone or in-combination with other plans or projects.

The purpose of this section is to identify any LSEs on protected sites that may result from the Project and to record the Secretary of State's conclusions on the need for an AA.

Section 3 of the RIHRA Screening [REP7-119] set out the process undertaken by the Applicant to identify the protected sites and features to be included in the screening assessment. The Applicant indicated that their approach was primarily guided by a source-pathway-receptor model, combining receptor-specific impact pathways, associated zones of influence ("ZoI") and professional judgement. A number of criteria were adopted to identify relevant sites:

1. For benthic ecological (including habitats) and fish and shellfish receptors, the maximum ZoI is from sediment dispersion.
2. For marine mammals, sites have been considered based on species-specific Management Units ("MU"), in addition to a species' ecology to reflect the wide-ranging nature of this taxon.
3. For ornithological receptors, species-specific ecology was considered to reflect the high mobility and wide-ranging nature of these species.

3.1 Screening results

Protected sites and qualifying features for consideration in the assessment were identified based on the following groups Section 6 of the Applicant's RIHRA [REP7-119]:

- Annex I offshore habitats – 4 protected sites
- Annex II marine mammals – 4 protected sites
- Ornithological features – 6 protected sites

The Protected sites and qualifying features for which an LSE impact pathway was identified by the Applicant were summarised in Section 6 of the RIHRA [REP7-119]. The Applicant's screening for LSE took account of the ruling of the European Court of Justice (ECJ) in People Over Wind, Peter Sweetman v Coillte Teoranta (C-323/17) (the "Sweetman Judgement")[16], as indicated in section 2.2 of the RIHRA [REP7-119].

During Examination, NE initially advised that all relevant Protected sites had been screened in by the Applicant [REP4-196], however, at DL5 [REP5-215] advised that Alde, Ore & Butley Estuaries SAC should be assessed in the HRA, noting that there was potential for effects on water quality from a proposed permanent outfall serving the Saxmundham converter station,

[16] ECJ case reference C-323/17, available: http://curia.europa.eu/juris/document/document.jsf?docid=200970&doclang=EN

which would be located on a tributary of the River Fromus that feeds the SAC approximately 6km downstream. The JNCC [RR-2635] did not identify any additional protected sites within its remit for inclusion in the assessment. Following inclusion of the Alde, Ore and Butley Estuaries SAC for the source of LSE identified by NE at DL5, the ExA was satisfied that the Applicant's final RIHRA [REP7-119] identified all LSEs that could result from the Project alone or in-combination with other plans or projects, subject to the inclusion of the following additional LSE pathway, on a precautionary basis:

- potential for indirect effects through impacts to prey species during operation: Thanet Coast and Sandwich Bay SPA and Ramsar.

Additionally, the ExA did not agree with the Applicant's conclusions of no LSE from the following impact pathways to the protected sites listed and also considered these on a precautionary basis for AEoI:

- pollution (terrestrial – changes in water quality) – all qualifying features of the Alde, Ore and Butley Estuaries SAC and the Alde-Ore Estuary SPA and Ramsar site;
- pollution (terrestrial – changes in water quality) – from the use of the hoverport at the Kent landfall – all qualifying features of the Sandwich Bay SAC, the Thanet Coast SAC and the Thanet Coast and Sandwich Bay SPA and Ramsar site; and
- pollution (terrestrial – changes in water quality) – discharge from the Minster converter station and substation outfalls – all qualifying features of the Thanet Coast and Sandwich Bay SPA and Ramsar site.

The Secretary of State agrees with the ExA, and has therefore considered the potential for AEoI for the above sites and impact pathways in Section 4 of this HRA. Table 1 lists the sites for which likely significant effects cannot be excluded, either alone or in-combination with other plans or projects, alongside the relevant site features and impact pathways. These sites are also shown in Figure 2 to Figure 6 to of this HRA report. The Secretary of State is satisfied to adopt the rationale and conclusions of the ExA for those sites and features screened out of the LSE assessment [PD-022].

The Secretary of State has considered the potential effects of the Project on all interest features of the protected sites listed in Table 1, taking into account their conservation objectives, to determine whether there will be likely significant effects in the context of the Habitats Regulations. The Secretary of State considers that sufficient information has been provided to inform a robust assessment in line with her duties. In reaching her conclusion, the Secretary of State took no account of measures intended to mitigate effects on any protected site at the screening stage.

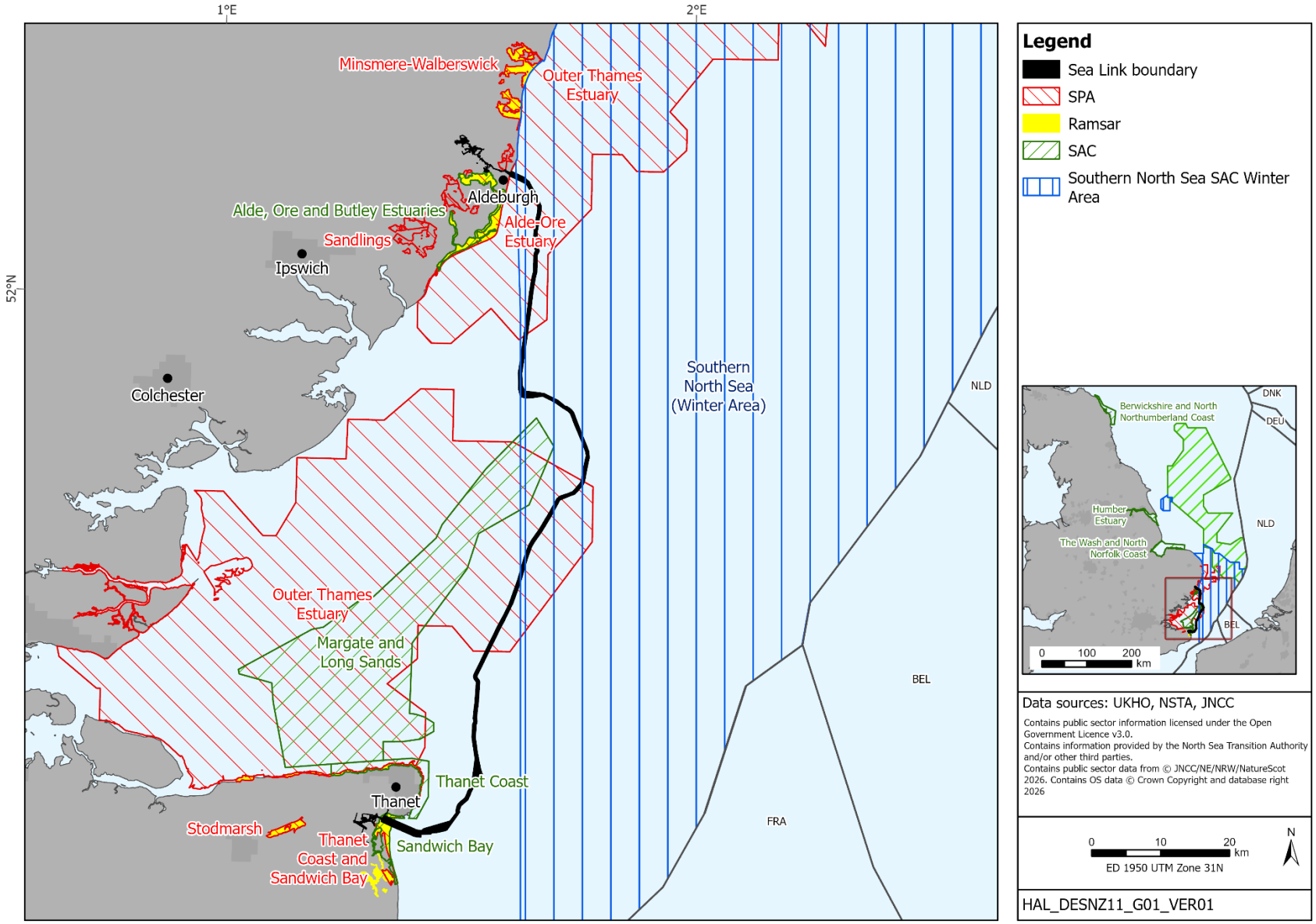


Figure 2: Relevant sites in relation to the Project Order limits

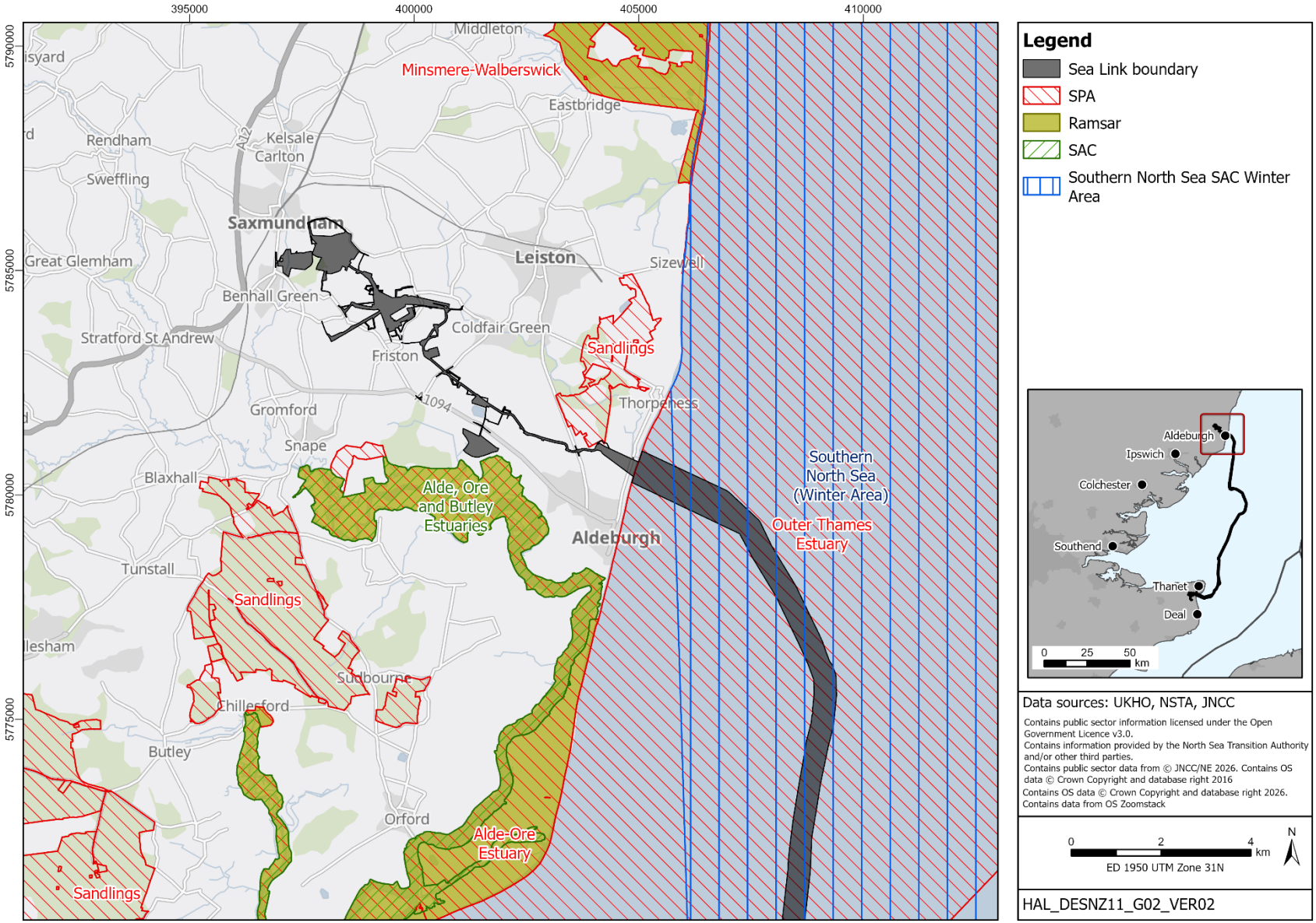


Figure 3: Relevant sites at the Suffolk landfall

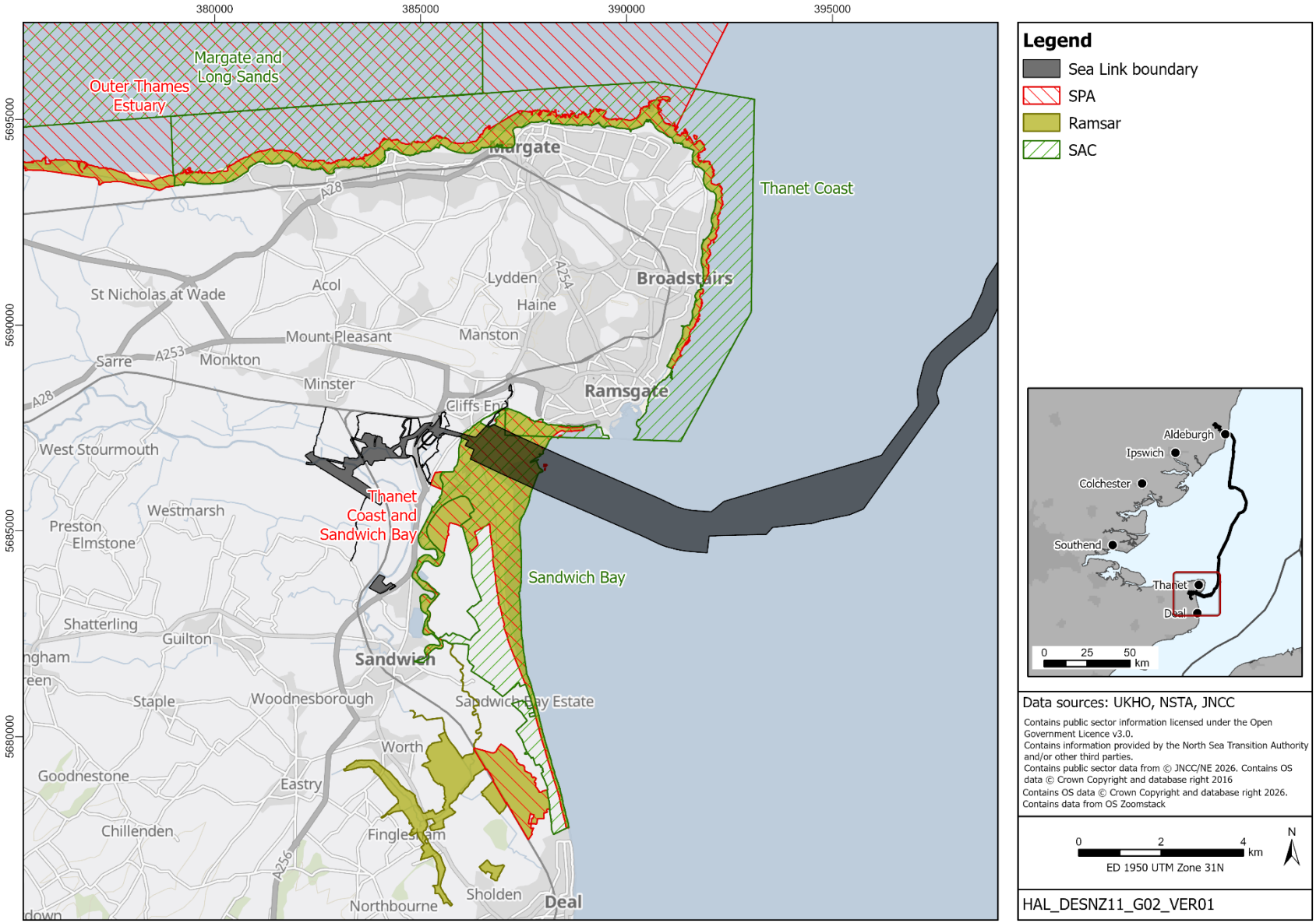


Figure 4: Relevant sites at the Kent landfall

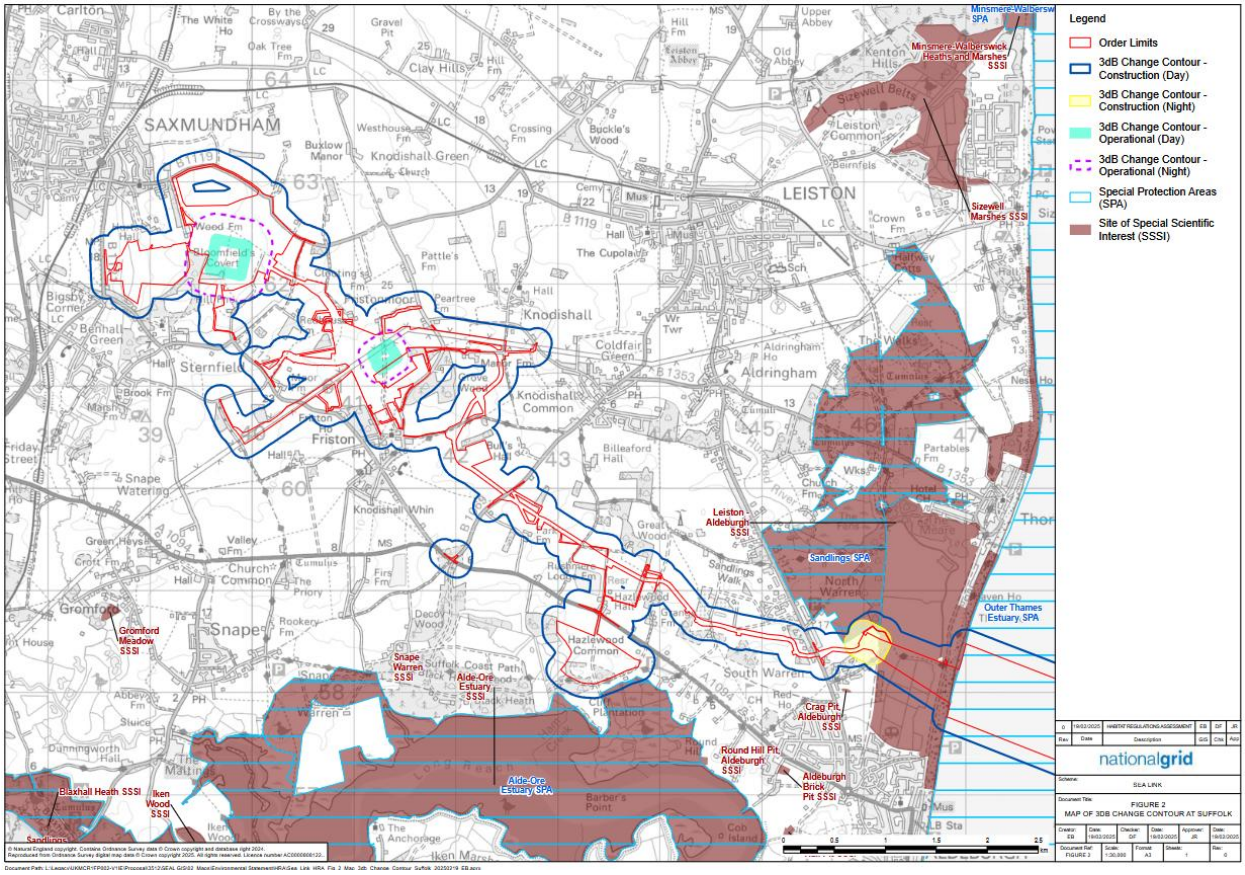


Figure 5: Relevant sites and SSSIs at the Suffolk landfall with reference to noise change contours

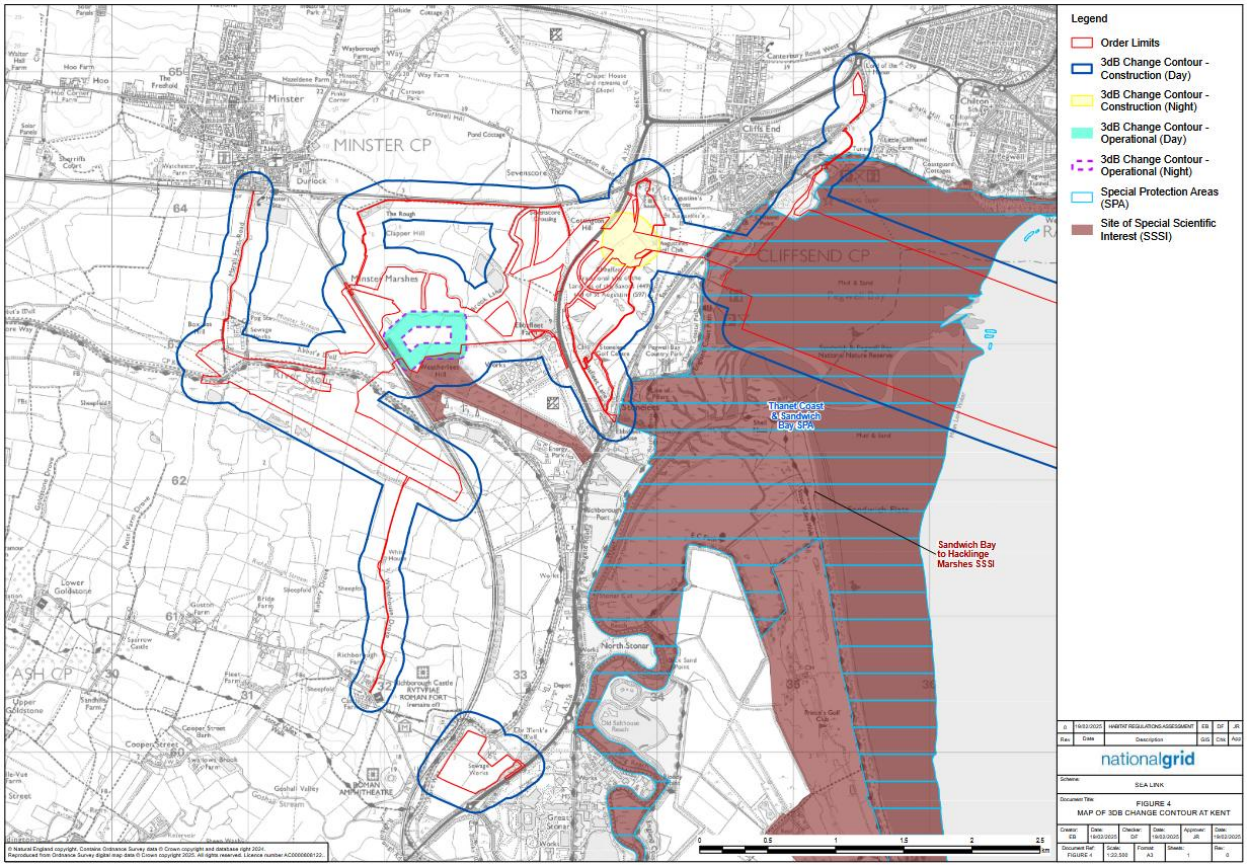


Figure 6: Relevant sites and SSSIs at the Kent landfall with reference to noise change contours

Table 1: Summary of relevant sites for which likely significant effects cannot be excluded

Protected Site	Distance from the Project (km)	Qualifying feature	Impact Pathway and Project Phase (C,O,D) C = construction; O = operations and maintenance; D = decommissioning
Annex I habitats			
Alde, Ore and Butley Estuaries SAC[17]	6	Atlantic salt meadows (Glauco-*Puccinellietalia maritimae*)	Pollution (terrestrial - changes in water quality) (C, O, D)
		Estuaries	
		Mudflats and sandflats not covered by seawater at low tide	
Margate and Long Sands SAC[18]	3	Sandbanks which are slightly covered by sea water all the time	Temporary increase in SSC and sediment deposition leading to increased turbidity and smothering effects (C, D)
Sandwich Bay SAC[19]	0	Embryonic shifting dunes	Changes to marine water quality during cable installation and cable lay from the use of drilling fluids (C) Introduction and spread of INNS via the addition of cable protection (O) Pollution (terrestrial - changes in water quality) (C, O, D) Pollution (terrestrial - changes in water quality) – from the use of the hoverport (C)
		Shifting dunes along the shoreline with (*Ammophila arenaria*) ("white dunes")	
		Fixed dunes with herbaceous vegetation ("grey dunes")	
		Dunes with *Salix repens* ssp. *argentea* (*Salicion arenariae*)	
		Humid dune slacks	

[17] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0030076
[18] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0030371
[19] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0013077

Protected Site	Distance from the Project (km)	Qualifying feature	Impact Pathway and Project Phase (C,O,D) C = construction; O = operations and maintenance; D = decommissioning
Thanet Coast SAC[20]	0	Reefs	Temporary increase in SSC and sediment deposition leading to increased turbidity and smothering effects (C, D) Changes to marine water quality during cable installation and cable lay from the use of drilling fluids (C) Introduction and spread of INNS via the addition of cable protection (O) Pollution (terrestrial - changes in water quality) – from the use of the hoverport (C)
		Submerged or partially submerged sea caves	Changes to marine water quality during cable installation and cable lay from the use of drilling fluids (C) Introduction and spread of INNS via the addition of cable protection (O) Pollution (terrestrial - changes in water quality) – from the use of the hoverport (C)
Annex II marine mammals			
Berwickshire & North Northumberland Coast SAC[21]	412	Grey seal	Underwater sound impacts (C, D) Vessel collision risk (C, D) Airborne sounds and visual disturbance (C, D)
Humber Estuary SAC[22]	160		
The Wash and North Norfolk Coast SAC[23]	110	Harbour seal	
Southern North Sea SAC[24]	0	Harbour porpoise	Underwater sound impacts (C, D) Vessel collision risk (C, D) Effects of EMF emissions (O)

[20] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0013107
[21] https://designatedsites.naturalengland.org.uk/ConservationAdvice/SupplementaryAdvice.aspx?SiteCode=UK0017072
[22] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0030170
[23] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0017075
[24] https://jncc.gov.uk/our-work/southern-north-sea-mpa/

Protected Site	Distance from the Project (km)	Qualifying feature	Impact Pathway and Project Phase (C,O,D) C = construction; O = operations and maintenance; D = decommissioning
Offshore and intertidal ornithology			
Alde-Ore Estuary SPA[25] and Ramsar	1.1	Ruff (*Philomachus pugnax*) – non-breeding	Pollution (terrestrial - changes in water quality) (C, O, D)
		Avocet (*Recurvirostra avosetta*) – non-breeding	
		Redshank (*Tringa totanus*) – non-breeding	
		Marsh harrier (*Circus aeruginosus*) – breeding	Disturbance (noise and visual) from onshore works (C, O, D) Pollution (terrestrial - changes in water quality) (C, O, D)
		Lesser black-backed gull (*Larus fuscus*) – breeding	Airborne sounds and visual disturbance from offshore works (C, D) Indirect effects through impacts to prey species (C, D) Pollution (terrestrial - changes in water quality) (C, O, D)
		Sandwich tern (*Sterna sandvicensis*) – breeding	Airborne sounds and visual disturbance from offshore works (C, D) Indirect effects through impacts to prey species (C, D) Pollution (terrestrial - changes in water quality) (C, O, D)
		Little tern (*Sterna albifrons*) – breeding	Airborne sounds and visual disturbance from offshore works (C, D) Indirect effects through impacts to prey species (C, D) Pollution (terrestrial - changes in water quality) (C, O, D)
		Curlew (*Numenius arquata*) – non-breeding	Disturbance (noise and visual) from onshore works (C, O, D) on Functionally Linked Land ("FLL") Pollution (terrestrial - changes in water quality) (C, O, D)
Minsmere-Walberswick SPA[26] and Ramsar	1.7	Gadwall (*Anas strepera*) – breeding and non-breeding	Disturbance (noise and visual) from onshore works (C, D) at FLL
		Northern shoveler (*Anas clypeata*) – breeding and non-breeding	Disturbance (noise and visual) from onshore works (C, D) at FLL

[25] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009112
[26] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009101

Protected Site	**Distance from the Project (km)**	**Qualifying feature**	**Impact Pathway and Project Phase (C,O,D)** C = construction; O = operations and maintenance; D = decommissioning
		Eurasian marsh harrier (*Circus aeruginosus*) – breeding	Disturbance (noise and visual) from onshore works (C, D) at FLL
		Hen harrier (*Circus cyaneus*) – non-breeding	Disturbance (noise and visual) from onshore works (C, D) at FLL
		Little tern (*Sterna albifrons*) – breeding	Airborne sounds and visual disturbance from offshore works (C, D) Indirect effects through impacts to prey species (C, D)
		Greater white-fronted goose (*Anser albifrons albifrons*) – non-breeding	Disturbance (noise and visual) from onshore works (C, D) at FLL
Sandlings SPA[27]	0.2	Nightjar (*Caprimulgus europaeus*) – breeding Woodlark (*Lullula arborea*) – breeding	Air quality (dust only) (C, D) Loss of FLL (C, D) Disturbance (noise and visual) from onshore works (C, D)
Stodmarsh SPA[28] and Ramsar	6.9	Great bittern (*Botaurus stellaris*) – non-breeding Gadwall (*Anas Strepera*) – breeding and non-breeding Northern shoveler (*Anas clypeata*) – non-breeding Hen harrier (*Circus cyaneus*) – non-breeding Waterbird assemblage Breeding bird assemblage	Collision risk (O)

[27] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9020286
[28] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9012121

Protected Site	**Distance from the Project (km)**	**Qualifying feature**	**Impact Pathway and Project Phase (C,O,D)** C = construction; O = operations and maintenance; D = decommissioning
Thanet Coast and Sandwich Bay SPA[29] and Ramsar	0	European golden plover (*Pluvialis apricaria*) – non-breeding) Ruddy turnstone (*Arenaria interpres*) – non-breeding Little tern (*Sterna albifrons*) – breeding	Changes to marine water quality during cable installation and cable lay from the use of drilling fluids (C) Airborne sounds and visual disturbance from offshore works (C, D) Indirect effects through impacts to prey species (C, O, D) Direct habitat loss (C) Disturbance (noise) from onshore works (C, D) Pollution (terrestrial - changes in water quality) (C) Collision risk (O)
Outer Thames Estuary SPA[30]	0	Common tern (*Sterna hirundo*) – breeding Little tern (*Sternula albifrons*) – breeding Red-throated diver (*Gavia stellata*) – non-breeding	Airborne sounds and visual disturbance from offshore works (C, O, D) Indirect effects through impacts to prey species (C, D)

[29] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9012071
[30] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9020309

3.2 Likely Significant Effects Alone Assessment

The Secretary of State agrees with the recommendations of the ExA and concludes that likely significant effects cannot be excluded for the protected sites listed in Table 1, when the Project is considered alone. These sites are taken forward to the AA to consider whether the Project will result in an adverse effect upon the integrity of these sites.

3.3 Likely Significant Effects In-Combination Assessment

Under the Habitats Regulations, the Secretary of State is obliged to consider whether other plans or projects in-combination with the Project might affect protected sites. The Applicant identified relevant other plans and programmes in Section 5.3 of their RIHRA [REP7-119], with the approach to the identification of relevant projects set out in their Environmental Statement ("ES") [APP-091]. The Applicant indicated that a long list of projects were determined using three tiers, as set out in the Planning Inspectorate's Advice on Cumulative Effects Assessment[31].

The other projects identified by the Applicant are:

Suffolk Onshore Scheme

- LionLink Interconnector
- East Anglia ONE North Offshore Wind Farm
- East Anglia TWO Offshore Wind Farm
- Saxmundham to Peasenhall Water Mains Installation and Saxmundham South Garden Neighbourhood
- Town Farm Solar Farm and UKZ139 BC Wissett Solar Farm

Kent Onshore Scheme

- Manston Airport
- Residential Development, Canterbury Road, Ramsgate, Kent
- Land On the North East Side of Nash Road
- Land North and East of Canterbury Road
- Land South of Westgate and Garlinge
- Land on South Side of Manston Court Road and West Side of Haine Road
- Land on the North West and South East Sides of Shottendane Road
- Spitfire Green
- Stonelees Golf Course Expansion
- Richborough Energy Park

[31] https://www.gov.uk/guidance/nationally-significant-infrastructure-projects-advice-on-cumulative-effects-assessment

- Goshall Valley Solar Farm

Offshore Scheme

- Sizewell C Nuclear Power Station
- NeuConnect Interconnector
- GridLink Interconnector
- North Falls Offshore Windfarm
- East Anglia ONE North Offshore Windfarm
- East Anglia TWO Offshore Windfarm
- East Anglia THREE Offshore Windfarm
- Nautilus Offshore Interconnector
- Five Estuaries Offshore Windfarm
- LionLink Offshore Interconnector
- NEMO Link
- Norfolk Vanguard East Offshore Windfarm
- Norfolk Vanguard West Offshore Windfarm
- Thanet Offshore Windfarm
- London Array Offshore Windfarm

The Secretary of State notes the representations of IPs including KWT and CPRE Kent in relation to the Aberdeenshire to Richborough and Kulizumboo interconnector projects, however, she agrees with the Applicant and the ExA that these are “tier 3” projects and are at too early a stage of development to be considered in-combination with the Project. No evidence was put forward by IPs to suggest that any in-combination LSEs were missing from the Applicant’s assessment.

The ExA considered that the Applicant’s approach to the identification of other relevant plans and projects was appropriate, but noted that KWT [REP6-240] raised concerns that the Applicant had not identified any in-combination LSE where LSE had been excluded for the project alone. The ExA noted that NE did not raise any concerns, and that KWT did not provide any specific examples of its concerns. The Secretary of State agrees with the ExA, and concludes that likely significant effects cannot be excluded for the sites listed in Table 1 when the impacts of the Project are also considered in-combination with other plans or projects.

The relevant sites listed in Table 1 are taken forward to the AA to consider whether the Project in-combination with other plans or projects will result in an adverse effect upon the integrity of these sites.

4 Stage 2: Appropriate Assessment

The requirement to undertake an AA is triggered when a competent authority, in this case the Secretary of State, determines that a plan or project is likely to have a significant effect on a protected site either alone or in-combination with other plans or projects. Joint guidance issued by Defra, the Welsh Government, NE and Natural Resources Wales on Habitats regulations assessments[6], states that an AA should assess the likely significant effects of a proposal on the integrity of the site and its conservation objectives, either individually or in-combination with other plans and projects, and consider ways to avoid or reduce (mitigate) any potential for an 'adverse effect on the integrity of the site'. The focus is therefore specifically on the species and/or habitats for which the protected site is designated[32].

In line with the requirements of Regulation 63 of the Habitats Regulations:

In considering whether a plan or project will adversely affect the integrity of the site, the competent authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given.

The purpose of this AA is to determine whether an AEoI of the features of the sites identified (Table 1) can be ruled out as a result of the Project alone or in-combination with other plans or projects in view of the site's conservation objectives and using the best scientific evidence available.

In accordance with the precautionary principle embedded in the integrity test and established through case law, the Secretary of State as the competent authority (subject to regulation 64 of the Habitats Regulations) may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the protected site, and this must be demonstrated beyond reasonable scientific doubt[33]. If the Secretary of State cannot exclude AEoI of the affected protected sites, then she can only agree to a plan or project if it complies with the requirements of regulation 64 of the Habitats Regulations. These regulations provide that the Secretary of State may agree to the plan or project only if satisfied that there are no alternative solutions, and that the plan or project must be carried out for imperative reasons of overriding public interest . In addition, regulation 68 of the Habitats Regulations requires compensatory measures to be secured which maintain the overall coherence of the national site network.

The Secretary of State has undertaken an objective scientific assessment of the implications of the Project on the qualifying features of the protected sites identified in the screening assessment, using the best scientific evidence available. The assessment considers the site's conservation objectives, links which are provided in Table 1, and which are set out in Section 4 for each relevant site.

[32] https://www.gov.uk/guidance/appropriate-assessment#what-must-an-appropriate-assessment-contain

[33] CJEU Case C-127/02 Waddenzee 7 September 2004, Reference for a preliminary ruling from the Raad van State (Netherlands) in the proceedings: Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij.

4.1 Approaches to Assessment

The Secretary of State has considered all of the information before her to come to conclusions on the potential for the Project to affect site integrity alone, and in-combination with other plans or projects. The following matters are applicable to a number of sites and are discussed here to avoid repetition.

Baseline survey

East Suffolk Council ("ESC") [RR-1420] highlighted a generic concern about bird survey coverage, noting these would have implications for both the HRA and the ES. The Applicant [REP1A-043] considered it had good coverage of the site and a good knowledge of the ornithological interest of the area and ESC [REP5-184] subsequently reported this matter as closed, stating it did not consider that further surveys would change the assessment outcome. The Sandwich Bay Bird Observatory Trust ("SBBOT") [REP1-242] suggested that the Applicant had not used all of their available data, however, the Applicant considered they had [REP2-034], and when asked by the ExA [PD-021] what additional bird survey data it considered the applicant should take into account, no response was received from SBBOT.

Suffolk Energy Action Solutions ("SEAS") [RR-5210], [REP2-115, REP4-154] noted that marsh harriers can forage up to 15km from their nests, placing the Project and functionally linked land ("FLL") within potential foraging distance of Alde-Ore Estuary SPA and the Minsmere-Walberswick SPA. SEAS acknowledged that marsh harriers had been recorded during breeding bird surveys but noted that the species is not mentioned in the Suffolk section of the RIHRA [REP7-119] and considered the baseline survey data for the Suffolk onshore scheme to be deficient and queried why vantage point surveys were not undertaken. The Applicant [REP1A-043, REP2-014] explained that marsh harrier were only recorded feeding in the North Warren RSPB reserve (which was considered to be functionally linked to the Alde-Ore Estuary SPA and the Minsmere-Walberswick SPA) and that this would be crossed by trenchless methods, and that there was a large amount of farmland within 15km of the reserve (see Section 4.11).

SEAS also considered that surveys should have been undertaken to determine foraging areas for nightjar in relation to the Sandlings SPA. The Applicant [REP2-014] noted that NE did not identify this as a requirement, and were content for them to use NE's guidance on FLL[34]. See Section 4.11 for a consideration of functionally linked land with reference to Sandlings SPA.

The ExA considered representations regarding bird survey coverage, the Applicant's ES and bird survey appendices, and was satisfied that the applicant's surveys are consistent with relevant standards and guidance. The Secretary of State has considered the various representations in relation to the adequacy and coverage of the surveys in relation to the relevant site features, related FLL, and the potential for interaction with sources of effect from the Project. The Secretary of State agrees with the ExA that the surveys undertaken are sufficient to inform the assessment.

Application of mitigation hierarchy

RSPB [REP1-158], KWT [REP1-152, REP6-240], and CPRE [REP1-148] all had concerns about the Applicant's approach to the selection of the preferred landfall site on the Kent coast, at

[34] The Applicant references Natural England (2019) guidance on Impact Risk Zones for Sites of Special Scientific Interest Notified for Birds. Version 1.1 in their RIHRA [REP7-119].

Pegwell Bay. They considered that the Applicant had not applied the mitigation hierarchy by seeking to avoid impacts on the conservation sites associated with Pegwell Bay through choosing an alternative landfall. The Applicant [REP7-192] considered that it had undertaken a robust and transparent options identification and selection process [APP-368], which had included two network connection points and six landfall areas of search and seven broad cable route corridors and two converter station sites, and that all their options involved interaction with a number of designated sites. The Applicant indicated that alternative landfalls on the north Kent coast had been discounted due to significant technical and environmental constraints on the marine approaches, or significant constraints on the onward terrestrial route corridor. The ExA considered that the Applicant has demonstrated systematic and logical appraisal of strategic alternatives, and that routeing and siting options were carried out in designing and refining the Project, and that adequate regard has been had to alternatives and that the legislative and policy requirements have been met. The Secretary of State has considered the position of the IPs, along with the approach taken by the Applicant and the recommendations of the ExA based on how these fit within the policy framework. The Secretary of State agrees with the ExA that while it would have been preferable to have avoided a landfall in Pegwell Bay, she accepts the Applicant's reasoning in selecting it and is satisfied that the mitigation hierarchy has been properly applied.

4.2 Alde, Ore and Butley Estuaries SAC

Alde, Ore and Butley Estuaries SAC is designated for the Annex I habitats, Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*), estuaries, and mudflats and sandflats not covered by seawater at low tide. The site is important due to its availability of habitat for the overlapping Alde-Ore Estuary SPA (see Section 4.9), including saltmarsh communities such as small cord grass (*Spartina maritima*), which is declining in extent, and the only record of extended sedge (*Carex extensa*) in Suffolk. The estuary is bar-built, meaning it is a partially drowned river valley with a sediment bar across the mouth, and is the only estuary with a shingle bar in the UK. Historically the River Alde entered the sea at Orford, since then the shingle bar has been pushing the mouth of the estuary steadily south-westwards.

The conservation objectives[35] are to ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate, and that the site contributes to achieving the Favourable Conservation Status of its qualifying features, by maintaining or restoring:

- the extent and distribution of qualifying natural habitats and habitats of the qualifying species
- the structure and function (including typical species) of qualifying natural habitats
- the structure and function of the habitats of the qualifying species
- the supporting processes on which qualifying natural habitats and the habitats of qualifying species rely

[35] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0030076

- the populations of each of the qualifying species
- the distribution of qualifying species within the site

Feature condition has not been assessed for mudflats and sandflats not covered by seawater at low tide, with the subtidal element of the estuaries feature judged to be in favourable condition, which makes up 36% of the overall feature, with the remaining area not assessed.

A LSE was identified for the site due to the potential for pollution from the operation of a permanent outfall associated with the Saxmundham Converter Station which discharges to a tributary of the River Fromus, which is approximately 6km upstream of the Alde, Ore & Butley Estuaries SAC. As noted in Section 3.2, while it was unresolved at the time of close of Examination as to whether the outfall would result in a LSE for the relevant features of the site, the ExA advised that LSE could not be excluded.

Pollution (terrestrial - changes in water quality)

The Applicant noted that the outfall will only carry surface water runoff, following attenuation (collection in a pond of all runoff from non-permeable areas), and it will not therefore be contaminated or contain pollutants. In their RIHRA, the Applicant referred to commitment W11 in the Register of Environmental Commitments ("REAC") [RE7-359], which is that, surface water drainage from permanent above ground infrastructure would be managed and treated using Sustainable Drainage Systems ("SuDS") which is secured in outline Onshore Construction Environmental Management Plan ("oCEMP") [REP7-129] and in DCO Schedule 3, Requirement 6. The Applicant indicated that the surface water will not be contaminated with pollutants, and that there a number of control measures outlined in the REAC (GG05, GG28, GH05, W09) that serve to mitigate against other sources of pollution which are not related to the surface water outfall. These commitments are similarly secured in the oCEMP and DCO Schedule 3.

NE [REP7-277] requested that there should be an appropriately worded commitment added to the REAC detailing the chemical and biological parameters that the discharged water will meet and how this will be monitored and managed throughout the lifetime of the Project. The ExA, however, was satisfied with the Applicant's proposed mitigation measures set out in the REAC and drainage strategy [REP7-148], and on the basis that clean surface water is to be discharged from the outfall, considered that there is no need for specific water quality monitoring. The Secretary of State has considered the commitments in the REAC and the descriptions provided of the SuDS in the drainage strategy [REP7-148]. This includes that discharge rates from the attenuation pools to the outfall would be limited to the "greenfield" run-off rate of the undeveloped site, and that the surface water drainage system would improve the quality of runoff from the scheme. The Secretary of State further notes REAC commitment W14 in relation to Drainage Management Plans, and the wording of DCO Schedule 3, Requirement 6, whereby, amongst others, relevant plans including a Drainage Management Plan – Suffolk, would need to be submitted to, and approved by, the relevant planning authority or other discharging authority. Additionally, this will need to be in consultation with NE in the case of the Drainage Management Plans.

The Secretary of State considers there to be sufficient controls in place to ensure that the outfall only carries surface water, that the surface water is subject to a SuDS designed in keeping with that set out in the Drainage Strategy, and that the subsequent Drainage Management Plan,

which must be in keeping with that Strategy, is secured in the DCO and would be subject to further consultation with NE post-consent. It is concluded that the surface water outfall associated with the Saxmundham Converter Station will not result in an AEoI for the Alde, Ore and Butley Estuaries SAC, alone or in-combination with other plans or projects.

4.3 Margate and Long Sands SAC

Margate and Long Sands SAC is located entirely in territorial waters and 3km from the Project, and is designated for the Annex I habitat, sandbanks which are slightly covered by sea water all the time. The site encompasses a large area (649km^2) extending from the north of the Thanet coast of Kent, proceeding in a north-easterly direction to the outer reaches of the Thames Estuary. The sandbanks are composed of well-sorted sandy sediments, with muddier and more gravelly sediments in the troughs between banks, with the upper crests of some of the larger banks drying out at low tide. The boundary of the site has been drawn to include the flanks of the banks and the intervening troughs, which are important for the structure and function of the sandbanks and support notable faunal communities.

The conservation objectives[36] are to ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate, and that the site contributes to achieving the Favourable Conservation Status of its qualifying features, by maintaining or restoring:

- the extent and distribution of qualifying natural habitats and habitats of the qualifying species
- the structure and function (including typical species) of qualifying natural habitats
- the structure and function of the habitats of the qualifying species
- the supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- the populations of each of the qualifying species
- the distribution of qualifying species within the site.

The latest condition assessment indicates that the feature is in unfavourable, declining condition, though largely based on vulnerability assessment, and marine activity information with limited direct monitoring data. A LSE was identified for a temporary increase in Suspended Sediment Concentrations (SSC) and sediment deposition leading to increased turbidity and smothering effects during construction and decommissioning.

Temporary increase in SSC and sediment deposition leading to increased turbidity and smothering effects

Direct interaction with the site is entirely avoided through cable routeing (Figure 2), and the source of effect reflects the potential for elevated suspended sediments reaching the site from construction work beyond the site boundary. The Applicant [REP7-119] noted that larger

[36] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0030371

fractions of sand and gravel would be expected to fall out of suspension in the water column within 20m of the area of disturbance (pre-installation and installation activities such as pre-lay grapnel runs and cable trenching), whereas fine sand may disperse for some 17km but with a deposition thickness of less than 0.5mm [PDA-038, REP6-120]. The Applicant notes [REP7-119, REP7-097, REP7-099] that much of the sediment along the route comprises sands and coarse sediments, limiting the availability of sediment that would disperse over longer distances, or be suspended for a longer period of time (up to 14 days). The concentrations of SSC were also noted to be below 300mg/l, and declining to well below this level within 24 hours [REP7-099]. The Applicant noted [REP7-099] with reference to Essink (1999) and Widdows *et al.* (1979)[37] that long-term concentrations above 250mg/l can impair the growth of filter feeding organisms, and concluded that as any effect was temporary, it was not significant [REP7-099]. The Secretary of State also notes that in areas where suspended particular matter is naturally high (e.g. see Dolphin *et al* 2011, Cefas 2016[38]) the effects of short-term increases in SSCs are unlikely to be significant on the existing seabed communities (BEIS 2022)[39]. NE [REP3-118] indicated that there was uncertainty regarding the Worst-Case Scenario ("WCS") for increased SSC and subsequent deposition, though the advice to resolve this indicated that their concern related to the Kent landfall/Pegwell Bay rather than the Margate and Long Sands SAC. Additionally, in response to a request for comment by the ExA on the Applicant's conclusion on no AEoI on Margate and Long Sands SAC [REP4-057] Applicant's RIHRA at the time] from this source of effect, NE conformed there was no impact pathway for the site [REP5-199].

The ExA concluded that there would be no AEoI of the Margate and Long Sands SAC from the Project. The Secretary of State agrees with the Applicant, the ExA and NE, that there would be no AEoI for the Project alone. In view of the Applicant's evidence on the potential scale and nature of any deposition of resuspended sediment within the SAC, particularly in the context of wider natural deposition and movement of sediment within such shallow sandbank areas, and NE's indication that there was no impact pathway for the project, the Secretary of State is also satisfied that there would be no adverse in-combination effects for the Margate and Long Sands SAC.

4.4 Sandwich Bay SAC

Sandwich Bay SAC overlaps the Order limits of the Project. The site is designated for dunes with *Salix repens* ssp. *argentea* (*Salicion arenariae*), embryonic shifting dunes, fixed dunes with herbaceous vegetation ("Grey dunes"), humid dune slacks and, shifting dunes along the shoreline with *Ammophila arenaria* ("White dunes"). Sandwich Bay is a largely inactive dune system with a particularly extensive representation of fixed dune grassland. The vegetation of

[37] Essink K (1999). Ecological effects of dumping of dredged sediments; options for management. *Journal of Coastal Conservation* **5**: 69-80.
Widdows J, Bayne BL, Livingstone DR, Newell RI & Donkin P (1979). Physiological and biochemical responses of bivalve molluscs to exposure to air. *Comparative Biochemistry and Physiology* **62**a: 301-308.
[38] Cefas (2016). Suspended Sediment Climatologies around the UK. Report for the UK Department for Business, Energy & Industrial Strategy Offshore Energy Strategic Environmental Assessment Programme.
Dolphin TJ, Silva TAM & Rees JM (2011). Natural Variability of Turbidity in the Regional Environmental Assessment (REA) Areas. MEPF-MALSF Project 09-P114. Cefas, Lowestoft, 41.
[39] BEIS (2022). Offshore Energy Strategic Environmental Assessment 4, Environmental Report. Department for Business, Energy and Industrial Strategy, UK, 689pp plus appendices.

these dunes and their associated slacks is extremely species-rich. The seaward edge at the northern end of the site displays a good sequence of embryonic shifting dune communities and there is a clear zonation within the extensive dune system, with strandline species on the seaward edge and sand-binding grasses inland. Lyme-grass *Leymus arenarius* is extremely sparse and sand couch *Elytrigia juncea* is the dominant sand-binding species. The shifting dune vegetation contains a good range of characteristic foredune species including sea bindweed *Calystegia soldanella*, sea spurge *Euphorbia paralias* and sea-holly *Eryngium maritimum*. A small area of dunes with creeping willow *Salix repens* ssp. *argentea* is of interest as it is the only example found in the dry south-east of England and is representative of this habitat type in a near-continental climate.

The conservation objectives[40] are to ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate, and that the site contributes to achieving the Favourable Conservation Status of its qualifying features, by maintaining or restoring:

- the extent and distribution of qualifying natural habitats and habitats of the qualifying species
- the structure and function (including typical species) of qualifying natural habitats
- the structure and function of the habitats of the qualifying species
- the supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- the populations of each of the qualifying species
- the distribution of qualifying species within the site.

A LSE was considered possible as a result of changes to marine water quality during cable installation and cable lay from the use of drilling fluids during construction, the introduction and spread of Invasive Non-Native Species ("INNS") via the addition of cable protection during operation, and pollution (terrestrial – changes in water quality) for all project phases, including from the use of the hoverport site at the Kent landfall.

Pollution: changes to marine water quality during cable installation and cable lay from the use of drilling fluids during construction, terrestrial – changes in water quality, use of the hoverport

The source of effect in relation to drilling fluids is from the potential risk of "frac out", where drilling fluids reach the surface due to fissures in the geology being drilled during the Horizontal Directional Drilling ("HDD") process. The Applicant noted that drilling would be through the chalk geology underlying the site, which is overlain by layers of clay that would prove impervious to any movement of liquids to the surface [REP7-119]. There is the potential that an alternative method may be used to make the trenchless crossing. In the case of DirectPipe, the Applicant notes that the fluid pressure at the cutting face is balanced by groundwater pressure and would be too low to cause a "frac out". During Examination, NE [REP7-258], Kent Wildlife Trust ("KWT") [REP3-092], the RSPB [REP1-158] (though with a focus on the Suffolk landfall), and

[40] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0013077

the Environment Agency ("EA") [RR-1586] raised concerns about the Applicant's proposals for management of construction phase impacts which could lead to changes in water quality.

The Applicant has proposed mitigation measures which are contained in the REAC [REP7-359], with commitment B09 which outlines survey, drilling design and monitoring requirements, and commitment GH10, which requires the preparation of a Drilling Fluids Management Plan ("DFMP"). These are secured through the oCEMP [REP7-127, as part of requirement 6 under DCO Schedule 3, and for intertidal area, the oCSIP [REP7-159]. The CSIP is secured under condition 4 of Schedule 16 (DML) of the DCO (along with a Landfall Method Statement, "LMS"). These must be approved by the MMO, in consultation with NE, JNCC, the Environment Agency, and others. The ExA also noted the requirement for chemical risk assessment in the DML, to be approved by the MMO, unless those chemicals to be used are on the OSPAR PLONOR (pose little or no risk) list.

NE [REP7-258] maintained their position at the close of Examination that the HDD LMS and DFMP should have been drafted as part of the consenting process but note that these will be prepared post-consent. NE's concerns [REP5-199] in relation to ensuring it will be consulted on the DFMP, have been resolved. Similarly, the Applicant [REP6-106] has indicated that KWT would be consulted on the DFMP (commitment B59), and RSPB noted that they were satisfied that AEoI would be avoided if the NE's concerns had been alleviated.

The ExA considered that the range of measures proposed by the Applicant which are secured in the DCO, which would be in consultation with the relevant planning authority and SNCBs, are such that there would be no AEoI for Sandwich Bay SAC from changes in water quality due to frac out. The Secretary of State agrees with the ExA's recommendation, and considers that the proposed mitigation, the detailed work that would take place post-consent for further approval as part of the Kent onshore and offshore schemes (LMS, DFMP), including in consultation with the SNCBs, and others where appropriate, are such that there would be no AEoI for the Annex I habitat features of Sandwich Bay SAC.

As noted in Section 3.1, the ExA considered that the pollution (terrestrial – changes in water quality) from the use of hoverport by the Applicant was a source of LSE for Sandwich Bay SAC. NE [REP4-189], the Campaign to Protect Rural England ("CPRE") [REP3A-012], Kent Wildlife Trust ("KWT") [REP4-124], Save Minster Marshes ("SMM") [REP1-246, REP3A-171, REP6-148] and other IPs raised concerns about release of contaminants from the use of the hoverport for access to the intertidal area. The source of effect is from colliery spoil and historic fuel storage [REP5-135], with the Applicant's RIHRA [REP7-119] noting that the risk of pollution arises from oxidative weathering which would not occur in areas where the hoverport hardstanding is intact. NE [REP5-217] and KWT [REP4-124] were concerned about the use of heavy machinery would impact the hover pad's surface, and indicated that the mitigation hierarchy had not been applied, for example, through avoidance by selection of alternative access routes, or reduction/mitigation through works to stabilise the hoverport surface to prevent mobilisation of contaminated material [REP6-266].

In response to proposed additional controls by the ExA [PD-025], the Applicant inserted requirement 22(2) into the DCO, which is that, prior to construction requiring vehicles to traverse the hoverport, a report shall be submitted to the relevant planning authority for approval in consultation with the EA and the SNCB setting out: (a) the results of surveys carried out to include baseline surveys of the concrete skirt integrity, subsurface materials, and bay sediments; (b) proposals for vehicle routing taking account of the surveys above and any relevant ecological

surveys, particularly showing the extent of the saltmarsh habitat; (c) a monitoring program to monitor the condition of the hoverport during construction. The monitoring programme shall include details of the inspection frequency (which shall be at least monthly), techniques and sampling methods and trigger levels for action. The Applicant referred to methods in their RIHRA [REP7-119] to track vehicles and equipment over sensitive ground using metal or plastic trackway (see Requirement 22(1) of the DCO), low-pressure vehicles with rubber tracks and/or balloon tyres, which minimises disturbance to habitats such as mudflats. The use of low pressure bearing vehicles is already a mitigation measure for vehicles which could traverse sensitive areas (B67, [REP7-359], also see 4.13 below), which is secured in the oCEMP [REP7-129]. The route chosen to cross the hoverport will also be made in consultation with KWT, NE, NT and Thanet District Council ("TDC") (REAC commitment B70, REP7-359, REP7-129]).

NE still had concerns at the close of Examination about the form that containment would take, and considered further consideration was needed before the full scale of impact on the hoverport could be understood [REP7-273]. The ExA suggested an additional DCO Requirement (22(3)) which sets out that where it is necessary to take action to contain contaminants, that activities causing contamination will cease and proposals for remediation will be submitted to the EA, in consultation with the SNCB and planning authority. The ExA considered that the mitigation hierarchy had been applied as using the hoverport avoids access to the intertidal area via more sensitive habitats such as saltmarsh or dune. The Secretary of State agrees with the ExA, and notes that in addition to avoidance of such habitats, the Applicant has also sought to reduce/mitigate impacts through the commitments set out in the REAC [REP7-359] and oCEMP [REP7-129].

The Secretary of State agrees with the ExA that an AEoI can be excluded from potential sources of pollution associated with the project, both from "frac out" and contamination sources from the hoverport. The mitigation, which is captured by Requirement 22 of the DCO, the Applicant's commitments, the detail of which will be produced post-consent, consistent with the outline plans (oCEMP [REP7-129], oOCEMP [REP7-127]), which will include consultation with the relevant SNCB, is such that the conservation objectives of the site will not be undermined, and AEoI will not occur. The Applicant [REP7-119] did not identify in-combination effects for the site, which was not disputed by NE. The Secretary of State agrees with the ExA that in-combination AEoI can be excluded for the Sandwich Bay SAC.

Spread of INNS via the addition of cable protection during operation

The Applicant considered the potential for INNS to be introduced and noted that the only activities to take place in the intertidal area were at the Kent landfall [REP7-119]. The Applicant indicated that several INNS are known to be present along the Kent coast, including the carpet sea squirt (*Didemnum vexillum*), Chinese mitten crab (*Eriocheir sinensis*), Pacific oyster (*Magallana gigas*), Japanese wireweed (*Sargassum muticum*), and wakame (*Undaria pinnatifida*) (McKnight 2024)[41], and that substrates (concrete mattresses/rock bags) used during installation of the cable would be suitable substrate for colonisation. The Applicant notes that these mattresses would be buried limiting any available substrate to colonise, and that they would be cleaned prior to use (commitment BE03, [REP7-359]), secured through the oOCEMP [REP7-127] and the outline Offshore Invasive Non-Native Species Management Plan ("oOIMP")

[41] McKnight W (2024). A Register of the Distribution, Impact and Control of Selected Non-Native Species within the Inter-Tidal Zone of the North East Kent Marine Protected Areas. North East Kent Scientific Coastal Advisory Group. 20pp.

[REP5-078]. The Applicant indicated that a moonpool or prefabricated cofferdam used at the HDD exit pit would be compliant with the OIMP and in place for a short period (4 months) which would be insufficient for INNS to establish and spread. The Secretary of State agrees with the ExA that there would be no AEoI of the Sandwich Bay SAC from the proposed Project alone or in-combination with other plans or project, from the introduction of INNS.

4.5 Thanet Coast SAC

A small area of the Thanet Coast SAC overlaps the Order limits of the Project (Figure 2). The site is designated for Annex I reefs, comprising intertidal chalk covering approximately 250ha of foreshore, and represents the largest continuous area of intertidal chalk in the UK. The Annex I feature, Submerged or partially submerged sea caves, is also present. The site contains 23km of chalk cliffs with a large number of partly-submerged caves and tunnels in the intertidal area, supporting very specialised algal and lichen communities, some of which have not been recorded elsewhere. The conservation objectives[42] are to ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate, and that the site contributes to achieving the Favourable Conservation Status of its qualifying features, by maintaining or restoring:

- the extent and distribution of qualifying natural habitats and habitats of the qualifying species
- the structure and function (including typical species) of qualifying natural habitats
- the structure and function of the habitats of the qualifying species
- the supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- the populations of each of the qualifying species
- the distribution of qualifying species within the site.

The feature condition has not been assessed[43], however, the majority of targets relating to the features are to maintain their attributes[44]. The only attribute with a recover target is for the species composition of the component communities of the intertidal rock subfeature, which makes up a significant proportion of the overall reef feature. This is because the species have been significantly impacted by non-native species. As such, other targets related to the site include those to reduce the introduction and spread of non-native species.

[42] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0013107

[43] Reference to site condition in Natural England (2014) is noted as reefs (40% unfavourable recovering), submerged and partially submerged sea caves (100% favourable).

[44] As noted in the site SACO: https://designatedsites.naturalengland.org.uk/ConservationAdvice/SupplementaryAdvice.aspx?SiteCode=UK0013107

A LSE was identified for temporary increase in SSC and sediment deposition leading to increased turbidity and smothering effects (reefs only), changes to marine water quality during cable installation and cable lay from the use of drilling fluids, pollution (terrestrial - changes in water quality) from the use of the hoverport and, introduction and spread of INNS via the addition of cable protection.

Temporary increase in SSC and sediment deposition leading to increased turbidity and smothering effects

The Applicant [REP7-119] noted that larger fractions of sand and gravel would be expected to fall out of suspension in the water column within 20m of the area of disturbance, whereas fine sand may disperse for some 17km but with a deposition thickness of less than 0.5mm [PDA-038, REP6-120]. The Applicant indicated that concentrations of SSC may be as great as 300mg/l, and declining to well below this level within 24 hours, noting concentrations up to 100 mg/l may occur up to 11 km from the Offshore Scheme [see REP6-120]. The Applicant's RIHRA [REP7-119] indicates that whilst the reef features of the Thanet Coast SAC are sensitive to increased SSC, studies demonstrate that epifauna associated with the site, such as blue mussel, have the ability to tolerate short-term elevations in SSC and temporary smothering from sediment deposition of up to 2cm, which is significantly greater than the modelled depositional thickness from the installation of the cable (0.5mm). The Applicant also indicated that the Annex I sea caves feature had a low to no sensitivity to sediment deposition.

NE agreed that a depositional thickness of less than 0.5mm would have negligible smothering impacts on the Annex I reef feature [REP7-273] and also concluded that there was no risk of AEoI for the site [REP7-277] based on the Applicant's suspended sediment and cofferdam blockage modelling [REP6-120]. The Secretary of State agrees with the ExA and NE, that based on the information provided by the Applicant, there would be no AEoI for the Thanet Coast SAC from increased SSC and sediment deposition. The Applicant [REP7-119] did not identify in-combination effects for the site. NE [REP7-277] confirmed that AEoI for the site can be excluded as a result of the Project. The Secretary of State agrees with the ExA that in-combination AEoI can be excluded for the Thanet Coast SAC.

Pollution: changes to marine water quality during cable installation and cable lay from the use of drilling fluids during construction, terrestrial – changes in water quality, use of the hoverport

The assessment of these sources of effect in relation to Sandwich Bay SAC (Section 4.4) is also relevant to the Thanet Coast SAC, and it is therefore not repeated here. The Secretary of State agrees with the ExA's conclusion that there would be no AEoI for Annex I features of the Thanet Coast SAC. This is because the potential impact from "frac out" has been effectively controlled though mitigation measures, which are contained in the REAC [REP7-359], with commitment B09 which outlines survey, drilling design and monitoring requirements, and commitment GH10, which requires the preparation of a DFMP. Additionally, potential sources of contamination from the hoverport surface due to traversing the area with construction vehicles has been mitigated through a range of measures captured in Requirement 22 of Schedule 3 of the DCO, which will include consultation with the relevant SNCB. The Secretary of State has concluded that the potential sources of effect have been mitigated, such that the conservation objectives of the site will not be undermined, and that AEoI can be ruled out. The Applicant [REP7-119] did not identify in-combination effects for the site. NE [REP7-277] confirmed that AEoI for the site can be

excluded as a result of the Project. The Secretary of State agrees with the ExA that in-combination AEoI can be excluded for the Thanet Coast SAC.

Spread of INNS via the addition of cable protection during operation

The Applicant considered the potential for INNS to be introduced, and noted that the only activities to take place in the intertidal area were at the Kent landfall [REP7-119]. The Applicant indicated that several INNS are known to be present along the Kent coast, including the carpet sea squirt (*Didemnum vexillum*), Chinese mitten crab (*Eriocheir sinensis*), Pacific oyster (*Magallana gigas*), Japanese wireweed (*Sargassum muticum*), and wakame (*Undaria pinnatifida*) (McKnight 2024), and that substrates (concrete mattresses/rock bags) used during installation of the cable would be suitable substrate for colonisation. The Applicant notes that these mattresses would be buried limiting any available substrate to colonise, and that they would be cleaned prior to use (commitment BE03, [REP7-359]), secured through the oOCEMP [REP7-127] and the oOIMP [REP5-078]. The Applicant indicated that a moonpool or prefabricated cofferdam used at the HDD exit pit would be compliant with the OIMP and in place for a short period (4 months) which would be insufficient for INNS to establish and spread. NE confirmed [REP7-277] that it considered AEoI could be excluded for Sandwich Bay SAC. The Secretary of State agrees with NE and the ExA, and has concluded that there is negligible risk of the introduction of INNS, and that this has been effectively mitigated, such that the conservation objectives of the site will not be undermined, and that AEoI can be ruled out. The Applicant [REP7-119] did not identify in-combination effects for the site. NE [REP7-277] confirmed that AEoI for the site can be excluded as a result of the Project. The Secretary of State agrees with the ExA that in-combination AEoI can be excluded for the Thanet Coast SAC.

4.6 Berwickshire & North Northumberland Coast SAC ("BNNC SAC") and Humber Estuary SAC

The Berwickshire & North Northumberland Coast SAC and Humber Estuary SAC are 412km and 160km from the Project respectively. The conservation objectives[45] of the sites are to ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate, and that the site contributes to achieving the Favourable Conservation Status of its qualifying features, by maintaining or restoring:

- the extent and distribution of qualifying natural habitats and habitats of the qualifying species
- the structure and function (including typical species) of qualifying natural habitats
- the structure and function of the habitats of the qualifying species
- the supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- the populations of each of the qualifying species

[45] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0017072, https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0030170

- the distribution of qualifying species within the site.

The sites are designated for a number of Annex I habitat features, but LSE was only identified for the grey seal feature of both sites in relation to underwater and airborne sounds, visual disturbance and vessel collision risk. The feature condition has not been assessed, and for both sites, targets in the SACOs indicate that the attributes related to the grey seal feature should be maintained. The Applicant noted in their RIHRA [REP7-119] that the Project was located within the foraging range of grey seal. The Secretary of State notes that while there are grey seal haul outs close to the Project, that seals occur in relatively low densities in the area (Carter *et al.* 2026)[46] and tend to be concentrated around the colonies associated with the Humber and Berwickshire and North Northumberland (Donna Nook, Farne Islands and Lindisfarne, Fast Castle), with foraging ranges in the region of 100km typical (Jones *et al.* 2015[47]), such that interaction between the Project and the grey seal features linked to each site, is likely limited.

Underwater noise

The Applicant identified impulsive sound from pre-installation geophysical survey sub-bottom profiling ("SBP") and non-impulsive continuous noise from cable lay as sources of effect, and calculated the potential distances from these activities in which auditory effects could occur [REP7-101]. Modelling of impacts for phocids in water was undertaken for a representative SBP underwater noise source, with auditory injury predicted within 10m of the noise source (SPL_{peak}), or 730m (SEL_{cum}) at a 24 hour exposure level. The latter assumes a moving source and a stationary receptor, which the Applicant noted was highly unlikely. The Applicants [REP7-119], JNCC [REP1-210] and NE [REP4-196] agreed that standard JNCC measures for minimisation of injury from underwater sound generated from geophysical surveys would be employed (JNCC 2017; JNCC 2019), which is captured by commitment MM01 in the REAC [REP7-359], and is included in the outline Marine Mammal Management Plan ("oMMMP") [REP7-125]. The final MMMP must be approved in consultation with, amongst others, NE and JNCC, as part of the DML conditions. The Secretary of State concludes that AEoI from injury related to impulsive underwater noise will not occur.

Behavioural disturbance for grey seal was considered in the context of the Effective Deterrent Range ("EDR") for harbour porpoise for the use of a SBP, which is 3km (after JNCC 2026), however, the Applicants considered that the number of seals that could be potentially impacted would be small, and that the activities would be temporary, transient, and short-term.

The Applicant considered the potential for effects from vessel ultra-short baseline ("USBL")[48] and concluded that there was no effect due to the nature of the noise source. The Applicant briefly considered the potential for effects from continuous noise from cable installation, however, they

[46] Carter MID, Aarts G, van Beest FM, Bivins M, Brasseur SMJM, Dietz R, Duck CD, Galatius A, Gilles A, Haelters J, Hastie GD, Jessopp M, Morris CD, Moss SEW, Nabe-Nielsen J, Nachtsheim DA, Schaffeld T, Schop J, Siebert U, Teilmann J, Thompson D, Thompson PM, Vincent C & Russell DJF (2026). At-sea distribution of seals on the Northwest European Shelf: Towards transboundary conservation and management. *Journal of Applied Ecology* **63**: e70236.

[47] Jones EL, McConnell BJ, Smout S, Hammond PS, Duck CD, Morris CD, Thompson D, Russell DJF, Vincent C, Cronin M, Sharples RJ & Matthiopoulos J (2015). Patterns of space use in sympatric marine colonial predators reveal scales of spatial partitioning. *Marine Ecology Progress Series* **534**: 235-249.

[48] USBL is a form of underwater acoustic positioning used to determine the position of subsea equipment, for example, a SBP.

did not consider such non-impulsive noises to be a significant source of effect, and that the vessel noise, under dynamic positioning ("DP") would be the overriding source of noise. This consideration was in response to a comment by NE [REP5-199], though NE did not comment further after the update to the RIHRA [REP7-119] by the Applicant. The Secretary of State agrees that vessel noise is likely to dominate the cable laying activities. For example, of relevance are measurements made by Nedwell & Edwards (2004)[49] within 200m of a rock fall pipe vessel of 139m length which indicated that there was no discernible difference between normal vessel operating conditions and those during rock placement, suggesting that noise levels from this activity were dominated by vessel propellers and thrusters rather than the rock placement itself. In view of the transient and short-term nature of the work, in the context of wider vessel traffic in the area and low magnitude of effect, the Secretary of State concludes that AEoI can be ruled out from underwater noise generated by cable laying activities.

The Applicant noted that there was the potential for unexploded ordnance ("UXO") to be present in the offshore scheme area, however, there was no information on the presence of UXO or any detonation requirements to make a meaningfully assessment at the time of application, and during the Examination. The Applicant noted in its RIHRA [REP7-119] that a detailed UXO survey, including use of multiple gradiometers and remotely operated vehicle ("ROV") inspections combined with high resolution multibeam echo sounder ("MBES") was planned to be carried out in 2025 to better detect and define potential UXOs. The Secretary of State requested an update in her first information request to understand progress in completion of the survey and whether the information had a bearing on the EIA or HRA assessments made. The Applicant confirmed that a detailed Stage 1 UXO Geophysical was underway and was due to be complete by October 2026 with analysis completed by the end of 2026, and with targeted investigations to confirm UXO presence expected to commence in April 2027 [C1-178].

The Applicant proposed that the UXO clearance element of the Project would be handled by a separate Marine Licence ("ML") applied for post-consent, and that further HRA would be undertaken at that time. This position was agreed with the MMO [REP7-015] and the Examination focussed on potential UXO disposal onshore, and at the landfall locations. The Secretary of State notes the approach to UXO assessment taken is consistent with other applications such that the alone and in-combination effects can be meaningfully assessed at a later stage. It is further noted that, while more specific to the Southern North Sea SAC, commitment MM03 covered in the oMMMP [REP7-125] and oOCEMP [REP7-129], indicates that no offshore construction or UXO removal may commence until the undertaker has provided confirmation to the MMO that they have begun participation in the Development Coordination Forum ("DCF"). The DCF allows for collaborative management of activities to ensure that in-combination effects do not undermine the conservation objectives of the Southern North Sea SAC (see Section 4.8), but would also in part serve to ensure that any in-combination effect on the Berwickshire & North Northumberland Coast SAC, and the Humber Estuary SAC, was minimised. The oMMMP notes that the JNCC guidelines for minimising the risk of injury to marine mammals from unexploded ordnance (UXO) clearance in the marine environment (JNCC 2025)[50] would be followed, and in accordance with the Unexploded ordnance clearance Joint

[49] Nedwell JR & Edwards B (2004). A review of measurements of underwater man-made noise carried out by Subacoustech Ltd, 1993-2003 Subacoustech Report ref: 534R0109, 131pp.

[50] JNCC (2025). JNCC guidelines for minimising the risk of injury to marine mammals from unexploded ordnance (UXO) clearance in the marine environment. JNCC, Aberdeen, 22pp.

Position Statement[51]. The statement includes that less noisy low order approaches to UXO clearance should be the default method, unless high order approaches are the only viable option. The Secretary of State notes the MMO's agreement that a separate ML should cover the offshore UXO elements of the Project, but also notes the Applicant's considerations at this stage, which includes reference in the oMMMP (with the final MMMP requiring approval by the MMO in consultation with NE, JNCC, and others) to adhering the JNCC guidelines on UXO disposal and participation in the DCF. In view of these measures, it is concluded that UXO disposal would not result in AEoI for the Berwickshire & North Northumberland Coast SAC, and the Humber Estuary SAC, alone or in-combination with other plans or projects.

Airborne sounds, visual disturbance

Airborne noise and disturbance was considered by the Applicant in their RIHRA [REP7-119], noting that seals spend some time hauled out on land and that disturbance could result in reduced resting, feeding and socialising, particularly with repeated disturbance. It is further noted by the Applicant [REP7-101, REP7-125] that grey seal haul outs are present in proximity to the offshore scheme at low tides on Goodwin Sands. They note that the nearshore works associated with the trenchless crossing are short-term, and noise or visual disturbance would be limited, and that offshore work would be transitory. The Secretary of State does not consider that the works will result in an AEoI from airborne noise or visual disturbance due to its limited nature in the context of wider levels of vessel activity in the area.

Vessel collision risk

The Applicants considered that vessel collision risk was lower for pinnipeds than cetaceans (see Section 4.8), and noted that the Project would result in the increment of a small number of slow moving vessels (<12 knots), other than on transit to port, to a high background level of traffic. The Applicant considered that the likelihood of a collision with grey seals was unlikely considering their agility and mostly slow rate of vessel traffic. The Secretary of State agrees with the Applicant that the risk of collision would be low, and additionally, notes that the likelihood of a high number of animals associated with the relevant sites being present in the area is very low. The Secretary of State concludes that vessel collision risk would not result in AEoI for grey seal.

NE [REP7-277] confirmed it agreed with the Applicant's conclusions of no AEoI for the Berwickshire & North Northumberland Coast SAC and Humber Estuary SAC, however, raised concerns about the risk of disturbance to seal colonies from the emergency use of a hovercraft [REP7-274], but did not attribute this concern to a specific relevant site. The ExA concluded that there would be no AEoI for the Berwickshire & North Northumberland Coast SAC and Humber Estuary SAC from underwater noise, vessel collision or airborne sounds and visual disturbance. The Secretary of State agrees with the ExA. Additionally, the Secretary of State considers that the short-term and emergency use of a hovercraft would not result in AEoI for the qualifying grey seal features of the sites, as their associated colonies are too distant, and evidence (e.g. Carter

[51] https://www.gov.uk/government/publications/marine-environment-unexploded-ordnance-clearance-joint-position-statement/marine-environment-unexploded-ordnance-clearance-joint-position-statement

et al. 2026[52], and associated SealMAP[53]) suggests a low density of animals could be present in any area of use by the hovercraft, and that there is limited potential connectivity between the sites and the Project.

4.7 The Wash and North Norfolk Coast ("WNNC") SAC

The Wash and North Norfolk Coast SAC is 110km from the Project. The conservation objectives[54] of the sites are to ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate, and that the site contributes to achieving the Favourable Conservation Status of its qualifying features, by maintaining or restoring:

- the extent and distribution of qualifying natural habitats and habitats of the qualifying species
- the structure and function (including typical species) of qualifying natural habitats
- the structure and function of the habitats of the qualifying species
- the supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- the populations of each of the qualifying species
- the distribution of qualifying species within the site.

The site is designated for a number of Annex I habitat features, but LSE was only identified for the harbour seal feature in relation to underwater and airborne sounds, visual disturbance and vessel collision risk. The feature condition is assessed as being 100% unfavourable declining[55], as the principal population attributes in relation to population size and recruitment, and reproductive capability, have failed to meet their targets. Pressures on the site include those from recreational activities, previous impacts from Phocine Distemper Virus ("PDV"), and potentially, prey availability (also see SCOS 2025)[56]. Targets in the SACO therefore indicate that the population attributes related to the harbour seal feature should be restored, and that the frequency, duration and/or intensity of disturbance affecting seals whilst hauled out to rest, moult, breed, or pup/suckle are restricted so that they are not significantly disturbed.

52 Carter MID, Aarts G, van Beest FM, Bivins M, Brasseur SMJM., Dietz R, Duck CD, Galatius A., Gilles A, Haelters J, Hastie GD, Jessopp M, Morris CD, Moss SEW, Nabe-Nielsen J, Nachtsheim DA, Schaffeld T, Schop J, Siebert U, Teilmann J, Thompson D, Thompson PM, Vincent C & Russell DJF (2026). At-sea distribution of seals on the Northwest European Shelf: Towards transboundary conservation and management. *Journal of Applied Ecology* **63**: e70236. https://doi.org/10.1111/1365-2664.70236

53 https://arts.st-andrews.ac.uk/shiny/smru/sealmap/

54 https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0017072, https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0030170

55 https://designatedsites.naturalengland.org.uk/MarineCondition/Features.aspx?SiteCode=UK0017075

56 SCOS (2025). Scientific advice on matters related to the management of seal populations: 2025. Special Committee on Seals, 260pp.

Underwater noise

The Applicant noted in its RIHRA [REP7-119] that the Project was located within the foraging range of harbour seal. The Secretary of State notes that while there are harbour seal haul outs close to the Project, including at Pegwell Bay, and that seals are widely present within the Outer Thames area (Jones *et al.* 2015, Carter *et al.* 2026) they occur in relatively low densities compared to the Wash (Carter *et al.* 2026), some 110km away; seals associated with The Wash tend to haul out on sandbanks at Blakeney Point and in The Wash. Harbour seals tend to be less far ranging than grey seals, with foraging ranges in the region of 50km typical (Jones *et al.* 2015), such that interaction with features linked to the Wash and North Norfolk Coast SAC is likely to be limited.

The Applicant identified impulsive sound from pre-installation geophysical survey sub-bottom profiling ("SBP") and non-impulsive continuous noise from cable lay as sources of effect, and calculated the potential distances from these activities in which auditory effects could occur [REP7-101]. Modelling of impacts for phocids in water was undertaken for a representative SBP underwater noise source, with auditory injury predicted within 10m of the noise source (SPL), or 730m (SEL) at a 24 hour exposure level. The latter assumes a moving source and a stationary receptor, which the Applicant noted was highly unlikely. The Applicant [REP7-119], JNCC [REP1-210] and NE [REP4-196] agreed that standard JNCC measures for minimisation of injury from underwater sound generated from geophysical surveys would be employed (JNCC 2017; JNCC 2019), which is captured by commitment MM01 in the REAC [REP7-359], and is included in the outline Marine Mammal Management Plan ("oMMMP") [REP7-125]. The final MMMP must be approved in consultation with, amongst others, NE and JNCC, as part of the DML conditions.

Behavioural disturbance for harbour seal was considered in the context of the Effective Deterrent Range ("EDR") for harbour porpoise for the use of a SBP, which is 3km (after JNCC 2026), however, the Applicant considered that the number of seals that could be potentially impacted would be small, and that the activities would be temporary, transient, and short-term.

The Applicant considered the potential for effects from vessel ultra-short baseline ("USBL")[57] and concluded that there was no effect due to the nature of the noise source. The Applicant briefly considered the potential for effects from continuous noise from cable installation, however, they did not consider such non-impulsive noises to be a significant source of effect, and that the vessel noise, under DP would be the overriding source of noise. This consideration was in response to a comment by NE [REP5-199], though NE did not comment further after the update to the RIHRA [REP7-199] by the Applicant. The Secretary of State agrees that vessel noise is likely to dominate the cable laying activities. For example, of relevance are measurements made by Nedwell & Edwards (2004) within 200m of a rock fall pipe vessel of 139m length which indicated that there was no discernible difference between normal vessel operating conditions and those during rock placement, suggesting that noise levels from this activity were dominated by vessel propellers and thrusters rather than the rock placement itself. In view of the transient and short-term nature of the work, in the context of wider vessel traffic in the area and low magnitude of effect, the Secretary of State concludes that AEoI can be ruled out from underwater noise generated by cable laying activities.

[57] USBL is a form of underwater acoustic positioning used to determine the position of subsea equipment, for example, a SBP.

The Applicant noted that there was the potential for unexploded ordnance ("UXO") to be present in the offshore scheme area, however, there was no information on the presence of UXO or any detonation requirements to make a meaningfully assessment at the time of application, and during the Examination. The Applicant noted in their RIHRA [REP7-119] that a detailed UXO survey, including use of multiple gradiometers and remotely operated vehicle ("ROV") inspections combined with high resolution multibeam echo sounder ("MBES") was planned to be carried out in 2025 to better detect and define potential UXOs. As noted in Section 4.6, the Secretary of State requested an update in her first consultation to understand progress in completion of the survey, and whether the information had a bearing on the EIA or HRA assessments made. The Applicant confirmed that a detailed Stage 1 UXO Geophysical was underway and was due to be complete by October 2026 with analysis completed by the end of 2026, and with targeted investigations to confirm UXO presence expected to commence in April 2027.

The Applicant proposed that the UXO clearance element of the Project would be handled by a separate ML applied for post-consent, and that further HRA would be undertaken at that time. This position was agreed with the MMO [REP7-015] and the examination focussed on potential UXO disposal onshore, and at the landfall locations. The Secretary of State considers that while it would have been useful to consider at a high level the potential implications of offshore UXO disposal during Examination, she notes the approach taken is consistent with other applications where the alone and in-combination effects can be meaningfully assessed at a later stage. It is further noted that, while more specific to the Southern North Sea SAC (see Section 4.8), commitment MM03 covered in the oMMMP [REP7-125] and oOCEMP [REP7-129], indicates that no offshore construction or UXO removal may commence until the undertaker has provided confirmation to the MMO that they have begun participation in the DCF. The DCF allows for collaborative management of activities to ensure that in-combination effects do not undermine the conservation objectives of the Southern North Sea SAC, but would also in part serve to ensure that any in-combination effect on the Wash and North Norfolk Coast SAC was minimised. The oMMMP notes that the JNCC guidelines for minimising the risk of injury to marine mammals from unexploded ordnance (UXO) clearance in the marine environment (JNCC 2025)[58] would be followed, and in accordance with the Unexploded ordnance clearance Joint Position Statement[59]. The statement includes that less noisy low order approaches to UXO clearance should be the default method, unless high order approaches are the only viable option. The Secretary of State notes the MMO's agreement that a separate ML should cover the offshore UXO elements of the Project, but also notes the Applicant's considerations at this stage, which includes reference in the oMMMP (with the final MMMP requiring approval by the MMO in consultation with NE, JNCC, and others) to adhering the JNCC guidelines on UXO disposal and participation in the DCF. In view of these measures, it is concluded that UXO disposal would not result in AEoI for the Wash and North Norfolk Coast SAC.

Airborne sounds, visual disturbance

Airborne noise and disturbance was considered by the Applicant in their RIHRA [REP7-119], noting that seals spend some time hauled out on land and that disturbance could result in reduced resting, feeding and socialising, particularly with repeated disturbance. It is further

[58] JNCC (2025). JNCC guidelines for minimising the risk of injury to marine mammals from unexploded ordnance (UXO) clearance in the marine environment. JNCC, Aberdeen, 22pp.

[59] https://www.gov.uk/government/publications/marine-environment-unexploded-ordnance-clearance-joint-position-statement/marine-environment-unexploded-ordnance-clearance-joint-position-statement

noted by the Applicant [REP7-101, REP7-125] that harbour seal haul outs are present in proximity to the landfall and offshore scheme, including in Pegwell Bay. They note that the nearshore works associated with the trenchless crossing are short-term, and noise or visual disturbance would be limited, and that offshore work would be transitory. The Secretary of State does not consider that the works will result in an AEoI from airborne noise or visual disturbance due to its limited nature in the context of wider levels of activity, and the potential for any interaction with animals of the Wash and North Norfolk Coast SAC.

NE [REP7-277] confirmed it agreed with the Applicant's conclusions of no AEoI for the Wash and North Norfolk Coast SAC, however, raised concerns about the risk of disturbance to seal colonies from the emergency use of a hovercraft [REP7-274], but did not attribute this concern to a specific relevant site. The ExA concluded that there would be no AEoI for the Wash and North Norfolk Coast SAC from underwater noise, vessel collision or airborne sounds and visual disturbance. The Secretary of State agrees with the ExA. Additionally, the Secretary of State considers that the short-term and emergency use of a hovercraft would not result in AEoI for the qualifying harbour seal feature of the site, as its associated colonies are too distant, and evidence suggests a low density of animals could be present in any area of use by the hovercraft, and that there is limited potential connectivity between the site and the Project.

Vessel collision risk

The Applicant considered that vessel collision risk was lower for pinnipeds than cetaceans (see Section 4.8), and noted that the Project would result in the increment of a small number of slow moving vessels (<12 knots), other than on transit to port, to a high background level of traffic. The Applicant considered that the likelihood of a collision with harbour seals was unlikely considering their agility and mostly slow rate of vessel traffic. The Secretary of State agrees with the Applicant that the risk of collision would be low, and additionally, notes that the likelihood of a high number of animals associated with the relevant sites being present in the area is very low. The Secretary of State concludes that vessel collision risk would not result in AEoI for the Wash and North Norfolk Coast SAC.

4.8 Southern North Sea SAC

The Southern North Sea SAC ("SNS SAC") has been recognised as an area with persistent high densities of harbour porpoise (Heinänen & Skov 2015[60]). The SNS SAC covers an area of 36,951km^2, with both winter and summer habitats of importance to harbour porpoise (JNCC 2017). Approximately 27,028km^2 of the site is important in the summer period (183 days from April to September inclusive) and 12,696km^2 of the site is important in the winter period (182 days from October to March inclusive). The majority of the site is less than 40m in depth, reaching up to 75m in the northernmost areas. The SNS SAC is located within the North Sea harbour porpoise Management Unit (MU), which the Inter-Agency Marine Mammal Working Group ("IAMMWG") (2023)[61] estimated to have a population of 346,601 (CV = 0.09; 95% CLs =

[60] Heinänen S & Skov H (2015). The identification of discrete and persistent areas of relatively high harbour porpoise density in the wider UK marine area. JNCC Report No. 544, Joint Nature Conservation Committee, Peterborough, UK, 108pp.

[61] https://jncc.gov.uk/resources/b48b8332-349f-4358-b080-b4506384f4f7

289,498-419,967), which is the reference population used in the Applicant's assessment. The SNS SAC therefore supports an estimated 17.5% of the UK North Sea MU population.

The conservation objectives are to ensure that the integrity of the site is maintained and that it makes the best possible contribution to maintaining Favourable Conservation Status (FCS) for harbour porpoise in UK waters. In the context of natural change, this will be achieved by ensuring that:

- Harbour porpoise is a viable component of the site.
- There is no significant disturbance of the species.
- The condition of supporting habitats and processes, and the availability of prey is maintained.

With regards to disturbance, the current SNCB guidance[62] is to consider the noise disturbance within an SAC from a plan/project individually or in-combination significant if it excludes harbour porpoises from more than:

- 20% of the relevant area of the site in any given day, and,
- an average of 10% of the relevant area of the site over a season[63].

A LSE was identified for the harbour porpoise feature of the SNS SAC (Table 1) for underwater sound impacts and vessel collision risk during construction and decommissioning, and effects of EMF emissions during operation. It should be noted that the Project is partly located within the SAC, with 70km of cable passing through it, and entirely within the winter area of the site, defined as October to March inclusive.

Underwater and airborne sounds

The Applicant considered the potential area of the site which could be affected by pre-installation geophysical survey using SBP using an EDR of 3km, which was 420km^2 or 1.14% of SNS SAC, or 3.3% of the winter area. The Applicant used the winter density value for harbour porpoise (0.83 individuals/km^2), based on the winterSCANS (Ramirez-Martinez *et al.* 2025[64]) for survey Block NS-B, which broadly covers an area from north Norfolk to Kent, and the winter area of the SNS SAC. Combined with the EDR area, this resulted in an estimated 349 individuals at risk of disturbance, or assuming the same density for the entire Sea Link route, 608 individuals or 0.4% of the North Sea Management Unit population of 159,632 (based on IAMMWG 2022, note the 2023 update above). NE [RR-3920] and JNCC [REP1-210] initially raised concerns about the adequacy of the harbour porpoise baseline, however, this was resolved with NE [REP5-199] with reference to the use of the winterSCANS density; JNCC did not comment further.

When considered on a daily basis, the Applicant estimated that up to 20km could be surveyed in 24 hours, which when combined with the 3km EDR, equated to 1.33% of the winter area. The

[62] 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, 14pp.

[63] Summer defined as April to September inclusive, winter defined as October to March inclusive.

[64] Ramirez-Martinez NC, Hammond PS, Blanchard A, Geelhoed SCV, Laran S, Taylor NL & Gilles A (2025). winterSCANS: Estimates of cetacean abundance in the southern North Sea in winter 2024. Final report published 9 May 2025. 14pp.

entire survey is expected to take 6 days (including a 33% weather contingency), which would result in an average of 0.04% of the area during the winter season. In view of these values, neither of the area and time based thresholds would be exceeded through the use of a SBP for the project alone.

NE [REP5-199] commented that the Applicant's assessment did not consider the noise from cable installation activities. The Applicant's most recent RIHRA [REP7-119] indicates that the noise sources from cable installation would be unlikely to generate noise with sufficient source levels capable of causing auditory injury (Permanent Threshold Shift, "PTS"), and that the potential for temporary threshold shift ("TTS") was only likely in very close proximity to the noise source, with reference to Todd *et al.* (2015)[65]. For example, of relevance are measurements made by Nedwell & Edwards (2004) within 200m of a rock fall pipe vessel of 139m length which indicated that there was no discernible difference between normal vessel operating conditions and those during rock placement, suggesting that noise levels from this activity were dominated by vessel propellers and thrusters rather than the rock placement itself. Source levels of non-impulsive noise, including vessel movements, may achieve source sound pressure levels of ca.180dB re 1µPa in lower frequencies of a few hundred Hz (e.g. OSPAR 2009[66], Rutenko & Ushchipovskii 2015[67]); however, received levels within the general vicinity of operations (i.e. hundreds of metres to a few kilometres) are likely to be of the order of 120-160dB re 1µPa. Consequently, it can be concluded that the proposed activities will not result in auditory injury to harbour porpoise, as such levels are significantly less than injury criteria for non-impulsive sound (e.g. Southall *et al.* 2019[68]). Behavioural impacts are harder to predict, however, evidence (e.g. Frankish *et al.* 2023[69]) suggests behavioural changes are associated with a wide variety of ship types, but may be mostly related to large commercial ships such as tankers.

While some vessel activity may take place in winter months, mitigation which has the purpose of avoiding impacts on red-throated diver (see Section 4.14, Outer Thames Estuary SPA), also serves to limit the impact on harbour porpoise from vessel noise associated with cable installation activities. Commitment O03 in the REAC [REP7-359] includes a seasonal restriction (1st November-31st March inclusive) for offshore cable burial activities in the Outer Thames Estuary SPA, which is set out in the outline red-throated diver protocol ("oRTD"), secured through Condition 11 of the DML. While there remains the potential for activity to take place in October, and also in areas where the Outer Thames Estuary does not overlap with the SNS SAC (Figure 2), the potential for interaction is significantly reduced. The Secretary of State agrees that the source levels from vessels are unlikely to lead to auditory injury or significant disturbance to harbour porpoise, and that PTS can be ruled out. AEoI from underwater noise related to the use of vessels and cable installation activities can be ruled out.

[65] Todd VL, Todd IB, Gardiner JC, Morrin EC, MacPherson, NA, DiMarzio NA & Thomsen F (2015). A review of impacts of marine dredging activities on marine mammals. ICES Journal of Marine Science 72: 328-340.

[66] OSPAR (2009). Overview of the impacts of anthropogenic underwater sound in the marine environment. OSPAR Commission Biodiversity Series 2009. Publication Number 441/2009, 134pp.

[67] Rutenko AN & Ushchipovskii VG (2015). Estimates of acoustic noise generated by auxiliary vessels working with oil-drilling platforms. *Acoustical Physics* **61**: 556-563.

[68] Southall B, Finneran JJ, Reichmuth C, Nachtigall PE, Ketten DR, Bowles AE, Ellison WT, Nowacek DP & Tyack PL (2019). Marine mammal noise exposure criteria: Updated scientific recommendations for residual hearing effects. *Aquatic Mammals* **45**: 125-232.

[69] Frankish CK, von Benda-Beckmann AM, Teilmann J, Tougaard J, Dietz R, Sveegaard S, Binnerts D, de Jong CAF & Nabe-Nielsen J (2023). Ship noise causes tagged harbour porpoises to change direction or dive deeper. *Marine Pollution Bulletin* **197**: 115755.

The Applicant will use standard JNCC measures for minimisation of injury from underwater sound generated from geophysical surveys (JNCC 2017; JNCC 2019), which is captured by commitment MM01 in the REAC [REP7-359], and is included in the oMMMP [REP7-125]. Additionally, the Applicant has made a commitment (MM04 [REP-359], the oOCEMP [REP7-127], oMMMP [REP-125]) to undertake SBP surveys during the summer, where practicable. The final MMMP must be approved in consultation with, amongst others, NE and JNCC, as part of the DML conditions. The ExA concluded that AEoI would not result from the Project as a result of underwater noise impacts. The Secretary of State agrees with the ExA that the project alone would not result in AEoI for the harbour porpoise feature of the SNS SAC as the Applicant has clearly demonstrated that activities would result in disturbance at levels significantly below the relevant seasonal thresholds, and the underwater noise sources associated with cable installation are not considered to result in significant disturbance that would contribute to an AEoI for the project alone.

The Applicant undertook an assessment of the in-combination underwater noise effects from all projects that could have an underwater noise impact on the SNS SAC [REP7-119]. The Applicant made a number of assumptions which included, the use of an unmitigated 20km EDR for offshore wind farm ("OWF") piling[70], that impact piling takes place in each of the six days that the Project SBP survey is taking place, and on each day, the piling event assumes a new zone of influence that does not overlap with that of the preceding day. Additionally, for cable projects[71] it is assumed that they will also be undertaking SBP surveys on the same day as that for the Project. While the winter seasonal threshold was not exceeded (2.42%), the daily threshold was significantly exceeded[72] (73.37%). The potential for such an in-combination effect to arise is limited by the mitigation proposed by the Applicant (MM04 [REP-359], the oOCEMP [REP7-127], oMMMP [REP-125]) to undertake SBP surveys during the summer, where practicable, and also from membership of the SNS SAC DCF (see below).

The Applicant noted that there was the potential for UXO to be present in the offshore scheme area, however, there was no information on the presence of UXO or any detonation requirements to make a meaningfully assessment at the time of application, and during the Examination. The Applicant noted in their RIHRA [REP7-119] that a detailed UXO survey, including use of multiple gradiometers and ROV inspections combined with high resolution MBES was planned to be carried out in 2025 to better detect and define potential UXOs. The Secretary of State requested an update in her first consultation to understand progress in completion of the survey, and whether the information had a bearing on the EIA or HRA assessments made. The Applicant confirmed that a detailed Stage 1 UXO Geophysical was underway and was due to be complete by October 2026 with analysis completed by the end of 2026, and with targeted investigations to confirm UXO presence expected to commence in April 2027.

The Applicant proposed that the UXO clearance element of the Project would be handled by a separate ML applied for post-consent, and that further HRA would be undertaken at that time. This position was agreed with the MMO [REP7-015] and the examination focussed on potential UXO disposal onshore, and at the landfall locations. The Secretary of State notes the approach taken is consistent with other applications where the alone and in-combination effects can be

[70] OWF projects: North Falls, East Anglia One North, East Anglia Two, East Anglia Three, Five Estuaries, Norfolk Vanguard (East and West). Other piling impacts included that for Sizewell C Nuclear Power Station.
[71] Cable projects: GridLink, Nautilus, LionLink
[72] The applicant noted that using the 15km EDR based on piling noise abatement still resulted in the daily threshold being exceeded.

meaningfully assessed at a later stage. It is further noted that commitment MM03 covered in the oMMMP [REP7-125] and oOCEMP [REP7-129], indicates that no offshore construction or UXO removal may commence until the undertaker has provided confirmation to the MMO that they have begun participation in the DCF. The DCF allows for collaborative management of activities to ensure that in-combination effects do not undermine the conservation objectives of the SNS SAC. The Secretary of State notes that coordination of activities generating impulsive noise in relation to the seasonal and daily disturbance thresholds is critical to ensuring the conservation objectives of the Southern North Sea SAC are not undermined[73], and that such coordination requires a level of information on the timing of activities within certain seasons, and years, that is not available to the Applicant and cannot be meaningfully assessed at this time.

The oMMMP notes that the JNCC guidelines for minimising the risk of injury to marine mammals from UXO clearance in the marine environment (JNCC 2025)[74] would be followed, and in accordance with the Unexploded ordnance clearance Joint Position Statement[75]. The statement includes that less noisy low order approaches to UXO clearance should be the default method, unless high order approaches are the only viable option. The Secretary of State notes the MMO's agreement that a separate ML should cover the offshore UXO elements of the Project, but also notes the Applicant's considerations at this stage, which includes reference in the oMMMP (with the final MMMP requiring approval by the MMO in consultation with NE, JNCC, and others) to adhering the JNCC guidelines on UXO disposal and participation in the DCF. In view of these measures, it is concluded that UXO disposal for the project alone and in-combination with other plans and projects would not result in AEoI for the SNS SAC.

The actual timing of the Applicant's geophysical survey, and many of the sources of in-combination underwater noise, is not known and there is therefore a limited ability to accurately and meaningfully consider in-combination impacts in relation to the noise thresholds. This uncertainty is mitigated by the Applicant's commitment to participate in the SNS SAC DCF, and in the commitment referred to above in relation to seasonal activity timing. While NE had remaining methodological concerns [REP7-274], it agreed there would be no in-combination AEoI in a joint statement with JNCC [REP7-274], subject to the commitment to participate in the DCF being secured in the DCO/DML. The ExA considered that the commitment was suitably secured through the oOCEMP and oMMMP and that a separate DCO condition was not necessary. The Secretary of State agrees with the ExA that the commitment by the Applicant to participate in the DCF has been effectively secured, and similarly concludes that there would be no AEoI on the harbour porpoise feature of the SNS SAC, in-combination with other plans and projects.

Vessel collision risk

The Applicant noted that most lethal and serious injuries to cetaceans, primarily whales, are believed to be caused by large ships, typically 80m and longer with large drafts, as well as vessels travelling faster than 14 knots [REP7-119], and mortality and injury of cetaceans

[73] For example, see the SAC Noise Management Regulators Working Group progress report which outlines management of noisy activities in relation to the SNS SAC: https://assets.publishing.service.gov.uk/media/678e682c432c55fe2988f667/SAC_NRWG_Progress_Report_2024.pdf

[74] JNCC (2025). JNCC guidelines for minimising the risk of injury to marine mammals from unexploded ordnance (UXO) clearance in the marine environment. JNCC, Aberdeen, 22pp.

[75] https://www.gov.uk/government/publications/marine-environment-unexploded-ordnance-clearance-joint-position-statement/marine-environment-unexploded-ordnance-clearance-joint-position-statement

resulting from vessel strikes have been mostly reported in large baleen whales which are slow swimming (IAMMWG 2015[76]). It was also noted by the Applicant that there are few reports of vessel strikes with harbour porpoise and other small cetaceans, likely due to avoidance behaviour, particularly by porpoise (Wisniewska *et al.* 2018[77], Roberts *et al.* 2019[78]). The Secretary of State further notes that between 2000 and 2009, only 11 out of 1,100 post-mortems on harbour porpoises and common dolphins identified collision as the cause of death (UKMMAS 2010[79]). Furthermore, the advice on operations for the Southern North Sea SAC[80] indicates that post-mortem investigations of harbour porpoise deaths have revealed death caused by trauma (potentially linked with vessel strikes) is not currently considered a significant risk (e.g. see Deaville & Jepson 2011[81]).

The majority of offshore activity is anticipated to take place between April and October to target favourable weather windows, such that any work will avoid most of the wintering period which is associated with the area of the SNS SAC where offshore works will take place. Furthermore, vessel speeds will be low (maximum 12 knots, e.g. as noted in REP7-142) which will minimise risks to cetaceans. On the basis of the likely limited seasonal overlap with offshore activities (including that secured in relation to the Outer Thames Estuary SPA which partly overlaps the SNS SAC), low vessel speeds and number of vessels, and the relatively low level of collision risk, is such that the Secretary of State concludes that AEoI can be excluded. It is further considered that given the wider low level of collision risk (e.g. as noted in IAMMWG 2015), that the level of incremental risk posed by slow moving construction vessels associated with the project will not result in adverse in-combination effects.

EMF effects

The Applicant [REP7-119] considered the potential for electromagnetic field ("EMF") effects on harbour porpoise and concluded that any effect of the bundled cables would be small in scale (53-126μT at the seabed), and return to background levels at about 8m from the seabed [APP-289], assuming a 1-2.5m burial depth. While it was considered that cetaceans are capable of sensing electromagnetic fields and may rely on these for navigation, the Applicants suggested that harbour porpoise spend most of their time in the water column and are unlikely to directly come into contact with the EMF emissions from the cable. The Applicants considered that it was more likely that indirect effects on prey items could occur, but noted that EMF effects on fish that are typical prey items of harbour porpoise were also not significant [AS-022]. The Applicant concluded that there would be no AEoI from this source of effect (alone or in-combination), which was similarly concluded by JNCC, and not disputed by NE. The Secretary of State has

[76] IAMMWG. (2015). Management units for cetaceans in UK waters. JNCC.

[77] Wisniewska DM, Johnsons M, Teilmann J, Siebert U, Galatius A, Dietz R & Madsen PT (2018). High rates of vessel noise disrupt foraging in wild harbour porpoises (*Phocoena phocoena*). *The Proceedings of the Royal Society B Biological Sciences* **285**: 20172314

[78] Roberts L, Collier S, Law S & Gaion A (2019). The impact of marine vessels on the presence and behaviour of harbour porpoise (*Phocoena phocoena*) in the waters off Berry Head, Brixham (South West England). *Ocean and Coastal Management* **179**: 104860

79 UKMMAS (2010). Charting Progress 2: Healthy and Biological Diverse Seas Feeder Report. (Eds. Frost M & Hawkridge J). Published by Department for Environment Food and Rural Affairs on behalf of the UK Marine Monitoring and Assessment Strategy. 672pp.

[80] https://jncc.gov.uk/resources/206f2222-5c2b-4312-99ba-d59dfd1dec1d#SouthernNorthSea-conservation-advice.pdf

[81] Deaville R & Jepson PD (2011). UK Cetacean Strandings Investigation Programme. Final Report for the period 1st January 2005 – 31st December 2010. 98pp

considered the evidence presented by the Applicant and considers that it has been demonstrated that impacts from EMF near the cable will be relatively small and return to background levels quickly, and that the impact would not result in an AEoI for the harbour porpoise feature of the SNS SAC, alone or in-combination.

4.9 Alde-Ore Estuary SPA and Ramsar

The Alde-Ore Estuary SPA is classified for a number of breeding (avocet, lesser black-backed gull ("LBBG"), little tern, Sandwich tern, marsh harrier) and non-breeding (avocet, redshank, ruff) birds. The condition of the site features have not been assessed.

The conservation objectives of the site are to ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate, and that the site contributes to Favourable Conservation Status of its qualifying features, by maintaining or restoring:

- the extent and distribution of the habitats of the qualifying features
- the structure and function of the habitats of the qualifying features
- the supporting processes on which the habitats of the qualifying features rely
- the populations of each of the qualifying features
- the distribution of qualifying features within the site

A LSE was identified from airborne sounds and visual disturbance from onshore or offshore works during construction, operation (onshore works only) and decommissioning (marsh harrier, LBBG, Sandwich and little tern), and for LBBG, little tern, and Sandwich tern, indirect effects through impacts to prey species during construction and decommissioning. Additionally, the ExA considered there to be a LSE from pollution (terrestrial - changes in water quality) for all site features.

The questions raised by SEAS on the adequacy of the bird surveys undertaken by the Applicant are covered in Section 4.1 and will not be repeated here. The Secretary of State is satisfied that the baseline information is sufficient for the purposes of the Applicant's assessment and this HRA.

Disturbance (noise and visual) from onshore works at functionally linked land

The Applicant recorded curlew on inland fields some 700m from the SPA in its bird surveys, assuming they originated from the Alde-Ore Estuary SPA. Curlew was considered in relation to visual disturbance from offshore works on functionally linked land ("FLL"), however, it is not a feature for which the SPA is classified[82]. The Applicant noted in their RIHRA [REP7-119] that the feature is part of the "general SPA bird assemblage". While the overlapping Ramsar includes breeding and wintering assemblages, their related species are not presented. The Secretary of State notes that while the original site citation from 1996[83] indicates a "notable assemblage of breeding and wintering birds", including wintering curlew, the site was not classified under Article 4.2 for this assemblage. The Secretary of State notes that a conclusion of no AEoI was not

[82] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009112
[83] https://publications.naturalengland.org.uk/publication/5170168510545920

disputed by NE or JNCC. The Secretary of State accepts the conclusion of the Applicant [REP7-119] given that no works would take place on what it considered FLL, and agrees with the ExA that, should curlew be present, an AEoI would not result from the Project.

The marsh harrier feature of the site was similarly considered in relation to a LSE from noise disturbance, with the Applicant noting a small overlap of modelled 60 decibel ("dB") LAmax (impulsive) contour within FLL for the species at the RSPB North Warren Reserve [REP7-119] (see Section 4.1), the 60dB LAeq (continuous) contour does not extend into the reserve. A 3dB change above baseline noise levels was agreed with NE to represent a LSE [REP7-119] was also noted to overlap a very small area to the north of the Alde-Ore Estuary SPA. It should be noted that there is no physical overlap with the Alde-Ore Estuary SPA (Figure 3), which at time of classification held three breeding pairs of marsh harrier, and the Project. The RSPB North Warren Reserve (also note that this reserve overlaps with the Leighton-Aldeburgh SSSI) is located some 1.4km to the north east of the SPA, with the order limits of the Project crossing the reserve. While noise impacts are considered by the Applicant on the FLL in the RSPB Reserve/SSSI, direct interaction with these areas is avoided through the use of HDD [REP1A-043]. Suffolk Energy Action Solutions ("SEAS") raised a concern that marsh harriers can forage up to 15km, thereby placing those related to the Alde-Ore Estuary SPA and Minsmere-Walberswick SPA (Section 4.10) at risk of disturbance [REP4-154]. The RSPB also raised concerns regarding the use of the north of its reserve by marsh harrier [REP1-158], which could be considered FLL.

The Applicant [REP1A-043] considered there to be limited suitable farmland within 15km of nest sites, and that foraging birds were at less risk than those at nest or roosting. NE responded to the ExA's RIES [PD-022] in relation to a question covering RSPB's concern that construction noise could affect the auditory cues of marsh harrier, and noted that while they may be susceptible to such disturbance, NE did not consider that such disturbance would lead to AEoI for marsh harriers in relation to the Minsmere-Walberswick SPA (see Section 4.10). Given the birds referred to by NE are also those concerning the Alde-Ore Estuary SPA, NE's comments are also taken to cover that site, and it is further noted that NE raised no concerns with the Applicant's RIHRA in relation to this feature and the source of LSE. It is further noted that RSPB later confirmed [REP7-054] they considered that AEoI could be excluded.

The Secretary of State acknowledges SEAS concern in relation to the potential for interaction between the Project and marsh harrier, based on a representative foraging range of 15km from the Alde-Ore Estuary SPA, however, this cannot be taken as a measure of FLL for the species. Specific FLL in relation to the site has not been identified beyond that which covers part of the RSPB North Warren Reserve, and the Secretary of State accepts that any disturbance which could take place, is likely to be limited to a small area and for a short time period. The Secretary of State agrees with the Applicant and the ExA that AEoI can be ruled out for the Alde-Ore Estuary SPA and Ramsar from disturbance impacts from onshore works.

Airborne sounds and visual disturbance from offshore works

The Applicant considered the potential for visual disturbance to the breeding seabird features of the site, including LBBG, little tern, and Sandwich tern. The Secretary of State notes that the Sandwich tern feature nests at Havergate Island, and feed in the shallow waters along the shingle beaches of Orford Ness and Havergate, generally to the south of where the Project makes landfall in Suffolk. However, it is also noted that Sandwich tern has a large putative breeding season foraging range (34.3km ±23.2, Woodward *et al.* 2024), which means individuals

could interact with Project activities. Little tern are noted to have declined significantly at the site, though still roost on the shingle ridges at Shingle Street, Orford Ness and Havergate Island, and available evidence suggests a smaller foraging range (~5km), such that potential interaction with the Project is more limited. The site condition has not been assessed[84], however, the SACO[85] for population attributes relating to little tern and Sandwich tern both have targets to restore the size of the breeding population, and also to reduce the frequency/duration and intensity of disturbance. LBBG numbers have similarly declined significantly in recent years and the SACO includes similar restore targets for population attributes. Unlike terns, LBBG divide their time between onshore (e.g. Clewley *et al.* 2021[86]) and offshore foraging, with the latter more likely for breeding pairs provisioning chicks (Green *et al.* 2023[87]), when interaction with the Project would be more likely.

It was noted in their RIHRA [REP7-119] that LBBG and Sandwich tern have a low sensitivity to disturbance from vessels, and little tern has a medium sensitivity (after Garthe & Hüppop 2004, MMO 2018, Fliessbach *et al.* 2019), and that effects on energy expenditure are unlikely to have population effects on seabirds due to the small numbers of individuals likely to be affected in a localised area and the ability to find alternative foraging and loafing grounds due to the large area of suitable habitat. The Applicant further noted the slow speeds of vessels related to the Project and their transient presence, and for the offshore scheme, in the context of wider commercial vessel traffic. The Applicant concluded that the temporary addition of a small number of slow moving vessels would not considerably increase disturbance to the site features such that there would be no AEoI. The ExA concluded that there would be no AEoI from the Project from airborne sounds and visual disturbance from offshore works, and this was not disputed by NE or JNCC. The Secretary of State has considered the site features, their condition, and the potential for their interaction with the Project, along with the Applicant's submissions, those of the SNCBs, and the ExA's conclusions, and concludes that there would be no AEoI for the LBBG, little tern and Sandwich tern features of the site in relation to airborne sounds and visual disturbance from offshore works.

Indirect effects through impacts to prey species

The Applicant [REP7-119] notes that the Offshore Scheme meets the Suffolk Landfall ~1.1 km to the south of the Alde-Ore Estuary SPA and is within the foraging ranges of tern and gull features of this site (Woodward *et al.* 2019). The area of seabed impact from the landfall, would be small relative to the wider availability of, for example, herring and sandeel spawning grounds in the North Sea [AS-022, APP-200], and also temporary, with impacts expected to recover rapidly. The Applicant concluded that the impact of changes in prey availability on seabirds is not anticipated to have an AEoI on the qualifying features of the site. The SNCBs did not dispute this conclusion and the ExA agreed that AEoI could be ruled out. The Secretary of State agrees with the Applicant, SNCBs and the ExA, and concludes that any impact on prey availability would

[84] https://designatedsites.naturalengland.org.uk/Marine/MarineFeatureCondition.aspx?SiteCode=UK9009112

[85] https://designatedsites.naturalengland.org.uk/ConservationAdvice/SupplementaryAdvice.aspx?SiteCode=UK9009112

[86] Clewly GD, Thaxter CB, Humphreys EM, Scragg ES, Bowgen KM, Bouten W, Masden E & Burton NHK (2021). Assessing movements of Lesser Black-backed Gulls using GPS tracking devices in relation to the Walney Extension and Burbo Bank Extension Offshore Wind Farms. BTO Research Report 738, 62pp + Appendices.

[87] Green RM, Thaxter CB, Johnston DT, Boersh-Supan PH, Bouten W & Burton NHK (2023). Assessing Movements of Lesser Black-backed Gulls using GPS Tracking Devices in Relation to the Galloper Wind Farm. BTO Research Report 758, 126pp + appendices.

be very minor, temporary, and not result in AEoI given the wider area of available foraging habitat for little tern.

Pollution

A LSE was identified for all site features due to the potential for pollution from the operation of a permanent outfall associated with the Saxmundham Converter Station which discharges to a tributary of the River Fromus, which is approximately 6km upstream of the Alde, Ore & Butley Estuaries SAC, which largely overlaps the Alde-Ore Estuary SPA. As noted in Section 3.2, while it was unresolved at the time of close of Examination as to whether the outfall would result in a LSE for the relevant features of the site, the ExA advised that LSE could not be excluded.

The Applicant noted that the outfall will only carry surface water runoff, following attenuation (collection in a pond of all runoff from non-permeable areas), and it will not therefore be contaminated or contain pollutants. In their RIHRA [REP7-119], the Applicant referred to commitment W11 in the REAC [RE7-359], which is that surface water drainage from permanent above ground infrastructure would be managed and treated using Sustainable Drainage Systems ("SuDS") which is secured in oOCEMP [RE7-129] and in DCO Schedule 3, Requirement 6. The Applicant indicated that the surface water will not be contaminated with pollutants, and that there are a number of control measures outlined in the REAC (GG05, GG28, GH05, W09) that serve to mitigate against other sources of pollution which are not related to the surface water outfall. All of these commitments are similarly secured in the oOCEMP [REP7-129] and DCO Schedule 3.

NE [REP7-277] requested that there should be an appropriately worded commitment added to the REAC detailing the chemical and biological parameters that the discharged water will meet and how this will be monitored and managed throughout the lifetime of the project. The ExA, however, was satisfied that the Applicant's proposed mitigation measures set out in the REAC and drainage strategy [REP7-148], and on the basis that only clean surface water is to be discharged from the outfall, that there is no need for specific water quality monitoring. The Secretary of State has considered the commitments in the REAC and the descriptions provided of the SuDS in the drainage strategy [REP7-148]. This includes that discharge rates from the attenuation pools to the outfall would be limited to the "greenfield" run-off rate of the undeveloped site, and that the surface water drainage system would improve the quality of runoff from the scheme. The Secretary of State further notes REAC commitment W14 in relation to Drainage Management Plans, and the wording of DCO Schedule 3, requirement 6, whereby, amongst others, relevant plans including a Drainage Management Plan – Suffolk, would need to be submitted to and approved by the relevant planning authority or other discharging authority. Additionally, this will need to be in consultation with Natural England in the case of the Drainage Management Plans.

The Secretary of State considers there to be sufficient controls in place to ensure that the outfall only carries surface water, that the surface water is subject to a SuDS designed in keeping with that set out in the Drainage Strategy, and that the subsequent Drainage Management Plan, which must be in keeping with that Strategy, is secured in the DCO and would be subject to further consultation with NE post-consent. It is therefore concluded that the surface water outfall associated with the Saxmundham Converter Station will not result in an AEoI for the Alde-Ore Estuary SPA or Ramsar.

4.10 Minsmere-Walberswick SPA and Ramsar

The Minsmere-Walberswick SPA is classified for a number of breeding (avocet, bittern, nightjar, shoveler, teal, gadwall, little tern, marsh harrier) and non-breeding (gadwall, greater white-fronted goose, hen harrier, northern shoveler) birds. The condition of the site features has not been assessed.

The conservation objectives of the site are to ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate, and that the site contributes to Favourable Conservation Status of its qualifying features, by maintaining or restoring:

- the extent and distribution of the habitats of the qualifying features
- the structure and function of the habitats of the qualifying features
- the supporting processes on which the habitats of the qualifying features rely
- the populations of each of the qualifying features
- the distribution of qualifying features within the site

A LSE was identified for gadwall, northern shoveler, marsh harrier, greater white-fronted goose, and hen harrier from disturbance (noise and visual) from onshore works at FLL, and for airborne sounds and visual disturbance from offshore works and indirect effects through impacts to prey species for little tern, all during construction and decommissioning phases. The site is located 1.7km to the north of the Project.

The questions raised by SEAS on the adequacy of the bird surveys undertaken by the Applicant are covered in Section 4.1 and will not be repeated here. The Secretary of State is satisfied that the baseline information is sufficient for the purposes of the Applicant's assessment, and this HRA.

Disturbance (noise and visual) from onshore works at functionally linked land

The marsh harrier feature of the site was considered in relation to a LSE from noise disturbance, with the Applicant noting a small overlap of modelled 60dB LAmax (impulsive) contour with FLL for the species at the RSPB North Warren Reserve [REP7-119] (see Section 4.1), the 60dB LAeq (continuous) contour will not extend into the reserve [REP7-054]. A 3dB change above baseline noise levels was agreed with NE to represent a LSE [REP7-119]. It should be noted that there is no physical overlap with the Minsmere-Walberswick SPA, which at time of classification held 15 breeding pairs of marsh harrier (1991 count), and the Project. The RSPB North Warren Reserve (also note that this reserve overlaps with the Leighton-Aldeburgh SSSI) is located some 2.2km to the south of the SPA, with the Order limits of the project crossing the reserve. The Applicant notes that based on two years of wintering bird surveys, the RSPB North Warren Nature Reserve contained teal, shoveler and gadwall, all of which are relevant to the Minsmere-Walberswick SPA, but noted that direct interaction with the reserve would be avoided through the use of HDD. While noise impacts are considered by the applicant on the FLL in the RSPB Reserve/SSSI, direct interaction with these areas is avoided through the use of HDD [REP1A-043]. SEAS raised a concern that marsh harriers can forage up to 15km, thereby placing those related to Minsmere-Walberswick SPA, and Alde-Ore Estuary SPA (Section 4.9), at risk of disturbance [REP4-154]. The RSPB also raised concerns

regarding the use of the north of its reserve by marsh harrier [REP1-158], which could be considered FLL.

The Applicant [REP1A-043] considered there to be limited suitable farmland within 15km of nest sites, and that foraging birds were at less risk than those at nest or roosting. NE responded to the ExA's RIES [PD-022] in relation to a question covering RSPB's concern that construction noise could affect the auditory cues of marsh harrier, and noted that while they may be susceptible to such disturbance, NE did not consider that such disturbance would lead to AEoI for marsh harriers in relation to the Minsmere-Walberswick SPA. It is further noted that NE raised no concerns with the Applicant's RIAA in relation to this feature and the source of LSE. It is further noted that RSPB later confirmed [REP7-054] that they considered that AEoI could be excluded.

The Secretary of State acknowledges SEAS concern in relation to the potential for interaction between the Project and marsh harrier, based on a representative foraging range of 15km from the Minsmere-Walberswick SPA, however, this cannot be taken as a measure of FLL for the species. Specific FLL in relation to the site has not been identified beyond that which covers part of the RSPB North Warren Reserve, and the Secretary of State accepts that any disturbance which could take place, is likely to be limited to a small area and for a short time period. RSPB [REP1-158] raised concerns regarding disturbance from the proposed construction compound. The Applicant has committed (B23 [REP7-259, amended in C1-216]) to best practice means of noise reduction, including a noise barrier of minimum 3m in height, along with other measures, to ensure noise levels at Sandlings SPA (see Section 4.11) do not exceed 60 dB (LAmax), and to prevent visual disturbance, including from lighting. The commitment includes noise monitoring adjacent to Sandlings SPA and Leiston-Aldeburgh SSSI (which largely overlap the North Warren reserve) to confirm noise levels have not exceeded the required level, or else additional measures would be introduced. Furthermore, the Applicant has committed to undertake bird monitoring within the RSPB Reserve during trenchless compound set up, demobilisation, and drilling, to confirm locations of Schedule 1 bird territories (to inform the spotters inspection route) and to monitor for bird disturbance and inform any further mitigation. The locations are to be agreed with RSPB. RSPB confirmed the matter to be resolved in the SoCG [REP7-054].

The RSPB were concerned about noise and light disturbance at dawn, dusk and at night which could disturb wintering birds using the North Warren Reserve/Leiston-Aldeburgh SSSI, including FLL of the Minsmere-Walberswick SPA [REP1-158]. The Applicant [REP2-034] confirmed that the agreed 60dB threshold (see above) was relevant at all times of day. Direct illumination of any boundary areas around the construction compounds, including FLL, is avoided through commitment B38 [REP-359], which is covered in the oCEMP [REP-129]. RSPB confirmed the matter to be resolved in the SoCG [REP7-054].

Based on the above evidence in relation to the potential for interaction, scale of disturbance, and the mitigation measures secured through commitments made by the Applicant, the Secretary of State concludes that AEoI will not result from noise or visual disturbance from onshore construction on the Minsmere-Walberswick SPA or Ramsar site.

The Applicant [REP7-119] did not identify in-combination effects for the site. NE [REP7-277] and RSPB [REP7-054] confirmed that AEoI for the site can be excluded as a result of the Project alone or in-combination with other plans or projects. The Secretary of State agrees with the ExA that in-combination AEoI can be excluded for the Minsmere-Walberswick SPA and Ramsar.

Airborne sounds and visual disturbance from offshore works

The Applicants considered the potential for visual disturbance to breeding little tern. The Secretary of State notes that little tern have declined at the site by 95% since classification, reducing from 32 breeding pairs (1991) to 1.6 breeding pairs (five year mean peak 2014-2018). The site SACO[88] indicates that little tern colonies found breeding along the Suffolk and Norfolk coastline are functionally linked, but that they are notoriously transitory in their nesting habits and may move between different colonies in response to factors including disturbance and predation. It further notes that a significant increase in little tern population at Benacre to East Bavents SPA might account for the reduction in the population at Minsmere-Walberswick SPA. In view of the limited current site population, the distance between the site and the Project, and the relatively restricted foraging range of the species (~5km, Woodward *et al.* 2024), potential interaction with the Project is limited. While the site condition has not been assessed[89], the SACO for population attributes relating to little tern has the target to restore the size of the breeding population to 32 pairs, and also to reduce the frequency/duration and intensity of disturbance.

It was noted in the RIHRA [REP7-119] that little tern has a medium sensitivity to disturbance from vessels (after Garthe & Hüppop 2004, MMO 2018, Fliessbach *et al.* 2019), and that effects on energy expenditure are unlikely to have population effects on seabirds due to the small numbers of individuals likely to be affected in a localised area and the ability to find alternative foraging and loafing grounds due to the large area of suitable habitat. The Applicant further noted the slow speeds of vessels related to the Project and their transient presence, and for the offshore scheme, in the context of wider commercial vessel traffic. The Applicants concluded that the temporary addition of a small number of slow moving vessels would not considerably increase disturbance to the site features such that there would be no AEoI. The ExA concluded that there would be no AEoI from the Project from airborne sounds and visual disturbance from offshore works. NE concluded that there was no risk of AEoI for the site [REP7-277]. The Secretary of State has considered the site features, their condition, and the potential for their interaction with the Project, along with the Applicant's submissions, those of the SNCBs, and the ExA's conclusions, and concludes that there would be no AEoI for the little tern feature of the site in relation to airborne sounds and visual disturbance from offshore works.

The Applicant [REP7-119] did not identify in-combination effects for the site. NE [REP7-277] and RSPB [REP7-054] confirmed that AEoI for the site can be excluded as a result of the Project alone or in-combination with other plans or projects. The Secretary of State agrees with the ExA that in-combination AEoI can be excluded for the Minsmere-Walberswick SPA and Ramsar.

Indirect effects through impacts to prey species

The Applicant [REP7-119] notes that the Offshore Scheme meets the Suffolk Landfall ~1.7 km to the south of the Minsmere-Walberswick SPA, and is within the foraging ranges of tern and gull features of these sites (Woodward *et al.* 2019). The area of seabed impact from the landfall, would be small relative to the wider availability of, for example, herring and sandeel spawning grounds in the North Sea [AS-022, APP-200], and also temporary, with impacts expected to recover rapidly. The Applicant concluded that the impact of changes in prey availability on seabirds is not anticipated to have an AEoI on the qualifying features of the site. The SNCBs

[88] https://designatedsites.naturalengland.org.uk/ConservationAdvice/SupplementaryAdvice.aspx?SiteCode=UK9009101

[89] https://designatedsites.naturalengland.org.uk/Marine/MarineFeatureCondition.aspx?SiteCode=UK9009101

did not dispute this conclusion and the ExA agreed that AEoI could be ruled out. The Secretary of State agrees with the Applicant, SNCBs and the ExA, and concludes that any impact on prey availability would be very minor, temporary, and not result in AEoI given the wider area of available foraging habitat for little tern. The Applicant [REP7-119] did not identify in-combination effects for the site. NE [REP7-277] and RSPB [REP7-054] confirmed that AEoI for the site can be excluded as a result of the Project alone or in-combination with other plans or projects. The Secretary of State agrees with the ExA that in-combination AEoI can be excluded for the Minsmere-Walberswick SPA and Ramsar.

4.11 Sandlings SPA

The Sandlings SPA lies near the Suffolk Coast between the Deben Estuary and Leiston and is classified for breeding nightjar (*Caprimulgus europaeus*) and woodlark (*Lullula arborea*). The nightjar count at classification in 2001 was 109 breeding males (based on a 1991 count), which reduced to 81 breeding males (2004 count). Similarly, there were 154 breeding pairs of woodlark at classification (1997 count) which declined to 73 (2006 count). While a site condition assessment is not available, both features have targets against the population attribute in the SACO to restore the populations to their values at the time the site was classified.

The conservation objectives of the site are to ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate, and that the site contributes to Favourable Conservation Status of its qualifying features, by maintaining or restoring:

- the extent and distribution of the habitats of the qualifying features
- the structure and function of the habitats of the qualifying features
- the supporting processes on which the habitats of the qualifying features rely
- the populations of each of the qualifying features
- the distribution of qualifying features within the site

A LSE was identified for both features of the site in relation to air quality (dust only), loss of FLL and, disturbance (noise and visual) from onshore works, all during construction and decommissioning.

The questions raised by SEAS on the adequacy of the bird surveys undertaken by the Applicant are covered in Section 4.1 and will not be repeated here. The Secretary of State is satisfied that the baseline information is sufficient for the purposes of the Applicant's assessment, and this HRA.

Air quality (dust only)

The Applicant [REP7-119] noted that the trenchless launch location and a section of cable trench would be within 200m of the site, and the compound would be 20m at its closest point to the SPA. The Applicant indicated it was not possible to quantify the volume of dust that could be generated, and that there were no tools available to do so, but noted that dust would have to be thick and persistent to materially affect the habitat and its nesting value for nightjar and woodlark. While the Applicant considered that the risk was low even in the absence of mitigation, standard dust control measures were considered necessary, secured through DCO Schedule 3,

requirement 6. A number of commitments cover the application of dust management (GG17, GG18, GG19, GG20, AQ02, AQ03, AQ04, AQ05, AQ08) and these are recorded in the REAC [REP7-359], and as appropriate, in the oCEMP [REP7-129], and the outline Air Quality Management Plan – Suffolk ("oAQMP") [REP7-135]. The Applicant concluded that the mitigation measures are such that there would be no AEoI on the Sandlings SPA. This conclusion was not disputed by the SNCBs. The Secretary of State agrees that the risks of dust impacting the habitat of the nightjar or woodlark is low and that the mitigation measures are such that the extent and distribution, structure and function, and supporting processes of the habitats on which the qualifying features rely will not be affected, and an AEoI can be ruled out. The Applicant did not identify an in-combination effect from air quality impacts from dust, and this was not disputed by SNCBs or the ExA. The Secretary of State agrees that AEoI will not result in-combination with other plans or projects in relation to air quality impacts from dust.

Loss of FLL

It is noted in the Applicant's RIHRA [REP7-119] that approximately 7.5ha of acid grassland would be temporarily lost due to the presence of the trenchless technique compound and associated section of cable trench east of Leiston Road, and to an area north of the golf course while it is traversed by the cable trench. The Applicant indicated that the FLL was used for foraging, not nesting. Two seasons of breeding bird surveys did not record nightjar or woodlark in these areas, though they are within 1km of the nearest territories for the birds. The areas would be disturbed within a single nesting season (taking ~six months), with restoration taking place thereafter. The Applicant also noted that fields left fallow came into use by woodlark one year after they were used, suggesting that habitat structure is more important than species composition, such that recovery of the disturbed area should be more rapid than waiting for the re-establishment of acid grassland. It was considered by the Applicant that less than 5% of available foraging and nesting habitat for woodlark would be affected, and considerably less than 5% of the foraging habitat for nightjar. NE [REP7-269] concluded there would be no AEoI. The ExA considered that there would be a short-term loss for a single nesting season of acid grassland that is FLL for foraging woodlark and nightjar, however, was satisfied with the Applicant's proposed mitigation measures and was not presented with evidence to suggest that the affected acid grassland would not reinstate. The Secretary of State agrees with the ExA that the short-term (one breeding season) loss of a small area of acid grassland which could potentially be used as foraging habitat would not lead to a long-term loss of habitat on which the qualifying features rely, such that AEoI can be ruled out. The Secretary of State notes NE's consultation response which indicates that the Applicant has not included mitigation in the form of management of acid grassland to rule out AEoI, but still refers to this in its in-combination assessment of the RIHRA [REP7-119]. The Secretary of State notes that the Applicant has retained its commitment (B28 of the REAC, C3-014], that 6 hectares of acid grassland would be managed in an enhanced manner for 10 years in relation to the Suffolk onshore scheme, and agrees that while such mitigation is not required to conclude no AEoI for the site in view of the temporary nature of the effect, that it nonetheless would contribute to mitigating the scale of disturbance in relation to FLL. The Applicant did not identify an in-combination effect from the temporary loss of FLL. The Secretary of State agrees that AEoI will not result in-combination with other plans or projects in relation to loss of FLL.

Disturbance (noise and visual) from onshore works

The Applicant [REP7-119] indicated that, in meetings with NE, it was agreed that birds generally give no reaction to noise levels of 55dB or below, and that a 3dB change should be used for the

purposes of HRA screening, though it should not be taken that 3dB will result in disturbance. A reasonably precautionary threshold was agreed with NE and RSPB as 60dB, and the Applicant modelled 60dB LAmax for all phases of the work as a worst case. While this noise level would be intermittent, for the purposes of assessment the Applicant assumed it would be typical. The Applicant assumes that mitigation (e.g. fencing) will reduce noise by 10dB, noting further noise reduction potential through use of quieter plant or alternative techniques. The RSPB questioned which guidance supported a reduction of 10dB [REP1-158], and the Applicant [REP2-034] referred to Annex B of BS 5228-1:2009+A1:2014 'Code of practice for noise and vibration control on construction and open sites – Part 1: Noise'.

Noise modelling indicated that noise levels could exceed 60dB within a small area of the SPA during compound setup, but that this would not be the case for the trenchless installation. Commitment B23 [REP7-359] requires the Applicant to use best practice such as noise fencing or similar, with a noise barrier at least 3m in height to be used at the trenchless compound, along with other measures, to ensure that noise levels at the Sandlings SPA do not exceed 60dB LAmax, and to prevent visual disturbance. The commitment includes noise monitoring adjacent to Sandlings SPA and Leiston-Aldeburgh SSSI (which largely overlap the North Warren reserve) to confirm noise levels have not exceeded the required level, or else additional measures would be introduced. Furthermore, the Applicant has committed (B23 in the REAC, REP7-359 and C1-216) to undertake bird monitoring within the RSPB Reserve during trenchless compound set up, demobilisation, and drilling, to confirm locations of Schedule 1 bird territories (to inform the spotters inspection route) and to monitor for bird disturbance and inform any further mitigation. The locations are to be agreed with RSPB. RSPB confirmed the matter to be resolved in the SoCG [REP7-054].

The Applicant indicated that there would be a need for UXO investigation at the trenchless launch pit and along the route of the trenchless crossing in the North Warren RSPB reserve, however, it concluded that for much of the route the crossing would be below the bomb penetration depth of 10-12m [REP7-119]. With reference to a desk-based UXO risk assessment (Appendix A in REP7-129], the Applicant noted that there is no recorded ordnance at the Suffolk trenchless drill site, or evidence of bombs being dropped there, such that the area is of lower risk. The Secretary of State notes that the UXO report classifies the area coinciding with the trenchless launch area as being "medium risk zone 1", which had a medium risk from German high explosive bombs and allied anti-aircraft shells, with a low risk of other smaller ordnance. Mitigation recommended, amongst other things, survey work, which the Applicant noted in their RIHRA [REP7-119] would be required to ensure that all possible UXO close to the trenchless drill are identified. The Applicant's commitment GG39 requires that the Applicant will implement the mitigation measures in accordance with the recommendations set out within the detailed UXO risk assessment reports appended to the Onshore oCEMP [REP7-129].

The Applicant listed a range of possible solutions should a UXO be encountered at the drill site or within the survey area. For example, the UXO may be confirmed as a dummy, drill depth or alignment could be amended within the Order Limits to avoid it, it may be able to be disposed of elsewhere, or it may need to be disposed of *in situ* by one of various methods. If UXO disposal was required, SSSI Assent may be required in relation to the Leiston-Aldeburgh SSSI, which would also serve to cover the Sandlings SPA. The Applicant has committed to inform NE and RSPB in advance of any disposal to take measures to protect the SSSI where practicable, and where they have influence over the disposal, and to agree a methodology and timing to ensure impacts on SSSIs are avoided or minimised (GG39, [REP7-359, REP7-129]). The deferral of

assessment, and a possible lack of control over disposal methods were key concerns of RPSB [REP4-142] and NE [REP5-199]. With regards to NE, it also commented that it would welcome a commitment to be included in real time discussions to reduce impacts. In her first consultation, the Secretary of State invited NE to comment on the Applicant's mitigation proposals set out in the REAC at deadline 7 [REP7-359]. NE welcomed the inclusion of GG39 in relation to UXO and its relevance both to Leiston-Aldeburgh SSSI and Sandlings SPA, but requested that it was amended such that the Applicant should, *"…work with Natural England and the RSPB in advance to agree a methodology and timing to ensure that impacts to the SSSI are avoided or minimised*", rather than to be consulted in advance to take measures and protect SSE interests where practicable. The Secretary of State considers that the Applicant's reference to consultation with both parties provides a suitable mechanism to consider their input, where they have control over the approach to UXO disposal. The ExA considered that the SSSI assent process in relation to UXO investigation and clearance (if needed) provided a mechanism for the timing of investigation to be specified so it avoids the core wintering or breeding seasons, and noted that NE and RSPB would be consulted on this.

The Secretary of State acknowledges RSPB's concern about deferring further consideration until a later stage, however, she agrees with the ExA that there would be no AEoI on the Sandlings SPA in view of the available information on the likelihood of UXO encounter, commitments made by the Applicant, and that there is a suitable post-consent mechanism to ensure mitigation can be applied to plan the site investigation and minimise the risk of disturbance from UXO disposal, if required.

The Applicant made a number of commitments relating to visual disturbance from the trenchless crossing compound, which included the 3m high fencing already referred to above in relation to noise disturbance (B23), as well as avoiding direct illumination of boundary features, including the SPA (B38), and using the lowest level of lighting necessary to safely perform each task (GG21) [REP7-359]; these are captured in the oCEMP [REP7-129]. The Applicant noted that the top of the HDD rig, recycling system and excavator boom would be visible above the 3m high fencing but that lighting would be limited to targeted task lighting and could be controlled through cowling and other appropriate measures. If needed, specific shields could also be used to block visibility of any light fixtures, to be determined by the Ecological Clerk of Works ("ECoW"), or equivalent, at the time. The Applicant noted that the lighting plan [Appendix C of REP6-112] showed the 1 lux contour does not approach the Sandlings SPA, but is confined to the compound boundary. NE [REP6-250] did not consider the assessment of impacts on functionally linked land to be adequate. The RSPB records this matter to be unresolved in their SoCG [REP7-054], and NE had not commented on whether lighting would result in AEoI at the close of examination, but did note that commitment B23 in the REAC specifically cites noise mitigation, and recommended that: an additional commitment be included in the REAC relating to compound lighting and the need to increase the HDD compound barrier height in response to any lit machinery or structures above 3m, and a commitment to monitor lighting impacts. The Secretary of State requested as part of her first consultation that the Applicant update commitment B23 to include lighting mitigation commitments for disturbance impacts to ecological receptors during construction. NE confirmed as part of the Secretary of State's consultation that it was satisfied there would be no further impact on woodlark and nightjar features of the Sandlings SPA as a result of light spill from the construction compound. The Secretary of State has concluded that based on the information provided by the Applicant, the proposed mitigation measures and the commitments secured through the version of the REAC amended following her consultation [C1-

216], that lighting from the temporary presence of the trenchless crossing compound will not result in an AEoI for the Sandlings SPA.

The Applicant [REP7-119] considered the potential for in-combination effects from East Anglia One North and East Anglia Two, however they noted that seasonal restrictions in the DCO requirements for those projects were such that in-combination effects would not occur. The Applicant also considered potential in-combination effects from the Saxmundham to Peasenhall Water Mains Installation and Saxmundham South Garden Neighbourhood, and while it considered that construction timelines could coincide, the mitigation measures related to the current Project limiting the scale of noise effects above background levels, and/or avoiding the most potentially disturbing works near to the SPA (i.e., compound set up for the Proposed Project) during the nesting season were sufficient to avoid in-combination effects. The conclusion of no in-combination AEoI was not disputed by any SNCB. The Secretary of State agrees with the ExA that in-combination AEoI can be excluded for the Sandlings SPA.

4.12 Stodmarsh SPA and Ramsar

Stodmarsh SPA is located in central Kent and is a wetland site resulting from subsidence under the valley of the Great Stour, and includes open water, extensive reed-beds, grazing marsh and Alder *Alnus glutinosa* carr. The site is classified for great bittern (*Botaurus stellaris*) (non-breeding), gadwall (*Anas strepera*) (breeding and non-breeding), northern shoveler (*Anas clypeata*) (non-breeding), hen harrier (*Circus cyaneus*) (non-breeding), and waterbird and breeding bird assemblages. Site condition assessment is not available, however, the SACO[90] includes targets to maintain the population of classified species, and the structure and function of supporting habitats.

The conservation objectives[91] of the site are to ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate, and that the site contributes to Favourable Conservation Status of its qualifying features, by maintaining or restoring:

- the extent and distribution of the habitats of the qualifying features
- the structure and function of the habitats of the qualifying features
- the supporting processes on which the habitats of the qualifying features rely
- the populations of each of the qualifying features
- the distribution of qualifying features within the site

Collision risk

Collision risk was considered by the Applicant with reference to vantage point surveys in the space to be occupied by the new section of overhead line [REP1A-023] and a three month bird corpse search across areas in proximity to the existing Richborough to Canterbury overhead line [APP-153]. The Applicant noted that the birds considered to be most at risk of collision (cormorant, mallard, greylag goose), exceeding one individual per year, were not qualifying

[90] https://designatedsites.naturalengland.org.uk/TerrestrialAdvicePDFs/UK9012121.pdf
[91] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9012121

features of the site[92], and that the application of a 99.9% avoidance rate is such that collisions would be fewer than one per year. RSPB [REP1-158] and RSPB Thanet [REP1A-061] considered collision and displacement risk for pylons across the River Stour had been underestimated and queried whether the survey effort was adequate to inform the collision risk assessment. The Applicant responded [REP3-067] that it considered the survey effort to be sufficient and proportionate, and that the assessment assumptions provided an exaggerated worst case scenario [REP3-069], which included a much larger risk range height than would actually exist.

Despite concluding that there would be no AEoI in the absence of mitigation, the Applicant has committed to fit bird diverters to the new overhead power line [commitment B55 in the REAC, REP7-359], which will be visible in low light and at night, and the commitment is further captured in the oCEMP [REP7-129]. KWT [REP3-092], CPRE Kent [REP3-082] and RSPB [REP5-092, REP7-054] considered that bird diverters should be fitted to both existing and new wires, however, NE did not consider there to be any need for additional diverters to be fitted to other lines in the area for the purposes of HRA, and also indicated that they agreed with the Applicant's conclusions of no AEoI of the site [REP7-277]. In her first consultation, the Secretary of State invited the Applicant to update Appendix B of the outline Landscape and Ecological Management Plan-Kent ("oLEMP") [REP7-141] to secure two years of collision monitoring from commencement of operation of the new overhead line arrangement and to update REAC commitment B55 [C1-216] to secure that, "*In the event that collision monitoring surveys in the oLEMP identify that collisions with [NGET'S] existing lines are worse than predicted due to the new overhead line arrangement, the applicant will consult with the statutory nature conservation body regarding the need for additional diverters on [NGET's] existing lines. Where consultation with the statutory nature conservation body indicates that additional mitigation is required, diverters shall be fitted on [NGET's] existing lines, or other appropriate measures agreed with the statutory nature conservation body*." The Secretary of State recognises KWT's recommendation that monitoring should be for five years [C1-004], however, agrees with the ExA that, combined with the consultation requirements secured, that two years is a sufficient monitoring period.

The ExA concluded that there would be no AEoI based on the low predicted collision rates and a lack of compelling evidence for the need for bird diverters on existing lines. The Secretary of State agrees that the very low level of estimated collisions, and the scale of any potential mortality is so low that mitigation beyond that proposed by the Applicant, and secured through the oCEMP, is not required. The Secretary of State concludes that there will be no AEoI for the Stodmarsh SPA or Ramsar as a result of collision risk. The Applicant did not identify in-combination effects for the site, and both the Applicant and SNCBs concluded that in-combination AEoI would not result from collision risk associated with the Project. The Secretary of State agrees, and similarly concludes that AEoI would not occur in-combination with other plans or projects.

[92] They are also not recorded as noteworthy fauna for the Stodmarsh Ramsar

4.13 Thanet Coast and Sandwich Bay ("TCSB") SPA and Ramsar

The site is classified for golden plover (*Pluvialis apricaria*) (non-breeding), ruddy turnstone (*Arenaria interpres*) (non-breeding), and little tern (*Sterna albifrons*) (breeding).

The conservation objectives[93] of the site are to ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate, and that the site contributes to Favourable Conservation Status of its qualifying features, by maintaining or restoring:

- the extent and distribution of the habitats of the qualifying features
- the structure and function of the habitats of the qualifying features
- the supporting processes on which the habitats of the qualifying features rely
- the populations of each of the qualifying features
- the distribution of qualifying features within the site

The features are judged to be in unfavourable condition as population abundance is not reaching targets for the species.

The Order limits for the Project overlap part of the site (Figure 2, Figure 4) at the Kent landfall, with approximately 3km of cable traversing the site. Sources of effect include changes to marine water quality during cable installation and cable lay from the use of drilling fluids (e.g. frac out), airborne sounds and visual disturbance from offshore works, indirect effects through impacts to prey species, direct habitat loss, disturbance (noise), loss of FLL (golden plover only) from onshore works and pollution (terrestrial - changes in water quality), and collision risk.

Direct habitat loss, indirect effects through impacts to prey species (construction, operation, decommissioning)

In relation to habitat loss, NE [REP5-217] considered that impacts from the Project on marine physical processes and the physical environment had not been fully identified or quantified and requested an update to the maximum design scenario ("MDS") for construction, including seabed disturbance due to cable installation and changes to hydrodynamics, sediment transport and morphology due to HDD exit pits and cofferdams. NE later clarified [REP5-199] that their main concern related to intertidal and shallow subtidal mudflats and saltmarsh which are supporting habitat to the TCSB SPA and Ramsar. NE [REP5-222] was satisfied with the Applicant's explanation of the MDS assessed for cofferdams. The Applicant undertook geotechnical investigations and concluded that trenchless methods were feasible so that surface trenching in the site could be avoided, with the cable being installed 15-18m below the saltmarsh. The Applicant concluded that there would, therefore, be no AEoI from direct habitat loss. A 0.0721km^2 area of intertidal mudflat would be disturbed by the use of an excavator, jack-up barge ("JUB"), back hoe dredger, cable lay barge and temporary cofferdam, with concrete mattresses/rock bags being placed at the trenchless entry/exist points approximately one week before the cable pull, with permanent cable protection with a coverage of some 0.00036km^2 being subsequently buried. The Applicant concluded that evidence (McQuillan *et al.* 2024, Tillin *et al.* 2024, EcoMarine 2020) indicated that impacts on the seabed and related fauna would be temporary and short-term, due to a natural tolerance to disturbance and high recruitment rates

[93] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9012071

[REP7-119]. NE [REP6-245] were not supportive of the use of a backhoe dredger, however, the Applicant noted that this would only be used at the Suffolk landfall [REP7-257]. NE raised concerns around jack-up depressions and maintained its draft standard advice that jack-up barges should not be used in designated sites, and referred longer-duration impacts in terms of topographic depressions persisting for 2-10 years at certain wind farms [REP7-277]. The Applicant explained that the size of jack-up would be small, with any depressions infilled [REP7-257], with the total scale of impact being ~0.0002km^2 [REP7-097]. The Applicant noted [REP4-241] that the preferred, and most likely, approach would be grounded barge, which NE indicated would resolve its concern around jack-up depressions, however, the use of a jack-up barge was not excluded by the Applicant as it could be needed as a contingency, consistent with assessing the MDS [as per REP7-100].

The Applicant has committed to trenchless exit pits in Pegwell Bay being at least 105m seaward of the saltmarsh edge, with temporary working areas and access routes being a minimum of 50m (B69 of the REAC [REP7-359]) from the saltmarsh, secured through commitment 10 of the DML. The Applicant will produce a HDD Landfall Methods Statement (B59) in consultation with NE, KWT and the NT, RSPB and Thanet District Council, to be approved by the MMO in accordance with the Cable Specification and Installation Plan, which will be consistent with the oCSIP [REP7-159]. A Pegwell Bay Landfall Construction Method Statement ("PBLCMS") will also be produced prior to the commencement of landfall works (B68), in consultation with NE, KWT and the NT, covering works between marine cable pull-in and cable burial (including excavations) between Mean Low Water Springs ("MLWS") and the trenchless crossing exit pits.

The Applicant noted that vehicles accessing the HDD exit pits via the former hoverport will include small excavators (15-20 tonnes), tractors, towed trailers, hovercraft and four-wheel drive ("4WD") vehicles [REP7-146]. The frequency of access by these vehicles is estimated to be up to four times a day (subject to tides), but at peak times of construction, there could be up to 40 movements per day. NE [REP7-273] were concerned about movement of construction plant and vehicles impacting intertidal mud and sand flats, noting evidence from cable installation in The Wash and at Hornsea 1 and 2 landfalls resulting in sediment compaction even with the use of low ground pressure excavators. NE advised that strong commitments be made to only use low ground pressure vehicles (less than a human footprint), to limit the number of return trips per vehicle, and the use of aluminium trackway to spread the load and reduce the speed of vehicles. The Applicant responded to comments relating to plant crossing the intertidal area, and former hoverport, at deadline 6 [REP7-257], noting that plant and 4WD vehicles (using reduced tyre pressures) would exert pressure less than or equivalent to a human foot, and that impacts would be only be visible for one, or at worst a few, tidal cycles [REP7-119]. Commitment B67 [REP7-359] required the Applicant to define the locations and widths of access routes across the mudflats in consultation with NE, KWT and the NT, as appropriate, and for this to be informed by a pre-construction saltmarsh habitat survey, and also to avoid interaction with the saltmarsh by achieving access via the hoverport (see below in relation to pollution concerns), and to use low pressure bearing vehicles. The commitment is captured in the oCEMP [REP7-129]. Following a request by the Secretary of State in her first consultation, the Applicant updated commitment B67 of the REAC [C1-216] to ensure that the scope of the saltmarsh survey covers the trenchless crossing route, which was in line with a recommendation of the ExA.

NE queried the total area of impact within the intertidal area [REP3-118] and advised that some landfall activities were not included [REP6-244], and that clarification was needed about sequential or overlapping cable installation. The Applicant updated the RIHRA [REP7-119],

which confirmed the total footprint would be 0.0721km^2, and their related physical processes [REP7-097] and benthic ecology [REP7-099] ES chapters. As NE was not able to confirm whether their concern had been addressed at close of Examination, the Secretary of State invited NE to confirm whether the revised chapters addressed their concerns as part of her first consultation. NE indicated that their concerns had in part been addressed [C1-146]. They welcomed clarification on the phasing of cable installation and the MDS for seabed disturbance for marine cable pull in and subsequent burial. However, NE noted that the area for the cable pull in and burial was 0.05km^2, but that the total seabed disturbance area at the landfall remained 0.0721km^2. The Secretary of State has reviewed the figures referenced in the benthic ecology chapter [REP7-100] and notes the clarifications made by the Applicant as to the activities covered by the cable trenching and pull to the HDD exit pits. Combining the figures associated with the Kent landfall area (Table 2.17 of REP7-100) suggests that the area of the cable pull and trenching is included in the overall area of disturbance. The Secretary of State also notes that the Applicant assessed the HDD approach to the trenchless crossing as it considered it to represent a WCS. Therefore, she considers that it is unlikely that this assessment would need to be revisited in the event that HDD proves not to be feasible. The Secretary of State notes SMM's and KWT's concerns in relation to clarity over the assessment of WCS, including open-cut trenching should HDD prove infeasible, however, the Applicant has committed to only using trenchless methods. This commitment is secured in the DCO, in condition 10 of the DML (Schedule 16). The Secretary of State further notes SMM's concerns that the Applicant indicated [C1-178] that alternative methods were not feasible without intermediate pits, however, in this instance the Applicant was commenting on extending the length of the trenchless techniques such that the exit pit would be subtidal, rather than in relation to the proposed approach to an intertidal exit pit. NE raised a concern during the consultation in relation to commitment B43 of the REAC, that no excavation would be undertaken to remove stuck drilling equipment except within 40 m of the entry or exit point, where the drill is at shallow depth (>5 m), and outside any areas of saltmarsh, with regards to what might happen to any excavated seabed sediments. NE added that this needs to be fully considered in a pre-construction landfall management plan to ensure that impacts can be sufficiently mitigated. The Applicant has already committed to the PBLCMS in consultation with NE, KWT and NT (commitment B68) and the Secretary of State considers that this plan effectively covers NE's request.

With regards to access routes to be taken between the hoverport and HDD area, as NE notes, these will be defined post-consent and are accounted for in the Applicant's assessment as "superficial". The Secretary of State notes the commitments already made by the Applicant in relation to the agreement of routes the use of low pressure bearing vehicles (commitment B67, REP7-359). The Secretary of State considers that the Applicant has made an assessment of the worst case impacts of the trenchless crossing in the intertidal area.

NE advised that monitoring intertidal mudflats morphology and biological community recovery following landfall construction works is required to validate the predictions made by the Applicant, both in relation to vehicle movements and the HDD exit (this point was made again in response to the first consultation [C1-146]). The oIPMP [REP7-167] included commitments to monitoring of benthic and intertidal ecology, including pre- and post-construction surveys of the cable corridor, but did not refer to impacts from vehicle movements or recoverability of the mudflats, as requested by NE. A final IPMP, in accordance with the oIPMP secured through DML condition 15(4) and condition 15(5), requires submission and approval by the MMO, in consultation with the SNCBs, of an adaptive management plan where post-construction monitoring identifies

impacts that are worse than those predicted in the Applicant's RIHRA [REP7-119]. The ExA agreed with NE's suggestion that intertidal monitoring should be included and was not satisfied with the Applicant's commitments in the oIPMP. The ExA recommended a new DML condition (4(1)(l)), and also Schedule 15 and 16, which requires submission of a monitoring plan to the MMO for approval, with a commitment to monitoring recoverability of the mudflats, in consultation with the relevant SNCBs. The ExA acknowledged NE's standing advice regarding the use of jack-up barges in designated sites however, based on the size of vessels indicated, the ExA did not consider that adverse effects would be likely.

NE did not regard that the Applicant had presented any evidence that the area of impact was any more or less important than any other supporting habitat of the site, or the surrounding areas would provide the same resource [REP7-273], and so advised that a commitment to undertake pre-construction surveys of bird hotspot areas in the SPA would address risks and mitigation measures. The Applicant was unable to respond to this suggestion due to the close of Examination. The ExA noted that NE did not provide detail on how such hot-spot modelling should be undertaken or how the result should be used post-consent, and it was unclear to the ExA what changes could be made from the results, noting that there is limited flexibility at the Kent landfall to take account of the hotspot modelling results and the impacts need to be determined for the purposes of the Secretary of State's decision.

The Secretary of State has considered the nature and scale of potential impacts on the supporting habitat of TCSB SPA from the installation of the onshore and offshore schemes, and the related impacts on prey availability, and has concluded that the proposed approach to installing the cable and mitigation measures are such that there will not be significant impacts on the extent and distribution, structure and function, and supporting processes, of the habitats of the qualifying features. While hot-spot modelling may have informed the baseline underpinning the Applicant's assessment, the Secretary of State agrees with the ExA that the limited flexibility in the nature and extent of works within the Order Limits at the landfall are such that it is unlikely that it would materially inform a change in the Project that would result in a significantly different magnitude of impact.

The ExA indicated that the LSE pathway of potential for indirect effects through impacts to prey species during operation should be included for the TCSB SPA, due to the potential need for remediation of the cable from the migration of the River Stour. The Applicant considered the potential movement of the river such that it could migrate northwards to coincide with the cable alignment as unlikely [REP7-097]. While the Applicant noted that ongoing maintenance dredging is an effective measure in stabilising the channel for navigation, reducing the future risk of movement, the Secretary of State notes from the Applicant's Landfall Sediment Modelling Report for Pegwell Bay [PDA-038] that ongoing dredging may encourage migration if it follows the route of where the river is migrating to, such that dredging would need to be undertaken in a way that counterbalances migration [PDA-038]. Active engagement with the port authority would therefore be needed if this was to form part of any mitigation, as suggested by NE [REP5-173], however, it is noted that no such mitigation has been proposed. The Secretary of State has considered the historical context provided by the Applicant [PDA-038] on the migration of the mouth of the River Stour which is considered to be highly dynamic, and notes the northerly prograding Shell Ness spit, which is estimated to have migrated 4m per year on average for the period 1940-present, or 7m per year 2007-present and also notes the Applicant's uncertainty in the potential for future movement, and that this could not be resolved with additional surveys or modelling [REP7-097].

NE requested the Applicant commit to cable burial of a minimum of 3m below the bed of the low flow of the channel at the mouth of the River Stour [REP5-173]. The ExA queried the feasibility of increasing the cable depth of lowering to 3m below the bed level of the River Stour [EV6-033], however, the Applicant noted that this would require excavation of up to 6.5m below the seabed, which may be technically feasible but at the upper end of typical techniques [REP4-086], and would result in a greater magnitude of impact (spatial and temporal) and spread of equipment. The Applicant considered that a 1.5m cable depth of lowering was reasonable and proportionate. NE [REP6-250] requested further detailed analysis and additional mitigation such as a deeper burial or moving the cable north, and remained concerned at the close of Examination that there was insufficient certainty about movement of river mouth and the potential need for remedial works [REP7-272].

With regards to cable protection, the DML (condition 12) does not allow cable protection to be used in Sandwich Bay SAC, and by association TCSB SPA, after construction unless otherwise agreed with the MMO. Any protection would be subject to a separate marine licence application which would require further HRA. The Applicant has committed to monitoring the River Stour channel throughout the operational life of the Project (MPE09, REP7-127, REP7-359], also DML condition 18(2)), in line with a monitoring and contingency plan. 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 (50m, as per condition 18(3)(b)of the DML) and a 'trigger' point for when actions would be taken. The commitment is covered in the oOCEMP [REP7-127] and oIPMP [REP7-167], and in condition 18(3)(a) and (b) of the DML. The ExA recommended that the DML should be amended to remove the five year time limit in monitoring the River Stour proposed by the Applicant, such that monitoring is undertaken annually for project life, unless otherwise agreed in writing with the EA, and the statutory nature conservation body. Condition 18(3)(b) indicates that remediation would primarily take the form of cable lowering, and that mitigation would not use sheet piling or dredging. The ExA considered that the need to agree mitigation measures with EA and the SNCB would ensure no exposed rock protection would be permitted in the site after construction.

The Secretary of State agrees with the ExA that increasing the depth of burial to greater than 1.5m would reduce the risk of cable exposure, but would also likely result in significantly larger impacts on the subtidal area of Pegwell Bay. The Secretary of State accepts that, in the context of the alternatives to the project discussed above, that there is limited scope to alter the cable route and that modelling will not provide more information to further inform the HRA. The Secretary of State considers that the uncertainty in the assessment is addressed through the monitoring and remediation commitments, and the separate Marine Licence and related assessments that would need to take place, should remediation be required. In view of the historical rate of channel movement [PDA-038], the Secretary of State considers that 50m is a suitable separation distance between the installed cables associated with the Project and the River Stour, that would allow sufficient time to consider whether remediation is required, its form, scale and related mitigation, if needed.

The ExA concluded that no LSE pathway would result in an AEoI of the TCSB SPA and Ramsar site from either the proposed Project alone or in-combination with other plans or projects. The Secretary of State agrees that the proposed Project, and the controls on remediation post-consent, if required, are such that the conservation objectives to maintain or restore the extent, distribution, structure, function and supporting processes of the habitats on which the qualifying features rely will not be undermined, and that AEoI can be ruled out.

Changes to marine water quality during cable installation and cable lay from the use of drilling fluids (e.g. frac out), pollution (terrestrial - changes in water quality)

The impacts on the saltmarsh and intertidal habitat of Sandwich Bay, which is also used by features of the TCSB SPA and Ramsar, from pollution related to HDD "frac out" is covered in Section 4.4 of this HRA Report. It is concluded for the reasons presented there that there would be no AEoI of the TCSB SPA or Ramsar from changes to marine water quality during cable installation and cable lay from the use of drilling fluids.

Airborne sounds and visual disturbance from offshore works, disturbance (noise) from onshore works

The Applicant noted that waterbirds identified in surveys, including golden plover, foraged the intertidal areas some 350m away from worst case disturbance (vibratory piling), and roosted at least 500m from the proposed exit pit works areas, and concluded that these distances, along with the limited duration and extent of intertidal works, were such that there would be no AEoI. Additionally, the Applicant noted that the 60dB LAmax contours did not overlap the site, and that commitments NV01 to NV05 [REP7-359] on the use of best practice noise reduction would avoid AEoI. The Applicant noted that the assessment of disturbance to roosting and foraging waterbirds considered a worst-case where the cable pull could occur anywhere within the limits of deviation ("LoD") [REP5-032], with the modelled noise attenuation taken from the perimeter of the LoD. The ExA queried the Applicant's approach to modelling, noting that the hoverport had been modelled as soft ground (as per the intertidal area) rather than hard ground, and whether this could have implications for the noise modelling [EV9-012], a concern shared by KWT [REP6-169]. The Applicant considered that the area of the hoverport was small and was likely to have a negligible influence on the modelling results, however, submitted the Hoverport Construction Access Noise Modelling Technical Note [REP6-123]. The technical note was not focussed on ecological receptors but instead residential receptors, referencing lowest and significant observed adverse effect levels in dB LAeq. Figure 1, which is included in the note, indicates construction access noise contours in dB, with the majority of the area (including some small overlaps with the SPA) showing levels to be <45dB, but with the immediate area of the track having noise levels of >55dB. It is assumed that birds from the SPA will not be making use of the access track and hoverport area directly associated with the highest noise levels such that noise levels will not exceed 60dB. It is also noted that there is a commitment to avoid noisy works (levels above 60dB Lamax) at the boundary of the Sandwich Bay to Hacklinge Marshes SSSI (REAC commitment B45) for the period of March to August. The SSSI covers the area of the SPA such that this mitigation measure would also reduce such impacts during the breeding season (see below for wintering seasonal controls), however, in view of the area of habitat previously used by little tern for nesting within the SPA (in Pegwell Bay, the area of Shell Ness at the mouth of the Stour[94]), it is not considered likely that there will be impacts on breeding little tern from onshore activities, including access to the intertidal area, that would result in AEoI.

The Secretary of State agrees with the ExA that while some disturbance from cable laying and vehicles tracking across the intertidal area is inevitable, it can be concluded from the Applicant's noise modelling that AEoI can be ruled out. In addition to commitments NV01-05 noted above, the Applicant will produce an intertidal works methodology and mitigation plan, secured in

[94] The site SACO notes that while birds are seen feeding at the site, the last year in which little terns produced fledglings at Shell Ness was in 1993: https://designatedsites.naturalengland.org.uk/ConservationAdvice/SupplementaryAdvice.aspx?SiteCode=UK9012071

Schedule 16, condition 4 of the DML to be submitted to and approved in writing by the MMO, in consultation with NE, JNCC, MCA, EA, and others. Commitment B59 requires the Applicant to produce a Landfall Method Statement ("LMS"). In her first consultation, the Secretary of State requested that the Applicant update this commitment to explicitly exclude work in the winter period (November to February), thereby avoiding the time of peak sensitivity for non-breeding site features. The Applicant provided an updated REAC [C3-014], outline offshore [C3-008] and onshore [C3-010] CEMP to secure a winter restriction as requested. The Secretary of State notes SMM's concern that the restriction applied to works below high water springs, and does not, therefore, cover the foreshore. The Secretary of State notes that the foreshore would only be used to access the intertidal area during trenchless crossing works (which are seasonally restricted), via the hoverport, and does not consider that an additional requirement to extend the seasonal restriction is required. Taken together, the scale of impact and commitments are such that AEoI will not occur from construction noise.

The Applicant indicated [REP4-241, REP7-146] that hovercraft may be used for safety use only as noted in commitment GG45 [REP7-359], and included in the oCEMP [REP7-129] and oOCEMP [REP7-127]. NE queried the need for the hovercraft [REP3A-028A, REP7-274] and noted that they are particularly disturbing to birds and are heavily controlled in other SPAs. In her first consultation, the Secretary of State requested that the Applicant update commitment GG45 to explicitly exclude the use of hovercraft during construction, operation, maintenance or decommissioning other than in emergencies, and also that any instances of use will be reported to NE and Thanet District Council, within 24 hours. Additionally, the Applicant was requested to define what "emergency use" meant. GG45 was updated in the REAC [C3-014] and oCEMP [C3-010] to reflect the commitment to only use hovercraft in emergencies, which the Applicant defined as, "a time-critical intervention in a serious and unexpected accident, event or situation which threatens damage sufficient to cause danger to persons or property." The Secretary of State considers that limiting the use of the hovercraft to "serious and unexpected" events would not represent a significant and long-term impact on the features of the site, but would be transient and should also be unlikely. The Secretary of State also notes that the final CEMP is to be agreed post-consent, including in consultation with the SNCB (DCO requirement 6). NE indicated in their response to the Secretary of State's consultation that hovercraft use was resolved. The Secretary of State concludes that AEoI will not occur from the use of the hovercraft provided that it is only used in situations meeting the definition of "emergency" as secured in the REAC [C3-014], oCEMP [C3-010] and condition 4 of the DML.

The Applicant did not specifically consider the impacts from lighting at the cofferdam in their RIHRA. However, it responded to NE on a comment requesting assessment on birds from such lighting that it would be required for a maximum of 28 days, directed inwards to a working area of 21,600m^2 [REP4-241], and would also already be an area of temporarily habitat loss [REP7-173]. NE further advised that for other works in SPAs there is a commitment to undertake works outside of the sensitive period to avoid disturbance impacts [REP6-250], however, it noted that the sensitive period for birds is March to September inclusive, which they did not believe could be avoided [REP7-277]. The Secretary of State notes that while there is some seasonal sensitivity in relation to the site for little tern during the breeding season, that NE identify the main months of concern as May to August[95]. The Secretary of State agrees with the Applicant that the lighting from the cofferdam is unlikely to significantly increase the area of temporary

[95] https://designatedsites.naturalengland.org.uk/ConservationAdvice/Seasonality.aspx?SiteCode=UK9012071

foraging habitat loss for the duration of the intertidal works, and further notes that breeding little tern is more likely to forage in daylight hours (e.g. Cerveira *et al.* 2025[96]), limiting potential exposure to the source of effect. In relation to wintering features, while not covering the full period of sensitivity the Secretary of State notes that there is a seasonal limitation on offshore works (1st November to 31st March) and at the landfall (1st January to 31st March) in relation to the Outer Thames Estuary SPA (see Section 4.14) which limits the potential for impacts on wintering features.

NE further advised that a commitment be made to secure the provision and sign off of a Lighting Management Plan with MMO and Thanet District Council[97] [REP7-277]. The ExA agreed with the Applicant's analysis that the directionality of the lighting used at the cofferdam and existing temporary habitat loss from disturbance was such that there was no incremental effect. The ExA considered that NE's request for a Lighting Management Plan was not necessary, as the matter can be addressed as part of the intertidal works methodology and mitigation plan for Pegwell Bay which is secured by DML Condition 4(1)(a)(iv), and must be approved by the MMO as part of the detailed CSIP. The Secretary of State agrees with the ExA that the current DML conditions are sufficient to address NE's concerns, and that light from the cofferdam will not result in AEoI for the TCSB SPA, or Ramsar.

Loss of FLL

The construction of the Minster converter and substation site is noted to result on the loss of FLL for golden plover and the Applicant proposed to mitigate this through the long-term management of 10 hectares of arable land [REP7-119]. While it was initially queried by RSPB as to whether the land selected for mitigation was already FLL [REP1-158], it agreed [REP7-054] that based on surveys that it did not appear to be. KWT maintained its position [REP7-265] that the habitat would not be a like-for-like replacement for the FLL, which was a view shared by CPRE Kent [REP6-238]. NE [REP7-277] indicated that AEoI would be avoided for the site subject to additional REAC commitments indicated in their DL7 response, including to prepare and agree a detailed management and monitoring plan for the golden plover mitigation land. The Applicant included management and monitoring measures in its oLEMP – Kent and a commitment in the REAC [B79, REP7-359, C3-014], that these would be agreed with NE and Dover District Council prior to commencement of converter station works. KWT and RSPB raised concerns about in-combination effects on FLL in relation to a number of nearby solar farms. The Applicant indicated that these had been considered in their RIHRA [REP7-119], but that their approach to avoid any net loss of FLL was such that there would not be an in-combination effect. The ExA was satisfied that the Applicant had identified suitable land to offset the loss of FLL for golden plover, and that the Project would not contribute to a cumulative loss of habitat, and noted that NE was satisfied with the Applicant's proposed mitigation. The Secretary of State agrees with the ExA that the commitments made by the Applicant, including the identification of relevant land for mitigation and the need to agree a management plan for it with NE, are such that an AEoI can be ruled out alone and in-combination for the TCSB SPA and Ramsar.

[96] Cerveira LR, Pereira JM, Veríssimo SN, Paiva VH & Ramos JA (2025). Spatial and trophic ecology of the estuarine Little Tern *Sternula albifrons*. *Current Zoology* **71**: October 2025.

[97] The ExA noted that NE referred to Tendring District Council in its submission but believes it should have referred to Thanet District Council as the relevant planning authority.

Collision risk

Collision risk was considered by the Applicant with reference to vantage point surveys in the space to be occupied by the new section of overhead line [REP1A-023] and a three month bird corpse search across areas in proximity to the existing Richborough to Canterbury overhead line [APP-153]. The Applicant noted that the birds considered to be most at risk of collision (cormorant, mallard, greylag goose), exceeding one individual per year, were not qualifying features of the site[98], and that the application of a 99.9% avoidance rate is such that collisions would be fewer than one per year. Despite concluding that there would be no AEoI in the absence of mitigation, the Applicant has committed to fit bird diverters to the new overhead power line [commitment B55 in the REAC, REP7-359], which will be visible in low light and at night, and the commitment is further captured in the oCEMP [REP7-129]. KWT [REP3-092], CPRE Kent [REP3-082] and RSPB [REP5-092, REP7-054] considered that bird diverters should be fitted to both existing and new wires, however, NE did not consider there to be any need for additional diverters to be fitted to other lines in the area for the purposes of HRA, and also indicated that they agreed with the Applicant's conclusions of no AEoI of the site [REP7-277]. In her first consultation, the Secretary of State invited the Applicant to update Appendix B of the outline Landscape and Ecological Management Plan-Kent ("oLEMP") [REP7-141] to secure two years of collision monitoring from commencement of operation of the new overhead line arrangement and to update REAC commitment B55 [C1-216] to secure that, "*In the event that collision monitoring surveys in the oLEMP identify that collisions with [NGET'S] existing lines are worse than predicted due to the new overhead line arrangement, the applicant will consult with the statutory nature conservation body regarding the need for additional diverters on [NGET's] existing lines. Where consultation with the statutory nature conservation body indicates that additional mitigation is required, diverters shall be fitted on [NGET's] existing lines, or other appropriate measures agreed with the statutory nature conservation body*." The Secretary of State recognises KWT's recommendation that monitoring should be for five years [C1-004], however, agrees with the ExA that, combined with the consultation requirements secured, that two years is a sufficient and proportionate monitoring period.

The ExA concluded that there would be no AEoI based on the low predicted collision rates and a lack of compelling evidence for the need for bird diverters on existing lines. The Secretary of State agrees that the very low level of estimated collisions, and the scale of any potential mortality is so low that mitigation beyond that proposed by the Applicant, and secured through the oCEMP, is not required. The Secretary of State concludes that there will be no AEoI for the TCSB SPA or Ramsar as a result of collision risk. The Applicant did not identify in-combination effects for the site, and both the Applicant and SNCBs concluded that in-combination AEoI would not result from collision risk associated with the Project. The Secretary of State agrees, and similarly concludes that AEoI would not occur in-combination with other plans or projects.

[98] They are also not recorded as noteworthy fauna for the TCSB Ramsar

4.14 Outer Thames Estuary SPA

The Outer Thames estuary was originally classified for non-breeding red-throated diver in August 2010, and was extended in November 2017 to cover areas for foraging breeding terns (e.g. see JNCC 2015[99]).

The conservation objectives[100] of the site are to ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate, and that the site contributes to Favourable Conservation Status of its qualifying features, by maintaining or restoring:

- the extent and distribution of the habitats of the qualifying features
- the structure and function of the habitats of the qualifying features
- the supporting processes on which the habitats of the qualifying features rely
- the populations of each of the qualifying features
- the distribution of qualifying features within the site

Feature condition has been assessed to be unfavourable (no change) for red-throated diver and little tern, and favourable for common tern.

The SACO for common tern notes that birds which forage in the Outer Thames Estuary breed at adjacent colonies including those at Foulness SPA and Breydon Water SPA, and note that a large colony breed on Scroby Sands. The SACO for little tern notes that birds breed at adjacent colonies including Great Yarmouth North Denes, Minsmere-Walberswick, Benacre to Easton Bavents, Alde-Ore Estuary, Foulness and, Thanet Coast and Sandwich Bay SPA, as well as a large colony on the Scroby Sands sandbank, which is located 6km off Great Yarmouth. Periods of seasonal sensitivity for the qualifying features are October-May (red-throated diver) and April-August (common tern and little tern).

Surveys to date of UK red-throated diver SPAs including the Greater Wash SPA (HiDef 2017, Humphries & Bogaard 2024), the Outer Thames Estuary SPA (Goodship *et al.* 2015, Irwin *et al.* 2019) and Liverpool Bay SPA (HiDef 2020, 2023) have not shown an apparent reduction in diver populations, despite the pressures on the sites from disturbance and the related extent and distribution of the supporting habitat (e.g. shipping, wind farm arrays), as noted in the SACO[101] for red-throated diver.

Airborne sounds and visual disturbance from offshore works

The sensitivity of seabirds to vessels varies (Garthe and Hüppop 2004, MMO 2018, Fliessbach *et al.* 2019, Jarrett *et al.* 2022), with red-throated diver considered to be very sensitive (e.g. Mendel *et al.* (2019)[102] note behavioural response in red-throated diver within 5km of ships, and

[99] JNCC (2015). Outer Thames Estuary potential Special Protection Area: Departmental Brief. 29pp + Appendices.
[100] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9020309
[101] https://designatedsites.naturalengland.org.uk/ConservationAdvice/SupplementaryAdvice.aspx?SiteCode=UK9020309
[102] Mendel B, Schwemmer P, Peschko V, Müller S, Schwemmer H, Mercker M & Garthe S (2019). Operational offshore wind farms and associated ship traffic cause profound changes in distribution patterns of Loons (Gavia spp.). *Journal of Environmental Management* **231**: 429-438

SNCBs[103] suggest a 2km as a suitable buffer distance for vessel related disturbance), common terns of low sensitivity, and little terns of medium sensitivity.

The Applicant notes that the offshore scheme will pass through two areas of the site, totalling 55km across two sections of cable (approximately 47% of the overall offshore cable length), and recognises the sensitivity of the diver feature to further disturbance from activities in relation to existing levels of in-combination impact from other projects. The Applicant proposed a seasonal restriction on activities (commitment O03 in the REAC [REP7-359]) in order to avoid interaction with time periods when divers are mostly present, which NE [REP7-258] recommended should be 1st November to 31st March inclusive, and include both the area of the SPA and a 2km buffer [REP4-189]. At the landfall locations, the seasonal restriction is limited to 1st January to 31st March. These restrictions are noted in the oOCEMP [REP7-127] and also in an outline red-throated diver ("oRTD") protocol [REP7-142, C1-206] produced by the applicant. It is further noted in the oRTD protocol that routine operational and maintenance activities will be planned so that they fall outside of the period 1st November to 31st March inclusive. NE [REP7-142] advised a commitment to keep vessel speeds to below 20 knots for the wider period of seasonal sensitivity (October-April) as a way of reducing impacts when red-throated diver may still be present in high numbers. The Applicant was not able to respond due to the close of Examination, however, the transit and operational speeds noted in the oRTD for installation vessels have a maximum of 12 knots. RSPB [REP1-158] advised a wider restriction in cable lay for the full period of seasonal sensitivity (October-May), however the Applicant considered November to March was the core period of presence. The RSPB's position was further set out in their SoCG [REP7-054], however, it indicates the matter of seasonal restriction to be closed.

The RSPB [REP1-158, REP7-054] and JNCC [REP1-210] did not consider that the Applicant had substantiated their claim that the Project would pass through areas with limited or no occurrence of RTD, and did not follow JNCC's advice to use the distribution maps of Irwin *et al.* (2019)[104] to produce a vessel disturbance assessment. The Applicant [REP3-069] maintained that the works would avoid areas of higher density based on the mapped densities they previously presented [REP5-032], and noted that the maps of Irwin *et al.* (2019) showed similar densities to previous data, albeit with the densities classified into more categories. They also noted the seasonal commitments already made, and therefore considered it unnecessary to make further considerations based on Irwin *et al.* (2019). The Secretary of State notes that the temporal coverage of the range of available data, and also methodological differences, likely means that data is limited on the longer term distribution of the species within the site that could best inform a vessel disturbance assessment, and while data is available, does not consider that use of Irwin *et al.* (2019) would significantly change the outcome of any such assessment. The commitments already made by the Applicant represent the application of the mitigation hierarchy by seeking to first avoid any impact, with mitigation provided in the form of vessel movement speed in periods of seasonal sensitivity outside the core period of presence and vulnerability.

The RTD protocol [C1-206] covers emergency repair work, which is not part of the Project and cannot be anticipated, and which the Applicant notes the project is specifically designed to avoid such occurrences. KWT and CPRE Kent maintained concerns in their response to the Secretary

[103] Joint SNCB Interim Displacement Advice Note 2022. https://jncc.gov.uk/resources/9aecb87c-80c5-4cfb-9102-39f0228dcc9a

[104] Irwin C, Scott MS, Humphries G & Webb A (2019). HiDef report to Natural England - Digital video aerial surveys of red-throated diver in the Outer Thames Estuary Special Protection Area 2018. Natural England Commissioned Report 260, 136p.

of State's consultation that whilst emergency repairs are unlikely, that greater clarity on which repairs the consent would allow, and what safeguards would apply before work starts, were needed. NE [REP6-247] requested that the RTD protocol apply to emergency works, to minimise impacts as much as possible, and advised a log be submitted to MMO no more than four weeks after the conclusion of the emergency works. The Applicant did not make the amendment to the protocol such that it would cover emergency repairs (e.g. in terms of seasonal restrictions), but the RTD protocol does note that consultation would be undertaken with MMO and NE as appropriate to ensure the repair of any infrastructure whilst minimising disturbance to red-throated diver, as far as practicable. Additionally, the RTD protocol included that, in the event of an emergency repair being required within the SPA (and a 2km buffer) between 1st November and 31st March, within four weeks of the conclusion of the emergency, a report would be submitted to the MMO and NE detailing the nature of the event, its location and the duration and extent of work undertaken. Condition 11 of the DML (Schedule 16 of the DCO) covers the seasonal restrictions relating to cable installation.

The RTD protocol at deadline 7 [REP7-142] indicated that compensation would be discussed with the MMO should it be concluded following the issue of a report after emergency repairs were concluded, that the work resulted in adverse effects. The ExA considered that this approach was not consistent with the derogation requirements of the Habitats Regulations, and the Secretary of State requested in her first consultation that this be removed. The Applicant's latest RTD protocol [C1-206] removes the wording related to compensation in relation to emergency works. The Secretary of State agrees with the Applicant [REP7-257] that a meaningful assessment of emergency works, which may never be required, cannot be made at this time, and that these can only be considered at the time of an emergency and that there are appropriate mechanisms at that time to capture the potential for AEoI. NE acknowledged in its response to the Secretary of State's consultation that the temporary nature of emergency works and the limited overlap with the OTE SPA made AEoI unlikely, but remained concerned that there was an impact pathway. The Secretary of State agrees that the nature of such works is fundamentally different to permanent and long-term displacement impacts which have been observed for offshore wind farms (e.g. as noted in JNCC 2022[105]), and that while vessel traffic can result in disturbance to red-throated diver, that the impact would be temporary and localised to a small area relevant to any emergency works. The Secretary of State notes that the Applicant updated the RTD protocol in keeping with NE's recommendations in relation to emergency repairs, and that MMO and NE would be consulted in the event of an emergency repair being required so that disturbance could be minimised as far as possible. The Secretary of State considers that this consultation provides a mechanism by which a high level method statement may be approved, should emergency repair work be required during the wintering period and she has amended Condition 11 of the dML to formalise this requirement. While the Applicant has committed to a full seasonal restriction for construction, operation and maintenance, and decommissioning, the Secretary of State considers that the RTD protocol (Section 1.5.4 of C1-207) already substantially covers best practice mitigation for the use of vessels in the Outer Thames Estuary SPA during the non-breeding season that would be relevant to emergency repairs, should they be required, including that:

- Vessel operators and crew will be made aware of the importance and sensitivity of the red-throated diver to disturbance

[105] JNCC (2022). Joint SNCB Interim Displacement Advice Note. 22pp + appendices

- Vessels will avoid rafting birds and areas with high densities of birds where practicable
- Artificial lighting on vessels will be directional and only used when necessary, noting that health and safety requirements will need to be met for safe working practices
- Vessels will avoid over-revving of engines to minimise noise disturbance
- Existing shipping lanes will be utilised for vessel transiting routes, along with maintaining direct transit routes, to avoid additional disturbance where practicable. A Vessel Management Plan will be developed post consent to identify vessel routes to avoid high density areas of red-throated diver

The Secretary of State considers that emergency repair work is distinct from any remediation that could be required during the operational phase which would be covered as part of routine maintenance, and which would be planned to fall outside the period 1 November to 31 March, in keeping with the RTD protocol.

NE [REP7-275] and JNCC [REP76-239] agreed at the close of Examination that AEoI could be ruled out. RSPB maintained concerns about in-combination impacts, and its SoCG [REP7-054] did not agree AEoI could be ruled out in-combination with other plans or projects, but the ExA notes that no specific concerns were given. The Secretary of State notes the in-combination assessment presented by the Applicant [REP7-119] in relation to the offshore scheme, which primarily considers other interconnector cables or offshore wind farm export cables which traverse the Outer Thames Estuary SPA. In most instances the likely temporal separation of project timelines means that in-combination disturbance effects are not likely, and when combined with the seasonal restrictions already committed to, the potential for in-combination effects on red-throated diver are effectively avoided. The Secretary of State agrees with the ExA that the seasonal restrictions and other mitigation measures already committed to would ensure the Project does not contribute to in-combination effects, and that there would be no AEoI alone or in-combination with other plans or projects.

Indirect effects through impacts to prey species

The Applicant noted that herring and sandeel were particularly important prey items for seabirds (including red-throated diver), and noted that only a small area of the site overlapped with preferred or marginal herring habitat [AS-022, APP-200], and concluded that the area of impact would be small relative to the wider habitat availability in the North Sea [REP7-119]. Furthermore, the Applicant noted that seabed disturbance recovery would be rapid. The Secretary of State notes that red-throated divers prey on a broad range of bentho-pelagic schooling fish (e.g. Duckworth *et al.* 2021[106]) and information from the German Bight (Kleinschmidt *et al.* 2019[107]) indicates a broad diet comprising clupeids (i.e. herring, sprat) and mackerel, and also flatfish, gadoids and sandeel, with a preference for clupeids. While the habitat of divers is somewhat limited by certain physical characteristics (e.g. water depth, sediment type), a high degree of foraging flexibility represented by the consumption of a broad

[106] Duckworth J, O'Brien S, Petersen IK, Petersen A, Benediktsson G, Johnson L, Lehikoinen P, Okill D, Väisänen R, Williams J, Williams S, Daunt F & Green JA (2021). Spatial and temporal variation in foraging of breeding red-throated divers. *Journal of Avian Biology* **52**: 1-12.

[107] Kleinschmidt B, Burger C, Dorsch M, Nehls G, Heinänen S, Morkūnas J, Žydelis R, Moorhouse-Gann RJ, Hipperson H, Symondson WOC & Quillfeldt P (2019). The diet of red-throated divers (*Gavia stellata*) overwintering in the German Bight (North Sea) analysed using molecular diagnostics. *Marine Biology* **166**: 77.

range of fish species may provide some resilience, subject to prey availability (Kleinschmidt *et al.* 2019, Duckworth *et al.* 2021). The potential area of impact in relation to little tern is limited by their foraging ranges (~5km) such that significant interaction with areas of habitat use and impacts on prey are likely to be limited to areas of Alde-Ore Estuary SPA and Thanet Coast and Sandwich Bay SPA, which are considered in Sections 4.9 and 4.13. The major colonies for common tern are associated with Breydon Water SPA, Foulness SPA, and also Scroby Sands sandbank (JNCC 2015), all of which are significantly further away from the Project than the foraging range for the species (18km ±8.6, Woodward *et al.* 2024[108]). The Secretary of State agrees with the Applicant that the area of seabed disturbance related to habitats of prey species would be small, temporary, and would not result in AEoI for any of the features of the Outer Thames Estuary SPA.

The Secretary of State concludes the Project will not result in AEoI of the red-throated diver feature of the Outer Thames Estuary SPA alone or in-combination with other plans and projects. This is because the Applicant's mitigation measures mean the Project will not affect the extent, distribution, structure, function and supporting processes of the red-throated diver habitat, and will not impact the distribution of divers or their population, such that the conservation objectives will not be undermined. It is also concluded that there would be no impact on the little or common tern features of the Outer Thames Estuary SPA due to their relatively lower sensitivity to vessel traffic, and in the case of common tern, limited scope for interaction due to the distance between the Project and colonies. It is concluded there would be no AEoI for the project alone and in-combination with other plans and projects.

[108] Woodward ID, Thaxter CB, Owen E, Bolton M, Ward RM & Cook ASCP (2024). The value of seabird foraging ranges as a tool to investigate potential interactions with offshore wind farms. *Ocean and Coastal Management* **254**: 107192.

4.15 Appropriate Assessment Conclusions

As the competent authority for energy NSIPs as defined under the Planning Act 2008, the Secretary of State has undertaken an AA under Regulation 63 of the Habitats Regulations. The Secretary of State has undertaken an AA in respect of the conservation objectives of those relevant sites for which a LSE was identified (Section 3) to determine whether the Project, either alone or in-combination with other plans or projects, will result in an AEoI.

The Secretary of State has considered all of the information available to her, including the advice from the SNCBs, the recommendations of the ExA and the views of IPs, and the Applicant.

The Secretary of State is satisfied that, given the relative scale and magnitude of the identified effects on the qualifying features of the protected sites, and where relevant, the measures to be in place to avoid or reduce potential adverse effects secured in the DCO and DML, there would not be any implications for the achievement of site conservation objectives and therefore AEoI can be excluded for:

- Alde, Ore and Butley Estuaries SAC
- Margate and Long Sands SAC
- Sandwich Bay SAC
- Thanet Coast SAC
- Berwickshire & North Northumberland Coast SAC and Humber Estuary SAC
- The Wash and North Norfolk Coast SAC
- Southern North Sea SAC
- Alde-Ore Estuary SPA and Ramsar
- Minsmere-Walberswick SPA and Ramsar
- Sandlings SPA
- Stodmarsh SPA and Ramsar
- Thanet Coast and Sandwich Bay SPA and Ramsar
- Outer Thames Estuary SPA

5 Transboundary Assessment

The Applicant [REP7-119] noted that the project was approximately 25km from the nearest adjacent state (French waters) and did not identify any transboundary effects that would lead to a LSE. The ExA's REIS [PD-022] similarly only considered sites within the UK NSN. The Secretary of State has considered the sources of effect related to the project, and has concluded that these would not result in LSE for sites in adjacent states. The assessment has therefore only considered relevant sites in the UK NSN.

6 Conclusion

The Secretary of State has carefully considered all the information presented within the Application, during the Examination and the representations made by all IPs, along with the ExA's Recommendation Report and the responses to the Secretary of State's further consultation. The Secretary of State concluded that likely significant effects could not be excluded for 14 sites (Table 1), when the Project is considered alone or in-combination with other plans and projects. These sites were taken forward to an AA to consider whether the Project would result in any adverse effects upon the integrity of these sites.

Having given due consideration to the information and analysis presented to her, and having made a full assessment of the potential for AEoI at each of the protected sites for which the potential for LSE was identified, the Secretary of State concludes that there would be no AEoI on any of these sites.

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