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(Email only)

MMO Reference: **DCO/2022/00010**
Planning Inspectorate Reference: **EN020028**
Identification Number: **20051136**

20 May 2025

Dear Sir or Madam,

Planning Act 2008, Morgan Offshore Wind Ltd, Proposed Morgan and Morecambe Offshore Windfarm Transmission Assets Order

Deadline 1 Submission – Summary of MMO Relevant Representation

On 12 December 2024 the Marine Management Organisation (the “MMO”) received notice under section 56 of the Planning Act 2008 (the “PA 2008”) that the Planning Inspectorate (“PINS”) had accepted an application made Morgan Offshore Wind Limited and Morecambe Offshore Windfarm Limited (“the Applicants”) for determination of a development consent order for the construction, maintenance and operation of the proposed Morgan and Morecambe Offshore Windfarm Transmission Assets Order (the DCO Application) (MMO ref: DCO/2022/00010; PINS ref: EN020028).

The DCO Application seeks authorisation for the construction, operation and maintenance of DCO Application, comprising of two onshore substations, 6 offshore export cables, 18 onshore export cables (6 circuits), 12 400 kilovolt (kV) grid connection cables (4 circuits) as well as the associated cables corridors with associated onshore and offshore infrastructure and all associated development (“the Project”).

Four Deemed Marine Licences (DML) are included within the draft DCO.

As a marine licence has been deemed within the draft DCO, the MMO is the delivery body responsible for post-consent monitoring, variation, enforcement, and revocation of provisions relating to the marine environment. As such, the MMO has an interest in ensuring that provisions drafted in a deemed marine licence enable the MMO to fulfil these obligations.

This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.



Yours faithfully

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Summary of MMO Relevant Representation

Development Consent Order (DCO) and Deemed Marine Licences (DMLs)

Unexploded Ordnance (UXO)

1.1.1 The MMO does not agree with the approach of the Applicants to include UXO clearance within the DML.

1.1.2 Clarity on the investigation and detonation of UXOs is required.

1.2 Construction Scenarios

1.2.1 The MMO is concerned that adopting a staged approach to the approval of DCO requirements will not allow for the impacts to be considered holistically against the Environmental Statement.

1.3 Minor Comments

1.3.1 The presentation of evidence should only cover transmission assets to avoid confusion.

1.3.2 The MMO will continue to review J28.2 Marine Policies Tracker (APP-235).

1.4 DCO and DML

1.4.1 Schedules 14-17 are DMLs. The MMO is still reviewing these and will provide comments at Deadlines 1 and 2.

1.5 Article 6 Benefit of the Order

1.5.1 The MMO has major concerns over the wording of Article 6 – Benefit of the Order.

1.5.2 The MMO objects to the provisions relating to the process of transferring and/or granting the DMLs set out in the draft DCO at Part 2, Article 6. The MMO requests paragraphs 6(4), 6(8), and 6(12) be removed entirely.

1.5.3 The MMO has concerns regarding Article 6(4). The MMO notes that there is no obligation for the SoS to consider the views of the MMO when providing its consent.

1.5.4 The MMO objects to the provisions relating to the process of transferring and/or granting the deemed marine licences set out in the draft DCO at Article 7.

1.6 Previous DCOs

1.6.1 Previous DCOs have removed the effect of s72 of the 2009 Act and made provision for the transfer of DMLs. In very few cases does the relevant ExA explain the rationale for the approach adopted.

1.6.2 The Applicants has not identified any justification in any previous decision which explains why the transfer process is justified.

1.7 Material Inferior Procedure

1.7.1 The MMO does not have any relevant statutory or non-statutory policy relating to the transfer of a licence. The MMO has never refused an application for a transfer.



1.7.2 The MMO does not consider that the dDCO procedure has any material procedural or administrative advantages over the existing statutory process.

1.7.3 The dDCO should be amended to remove the mechanisms to enable transfer of the DMLs and to remove the exclusion of the existing s72 process.

1.8 Pre-application consultation with the Secretary of State

1.8.1 There is not a mechanism for pre-consultation with the SoS – should the SoS decide to include the transfer of benefit, this pre-consultation would be welcomed in the form of the following wording:

“(X) The undertaker must consult the Secretary of State before making an application for consent under this article by giving notice in writing of the proposed application.”

1.9 The Grant of a DML

1.9.1 dDCO Articles 6(2)(b) and 6(3)(b) seek to make provision for the undertaker to “grant” another person the “benefit of the provisions of the Order (including the deemed marine licences for Article 6(3)(b)) and such related statutory rights as may be so agreed”.

1.9.2 This appears to be drawn from Article 9(1)(b) of the Sizewell C DCO. However, the rationale for the inclusion of such a power is not explained in the DCO, the ExA Report, or the Decision Letter for the Sizewell C project.

1.9.3 The MMO considers that the power sought for the undertaker to grant a DML would confuse and usurp its statutory function.

1.10 A Time Limited DML

1.10.1 dDCO Article 6(3)(b) seeks to make provision for a DML to be granted by the undertaker to another person for a limited period.

1.10.2 The Applicants has not explained why these provisions are necessary or why a departure from the statutory provisions within the 2009 Act is justified.

1.11 Disapplication of the Secretary of State’s Consent

1.11.1 Article 6(6) disapplies the need for the consent of the SoS to be obtained and the need for any consultation with the MMO where:

“(a) the transferee or lessee is the holder of a licence under section 6 of the 1989 Act”

1.11.2 The rationale for the removal of the need for consent or consultation when this criterion is met has not been explained.

1.11.3 It is not acceptable, however, for the Applicants to be able to transfer a DML to whomever they wish whenever they wish which is eventually the effect of the provisions in the dDCO.

1.12 Power to Amend DMLs to Reflect a Transfer

1.12.1 The MMO can only act where it has statutory power to do so. The dDCO provides for the transfer of a DML, however it does not give the MMO the power to amend the DML.

1.12.2 If the SoS was to retain the Article, then the MMO would still require the Applicants to submit a DML variation to ensure the undertaker is updated to the correct entity within the DML.



1.13 Overall Effect on Ability to Enforce

1.13.1 The ability to transfer licences, grant licences for a limited time, to transfer/grant without consultation and without providing a power for the MMO to amend its records, will give rise to significant enforcement difficulties for the MMO.

1.13.2 These difficulties can be avoided by retaining the existing statutory regime.

1.14 Other Considerations

1.14.1 The MMO questions why it is ok to require the SoS to consult with the MMO if the MMO was considered to be the expert for considering the implications of the marine licence being transferred.

1.14.2 Even for granted offshore windfarm orders that include a form of the Benefit of the Order Article, the MMO has done multiple variations alongside the transfer of benefit to ensure the DML variation is issued as close to the approval from the SoS to ensure the correct undertaker is on the face of the DML.

1.15 Use of 'Maintain' and 'Materiality'

1.15.1 The MMO is reviewing this within the DML and will provide comments throughout examination.

1.16 Determination Dates

1.16.1 The MMO strongly considers that it is inappropriate to put timeframes on complex technical decisions.

1.16.2 The MMO stresses that it does not delay determining whether to grant or refuse such approvals unnecessarily.

1.17 Force Majeure

1.17.1 The MMO believes the Force Majeure condition should be removed as it is not necessary to be included within the DMLs.



2. Environmental Statement

2.1 General Comments

2.1.1 The MMO focussed its review on the relevant marine chapters within Volume 1 and 2 of the ES.

2.1.2 An up-to-date schedule, including specific timings and dates for each of the proposed works, must be provided to the MMO.

2.2 Benthic Subtidal and Intertidal Ecology

2.2.1 The MMO has no concerns on the matters scoped out of the assessment.

2.2.2 The MMO currently does not consider there to be any information gaps that require attention

2.3 Coastal Processes

2.3.1 The MMO notes that for the specific areas in Table 1.10 of the ES, the physical processes that support these are not separately defined as receptor(s).

2.3.2 The MMO does not consider there to be any information gaps that need highlighting.

2.4 Fish Ecology

2.4.1 The MMO considers that the Applicants has appropriately defined the study area for the characterisation of fish and shellfish ecology.

2.4.2 The MMO highlights that Popper *et al.*, (2014) clearly defines three categories of hearing ability in fish, not four.

2.4.3 It is not clear why PTS ranges are expressed for fish in Tables 1.22 and 1.23 of the report.

2.4.4 The Applicants has not discussed the use of additional noise mitigation strategies.

2.4.5 The MMO does not consider that the Applicants has appropriately assessed the range of effect for mortality or potential mortal injuries to fish.

2.4.6 The MMO requests that a seasonal restriction is conditioned on the face of the DML.

2.5 Shellfish Ecology

2.5.1 The MMO has no concerns in relation to the assessment of shellfish ecology.

2.6. Commercial Fisheries

2.6.1 The MMO suggests that there should be the creation of a monitoring programme on the impacts to the nearby Bass and other commercial fisheries.

2.6.2 The MMO defers to the National Federation of Fishermen's Organisations (NFFO) on these matters.

2.7 Underwater Noise

2.7.1 The MMO considers that the appropriate impacts have been considered in the ES and raised no major concerns.

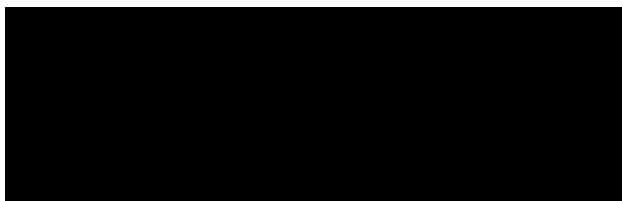


3. Other Application Documents

3.1 The MMO has provided comments on the remaining chapters and Plans in Section 5 of the RR. These comments contain several recommendations and proposed measures that the MMO would like to see addressed during examination, including:

- Outline Marine Mammal Mitigation Protocol
- Habitats Regulations Assessment
- Marine Conservation Zone Assessment
- Habitat Suitability Assessments

Yours faithfully



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