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(Email only)

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

05 June 2025

Dear Sir or Madam,

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

Deadline 2 Submission Summary

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 Applicants seeks authorisation for the construction, operation and maintenance of Morgan and Morecambe Offshore Windfarm Transmission Assets, 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).

This document comprises the MMO’s summary of submission for Deadline 1. 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.


Marine Licensing Case Manager



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1. Comments on PDA-013 Applicant's response to Relevant Representations from Marine Management Organisation

- 1.1. The MMO provided substantial comments at Deadline 1 and has no further updates at this time. The MMO has updated the Table with closed out and outstanding issues to discuss.

2. The MMO comments on the updated DCO/DML

- 2.1. The MMO notes the revised documents submitted at Deadline 1 by the Applicant. The MMO highlights that we are continuing to review the amended documents and will provide further remarks at Deadline 3.

3. Initial comments on stakeholders Deadline 1 submissions

3.1. General comments

- 3.1.1. The MMO has reviewed documents submitted at Deadline 1 by interested parties and provided comments where required.

3.2. Environment Agency (EA)

- 3.2.1. MMO notes the ongoing discussions and outstanding issues between the Applicant and the EA.
- 3.2.2. The MMO also notes the concerns which have been closed out between the Applicant and the EA.

3.3. Historic England (HE)

- 3.3.1. The MMO notes HE's concerns regarding UXO clearance and sensitive archaeological features.
- 3.3.2. HE recommends geophysical surveys for export cable installation
- 3.3.3. HE agrees with the Applicant's Outline Offshore Written Scheme of Investigations (WSI) for Archaeology which includes the use of Archaeological Exclusion Zones (AEZs) and a Protocol for Archaeological Discoveries (PAD).
- 3.3.4. HE requires clarity on the actual number of anomalies afforded "medium" status within the Offshore Order Limits.
- 3.3.5. HE has request a few minor amendments to the wording in the WSI for conciseness and clarity.
- 3.3.6. HE requests that conditions 11(2) and 11(3) in draft DML 12 (Transmission Assets) in the Rampion 2 Offshore Wind Farm Order 2025 are used as a template for this dDCO to ensure projects are delivered consistent nationally.

3.4. Natural England (NE)

- 3.4.1. The MMO notes the use of a Risk Issues Log in which NE will be regularly updating throughout examination. This Log also includes Principal Areas of Disagreement Summary Statement (PADSS) in place of an SoCG.
- 3.4.2. NE will be focussing their resourcing on reviewing relevant updated documents/outline plans submitted by the Applicant.
- 3.4.3. NE notes that the Applicant's and NE's own RAG ratings differ.



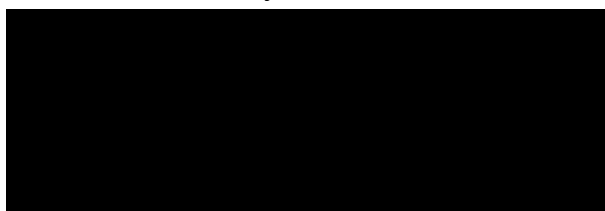
- 3.4.4. NE maintains their initial comments within the Relevant Representations in regard to Construction Scenarios.
- 3.4.5. NE attended a site visit with the Applicant to discuss ornithological impacts. The Applicant will be submitting updates at Deadline 2.
- 3.5. Flyde Borough Council (FBC)
- 3.5.1. FBC raised concerns regarding the location and limits parameters in the dDCO.
- 3.5.2. FBC is of the opinion that the ES is deficient and lacks consistency.
- 3.5.3. FBC notes that the Coastal Change Management areas in Fylde are particularly sensitive to change. FBC would like to see more detail on the timing, duration and frequency of works, the access management, the size, number and location of build infrastructure.
- 3.6. Maritime and Coastguard Agency (MCA)
- 3.6.1. The MCA is satisfied with the Applicant's Navigational Risk Assessment.
- 3.6.2. The MCA notes concerns regarding cable routes and protections and suggest appropriate mitigation.
- 3.6.3. The MCA has also requested amendments to some wording in the draft DMLs which the MMO agrees with.
- 3.7. South Ribble Borough Council (SRBC)
- 3.7.1. SRBC highlighted some remaining issues to be addressed by the Applicant.
- 3.7.2. The MMO has listed the main concerns of interest to them.
- 3.8. Corporation of Trinity House of Deptford Strond (Trinity House/TH)
- 3.8.1. In reference to Arbitration, TH has requested an amendment to the Savings Provisions for Trinity House clause.
- 3.8.2. TH has also request some re-wording of Schedules 14 & 15, Part 2 sub-clauses, the MMO welcomes these amendments.
- 3.9. The Wildlife Trusts
- 3.9.1. The Wildlife Trust notes some outstanding concerns which have yet to be addressed by the Applicant.
- 3.9.2. The majority of their concerns relate to the onshore/terrestrial works which is not in the MMO's remit and we defer to NE.

4. Initial comments on the Applicant's Deadline 1 submissions

- 4.1.1. The MMO notes the revised documents that were submitted by the Applicant at Deadline 1 that are relevant to the MMO. The MMO will be reviewing these and providing comments at Deadline 3.



Yours sincerely,



Marine Licensing Case Manager



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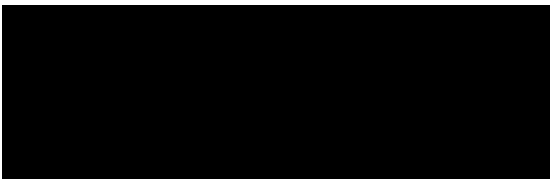
Deadline 2 Submission

On 12 December 2024, the Marine Management Organisation (the MMO) received notice under section 55 of the Planning Act 2008 (the PA 2008) that the Planning Inspectorate (PINS) had accepted an application made by 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 Morgan and Morecambe Offshore Windfarm Transmission Assets, 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).

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 sincerely,



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1. Comments on PDA-013 Applicant's response to Relevant Representations from Marine Management Organisation

1.1 General Comments

- 1.1.1 The MMO provided comments at Deadline 1 (REP1-086) and has provided further comments in Table 1 for ease of viewing, anything in grey was responded to at Deadline 1, and there is no update at this time or we are waiting the Applicants response and there may be future updates when updated documents are submitted to the MMO.



Table 1: MMO Response to Applicants Pre-Examination Procedural Deadline A Submission to the MMO

Applicant's Reference	Relevant Representation Comment	Applicant's Response	MMOs Deadline 1 Response
RR-1414-01	<p>Proposed Development Details</p> <p>1.1.1 Morgan and Morecambe Offshore Windfarm Transmission Assets is a single consent for two aligned but electrically separate sets of transmission works connecting the Morgan Offshore Windfarm and Morecambe Offshore Windfarm to the National Grid.</p> <p>1.1.2 The transmission assets will include two onshore substations, 6 offshore export cables, 18 onshore export cables (6 circuits), 12.400 kV grid connection cables (4 circuits) as well as the associated cables corridors.</p> <p>1.1.3 Four DML's are included in the draft DCO, with schedules 14 and 16 relating to the licensed activities for the Morgan assets, and schedules 15 and 17 relating to licensed activities of the Morecambe assets.</p>	This is noted by the Applicants.	The MMO has no further comments.
RR-1414-02	Major Comments UXO	The Applicants thank the Marine Management Organisation (MMO) for this submission. The Applicants confirm that high order unexploded	The MMO welcomes the Applicants commitment to remove high order UXO

	<p>2.1.1 The MMO does not agree with the approach of the Applicants to include UXO clearance within the DML.</p> <p>2.1.2 The MMO's general position is that UXO activities are sought within a separate marine licence due to the nature of the impacts.</p> <p>2.1.3 The MMO is content for the UXO investigation activities to be included and recommend this is a clearly identifiable activity within the DML.</p> <p>2.1.4 However, the MMO is reviewing the DML further on a without prejudice position if the Secretary of State (SoS) is minded to include UXO clearances. The DML should be updated to ensure these activities are set out as a separate activity taking into account activities 10-13 under section 66(1) (licensable marine activities) of the 2009 Act. This would also include any lift and shift opportunities.</p> <p>2.1.5 The number of UXOs to be fully assessed at this stage and the maximum number to be included within the DML. The MMO will review the documents further and provide comments in due course</p>	<p>ordnance clearance (UXO) clearance (i.e. involving detonation) will be explicitly excluded from the draft Development Consent Order (DCO) and all deemed marine licences (DMLs) (AS-004). Should high order clearance be required, it would be the subject of a separate marine licence application to the MMO. The draft DCO and DMLs will be updated and submitted at Deadline 1. The Applicants confirm that low order unexploded ordnance clearance will remain within the scope of the DMLs. The list of licenced activities will therefore be updated to include "low order unexploded ordnance clearance" as a distinct licensable activity under paragraph 2 and for the purposes of Condition 20 of the DMLs at Schedules 14 and 15 of the draft DCO (AS-004). The DMLs will also be amended to clearly distinguish between low and high order UXO clearance, to confirm that high order UXO detonation is not permitted and to specify the maximum number of low order UXO clearances authorised by each DML. The Applicants acknowledge that the MMO intends to provide further comments on the DMLs in due course and will</p>	<p>clearance from the DCO and DMLs.</p> <p>The MMO notes that the Applicants recognises that separate marine licences will be required should they need high order UXO clearance, and low order UXO clearance will remain within the DMLs.</p> <p>The MMO will review the updates to the DML submitted at Deadline 1 and provide further comments in due course.</p> <p>The MMO believes that the Outline Marine Mammal Mitigation Protocol (Document reference J18) will also be updated and will provide comments upon review.</p> <p>Deadline 2 Update</p> <p>The MMO notes the updates made to the DMLs at Deadline 1 and will provide detailed comments at Deadline 3.</p> <p>The MMO notes the Outline Marine Mammal Mitigation Protocol was not updated at</p>
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		continue to engage constructively on this matter.	Deadline 1 and will review this once this has been submitted.
RR-1414-03	<p>Construction scenarios</p> <p>2.1.6 The Applicants has proposed several construction scenarios in Section 3.9.2 of the Project Description (APP-024) and throughout various ES Chapters in the Application. Scenario 3 is made up of two sub options: 3a – Immediate sequential construction with no gap between construction of the first project and commencement of construction of the second project; and 3b – Sequential construction with a gap of up to a maximum of four years between completion of construction of the first project and commencement of the second.</p> <p>2.1.7 We highlight that the worst-case scenario for ‘Construction Scenario 3b’ states that there could be sequential construction with a gap of up to four years between the completion of construction of the transmission assets for the first project (i.e. Morgan) and commencement of construction for the second project (i.e. Morecambe). However, it is the MMO’s opinion that the gap of up to four years has not been considered within the Project Description or within the impact assessments for the topic areas. The MMO questions this approach.</p> <p>2.1.8 The Applicants has stated that the Transmission Assets may adopt a staged approach to the approval of DCO</p>	<p>Please refer to the Rule 9 – ES assessment of Construction Scenarios (AS-070) which sets out how sequential construction with a maximum gap of up to four years has been considered as part of the impact assessment of each Environmental Statement topic. <u>Staged Discharge of Requirements/Conditions</u></p> <p>The Applicants note that the MMO is not opposed in principle to partial discharge of DCO requirements. Providing a mechanism for a staged approach to discharge of requirements is entirely proportionate and a reasonable approach to take for large linear projects where works have to be completed in stages along the route. This established approach is reflected in multiple DCOs with linear connections including the joint SEP and DEP DCO. It does not prevent proper consideration against the findings of the ES, nor does it prevent collaborative working with other projects, where appropriate. Whilst the Applicants intend to work collaboratively where practical and reasonable, it is not</p>	<p>The MMO welcomes the response to the Rule 9 letter and is currently reviewing the detail with our scientific advisors.</p> <p>The MMO will provide further comments at Deadline 3.</p> <p>Deadline 2 Update</p> <p>The MMO notes NE is still not content on this approach and the MMO is reviewing all the information and will provide an update at Deadline 3.</p>

	<p>requirements to allow flexibility. Whilst the MMO is not in disagreement with part discharges of documents, we are concerned that this will not allow for the impacts to be considered holistically or against the findings of the Environmental Statement. The MMO would also question how this would work in practice as it was our understanding that the transmission assets to be delivered together. This approach would mean that the activities would be completed at different times.</p> <p>2.1.9 The MMO is still reviewing the overall impact of this proposal and will provide further comments in due course.</p>	<p>possible for the Applicants to commit to joint delivery as set out in the Rule 9 – ES assessment of Construction Scenarios (AS-070).</p>	
RR-1414-04	<p>Minor Comments</p> <p>2.2.1 The presentation of evidence in this application tends to cover both generation and transmission assets, while only the latter is the subject of this DCO which can distract attention from the actual application.</p>	<p>The Offshore Order Limits and Grid Coordinates Plan (APP-149) illustrates that the Generation Assets fall entirely within the Transmission Assets Order Limits. As such, sources of information and evidence originating from the Generation Assets (such as surveys, modelling and baseline data) are relevant to inform the baseline for the assessment of the Transmission Assets. Where such information has been appropriately drawn upon in the Environmental Statement (ES). Where such information has been used, it is clearly referenced within the relevant chapter of the ES. The Transmission Assets will provide</p>	<p>The MMO welcomes this clarification and has no further comments.</p>

		<p>the offshore and onshore infrastructure required to connect the Morgan Offshore Wind Project: Generation Assets and the Morecambe Offshore Windfarm: Generation Assets to the national grid. Due to the inherent linkage between the Transmission Assets and the Generation Assets, it is necessary to consider both together in the cumulative assessment. As detailed in section 5.4.9 of Volume 1, Chapter 5: Environmental Assessment Methodology (APP-034), the ES adopts a cumulative approach based on three scenarios (Cumulative Scenarios 1, 2 and 3), which reflect the various potential phasing and delivery combinations of the Generation Assets and the Transmission Assets. This approach is in line with relevant guidance and ensures that the likely significant cumulative effects are appropriately assessed. The inclusion of information relating to the Generation Assets within the application is therefore not intended to distract from the Transmission Assets, but is necessary to present a complete, a robust and policy compliant Environmental Impact Assessment (EIA).</p>	
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RR-1414-05	<p>2.2.2 The ES correctly identified that the proposed development is within the Northwest Inshore and Offshore Plan Area. The MMO welcomes document J28.2 Marine policies tracker (APP-235) and is reviewing this document to ensure all policies are adequately updated.</p>	<p>The Applicants note this response and that the MMO may wish to provide further comments upon completion of their review of the Marine Policies Tracker (APP-235).</p>	<p>The MMO has reviewed the Marine Policies Tracker (APP-235) and is content that these have been adequately updated.</p> <p>The MMO will keep a watching brief and provide comments on any further updates throughout examination.</p>
RR-1414-06	<p>Article 6 Benefit of the Order</p> <p>3.2.1 The MMO understands that Article 6 – Benefit of the Order is drafted in a similar way to previous consents granted by the Secretary of State (SoS), however the MMO has major concerns over the wording. 3.2.2 Article 6 (1)-(3) gives the right to permanently transfer the benefits of the DCO including the DMLs in Schedules 14-17 to a third party with the consent of the SoS. The MMO considers that this is a clear departure from the 2009 Act, which would normally require the licence holder (here ‘the undertaker’) to make an application to the MMO for a licence to be transferred. Instead, this provision operates to make the decision that of the undertaker, with the Secretary of State (SoS) providing consent to the transfer, rather than the MMO as the regulatory authority for marine licences considering the merits of any application for a transfer.</p> <p>3.2.3 Parliament has already created a statutory regime for such a process, and it is unclear what purpose the written consent of</p>	<p>The Applicants note the MMO’s concerns regarding Article 6 of the draft DCO (AS-004), which provides for the transfer of the benefit of the DCO, including the deemed marine licences (DMLs) in Schedules 14 to 17 of the draft DCO (AS-004). As set out in the Explanatory Memorandum (AS-007) at sections 1.6.3.12 to 1.6.3.15, the Applicants consider that there is clear legal basis for the inclusion of Article 6 and the disapplication of sections 72(7) and 72(8) of the Marine and Coastal Access Act 2009 (the 2009 Act). There is no legal barrier to including these provisions in the draft DCO (AS-004). Specifically, section 149A of the Planning Act 2008 (the 2008 Act) authorises marine licences to be deemed in a DCO in appropriate areas. Section 120(3) of the 2008 Act provides that a DCO may include such further provisions</p>	<p>Please see Section 10.3 in REP1-086 response document.</p>

	<p>the SoS actually serves. If the intention is for the undertaker to be able to transfer the benefits under the terms of the DCO outside the established procedures under 2009 Act, the MMO queries why is it considered necessary or appropriate for the SoS to 'approve' the transfer of the DML.</p> <p>3.2.4 It is also unclear what criteria the SoS would be taking in determining whether to approve any transfer, and how this would differ from a consent granted by the MMO under the existing 2009 Act regime. 3.2.5 Because of this confusion and potential duplication, it is the position of the MMO that these provisions are removed and that any transfer should be subject to the existing regime under the 2009 Act, with the decision maker remaining the MMO.</p> <p>3.2.6 Article 6(2)(b) and 6(3)(b) gives the right to temporarily transfer the benefits of the DCO (including DML) to a third party.</p> <p>3.2.7 The MMO resists the inclusion of this article. Here the written consent of the SoS is not required. The MMO does not recognise that this would create a more streamlined system. Rather, it operates simply to create an additional administrative procedure for marine licences (and one not envisaged by Parliament) and with no clarity in how it will operate.</p> <p>3.2.8 The MMO has concerns regarding Article 6(4). The MMO notes that there is no</p>	<p>ancillary to the proposed development, and which in practice includes transfer or grant of the benefit of any DML. Section 120(5)(a) allows for statutory provisions to be applied, modified or excluded, whilst section 120(6) provides that a DCO may include a provision where necessary or expedient to give full effect to any other provision of the DCO. The power to transfer or grant the benefit of a DML is related to it being deemed under the draft DCO (AS-004). It is therefore a sensible, expedient part of the wider power to transfer or grant the benefit of the draft DCO (AS-004). There is accordingly no legal barrier or regulatory restriction for including these provisions in the draft DCO (AS004) and there is established precedent in other made DCOs for offshore wind projects in English waters. This position has been repeatedly adopted by the SoS, has not been subject to legal challenge as to its competency, and reflects standard practice. Whilst Article 6 of the draft DCO (AS-004) does not set out any specific criteria that the SoS must consider in determining whether to approve any transfer or grant, this aligns with section 72 of</p>	
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	<p>obligation for the SoS to take into account the views of the MMO when providing its consent. Furthermore, there is no obligation for the MMO to be informed of the decision of the SoS, notwithstanding its impact on the MMO as the licencing authority. From a regulatory perspective it is highly irregular that a decision to transfer a licence should not be the decision of the regulatory authority in that area (the MMO) but instead should be subject to such a cursory process as is set out in Article 6(1)-(3).</p> <p>3.2.9 The MMO thus resists this change as unworkable. As explained above, Articles 6 (1)- (3) sets out what is effectively a new non-legislative regime for the variation and transfers of marine licences. In support of these provisions, Article 6(12) explicitly disapplies sections 72(7) and (8) of the 2009 Act, which would otherwise govern these procedures. 3.2.10 This conflicts with the MMO's stated position that the DML granted under a DCO should be regulated by the provisions of the 2009 Act, and specifically by all provisions of section 72.</p> <p>3.2.11 Section 72(7)(a) of the 2009 Act permits a licence holder to make an application for a marine licence to be transferred, and, where such an application is approved, for the MMO to then vary the licence accordingly (s. 72(7)(b)). This power that should be retained and used in relation to the DML granted under the DCO and the</p>	<p>the 2009 Act, which also does not prescribe specific criteria which must be taken into consideration by the licensing authority before making their decision. As is standard practice under the 2009 Act, where a transfer of the DML is sought under Article 6 of the draft DCO (AS-004), the SoS would consider the appropriateness of the party to whom the transfer or grant is proposed and would also take into account any representations made by the MMO where relevant. From a commercial and regulatory perspective, it is important that the transfer or grant of powers or authorisations under the draft DCO (AS004) and associated DMLs be aligned. Separating the transfer of the draft DCO (AS-004) from the transfer of the DMLs could lead to inconsistencies and create unnecessary complexity, as there is considerable overlap between the authorisations and the requirements/conditions. This justifies a departure from the procedure under the 2009 Act by way of Article 6(12). In that context, it is appropriate that the SoS has the ability to approve the transfer or grant of a DML such that the transfer or grant can fully reflect the</p>	
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	<p>MMO therefore resists the inclusion of this Article 6(12) to disapply these provisions.</p> <p>3.2.12 The key concern held by the MMO is that Article 6 operates to override and/or unsatisfactorily duplicate provision that already exist within the 2009 Act for dealing with variations to marine licences. Such provisions are also inconsistent with the PINS Guidance on how DMLs should operate within a DCO. Advice Note Eleven, Annex B, provides that where the undertaker choses to have a marine licence deemed by a DCO, the MMO, “will seek to ensure wherever possible that any deemed licence is generally consistent with those issued independently by the MMO.” Article 6 as drafted is not in compliance with this guidance.</p> <p>3.2.13 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 Part 2, Article 6 insofar as these are intended to apply to the MMO and requests paragraphs 6(4), 6(8) and 6 (12)be removed in their entirety, with a clarification added to specifically exclude these provisions from applying to the MMO (with corresponding wording amended in the Deemed Marine Licences).</p> <p>3.2.14 The MMO is concerned that the procedure proposed represents an unnecessary duplication of the existing statutory regime set out in s72 of the 2009 Act and that it will give rise to significant</p>	<p>relevant DCO and DML powers. It is undesirable to separate the transfer or grant of the benefit of the order and the transfer or grant of the benefit of the DML, as doing so presents the risk of transfers of the draft DCO (AS-004) provisions and transfers of the DMLs occurring at different times and could result in inconsistency in position. It would make any transfer or grant from one undertaker to another more complicated to manage, and commercially it would be unhelpful and unnecessary to create uncertainty around the date (or indeed likelihood of approval) for any such transfer taking place. The Applicants disagree that there is any issue from a regulatory perspective. With regards to the identity of DCO undertakers, this falls within the regulatory remit of the SoS to consider the draft DCO (AS-004) as a whole, including the DMLs, when deciding whether to grant development consent, and for the reasons already explained it does not make sense to separate out the responsibility for any transfer approvals to two separate regulatory bodies.</p>	
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	<p>enforcement difficulties for the MMO. The MMO also considers that it has the potential to prejudice the operation of the system of marine regulatory control in relation to the proposed development. The MMO also regards the proposed procedure as cumbersome, more administratively burdensome, slower and less reliable than the existing statutory regime set out in s72 of the 2009 Act.</p> <p>3.2.15 To summarise, the MMO considers that little advantage is gained for the Applicants by these provisions, and the tangible risks and disadvantages that it poses can be avoided by retaining the existing statutory regime in full.</p>	<p>The Applicants also disagree that the transfer provisions are not in compliance with Advice Note Eleven, Annex B, noting the use of the words ‘wherever possible’ which acknowledges that departures may need to be made. The Applicants have sought to align the drafting of the DMLs overall to ensure consistency with those issued independently by the MMO. For the reasons already set out, the transfer provisions are a reasonable, necessary and a justified departure. The Applicants do not consider that any confusion will arise by virtue of the transfer or grant of benefit mechanism sitting in the draft DCO (AS004). Indeed, the Applicants are aware that to date relatively limited use has been made of transfer provisions in offshore wind DCOs and, where they have been used, is unaware that any significant issues or prejudice has arisen from the use of those provisions in practice. It is common practice for a variation application to be made to the MMO either at the same time as applying to the SoS for consent to transfer the benefit or immediately following the approved transfer, in order to vary the name of any new DCO</p>	
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		<p>undertaker(s). Indeed, as an acknowledgement of this position, the Applicants are aware that a number of recent draft DCOs, including the draft DCO for the Morgan Generation Assets, have proposed the inclusion of wording in this regard which the Applicants consider sensible and reflective of the situation in practice. The Applicants will therefore update Article 6(12) as follows: <i>(12) Section 72(7) and (8) of the 2009 Act do not apply to a transfer or grant of the benefit of the provisions of any deemed marine licences to another person by the undertaker pursuant to an agreement under this article save that the MMO may amend any deemed marine licence granted under Schedules 14, 15, 16 or 17 of the Order to correct the name of the undertaker to the name of a transferee or lessee under this Article 6 (benefit of the Order).</i></p>	
RR-1414-07	<p>3.2.16 In addition to the above the MMO has provided a more detailed position which can be found below. 3.2.17 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. 3.2.18 If the application for the DCO is granted, the MMO will be the regulatory</p>	<p>The Applicants refer to the points set out in RR-1414.6 above. The Applicants acknowledge the MMO's role as the regulatory authority and fully recognise the importance of maintaining an accurate and up-to date record of the person or entity holding the benefit of each DML, in</p>	<p>Please see Section 10.3 in REP1-086 response document for further comments.</p>

	<p>authority responsible for the enforcement of the provisions of the DMLs. As a result, it must retain a record of the DML and who holds the benefit of that license in order to be able to fulfil its statutory responsibilities as it does in respect of any other Marine Licence.</p> <p>3.2.19 The 2009 Act addresses the procedure for transfer of a Marine Licence as follows: “(7) On an application made by a licensee, the licensing authority which granted the licence— (a) may transfer the licence from the licensee to another person, and (b) if it does so, must vary the licence accordingly. (8) A licence may not be transferred except in accordance with subsection (7).”</p> <p>3.2.20 The purpose of these provisions is to ensure that there is at all times a record of the person who has the benefit of the licence. That is because pursuant to the 2009 Act section 65(1), no person may carry on a licensable marine activity, or cause or permit any other person to carry on such an activity, except in accordance with a marine licence granted by the appropriate licensing authority. A person who contravenes section 65(1) or fails to comply with any condition of a marine licence, commits an offence (see section 85(1) of the 2009 Act).</p> <p>3.2.21 Thus, it is a key part of the enforcement provisions of the 2009 Act, that the MMO maintains a record of the person who has the benefit of a marine licence at all times.</p> <p>3.2.22 In practice, the process of obtaining a transfer is relatively quick. Whilst the MMO officially indicates that</p>	<p>accordance with the 2009 Act. In particular, the Applicants note that the MMO would always remain aware of who the relevant undertaker is for the purposes of enforcement of any conditions in the DMLs (AS-004). No transfer would be made without putting the MMO on notice of such a transfer occurring. Firstly, because Article 6 of the draft DCO (AS-004) requires the SoS to consult the MMO before any transfer or grant of the DMLs is approved and also requires the undertaker to notify the MMO of the date of any such transfer. The MMO will therefore always be informed of any transfer and the identity of the new undertaker in advance of the transfer taking legal effect. Secondly, it is standard practice for a variation application to be made to amend the undertaker’s name following transfer of the DML. As set out at RR.1414.6 above, the Applicants intend to amend Article 6(12) of the draft DCO (AS-004) to reflect this position. The Applicants therefore do not consider that Article 6 displaces or undermines the MMO’s enforcement role. Rather, it ensures that the MMO is consulted and informed, and able to update</p>	
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	<p>this can take up to 13 weeks, it is an administrative task and in practice often much quicker and around six weeks. The MMO is not required to consult with any other body. As far as it is aware, the MMO has never refused a request to transfer a Marine Licence.</p>	<p>its records in the ordinary way to ensure continued compliance with sections 65 and 85 of the 2009 Act. While the MMO notes that the transfer process under the 2009 Act is relatively quick, the Applicants maintain that aligning the transfer of the DMLs with the DCO transfer process is procedurally simpler, reduces the risk of misalignment and provides commercial certainty for undertakers. In practice, this mechanism ensures that the MMO is kept informed and able to carry out its regulatory duties, without creating unnecessary duplication or inconsistency.</p>	
RR-1414-08	<p>The Basis for Objection</p> <p>3.2.23 The MMO raises objection to Article 6 in relation to: a. The procedure seeking to duplicate the existing statutory regime set out in s72 of the 2009 Act; b. The proposed procedure being cumbersome, more administratively burdensome, slower and less reliable than the existing statutory regime set out in s72 of the 2009 Act; c. No pre-consultation required with the Secretary of State; d. The power for an undertaker to grant a DML; e. The power to grant a DML for a period of time; f. The basis for disapplication of the need for Secretary of State's consent to a transfer/grant for DML is unrelated to any matters relating to marine licensing. g. The</p>	<p>Please refer to response in RR-1414.06</p>	<p>Please see Section 10.3 in REP1-086 response document for further comments.</p>

	absence of any power provided to the MMO to change the DML held in its records to reflect any transfer. h. The overall effect on the ability of the MMO to enforce the marine licensing regime in respect of any transferred or granted DML.		
RR-1414-09	<p>Previous DCOs</p> <p>3.2.24 It is acknowledged that DCOs previously granted have removed the effect of s72 of the 2009 Act and made provision for the transfer of DMLs including by way of example, Sheringham Dudgeon OFW, Times Tideway Tunnel DCO and Sizewell C DCO.</p> <p>3.2.25 However, it is to be noted that in very few, if any, do the relevant ExAs explain the rationale for the approach adopted. The same is true of the relevant decision letters. To date, the Applicants has not provided the MMO with any ExA Report or Decision letter which explains why the approach it seems to adopt in the dDCO is appropriate nor indeed to be preferred to the existing statutory procedures.</p> <p>3.2.26 The MMO notes within Rampion 2 OFW Examination Dogger Bank Creyke Beck Offshore Wind Farm was raised as a precedent. The ExA in that case addressed the issue of transfer at paragraph 15.25 and following. At Para 15.26 it explained that the Applicants in that case and the MMO had reached agreement in relation to the issue of transfer as follows: “The MMO also requested</p>	As set out in the Explanatory Memorandum (AS-007), the drafting of Article 6 of the draft DCO (AS-004) follows a well-established and consistent precedent. This drafting cannot reasonably be described as ‘highly unusual’ or ‘new’ in the context of offshore wind DCOs and the Applicants note that similar provisions have been included in numerous made DCOs, including the Hornsea Four OFW Order 2023 (article 5(6)), Hornsea Three OFW 2020 (article 5(6)), East Anglia One North Offshore Wind Farm Order 2022 (article 5(4)), East Anglia Two (Offshore Wind Farm Order 2022 (article 5(4)) and Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024 (article 5(6)). The Applicants are aware that the MMO has made similar submissions in many of those DCOSs and that the ExAs and SoS have, in each case, chosen to retain the transfer or grant of the benefit drafting in the	Please see Section 10.3 in REP1-086 response document for further comments.

	<p>that additional drafting be included in Article 8, such that it would be consulted prior to any transfer of the benefits of the Order, providing details such as the person responsible for carrying out the activities, location and timing of works etc (REP-274). The applicants and the MMO reached agreement on this point, such that version 5 of the draft DCO included the proposed insertion of a clause at Article 8(7) which would require the undertaker to consult the MMO prior to the transfer to another person; and inclusion of an amendment to Article 8(9) which requires the MMO to be informed in writing within 14 days (previously 21 days) should any agreement come into effect which transfers the relevant provisions to another person (REP-480). These proposed changes have been carried forward into Article 8 of the ExA's recommended DCO, together with some minor changes to the drafting in the interests of clarity, which don't materially alter the intention and effect of the articles which have been subject to examination."</p> <p>3.2.27 Thus, the Dogger Bank decision did not determine that the mechanism now proposed is to be preferred to the statutory mechanisms – rather it was a compromise reached between the parties in that case. The MMO has consistently challenged provisions of this nature in draft DCOs as the existing statutory procedure is to be preferred to</p>	<p>final made Orders. Whilst the Applicants acknowledge that in many of the MMO's examples, neither the ExA recommendation report nor the SoS decision letters provide detailed justification for adopting the transfer or grant of the benefit drafting, the absence of an explicit explanation does not necessarily imply a lack of consideration. Had the SoS disagreed with the approach, they would have amended or removed the provisions when making the DCO. Furthermore, there is clear rationale in at least one recent DCO. In the Examination of the Hornsea Four Offshore Wind Farm Order 2023, the ExA examined the MMO's position in detail and concluded that the same provisions had been included in numerous recently made orders and for consistency did not agree with the MMO's suggested change. The ExA recommended retaining the transfer mechanism to ensure consistency across DCOs, suggesting only minor amendments to reflect the latest drafting practices. The draft DCO (AS-004) aligns closely with the final wording in the Hornsea Four Offshore Wind Farm Order 2023. See paragraphs</p>	
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	<p>mitigate risk on all parties by using established mechanisms.</p> <p>3.2.28 None of the ExA Reports or Decision Letters relating to the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024 raised by the Applicants contain any rationale for the transfer provisions. In addition to this no other projects (Hornsea Four Offshore Wind Farm Order 2023, East Anglia One North Offshore Wind Farm Order 2022, East Anglia Two Offshore Wind Farm Order 2022, Sizewell C or Thames Tideway Tunnel) contain any rationale.</p> <p>3.2.29 To date the Applicants has not identified any reasoned justification in any previous decision which explains why the transfer process which it proposes is justified and to be preferred over the existing statutory mechanism.</p> <p>3.2.30 The MMO, of course, accepts that there is a need for consistency in decision making. However, a decision maker is not bound by previous decisions and can depart from them where there is good reason to do so.</p> <p>3.2.31 If the Secretary of State in the present case determined that on balance, the existing statutory mechanisms relating to transfer of marine licenses is to be preferred to the mechanism proposed in the dDCO, then it is open to him to so determine provided he gives reasons for so doing. The absence of</p>	<p>16.4.7 to 16.4.16, paragraph 16.8.21 and Table 16.2 of the ExA's recommendation report as provided at Appendix 1 to this response. The SoS decision letter subsequently endorses the ExA's position (see paragraph 2.2 of the decision letter as provided at Appendix 1 to this response). The Applicants accordingly submit that this issue has already been considered by the SoS on multiple occasions and, for the reasons set out at RR-1414.6 and RR-1414.7 above, there is no reason to depart from precedent.</p>	
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	any reasoned decision which determines the point previously and which provides a rationale for departing the existing statutory mechanism is a reason to look at this issue again.		
RR-1414-10	<p>Materially Inferior Procedure</p> <p>3.2.32 As explained above, the statutory system for transfer requires an application to the MMO. There is no further consultation, and the transfer is given effect by amendment to the licence holder section of the Marine Licence. The MMO does not have any relevant statutory or non-statutory policy relating to the transfer of a licence – it is essentially a purely administrative act to ensure that the licence contains the name of the person with the benefit of the licence. As explained, as far as the MMO is concerned it has never refused an application for a transfer. 3.2.33 In contrast, the dDCO Article 6 procedure requires: • An application to the Secretary of State; • Consultation with the MMO; • A decision by the Secretary of State; • Notification of the decision; 3.2.34 Given the contrast between the two procedures, the MMO does not consider that the dDCO procedure has any material procedural or administrative advantages over the existing statutory process. Indeed, the dDCO procedure is decidedly more complex, is more administratively burdensome for all parties, and will take longer to give effect to a transfer. The MMO believes that as a result</p>	Please refer to responses to RR-1414-06, RR-1414-07 and RR-1414-09.	Please see Section 10.3 in REP1-086 response document for further comments.

	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; the statutory regime which already exists is a much better option for all and should remain applicable.		
RR-1414-11	<p>Pre-application consultation with the Secretary of State</p> <p>3.2.35 The MMO notes that there is not a mechanism for pre-consultation with the Secretary of State – should the Secretary of State 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.”</p>	<p>The Applicants do not consider this additional drafting to be necessary. Articles 6(2) and 6(3) of the draft DCO (AS-004) provides that the written consent of the SoSt is required for any transfer or grant of any of the provisions of the DCO or the DMLs. Under Article 6(4), the SoS must consult the MMO prior to giving consent for the transfer or grant of the benefit or provisions of the relevant DML. Article 6(6) provides for some exceptions to this and sets out the circumstances where SoS consent is not required, including where the transferee or lessee is a licence holder under section 6 of the 1989 Act. Please see RR-1414.12 for further detail below. In addition, Article 6(8) provides that the undertakers must give notice to the SoS of a transfer or grant prior to any transfer or grant under Article 6 taking effect. The undertaker must also notify the MMO and relevant planning authority if the transfer or grant</p>	<p>Please see Section 10.3 in REP1-086 response document for further comments.</p>

		relates to the exercise of powers in their area. The Applicants therefore consider that the SoS (and where relevant the MMO) has sufficient opportunity for consultation and to seek further information from the undertaker if necessary.	
RR-1414-12	<p>The Grant of a DML</p> <p>3.2.36 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” or “the whole of any of the deemed marine licences and such related statutory rights as may be so agreed”.</p> <p>3.2.37 This appears to be drawn from Article 9(1)(b) of the Sizewell C DCO, although it is unclear from the wording of that provision whether the power to grant “the benefit of the provisions of this Order and such related statutory rights” includes the power to grant a new DML to a third party. Further, the rationale for the inclusion of such a power or the basis upon which it is to be exercised is not explained in the DCO, the ExA Report or the Decision Letter for the Sizewell C project.</p> <p>3.2.38 The Applicants has not justified or explained: • Why it is necessary for it to have the power to grant a DML; • Why it is necessary for it to have the power to grant a</p>	<p>The Applicants refer to the points already made to responses in RR-1414-06, RR-1414-07 and RR-1414-09. In response to the MMO’s specific concern regarding Articles 6(2)(b) and 6(3)(b) of the draft DCO (AS-004), the Applicants wish to clarify that this does not confer a power to create or issue a new DML. Rather, this allows the Applicants to grant the benefit of an existing DML to a third party for a defined period and subject to the same restrictions, obligations and enforcement regime that would apply if the Applicants were exercising the powers directly (see Article 6(5)(c) of the draft DCO (AS-004)). This is not equivalent to a transfer of the DML, which permanently transfers the benefit and responsibility for the DML (as provided for separately under Article 6(3)(a) of the draft DCO (AS-004)). The reference to “grant” mirrors the drafting included in</p>	<p>Please see Section 10.3 in REP1-086 response document for further comments.</p>

	<p>DML when it would have a power to transfer a DM; • The basis on which such a power to grant will be exercised; • The basis on which it will determine whether or not grant a DML • The basis on which it will determine the conditions to be imposed on the grant of a DM; • Why it is appropriate for it to be able to grant DMLs without the consent of the Secretary of State or the MMO.</p> <p>3.2.39 The MMO considers that the power sought for the undertaker to grant a DML would confuse and usurp its statutory function. It would allow licences to be granted on terms wholly different from those accepted as part of the DCO process. The power to grant a DML should therefore be removed from the dDCO.</p> <p>3.2.40 In the event that its primary position that the existing statutory mechanism should remain applicable is rejected, the MMO considers that, at most, the power to transfer the benefit of an existing DML to another person is all that is required.</p>	<p>other made DCOs, including The Sizewell C (Nuclear Generating Station) Order 2022 (Article 9), and reflects the fact that this is a temporary transfer of an existing benefit under the draft DCO (AS-004), rather than the grant of a new DML that bypasses the statutory marine licensing regime. Article 6(2)(b) of the draft DCO (AS-004) provides for the grant to a lessee for a specified time of the benefit of any or all of the benefit of the provisions of the DCO, whilst Article (3)(b) provides for the grant to a lessee for a specified time of any of the DMLs. This power is limited by Article 6(4) of the draft DCO (AS-004), which provides that the SoS must consult the MMO before giving consent to the transfer or grant to another person of the benefit of the provisions of the relevant DML, subject to some exceptions as set out in Article 6(6) of the draft DCO (AS-004). The Applicants therefore respectfully disagree with the MMO's assertion that this Article "confuses and usurps" its statutory function. The power to "grant" the DMLs does not bypass the marine licensing regime, create new licences or alter the terms of the DMLs. The</p>	
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		Applicants therefore consider that no amendment to Article 6(2)(b) or (3)(b) is required.	
RR-1414-13	<p>A Time Limited DML</p> <p>3.2.41 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 of time.</p> <p>3.2.42 The only precedent for this provision which the MMO has found is Article 9(1)(b) of the Sizewell C DCO, to the extent that that power applies to DMLs (which is unclear). The Sheringham DCO does not provide a power for the undertaker to grant a DML for a limited period of time.</p> <p>3.2.43 The Applicants has not explained why these provisions are necessary or why a departure from the statutory provisions within the 2009 Act is justified.</p> <p>3.2.44 In the event that its primary position that the existing statutory mechanism should remain applicable is rejected, the MMO considers that, if the intention is to enable the transfer of the benefit of a DML to a third party for a defined period of time, with the benefit of that DML then reverting to the undertaker at the end of that period, a provision can be drafted to give effect to this.</p>	Please refer to response to RR-1414-12. The Applicants note that Article 6(3)(b) is preceded in the majority of offshore wind DCOs including most recently Norfolk Vanguard Offshore Wind Farm Order 2022, Norfolk Boreas Offshore Wind Farm Order 2021, East Anglia One North Offshore Windfarm Order 2022, East Anglia Two Offshore Windfarm Order 2022 and Hornsea Project Four Offshore Wind Farm Order 2023.	Please see Section 10.3 in REP1-086 response document for further comments.
RR-1414-14	Disapplication of the Secretary of State's Consent	The Applicants disagree that they have not provided an explanation as to why it is appropriate to	Please see Section 10.3 in REP1-086 response document for further comments.

	<p>3.2.45 As explained above, Article 6(6) disappplies the need for the consent of the Secretary of State 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”</p> <p>3.2.46 Whilst it is recognised that the drafting here reflects earlier DCOs, the rationale for the removal of the need for consent or consultation when this criterion is met has not been explained. The Applicants has not explained why the fact that the transferee holds a s6 licence should mean that the consent of the Secretary of State is not required nor that consultation with the MMO is unnecessary.</p> <p>3.2.47 In the absence of any clear justification for excluding a consent process, consent should be required to reflect the process in section 72 of the 2009 Act. In other words, a transfer of a DML should not be given effect unless it has been approved by a decision maker. The MMO’s primary position is that the statutory mechanism should remain applicable and that it should remain the relevant decision maker. If that is rejected then the next best option would be for the Secretary of State to be the relevant decision maker but unable to consent to the transfer without the approval of the MMO. If that is rejected, then the next best option would be</p>	<p>provide for transfer where the transferee or lessee is the holder of a licence under section 6 of the Electricity Act 1989 (the 1989 Act). Paragraph 1.6.3.10 of the Explanatory Memorandum (AS-007) sets this out and explains that as these transfers are restricted to persons holding appropriate licences, such persons will already have been determined to be fit to operate such facilities, and in any event this would not amend the licensed activities pursuant to any DML. This approach is consistent with precedent in other made DCOs and reflects a proportionate approach. Where the transferee or lessee is already an appropriate licence holder, the requirement for further consent from the SoS and consultation with the MMO is not considered necessary or appropriate. The Applicants therefore consider that Article 6(6)(a) is justified and proportionate and that no amendment is required.</p>	
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	<p>for the Secretary of State to be the relevant decision maker in consultation with the MMO.</p> <p>3.2.48 It is not acceptable, however, for the Applicants (or any successor) 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</p>		
RR-1414-15	<p>Power to Amend DMLs to Reflect a Transfer</p> <p>3.2.49 The MMO is a statutory body. As a result, it 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 it holds in its records upon notification that a transfer is to occur. This has the potential to cause real difficulties going forward since, in the absence of such a power, the MMO records will not be changed. This is likely to cause significant administrative difficulties and could result in obstacles to enforcement.</p> <p>3.2.50 Such a confusion is but one symptom of the complications which result from the dDCO's proposed transfer mechanism. This reinforces the MMO's primary position that the existing statutory mechanism is to be preferred and to remain applicable.</p> <p>3.2.51 If the Secretary of State was to retain the Article, then the MMO would still require the Applicants to submit a DML variation to the MMO to ensure the undertaker is updated</p>	Please refer to the response to RR-1414-06.	Please see Section 10.3 in REP1-086 response document for further comments.

	to the correct entity within the DML and within the MMO's systems.		
RR-1414-16	<p>Overall Effect on Ability to Enforce</p> <p>3.2.52 As drafted, 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 and has the potential to prejudice the operation of the system of marine regulatory control in relation to the proposed development. Further, the dDCO procedure is administratively burdensome and time consuming.</p> <p>3.2.53 All of these difficulties can be avoided by retaining the existing statutory regime which is simple to operate and relatively speedy. The best way forward for all concerned is to retain the statutory procedure for transfer as set out in s72 of the 2009 Act. This will also require changes to Part 1 Paragraph 7 of each dDML.</p>	Please refer to the response to RR-1414-07.	Please see Section 10.3 in REP1-086 response document for further comments.
RR-1414-17	<p>Other Considerations</p> <p>3.2.54 The MMO questions why it is ok to require the SoS to consult with the MMO? If the SoS fails to do this they commit an offence under s161(1)(b) of the Planning Act if the SoS does not have a reasonable excuse. This is another unintended consequence if the inclusion of the DML in this Article.</p>	As set out in the response to RR-1414-09, this position has been accepted by the SoS in numerous DCOs. This method is ultimately not dissimilar to local planning authorities (LPA) consulting on the discharge of requirements under Schedules 2A and 2B of the draft DCO (AS-004), or to the requirement for the MMO to consult	Please see Section 10.3 in REP1-086 response document for further comments.

	<p>3.2.55 The reason that the DCOs only deem the Marine Licence to be granted, rather than bringing the ML into the DCO as it does for other permissions under s33 of the Planning Act 2008 is because the MMO was considered to be the expert in this area (see PINS Advice Note Eleven, Annex B). The MMO questions why now is the SoS best placed to consider the implications of the marine licence being transferred and what might need to change?</p> <p>3.2.56 Therefore, the provision in paragraph (4) should not extend to the DML. The Order and the DML are not the same thing and so this provision does not extend to the DML, and references to the undertaker in the DML will stay as is. Whilst the mechanism is different, what falls out of the DCO process is a marine licence granted under MCAA which is distinct and separate to the DCO itself. The DML falls back to the MMO to further manage/regulate under the provisions of MCAA once the DCO is granted, to be regulated alongside and consistently with all the other marine licences we might issue. This is in part why s149A(4) says a person who fails to comply with a condition of the DML does not commit an offence under the s161 of the Planning 2008 Act and why 149A(5) disapplies the notification of application and representations provisions of MCAA from the DCO process.</p>	<p>with relevant key stakeholders in relation to the discharge of standalone marine licence conditions. It is highly unlikely that the SoS would fail to comply with its statutory requirements. Overall, Article 6 of the draft DCO (AS-004) reflects the equivalent provision in recent offshore wind DCOs including Hornsea Three Offshore Wind Farm Order 2020, Norfolk Boreas Offshore Wind Farm Order 2022, Norfolk Vanguard Offshore Wind Farm Order 2022, East Anglia One North Offshore Windfarm Order 2022, East Anglia Two Offshore Windfarm Order 2022, Awel y Môr Offshore Wind Farm Order 2023, Hornsea Project Four Offshore Wind Farm Order 2023 and Sheringham Shoal and Dudgeon Extensions Offshore Win Farm Order 2024. As set out at paragraph 1.6.3.15 of the Explanatory Memorandum (AS-007), Article 6 of the draft DCO (AS-004) is necessary to provide the Applicants with the appropriate commercial freedom to sell or lease the authorised projects while ensuring that the SoS can control such sale or lease, through the need to obtain their consent. In practice, the most common transfer</p>	
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	<p>3.2.57 The MMO would also highlight that 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 and so that updates to the Marine Case Management system can be completed enabling compliance to continue to be monitored.</p> <p>3.2.58 With the addition of Article 6 (8) current wording this causes the MMO concern as this is just a notice of the transfer and does not include an official variation request to the MMO as required under Section 72 of the Marine and Coastal Access Act 2009. The MMO does not believe the SoS can amend the DML once consented. Therefore, the MMO would have to use their regulatory power to conduct a variation and vary the licence to ensure the correct undertaker is on the schedule, this could cause a potential delay the project as if the transferring of unvaried licence impacted on our ability to enforce during this time, the MMO may have to suspend the licence while the MMO conducted the variation.</p> <p>3.2.59 This process could be delayed without the direct contact to the MMO to vary the DML. In addition to this the MMO has statute to charge for any variations and this is not covered by the current Article. This is an</p>	<p>scenario is when the offshore transmission infrastructure is transferred to the separate Offshore Electricity Transmission (OFTO) licence-holder following a public tender exercise via Ofgem, and it is important that an OFTO licence-holder have certainty that all consents, licences and permits will transfer concurrently via the same approval process. The MMOs position is noted. However, the Applicants maintain that making the requested amends would result in the DCO as granted being inconsistent with the SoS's recent decision making on this issue. The MMO's assertion that the 2009 Act should automatically prevail is contrary to the intention and spirit of the 2008 Act.</p>	
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	<p>issue for two reasons, the Applicants would be getting work at a different rate as the consultation would be a statutory request from the SoS and this is not aligning with other marine licences as per PINS Advice Note Eleven, Annex B and two this puts the emphasise for the MMO to vary the licence once notified so there would still be an additional step for the MMO to take. The MMO strongly objects to the inclusion of the Article and the fundamental impact and change to the process.</p>		
RR-1414-18	<p>Use of ‘Maintain’ and ‘Materially’</p> <p>3.2.60 The MMO is reviewing the use of Maintain and materiality within the DML and will provide comments in due course</p>	<p>This response is noted by the Applicants.</p>	<p>The MMO strongly considers that the activities authorised under the DCO and DML should be limited to those that are assessed within the EIA.</p> <p>The MMO considers that the definition of maintain should be updated to include reference to any activities that do not give rise to any new or different environmental effects to those assessed in the environmental statement.</p>
RR-1414-19	<p>Determination Dates</p> <p>3.2.61 The MMO strongly considers that it is inappropriate to put timeframes on complex technical decisions of this nature. The time it</p>	<p>The Applicants highlight that the conditions of the DMLs (condition 19 of the DMLs at Schedules 14 and 15 and condition 17 of the DMLs at Schedules 16 and 17)</p>	<p>The MMO acknowledges the Applicant’s comments. The MMO has two concerns with timelines.</p>

	<p>takes the MMO to make such determinations depends on the quality of the application made, the complexity of the issues, and the amount of consultation the MMO is required to undertake with other organisations to seek resolutions. The MMO's position remains that it is inappropriate to apply a strict timeframe to the approvals the MMO is required to give under the conditions of the DML given this would create disparity between licences issued under the DCO process and those issued directly by the MMO, as marine licences issued by the MMO are not subject to set determination periods.</p> <p>3.2.62 Whilst the MMO acknowledges that the Applicants may wish to create some certainty around when it can expect the MMO to determine any applications for an approval required under the conditions of a licence, and whilst the MMO acknowledges that delays can be problematic for developers and that they can have financial implications, the MMO stresses that it does not delay determining whether to grant or refuse such approvals unnecessarily. The MMO makes these determinations in as timely a manner as it is able to do so. The MMO's view is that it is for the developer to ensure that it applies for any such approval in sufficient time as to allow the MMO to properly determine whether to grant or refuse the approval application.</p>	<p>(AS-004) sets out a four months determination period but that this period can be extended by agreement in writing with the undertaker. This provides built-in flexibility, enabling extensions to be agreed where additional time is required for consultation, the provision of further information, or the resolution of any outstanding issues. It is in the undertaker's interest to facilitate such extensions where reasonable, particularly where they are necessary to ensure approval can be granted. Should key consultees raise concerns or require more time, the MMO is not bound to approve submissions within the initial four months period and can request additional information or ultimately refuse the application to approve on the basis of insufficient information. The Applicants note that this drafting is well precedented and has been accepted in all previous offshore wind DCOs.</p>	<ol style="list-style-type: none"> 1. Approval timescale (Schedule 14, Part 2, Condition 19(2) and similar conditions in Schedule 15, 16, & 17 and throughout the DML). 2. 4-month submission timescale throughout Condition 19 and throughout the DML. <p>4 months has been standard in a number of offshore windfarms, especially round 3 projects. However, the MMO along with our consultees have noticed a change in the submission information and required rounds of consultation to ensure the MMO is confident to discharge the documents submitted.</p> <p>The MMO would highlight that this has been requested by the MMO since the Hornsea Project Three Offshore Wind Farm Examination. Since this examination, there is even more of a concern that more and more time is being spent working to determine</p>
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			<p>documents submitted. There are a number of instances on projects where the submission at the four- or six-month date does not include everything that is required or within the outline plans and is more of a compliance requirement to ensure something is submitted in line with the consent. This leads to requests for additional information and multiple rounds of consultation and updates to ensure enough information is provided for the MMO to make a determination. It is becoming increasingly difficult to review the first submission of a document and therefore delays to the determination could cause significant impact to both the MMO and the Applicant.</p> <p>In relation to precedented timescales within other offshore wind DCOs. The MMO, of course, accept that there is a need for consistency in decision making. However, a decision maker is not bound by previous decisions and can depart from them where there is good reason to do so.</p>
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			<p>The MMO welcomes Condition 11 that extensions can be agreed but believes this is an additional step which could also take time to agree between parties.</p> <p>The MMO would reiterate that it does not delay approvals unnecessarily and believes more realistic timescales should be included to allow for the Applicants to account for this within their programming. The MMO also highlights that it is also unclear what consequences would result if this deadline was not met, and how that would impact on the MMO's regulatory function. The MMO believes there is clear evidence with projects increasing in size as part of this discharge process that 4 months is not enough time to discharge a document and the MMO requests that all timescales are updated to 6 months submission timescales and that Condition 19(2) is removed.</p> <p>However, without prejudice to this position, the MMO believes</p>
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			that if time scales are included within the DML for plans then these should be six months not four months and is open to discussions on which documents must be six months, and which documents could be four months to take into account the concerns that the Applicants may have. The MMO will continue to work with the Applicants to advise on any plans or documents that could have a four-month timescale.
RR-1414-20	<p>Force Majeure</p> <p>3.2.63 The MMO believes the Force Majeure condition should be removed as it is not necessary to be included within the DMLs. as section 86 of the 2009 Act provides a defence for action taken in an emergency in breach of any licence conditions. The MMO requires justification or rationale as to why this provision is considered necessary. It is not something that the MMO would include in standalone marine licences. PINS Advice Note Eleven, Annex B says that DMLs should be broadly consistent with standalone marine licences.</p> <p>3.2.64 The MMO understands that Force Majeure is about events, situations and circumstances that arise which are outside of a person's control. Currently the condition</p>	<p>The Applicants disagree with the MMO's position on Condition 17 of the DMLs at Schedules 14 and 15 and Condition 15 of the DMLs at Schedules 16 and 17 of the draft DCO (AS-004). These force majeure conditions serve slightly different purposes to section 86 of the 2009 Act. This condition imposes a duty on the undertaker to notify the MMO within 48 hours if the master of a vessel determines that it is necessary to deposit authorised deposits within or outside of the Order Limits because the safety of human life or of the vessel is threatened due to stress of weather or any other cause. This</p>	<p>The MMO acknowledges the difference proposed between Section 86 of the 2009 Act and the inclusion of this condition and notes the updated part (2) of the condition.</p> <p>However, maintains its position regarding Force Majeure, as it is not necessary to be included within the DMLs. It is not something that the MMO would include in standalone marine licences.</p> <p>The MMO questions on if the inclusion of this condition is allowing an unknown licensable</p>

	<p>wording used is drafted to apply for stress of weather or any other cause which is very broad. It could cover anything, including causes which are entirely within the master's control such as negligence matters. Currently the MMO believes Condition 19 in Schedules 3 and 4 does not meet the five tests as set out in the National Planning Policy Framework for a number of reasons: • necessary; • relevant to planning; • relevant to the development to be permitted; • enforceable; precise; and • reasonable in all other respects.</p> <p>Necessary 3.2.65 If you read Section 86(1)(b) and 86(2) of 2009 Act, for the defence to be relied on the person relying on it must inform the MMO that the act was carried out, tell it where it was carried out, the circumstances in which it was carried out, and what articles/objects were concerned. The inclusion of Condition 17 removes this defence and replaces it with a wider and less stringently controlled authorisation to deposit articles/substances and the MMO does not believe this is necessary.</p> <p>Enforceable 3.2.66 The condition as it stands is too subjective and therefore unenforceable and this due to the fact that it is down to the master to determine whether it is necessary to make the deposit and there are no defined criteria.</p> <p>Precise 3.2.67 The condition is also not restricted to Force Majeure situations or 'no</p>	<p>ensures that the MMO is provided with that information. Section 86 of the 2009 Act does not contain any such duty. It simply acts as a defence in the event a person is charged with an offence. The Applicants will however update the drafting in the force majeure condition to include a new sub-paragraph (2), which will be provided in an updated draft DCO at Deadline 1: <i>"The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO"</i>.</p> <p>This ensures that action must be taken to remedy any emergency deposits. This also addresses the MMO's concerns on enforcement as if removal is not undertaken and agreement is not reached with the MMO, the MMO can take enforcement steps against the undertaker to ensure such removal</p>	<p>activity (deposit) that has not been assessed.</p> <p>The MMO believes the Applicants response still does not refute that the use of 'any other cause' is a very broad statement. Conditions must be precise, which currently using this term, it is not precise and could cover anything, therefore we believe this condition should be removed.</p>
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	<p>fault situations', due to the inclusion of 'for any other cause'. The MMO questions this wording and why this has been included?</p> <p>3.2.68 In effect the only obligation the master would have if Condition 17 is included, is to notify the MMO within 48 hours that the deposits have been made. The MMO questions if this notification would be enough to allow enforceability and if it was to remain should there not be further requirements to then remove the items.</p> <p>Reasonable 3.2.69 The test set in Condition 17 which must be met to allow these deposits to be made is a much lower threshold test to that set in Section 86 of MCAA. This is because the safety of human life and/or the vessel is threatened is not the same as for the purpose of saving life or securing the safety of the vessel. The MMO questions why these masters and vessels be treated more favourably than others in this situation?</p> <p>3.2.70 The MMO also notes that 'any other cause' is the wording used in precedent licences, including the 2024 Sheringham and Dudgeon order and there is precedent set in other licences.</p> <p>3.2.71 The MMO is reviewing the ExA's Recommendation Report and SoS decision to understand if any reasoning or further information was included on the inclusion of this and may provide an update at Deadline 6.</p>		
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	3.2.72 To summarise the MMO requests that condition 17 is removed from all DMLs, as the defence (Section 86 of 2009 Act) will apply if the Applicants or vessel masters needs to make a deposit for a Force Majeure reason.		
RR-1414-21	<p>General Comments</p> <p>4.1.1 The MMO has focused its review on the following chapters of volume 1 and volume 2 of the Morgan and Morecambe Offshore Windfarm Transmission Assets: Environmental Statement (ES). However, the MMO has also reviewed the accompanying reports in volume 3 and relevant technical reports in volume 4 where required: Volume 1, Chapter 1: Introduction (APP-021) Volume 1, Chapter 3: Project Description (APP-024) Volume 2, Chapter 1: Physical Processes (APP-042) Volume 2, Chapter 2: Benthic Subtidal and Intertidal Ecology (APP-045) Volume 2, Chapter 3: Fish and Shellfish Ecology (APP048) Volume 2, Chapter 4: Marine Mammals (APP-050) Volume 2, Chapter 5: Offshore Ornithology (APP-053) Volume 2, Chapter 6: Commercial fisheries (APP-054)</p> <p>4.1.2 An up-to-date schedule including specific timings and dates for each of the proposed works must be provided to the MMO. The MMO must be further informed of any updates, or changes to the schedule, prior to the commencement of the works, to ensure an effective inspection can occur. The</p>	This is noted by the Applicants. The Applicants have responded to all comments raised by the MMO in future detail in the responses below.	Nothing further to add.

	MMO notes this will be provided as part of the notifications and within Condition 18 (1)(c)		
RR-1414-22	<p>Benthic Subtidal and Intertidal Ecology (APP-045)</p> <p>4.2.1 The MMO has no concerns on the matters scoped out of the assessment.</p> <p>4.2.2 The MMO currently does not consider there to be any information gaps that require attention.</p> <p>4.2.3 The MMO notes that a comprehensive search of relevant data sources was undertaken during a desk study and site - specific benthic surveys have been carried out in support of the application. The results of which have facilitated the identification and assessment of the potential impacts to benthic ecology receptors. Furthermore, pre - construction benthic surveys will be undertaken to determine the presence of protected habitats along the export cable corridor. The MMO considers these to be appropriate data sources.</p> <p>4.2.4 The MMO agrees with the proposed mitigation measures which include adequate burial of cables (to avoid requirement of remedial rock protection works), minimising the potential for introduction of non -native taxa through adherence to relevant guidelines (e.g., those relating to International Maritime Organisation ballast water management), use of low -profile cable protection when necessary to minimise any disturbance to</p>	The Applicants welcome the MMOs comments.	<p>The MMO notes that the Applicants have confirmed that any requirement for clearance of high order unexploded ordnance (UXO) will be subject to a separate marine licence and will not be included in the draft Development Consent Order (DCO). The Applicants intends to update the draft DCO to clarify that no high order UXO clearance will be undertaken and that the number of permitted low order detonations will be detailed within each deemed marine licence. The MMO agrees with this approach, provided the required associated details e.g., location/habitat and potential impacts to benthic receptors because of confirmed UXO detonation are included with the marine licence application.</p> <p>The Applicants has also provided a response to clarify a query regarding the proposed construction scenario for the sequential construction (with a gap of up to four years) of the Morgan Offshore Wind Project</p>

	<p>natural sediment movements (e.g., at cable crossings).</p> <p>4.2.5 The MMO considers there to be an adequate description of the potential cumulative and inter-related impacts in section 2.12 of the ES using a tiered approach to provide a clear assessment of the Transmission Assets alongside other relevant projects, plans and activities.</p> <p>4.2.6 The MMO considers that the ES is a well written and comprehensive document that addresses relevant benthic ecological concerns arising from the project. This document includes useful signposting and cross referencing to related technical reports and topics with the impacts to benthic ecology receptors comprehensive and informed by proportionate assessment.</p>		<p>and Morecambe Offshore Windfarm. It is the MMOs understanding that the worst-case scenario considered within the Environmental Statement (ES) relating to the construction activities associated with the Transmission Assets includes a development gap of up to four years and as such is appropriate. The Morgan and Morecambe Array Projects may develop differently, and each entity is likely to pursue Project specific milestones regarding their connection to the national grid. However, the Applicants are committed to working collaboratively, where practical and reasonable to do so, for the transmission assets.</p>
RR-1414-23	<p>Coastal Processes (APP-42 – APP-44)</p> <p>4.3.1 The MMO notes that for the specific areas (e.g., MCZs, SACs, SPAs, Ramsar and SSSI) in Table 1.10 of the ES, the physical processes that support these are not separately defined as receptor(s). Impacts to physical processes are scoped in, but the assessments rate only impacts on protected areas. There is a minor risk that this will result in impacts being assessed as negligible when</p>	<p>Response to 4.3.1</p> <p>The Applicants note the MMO's comment regarding designated features. The impacts to physical processes are scoped into the assessment presented in Volume 2, Chapter 1: Physical processes (APP-042) with activities, impacts and receptors and their grouping agreed through the Scoping, PEIR</p>	<p>The MMO notes that with regards to comment 4.3.5 in the document RR-1414. The Applicants have provided an explanatory discussion of the shoreline impact assessment at the landfall site. The explanation provided is sufficient to understand the</p>

	<p>long-term impacts are not easily projected to seascape feature scale. The assessment indicates that OWF developments such as this (multiple sites in close proximity) lead to accumulating low impacts over space and time. As observed on terrestrial sites, the environment is gradually degraded with impacts on biodiversity and environmental conditions which could not be attributed to individual pressures.</p> <p>4.3.2 In the assessment of impact magnitude, the receptor value is based on conservation designation (Table 1.16 of the ES), so naturally any impact on a key process within a non-designated area would be rated as negligible; this is of particular relevance to the landfall site. Additionally, the assessment appears to rely on a blanket assessment of all receptors as low sensitivity (i.e., not differing between process/impact types), which means that significance is constrained to be insignificant unless magnitude is assessed as high – no impacts are given this magnitude, so all impacts are of low adverse, or negligible adverse significance.</p> <p>4.3.3 The MMO considers the Applicant's assessment is proportionate to fully identify and assess the potential impacts.</p> <p>4.3.4 The MMO does not consider there to be any information gaps that need highlighting. The evidence provided is extensive and in line with typical OWF applications.</p>	<p>and EWG processes as documented in the Consultation Report - Consultation Report Appendices (APP-170, APP-187) and Technical engagement plan Appendix B (APP-190). In this regard a holistic assessment has been undertaken to quantify the magnitude of these impacts throughout the study area and is not limited to those areas with designated features.</p> <p>Response to 4.3.2</p> <p>For clarification, the significance of the effect upon physical processes in Volume 2, Chapter 1: Physical processes (APP-042) has been determined by considering the sensitivity of the receptor and the magnitude of the impact. In this way, coastal process and likely significant impacts on coastal features may be identified, regardless of designated status. The Value is an additional parameter used to inform the assessment outcome where two levels of significance are present within the matrix or expert judgement is required. As such undesignated features are not rated as negligible by default. The Applicants confirm that a blanket</p>	<p>assessment and satisfied the previous request.</p> <p>The Applicants indicate a natural variability in beach level between 1-3m, and hence define a target cable burial depth of 3m – as had been stated in the Environmental Statement (Volume 2 Chapter 1: Physical processes, paragraph 1.10.4.4) – and provides some explanation of the cause of this variability. The Applicants response highlights the spatial variability of the landfall site and the inconstant patterns of sediment transport and change – with a sediment transport divide located near the landfall site, migrating alongshore according to annually-varying wave distributions.</p> <p>The MMO recognises that it is not reasonable to predict future beach changes in such conditions, and that the risk of cable exposure is a financial risk that the Applicants would be seeking to avoid. However, the discussion does indicate that “<i>The updated National Coastal Erosion Risk Mapping</i></p>
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	<p>4.3.5 The MMO notes that Section 1.5.4 of the physical processes chapter does not discuss the coastal context of the landfall (i.e., whether the site is even currently stable, or how the longshore processes here operate). The landfall is a key element of the coastal impact, and no receptor is defined here, subsequently there is no focus on the beach and open-trench methods for cable burial, because these will not affect the defined receptors. The assessment in Section 1.10.4 of the ES describes effects as negligible adverse, but it is not clear (due to absence of clear link to the baseline discussion), how this has been determined. The MMO requests justification for this assessment and a description of the coastal processes at the landfall site.</p> <p>4.3.6 The MMO considers that the approach to cumulative assessment that has become established is limited and focussed on overlapping or directly interacting impacts and not on the actual cumulative, incremental impacts over large areas and time caused by increasing marine activity.</p> <p>4.3.7 The Marine Enhancement Statement (APP-217) mentions various potential measures that are not required (because marine net gain is not yet a statutory requirement) but could be beneficial. In the absence of clear (long-term) knowledge as to the ecological effects of low-level marine process impacts following increasing marine</p>	<p>assessment of all receptors as low sensitivity has not been applied. By way of explanation, the study area is comprised of active seabed features and is influenced by large variations in tidal currents and wave exposure. Therefore, features are naturally adaptable to minor changes in physical processes as detailed in section 1.5.4 of Volume 2, Chapter 1: Physical processes (APP-042). These natural variations in baseline conditions give rise to low sensitivity. Therefore, within the context of this assessment, should a high magnitude of impact have been detected for these receptors then impacts of minor significance would have been identified in the rating, i.e. not constrained to low adverse, or negligible adverse significance.</p> <p>Response to 4.3.3 and 4.3.4</p> <p>The Applicants welcome the MMO's comments in 4.3.3 and 4.3.4 with regards to the information used and the proportionality of the assessment.</p> <p>Response to 4.3.5</p> <p>Sediment supply along the coast is controlled in part by tidal currents that drive net onshore sediment</p>	<p>(NCERM) (Environment Agency, 2024) indicates areas of recession at the landfall site, and ... the Shoreline Management Plan (SMP)... is assigned managed realignment of natural features", and so the to complete the assessment the Applicants should indicate the maximum rate of shoreline retreat that could be anticipated and the resulting effect this might have on cable burial depth over the lifetime of the development i.e., to confirm their understanding of the risk of future cable exposure (necessitating reworking) under conditions of shoreline retreat; and whether the natural realignment is factored into the landfall location and burial depth design.</p>
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	development, any voluntary application of potential enhancements may be valuable.	transport of seabed sediment from sand banks offshore, and by alongshore sediment transport driven by littoral currents which are influenced by wave climate as detailed in section 1.5.4 of Volume 2, Chapter 1: Physical processes (APP-042). Sediment transport numerical modelling undertaken as part of the detailed sediment mobility study indicated there is a sediment divide in the vicinity of landfall (section 1.5.4 of APP-042 and APP-044). To the north of this divide, sediment is transported north. To the south, sediment is transported south towards the Ribble Estuary. These studies indicated low sediment transport rates at the landfall site. It is however noted that the exact location of the divide varies depending on wave climate and there is potential for this divide to move to the north and south. This is corroborated within the Morgan Offshore Wind Project: Generation Assets modelling study (APP-044) where littoral and residual currents were examined under a range of conditions. This could change net longshore sediment transport pathways on an annual basis and is further evidenced by coastal	
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		<p>migration data (EMODnet) which indicates sections of seaward migration (accretion), landward migration (erosion) interspersed with stable sections of coastline in the vicinity of landfall. The updated National Coastal Erosion Risk Mapping (NCERM) (Environment Agency, 2024) indicates areas of recession at the landfall site, and it is noted under the Shoreline Management Plan (SMP) that this region (Cell 11B2.1) is assigned managed realignment of natural features. The detailed sediment mobility study undertaken for Morgan Offshore Wind Project: Generation and Transmission Assets (ABPmer, 2023) was used to inform the Outline CSIP (APP-220) and Outline Cable Burial Risk Assessment (APP-219). They identify the risks to the offshore export cables such as those associated with sediment mobility, including details of target burial depths and depth of lowering required to provide asset security and ensure cables do not become exposed. The Outline CBRA (APP-219) has demonstrated that a target depth of lowering of 1.5 m covers all external risk with the exception of specific areas, such as those</p>	
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		<p>with softer sediments or high mobility such as the beach, where a 3 m target depth is recommended. As such, a target depth of lowering of between 1 and 3 metres, with a proposed minimum of 0.5 m has been applied for the Project Design Envelope (see section 2, Outline CSIP (APP-220). At landfall, to ensure no exposure of cabling occurs in the event of opencut trenching, a target depth of 3 m for each of the six offshore export cables within the intertidal is recommended in the Outline CBRA (APP219). Given natural beach variability falls within 1 m to 3 m, it can be expected that trenching to this depth will avoid cable exposure. Trenches will then be backfilled to beach level. As such, there will be no interruption in sediment transport hence the effects being categorised as negligible adverse due to short term and temporary construction phase activities. The Applicants note that Condition 18(1)(e) of Schedules 14 and 15 of the draft DCO (AS-004) secures the submission and approval by the MMO of construction method statements, incorporating detailed CSIPs and CBRAs to be developed in</p>	
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		<p>accordance with the outline CSIP (APP-220) and outline CBRA (APP-219).</p> <p>Response to 4.3.6</p> <p>The Applicants note the MMO's comment regarding the cumulative assessment methodology adopted for the assessment presented in Volume 2, Chapter 1: Physical processes (APP-042). In the first instance the purpose of the EIA is to identify and, if appropriate, mitigate for likely significant impacts. Therefore, it is appropriate when undertaking the cumulative assessment for physical processes to focus on overlapping or directly interacting impacts which are potentially of greatest consequence. It is also recognised that incremental low-level impacts over large areas and time may potentially be caused by increasing marine activity. By the low-level nature of these impacts, they would not be determined as likely significant impacts under the EIA definition. This is a complex issue as it is underpinned by the definition of baseline conditions and is also influenced by the adaptability of the active seabed features and processes that exist</p>	
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		<p>within the study area. It is however noted that as a result of the application of the mitigation hierarchy throughout the design process, which aims to avoid or reduce any impacts in the first instance, the contribution of the Transmission Assets to the cumulative impacts from each development is minimised to the level at which they are not significant in EIA terms.</p> <p>Response to 4.3.7</p> <p>The Applicants welcome MMOs comments on its marine enhancement proposals. As stated in the Marine Enhancement Statement (APP-217), the Applicants will seek to enhance biodiversity in the marine environment and will continue to explore marine enhancement opportunities, where possible, as the Transmission Assets' designs mature, in collaboration with stakeholders post-consent.</p>	
RR-1414-24	<p>Fish ecology (APP-048 - APP-049)</p> <p>4.4.1 Regarding data sources, the MMO considers that the Applicants has appropriately defined the study area for the characterisation of fish and shellfish ecology. The key demersal, pelagic and migratory</p>	<p>Response to 4.4.1</p> <p>The Applicants welcome the agreement on the use of Coull et al. (1998) and Ellis et al. (2012), and the use of other research and datasets specific to the Irish Sea.</p>	<p>4.4.3</p> <p>The MMO would like to thank the Applicants for providing clarification regarding the origin of a fourth fourth hearing category for fish, which was</p>

	<p>species, as well as several important elasmobranch species, have been generally well characterised. Generally, appropriate data sources have been used to characterise fish receptors in the region including the use of spawning and nursery ground data from Coull <i>et al.</i>, (1998) and Ellis <i>et al.</i>, (2012). The Applicants has acknowledged that these publications represent the most comprehensive studies of their type to date, and are considered to remain relevant, whilst acknowledging time since publication, which is acceptable. The Applicants has also drawn upon MMO commercial fishing data and data from scientific fishing surveys carried out in the region to support the characterisation of fish species present within the vicinity of the site. These include data from herring larvae surveys of the north Irish Sea by the Agri-food and Biosciences Institute (AFBI), the Northern Irish Ground Fish Trawl Survey published by the International Council for the Exploration of the Sea (ICES), and the pelagic ecosystem survey in the western English Channel and eastern Celtic Sea by Centre for Environment, Fisheries and Aquaculture Science (Cefas).</p> <p>4.4.2 The MMO notes that the study area defined by the Applicants matches the fish and shellfish ecology study area used for the Morgan and Morecambe OWF (generation assets) projects and encompasses much of the Irish Sea region. The study area is large</p>	<p>Response to 4.4.2</p> <p>The Applicants welcome the agreement on the study area.</p> <p>Response to 4.4.3</p> <p>The Applicants note the comments made by the MMO with respect to the use of three fish hearing categories. For clarity, the definition of four groups was based on a refinement of the Popper <i>et al.</i> (2014) guidance published by Popper and Hawkins (2019), in which further detail on morphological features involved in hearing were presented for fish groups. However, the assessment modelling and conclusions within Volume 2, Chapter 3: Fish and shellfish ecology (APP-048) are not changed by the use of four separate groups, as the modelling was performed by treating group 3 and 4 fish as a single receptor group, in terms of impact thresholds. This is evidenced in Table 3.18 in section 3.11.4 of Volume 2, Chapter 3: Fish and shellfish ecology (APP-048), where these two groups are considered together. As such, the impact assessment and the overall conclusions within Volume 2, Chapter 3: Fish and shellfish</p>	<p>derived from Popper and Hawkins (2019). The MMO further notes that for the range of effect from vessel and construction noise, groups 3 and 4 fishes were modelled together using the appropriate thresholds from Popper <i>et al.</i> (2014) for the impacts of recoverable injury and temporary threshold shift (TTS) using 170 dB rms for 48 hours and 158 dB rms for 12 hours, respectively. The MMO considers this matter closed.</p> <p>4.4.4</p> <p>The MMO thanks the Applicants for confirming that Table 3.17 of Volume 2, Chapter 3: Fish and shellfish ecology presents the modelled impact ranges for high and low order detonations for mortality and potential mortal injury in fish (all groups), rather than permanent threshold shift (PTS). The threshold of 229-234 dB peak used in the modelling is appropriate.</p> <p>The MMO will confirm closure of this issue on review of the</p>
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	<p>enough to account for the spatial and temporal variability of fish populations in the region, including migrations where relevant. This is considered suitable.</p> <p>4.4.3 The MMO highlights that Popper <i>et al.</i>, (2014) clearly defines three categories of hearing ability in fish, not four. In Popper <i>et al.</i>, (2014) fish hearing classifications are not explicitly categorised as numbered groups but there are three clearly defined hearing categories: • fish with no swim bladder (e.g., dab and other flatfish); • fish with a swim bladder not involved in hearing (e.g., Atlantic Salmon) and; • fish with a swim bladder involved in hearing (e.g., Atlantic cod and clupeid species). Popper <i>et al.</i>, explicitly group cod and herring together in their classification of fish with respect to sound exposure risk from noise. This classification is based on empirical evidence and audiograms reviewed by the authors. It is therefore unclear why the Applicants has separated cod and herring into different categories of hearing sensitivity when cod and herring are both 'Group 3' fish with a swim bladder involved in hearing. In the context of numbered groups, the Applicants has numbered groups 1 and 2 in line with the classifications of Popper <i>et al.</i>, (2014), but has subdivided Popper <i>et al.</i>'s category of 'fish with a swim bladder involved in hearing' into groups 3 and 4 which is not appropriate. Therefore, the MMO requests the Applicants</p>	<p>ecology are unaffected by this difference in fish groupings.</p> <p>Response to 4.4.4</p> <p>The Applicants have already performed underwater sound modelling on mortality and potential mortal injury in fish at 229-234 decibels (dB) peak and have presented the upper and lower range limits for mortality in Table 3.17 of Volume 2, Chapter 3: Fish and shellfish ecology (APP-048), based on the results presented in Table 1.22 of Volume 1, Annex 5.2: Underwater sound technical report (APP-036). This has been mistakenly labelled as PTS and will be included within the errata provided at Deadline 1 and should read "mortality and potential mortal injury". The Applicants would also note that as per the response to RR-1414.2, high order UXO detonation techniques have been removed from the draft DCO, and as such only the mortality and potential mortal injury ranges for low order UXO detonation (as presented in Table 3.17 of Volume 2, Chapter 3: Fish and shellfish ecology (APP-048) are now relevant to the assessment with a</p>	<p>updated documents submitted at Deadline 1.</p> <p>The MMO further notes that high order UXO detonation techniques have now been removed from the draft DCO, therefore only the mortality and potential mortal injury impact ranges for low order UXO detonation are now relevant to the assessment. The MMO agrees with the Applicants that the ranges for low order and low yield detonations are much reduced (<147m). We are therefore content that in the absence of high order detonations, significant impacts to fish receptors are not likely to occur at a population level.</p> <p>The MMO will confirm closure of this issue on review of the updated documents submitted at Deadline 1.</p> <p>4.4.5 & 4.4.6</p> <p>The MMO thanks the Applicants for signposting to the table of qualitative impact ranges found in Table 1.7 of Volume 1, Annex 5.2: Underwater sound technical report. Whilst the Applicants</p>
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	<p>stops using this incorrect terminology, as cod and herring are both 'Group 3' fish with a swim bladder involved in hearing.</p> <p>4.4.4 Regarding the Applicant's Underwater Noise (UWN) Assessment for Unexploded Ordnance (UXO) clearance activities, the Applicants has indicated that as many as 25 UXOs, ranging from between 25 kilograms (kg) up to 907 kg in size, may be cleared. In the UWN technical report, the Applicants appears to have presented the range of impact for Permanent Threshold Shift (PTS) in reference to fish receptors. This is not appropriate, as PTS is not relevant to fish receptors, only to marine mammals (see Popper <i>et al.</i>, 2014). The Applicants has correctly identified the Popper <i>et al.</i>, (2014) criteria for injury to fish due to explosives in Table 1.7 of the UWN technical report. It is therefore not clear why PTS ranges are expressed for fish in Tables 1.22 and 1.23 of the report. The range of impact from PTS to fish has also been incorrectly carried across to the Applicant's dedicated impact assessment in the fish ecology ES chapter (Table 3.17). Instead of PTS, these tables for fish should refer to 'mortality and potential mortal injury' as per the Popper <i>et al.</i>, (2014) guidelines. The Applicants should amend this assessment by providing numerical modelling of the range of impact for mortality and potential mortal injury in fish (using the Popper <i>et al.</i>, (2014) criteria for high hearing</p>	<p>much reduced impact on fish and shellfish receptors.</p> <p>Response to 4.4.5</p> <p>As per the Popper <i>et al.</i> (2014) guidelines, TTS and recoverable injury impacts would likely be expected to occur at a range of tens to hundreds of meters (i.e. the near to intermediate fields; see Table 1.7 of Volume 1, Annex 5.2: Underwater sound technical report (APP-036) for the highest sensitivity group of fish which includes cod and herring. This qualitative assessment of impact ranges indicates that the potential sound impacts are unlikely to have any significant overlap with the nearby herring and cod spawning grounds, as concluded in section 3.11.4 of Volume 2, Chapter 3: Fish and shellfish ecology (APP-048). The Applicants still consider the modelled injury and mortality ranges to be the key impact assessment criteria for fish species. Although behavioural effects may occur and have potential to affect fish during spawning seasons, the temporal overlap between UXO detonation and spawning periods is likely to be minimal because of the extremely short-term nature of the</p>	<p>note that behavioural effects may occur and have potential to affect fish during spawning seasons, they highlight that the temporal overlap between UXO detonation and spawning periods is likely to be minimal because of the extremely short-term nature of the noise associated with UXO clearance activities (i.e. seconds). In light of high order UXO detonation being removed from the draft DCO, the MMO is content that mitigation for low order and low yield detonation during the cod and herring spawning season is not required under the draft DCO and therefore no seasonal restriction is required.</p> <p>Should high order UXOs detonation be required, this would be licensed under a separate marine licence and further assessment will be undertaken at time of the licence application.</p> <p>4.4.7</p> <p>The MMO welcomes the Applicants considered response to our concerns raised on potential cumulative</p>
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	<p>sensitivity fish, 229-234 decibels (dB) peak, to provide an indication of the range at which fish might experience a fatal response to UXO detonation. Given the project in close proximity to both the Isle of Man herring spawning grounds and the Irish Sea high intensity cod spawning ground, it is important that accurate predicted impact ranges are provided.</p> <p>4.4.5 The MMO also notes that Temporary Threshold Shift (TTS) and recoverable injury may also be experienced by fish receptors, but the predicted range of effect for TTS from UXO in Popper <i>et al.</i>, 2014, is expressed qualitatively ('near', 'intermediate' and 'far'), rather than quantitatively which means numerical modelling of impact ranges for TTS and recoverable injury is not possible. It would be beneficial, given the location of the project in close proximity to both the Isle of Man herring spawning grounds and the Irish Sea high intensity cod spawning ground, if a qualitative predicted range of impact for TTS and recoverable injury is provided.</p> <p>4.4.6 In addition to this, the Applicants has also not discussed the use of additional noise mitigation strategies (for example noise abatement systems such as bubble curtains) in relation to fish where high order detonation techniques are needed. The MMO therefore requests that this is reviewed and updated.</p> <p>4.4.7 The MMO considers the description of potential cumulative and inter-related impacts</p>	<p>noise associated with UXO clearance activities (i.e. seconds).</p> <p>Response to 4.4.6</p> <p>The Applicants will be removing high order UXO detonation from the draft DCO (AS-004) (see RR-1414.2), and therefore further mitigation is not required. Should high order UXOs detonation be required, this would be licensed under a separate marine licence. As low order UXO detonation will lead to significantly reduced impact ranges (see Table 3.17 of Volume 2, Chapter 3: Fish and shellfish ecology (APP-048)), further mitigation measures such as noise abatement are not required.</p> <p>Response to 4.4.7</p> <p>The Applicants welcome the agreement on the inter-related impacts and effects on the physical and biological environment and reiterates that the Applicants will be removing high order UXO detonation from the draft DCO/DMLs (AS-004)(see RR-1414.2). Due to the exclusion of high order UXO detonation from the</p>	<p>and inter-related impacts from the construction of Morgan.</p> <p>4.4.8 & 4.4.9 have been addressed above.</p> <p>Deadline 2 Update</p> <p>The MMO notes updates haven't been provided at Deadline 1 and will review these once submitted.</p>
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	<p>and effects on the physical and biological environment to be appropriate. However, the MMO strongly requests that the projects' UXO detonation campaign be mindfully scheduled to prevent overlap with other impulsive noise generating activities (e.g., piling activities and UXO detonation) happening at nearby Offshore Windfarm (OWF) developments (such as the Morgan, Morecambe and Mona OWF generation assets projects), and to coordinate with the relevant developers to manage noise emissions where developments are concurrent. The MMO is currently reviewing how this will be managed across the other projects in Examination and would welcome the Applicants comments on this matter.</p> <p>4.4.8 As per the MMO comments above, the MMO does not consider that the Applicants has appropriately assessed the range of effect for mortality or potential mortal injuries to fish and has not fully discussed the potential for recoverable injury and TTS effects in fish with high hearing sensitivity.</p> <p>4.4.9 Therefore, the MMO requests that a seasonal restriction is conditioned on the face of the DML. Draft wording has been provided below but this can be discussed with the Applicants further: UXO clearance must not take place during the herring spawning season from 01 September to 31 October inclusive and the cod spawning season from 01 January to 30 April inclusive. This</p>	<p>draft DCO/dMLs (AS-004), effects on fish and shellfish IEFs, including fish spawning habitats, will be greatly reduced from those predicted in Volume 2, Chapter 3: Fish and shellfish ecology (APP-048) and therefore further mitigation (including scheduling with other project activities during fish spawning seasons) is not required to ensure significant effects are avoided. The Applicants note that all the projects (Morgan Offshore Wind Project: Generation Assets, Morecambe Offshore Wind Farm: Generation Assets, the Transmission Assets and Mona Offshore Windfarm) have endeavoured to take a consistent approach to DCO (including DML) drafting and will continue to maintain consistent approaches to post consent matters wherever practicable. It is simply not in the commercial interests of the projects to do otherwise. The draft DCOs for Morgan Offshore Wind Project: Generation Assets, and Mona Offshore Windfarm include UXO clearance conditions which require each project to submit for approval by the MMO a method statement which will include a programme of works for low order clearances, and</p>	
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	<p>condition will prevent significant adverse effects to spawning Cod and Herring along with their eggs and larvae from underwater noise. If the Applicants provides updated modelling along with the requested clarifications, then the MMO may refine this restriction.</p>	<p>the Morecambe Offshore Wind Farm: Generation Assets has assessed UXO clearance but will be applying for a separate marine licence which will have its own method statement. The MMO will therefore maintain an element of control and influence over each projects' UXO campaigns because they cannot proceed without the MMO's approval. In discharging those conditions, the MMO will be able to consider and manage the potential for cumulative impacts arising. This is no different to the role the MMO usually has when discharging conditions where a number of projects are coming forward in a certain area and there is the potential for cumulative impacts. The Applicants further note for clarity that the undertakers for the Morgan Offshore Wind Project: Generation Assets DCO and the Morgan element of the Transmission Assets (Project A in the draft DCO (AS-004) are the same and whilst consent for those two elements has been sought separately, the two elements of the Morgan Offshore Wind Project will be delivered by the same Undertaker as one coordinated project post- consent. The same is</p>	
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		<p>true for the Morecambe Generation Assets DCO and the Morecambe element of the Transmission Assets (Project B in the draft DCO (AS-004), which together comprise the Morecambe Offshore Windfarm.</p> <p>Response to 4.4.8</p> <p>The Applicants have clarified these points in response to paragraphs 4.4.4 and 4.4.5.</p> <p>Response to 4.4.9</p> <p>The Applicants maintain the position that the seasonal restrictions are not necessary for the reasons set out in the response to RR-1414.24 and due to high-order UXO detonation being removed from the draft DCO/DMLs (AS-004) (see RR-1414.2).</p>	
RR-1414-25	<p>Shellfish Ecology (APP-48 - APP-49)</p> <p>4.5.1 The MMO has no concerns in relation to the assessment of shellfish ecology. The Applicants has provided a clearly presented, well justified assessment for shellfish with sufficient evidence and no information gaps.</p> <p>4.5.2 The MMO notes that there is no mitigation measures proposed specifically for shellfish, this is considered acceptable as shellfish were assessed as experiencing minor adverse impacts as a result of the proposed works. Mitigation measures are not</p>	<p>The Applicants note and welcome this response</p>	<p>The MMO believes there are no outstanding issues related to shellfish ecology.</p> <p><u>Deadline 2 Update</u></p> <p>The MMO will continue to maintain a watching brief in relation to any concerns on commercial shellfisheries and may provide comments in future responses.</p>

	<p>required for impacts assessed as minor adverse.</p> <p>4.5.3 The Applicants has stated that “The assessment of impacts on fish and shellfish ecology as a result of the construction, operation and maintenance, and decommissioning phases of the Transmission Assets are predicted to be not significant in EIA terms. Based on the predicted impacts to fish and shellfish ecology receptors, it is concluded that no specific monitoring to test the predictions made within the impact assessment is required.” The MMO agrees with this statement which is in line with the expectations for when monitoring is required.</p>		
RR-1414-26	<p>Commercial Fisheries (APP54 – APP55)</p> <p>4.6.1 The MMO suggests that there should be the creation of a monitoring programme on the impacts to the nearby Bass and other commercial fisheries to benefit local fishers as there is the possibility that the noise and disturbance from the construction of the transmission assets, as well as the in-combination effects from the other windfarms in the area, could impact the migratory routes of these species.</p> <p>4.6.2 The MMO defers to the National Federation of Fishermen's Organisations (NFFO) along with standalone representatives on matters of commercial fisheries. The MMO will continue to be part of the discussions relating to securing any</p>	<p>Potential impacts to migratory routes (4.6.1)</p> <p>No significant impact on any fish and shellfish, including bass, has been identified for the Transmission Assets, either alone or in combination with other plans or projects (section 3.11 and section 3.13 respectively in Volume 2, Chapter 3: Fish and shellfish ecology (APP-048)), with no monitoring identified as being required (section 3.11.11). The largest potential impact from the Transmission Assets to migratory routes would be from underwater sound as a result of pre-construction surveys (i.e. UXO</p>	<p>4.6.1</p> <p>The MMO welcomes the Applicant's response. The MMO is reviewing this internally and will provide a response at Deadline 3.</p> <p>4.6.2</p> <p>The MMO welcomes this engagement and will maintain a watching brief on the discussions.</p> <p>The MMO has provided comments on the FLCP in Section 9.1 of REP1-086 document.</p>

	mitigation, monitoring or other conditions required within the DMLs.	clearance and surveys, as assessed in section 3.11.3 of APP-048)) and construction activities (e.g. vessel sound emissions, cable burial (assessed in section 3.11.4 of APP-048)), however the Applicants maintain for the reasons set out below, that this would not be a barrier to migration, and monitoring is not justified. As detailed in Volume 2, Chapter 3: Fish and shellfish ecology (APP-048), UXO clearance sound is very short (seconds) whilst geophysical survey is short term and spatially limited. Other noise from vessels and construction is intermittent and spatially and temporarily limited, occurring within a marine environment of anthropogenic ambient background sound. There is no piling associated with the Transmission Assets and the Applicants will be removing high-order UXO detonation from the draft DCO/DMLs (AS-004) (see RR-1414.2). As such, there is a limited spatial extent and durations in which noise would occur, and the construction of the Transmission Assets would not be a barrier to migration.	
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		<p>Engagement with commercial fisheries (4.6.2)</p> <p>The Applicants note the MMO's response in 4.6.2. The Applicants are working to facilitate co-existence with existing commercial fishing activity and minimise disruption as far as is practicably possible. Early and extensive engagement was established with the NFFO and other fisheries stakeholders in June 2021 as detailed in section 1.4.1 of the Technical Engagement Plan (APP-189) to understand stakeholder requirements for co-existence and will continue throughout the lifetime of the projects. Detailed Fisheries Liaison and Coexistence Plans (FCLP) will be developed by the Applicants through ongoing consultation with fisheries stakeholders and in accordance with the outline FCLP (APP-218). This is secured by Condition 18(1)(f) within Schedules 14 and 15 of the draft Development Consent Order (AS-004).</p>	
RR-1414-27	<p>Underwater Noise</p> <p>4.7.1 The MMO considers that the appropriate impacts have been considered in the ES with the assessment being</p>	<p>Response to 4.7.1</p> <p>The Applicants welcome the response</p>	<p>4.7.2 & 4.7.3</p> <p>The MMO is still reviewing this information and will provide a response at Deadline 3.</p>

	<p>proportionate to fully identify and assess the potential impacts.</p> <p>4.7.2 The MMO has noted that Section 4.11.2.11 of the ES states that Southall et al., (2007) recommended the use of TTS as the most appropriate proxy disturbance from single pulses (such as UXO detonation) and therefore this has been applied to inform the assessment. The MMO does not consider it appropriate to use TTS-onset thresholds as a proxy for disturbance. TTS occurs at much higher sound exposures and so will underestimate the risk of disturbance.</p> <p>4.7.3 The document concludes that “All marine mammals are deemed to have some resilience to TTS, exhibit high recoverability and are considered of international value. The sensitivity of the receptor to TTS is therefore, considered to be low” (see Section 4.11.2.21 of the ES). The MMO notes that while the document provides a detailed justification for assigning a low sensitivity score to marine mammals for TTS and underwater noise, it is important to recognise that TTS is still a form of temporary injury. TTS may impair essential life functions such as foraging, navigation, communication, and predator avoidance, even if the effects are temporary and reversible. Repeated exposure to sound levels that cause TTS can lead to prolonged periods of hearing impairment, potentially impacting individual health and fitness. Given these considerations, a more precautionary</p>	<p>Response to 4.7.2</p> <p>As highlighted in Volume 2, Chapter 4: Marine Mammals (APP-050), there are currently no agreed thresholds for the onset of a behavioural response from underwater noise generated by sound resulting from UXO clearance activities. While there are empirically derived dose-response relationships for pile driving, these are not directly applicable to the assessment of UXO clearance due to the differences in the nature of the sound emission. There are no dose-response functions available for UXO clearance that describe the short-term nature and extent of the behavioural impact of UXO clearance on marine mammals. The EIA for other made DCOs which have assessed UXO clearance activities have applied the same Temporary Threshold Shift (TTS)-onset threshold to indicate the level at which a ‘fleeing’ response may be expected to occur in marine mammals (see Awel y Môr Offshore Wind Farm (RWE Renewables, 2022); Hornsea Project Four Offshore Wind Farm (Ørsted, 2022); and Llŷr One Floating Offshore Wind Farm</p>	
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	<p>approach is warranted, and the sensitivity score should be reevaluated to better reflect the potential impacts on marine mammals.</p> <p><u>Underwater Sound Technical Report (APP-036)</u></p> <p>4.7.4 The MMO considers that the underwater sound technical report provides a detailed assessment of noise generating activities that will be undertaken for the Morgan and Morecambe Transmission Assets.</p> <p>4.7.5 Overall, the MMO has no major concerns with the noise assessment presented. However, the MMO has previously raised concerns regarding how property “α” was calculated or estimated based on the properties of Table 1.18 in the PEIR consultation for the acoustical properties of the sediments. There is a mention in the report of a single set of values being used to represent the seabed acoustic parameters. The MMO therefore requests the Applicants clarify which approach was taken.</p> <p>4.7.6 In addition to this, the MMO requires further clarification from the Applicants as to whether absorption in water was included/considered in the model. The Weston model does not include this effect implicitly. The absorption in water is especially relevant for the sources with substantial high frequency spectral components and neglecting it could lead to</p>	<p>(Floventis Energy, 2024). This derives from a discussion in Southall et al. (2007) which states that in the absence of empirical data on responses, the use of the TTS onset threshold may be appropriate for single pulses (like UXO detonation): “Even strong behavioural responses to single pulses, other than those that may secondarily result in injury or death (e.g., stampeding), are expected to dissipate rapidly enough as to have limited long-term consequence. Consequently, upon exposure to a single pulse, the onset of significant behavioural disturbance is proposed to occur at the lowest level of noise exposure that has a measurable transient effect on hearing (i.e., TTS-onset). We recognise that this is not a behavioural effect per se, but we use this auditory effect as a de facto behavioural threshold until better measures are identified. Lesser exposures to a single pulse are not expected to cause significant disturbance, whereas any compromise, even temporarily, to hearing functions has the potential to affect vital rates through altered behaviour” (Southall <i>et al.</i>, 2007). Therefore, an estimation of</p>	
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	<p>the overestimation of impact ranges. We assume that the model included this effect as an additional term to the Weston model equations (Table 1.17) although this was not mentioned explicitly in the report.</p> <p>4.7.7 The MMO notes that Section 3.11.4.7 states that “SELs have been estimated for each source based on 24 hours continuous operation, although it is important to note that it is highly unlikely that any marine mammal or fish would stay at a stationary location or within a fixed radius of a vessel (or any other sound source) for 24 hours. Consequently, the acoustic modelling has been undertaken based on an animal swimming away from the source (or the source moving away from an animal)”. For fish, the Popper et al., (2014) thresholds for continuous sources have been adopted in the assessment for recoverable injury and TTS (specifically 170 dB Root Mean Square (rms) for 48 hours and 158 dB rms for 12 hours for TTS respectively). The Sound Pressure Level (SPL)rms metric is instantaneous and therefore there would be no fleeing element involved. Please could the Applicants provide further clarity.</p>	<p>the extent of behavioural disturbance was based on the sound levels at which the onset of TTS is predicted to occur from impulsive sounds. TTS thresholds are taken as those proposed for different functional hearing groups by Southall <i>et al.</i> (2019) in Volume 2, Chapter 4: Marine Mammals (APP-050).</p> <p>Response to 4.7.3</p> <p>TTS is identified as the received levels and auditory weighting functions (or criteria) at which individual marine mammals are predicted to experience temporary changes in their hearing sensitivity. The NMFS (2024) “Update to: Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Underwater and InAire Criteria for Onset of Auditory Injury and Temporary Threshold Shifts)” clearly differentiate auditory injury and TTS; the assessment presented in Volume 2, Chapter 4: Marine mammals (APP-050) highlighted that there is an important distinction between a Permanent Threshold Shift (PTS) and TTS, given that TTS is only</p>	
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		<p>temporary hearing impairment, is less likely to lead to acute effects and will largely depend on recoverability. Whilst the Applicants acknowledge the MMO's point that "Repeated exposure to sound levels that cause TTS can lead to prolonged periods of hearing impairment", the assessment presented in Volume 2, Chapter 4: Marine mammals (APP-050) was based on the potential for marine mammals to experience temporary changes in their hearing sensitivity as a result of a maximum design scenario (MDS) of 25 individual UXO clearance events, each occurring over a matter of seconds (rather than repeated impulsive events over 24 hours). The behavioural disturbance response to these events is likely to be limited to 'a short-lived startle reaction' (Finneran and Jenkins, 2012), which is further supported by the statement that "the magnitude of the consequence is likely to be related to the duration and magnitude of the TTS" (Kastelein <i>et al.</i>, 2012), noting the removal of high order UXO detonation from the draft DCO (see RR1414.2). Given that TTS is a temporary and reversible hearing impairment, it is</p>	
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		<p>anticipated that any animals experiencing this shift in hearing would recover once the animal had moved beyond elevated sound levels which could result in TTS. The assessment set out in Volume 2, Chapter 4: Marine mammals (APP050) considered the available evidence in the context of the MDS, focusing on susceptibility of an animal to TTS, the biological effects of TTS, and recoverability following cessation of the activity. Based on these considerations, it was concluded that animals would be able to recover hearing after they are no longer exposed to elevated sound levels (which occur over seconds only) and it is expected that animals would be able to tolerate TTS without any impact on reproduction or survival rates, with the ability to return to previous behavioural states or activities once the activity had ceased. It was therefore concluded in Volume 2, Chapter 4: Marine mammals (APP-050) that "All marine mammals are deemed to have some resilience to TTS, exhibit high recoverability and are considered of international value. The sensitivity of the receptor to TTS is therefore, considered to be low." (paragraph</p>	
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		<p>4.11.2.21). The Applicants are therefore confident that the assessment of low sensitivity is robust and appropriate, and a more precautionary assessment would not be proportionate to the potential impact being assessed. Furthermore, the Applicants highlight that the existing assessment of the number of animals predicted to experience TTS as a result of UXO clearance is likely an overestimate of the potential for an ecologically significant effect. This is because the TTS-thresholds (criteria) applied (from Southall et al., 2019) describe the thresholds at which the onset of TTS is observed, which is, per their definition, a 6 dB shift in the hearing threshold, usually measured four minutes after sound exposure, which is considered as “the minimum threshold shift clearly larger than any day-to-day or session-to-session variation in a subject’s normal hearing ability”, and which “is typically the minimum amount of threshold shift that can be differentiated in most experimental conditions.” As such, it is expected that not all animals within the modelled TTS range would experience the predicted</p>	
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		<p>temporary hearing shift. Finally, see the Applicants response to RR-1414.2 (regarding the removal of high order UXO detonation from the draft DCO).</p> <p>Response to 4.7.4 to 4.7.7</p> <p>Within the Underwater Sound Technical Report (APP-036), the attenuation term (alpha, hereafter referred to as) in the Weston model is defined in units of dB per radian and is derived from the acoustical properties of the top layer of the seabed. Therefore, the water and sediment sound speed, densities and attenuation coefficient (in dB per wavelength) are inputs to the Weston model in order to determine using standard acoustic theory. The attenuation term can be calculated as:</p> $a_{dB} = \frac{a_s}{\pi} \frac{p_s c_w^2}{p_w c_s^2 \sin^3 \theta_c}$ <p>Where P_s and P_w are the densities of the sediment and water respectively, c_s and c_w are the sound speeds in the sediment and water respectively and θ_c is the critical angle. The water and</p>	
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		<p>sediment sound speed, densities and attenuation coefficients in Table 1.18 of the Underwater Sound Technical Report (APP-036) are also used in the calibration of the site-specific Weston Energy Flux sound propagation model. In order to carry out this calibration, the model results were compared against the results from the Parabolic Equation solver (Collins, 1991; Jensen, 1994) and the Normal Mode solver (Jensen, 1994; Pedersen and Keane, 2016). Further, the Applicants confirm that the effect of water absorption was included in the modelling as a separate term to those included in the Weston model, based on the method described in Ainslie and McColm (1998) (The Journal of the Acoustical Society of America 103, 1671 (1998); doi: 10.1121/1.421258). As stated in section 3.11.4.7 of the Underwater Sound Technical Report (APP-036), the thresholds based on the SEL metric have been estimated based on source operating continuously for 24 hours: this includes PTS and TTS for marine mammals. The thresholds based on the rms metric have been modelled as a single instantaneous level,</p>	
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		however it should be noted that although levels are assessed against the rms metric, the thresholds assume 12 to 48 hours continuous exposure to sound of this level (Popper <i>et al.</i> , 2014), which is considered an unlikely scenario and therefore a precautionary assessment.	
RR-1414-28	Shipping and Navigation (APP-56) 4.8.1 The MMO defers to the Maritime and Coastguard Agency and Trinity House on matters of shipping and navigation and supports any comments raised. The MMO will continue to be part of the discussions relating to securing any mitigation, monitoring or other conditions required within the DMLs.	The Applicants note this response and confirm that they have engaged extensively with the Maritime Coastguard Agency (MCA) throughout the pre-application period as detailed in section 1.3.1 of the Technical Engagement Plan (APP-189) and will continue to engage with the MCA through the Examination.	The MMO has provided some updates to agreed DML conditions with Trinity House (TH) and MCA in Section 10 of REP1-086 document and will maintain a watching brief on any navigational issues. Deadline 2 response Further DML update requests were included in MCA and TH and the MMO agrees with these requests as set out in Section 4.8 and 4.10 of this document.
RR-1414-29	Offshore Ornithology (APP-53) 4.9.1 The MMO defers to NE as the Statutory nature conservation body (SNCB), and supports any comments raised in relation to the Ornithology. The MMO will continue to be part of the discussions relating to securing any mitigation and monitoring or other conditions required within the DMLs	The Applicants note this response and confirm that they have engaged extensively with the NE throughout the pre-application period as detailed in section 1.2.4 of the Technical Engagement Plan (APP-189) and will continue to	The MMO will maintain a watching brief on any issues relating to the DML in relation to ornithology.

		engage with NE through the Examination	
RR-1414-30	Marine Archaeology and Cultural Heritage (APP-59 – APP-60) 4.10.1 The MMO defers to Historic England (HE) on matters of marine archaeology and supports any comments raised. The MMO will continue to be part of the discussions relating to securing any mitigation, monitoring or other conditions required within the DMLs.	The Applicants note this response and confirm that they have engaged extensively with the Historic England throughout the pre-application period as detailed in section 1.3.2 of the Technical Engagement Plan (APP-189) and will continue to engage with Historic England through the Examination.	The MMO will maintain a watching brief on any issues relating to the DML in relation to Marine Heritage.
RR-1414-31	Seascape, Landscape and Visual Resources (APP123 – APP-127) 4.11.1 The MMO defers to NE as the SNCB, along with HE and the Local Planning Authorities on matters of Seascape, Landscape and Visual Resources and supports any comments raised. The MMO will continue to be part of the discussions relating to securing any mitigation and monitoring or other conditions required within the DMLs	The Applicants note this response and confirm that they have engaged extensively with Natural England, Historic England and Local Planning Authorities throughout the pre-application period as detailed in section 1.4.3 of the Technical Engagement Plan (APP-189) and will continue to engage with Natural England, Historic England and Local Planning Authorities through the Examination.	The MMO will maintain a watching brief on any issues relating to the DML in relation to Seascape.
RR-1414-32	General comments 5.1.1 The MMO is still reviewing the following documents and will provide comments in due course: • Marine Enhancement Statement (APP-217) • Outline Fisheries Liaison and Co-existence Plan (APP218) • Outline Cable Burial Risk Assessment (APP-219) • Outline Offshore Cable Specification and Installation Plan (APP-220) • Measures to minimise disturbance to marine mammals and rafting	The Applicants acknowledge that further comments will be provided through Written Representations where necessary.	The MMO has provided further comments at Deadline 1 REP1-086 and will continue to review future updates.

	birds from vessels (APP-221) • Outline Offshore Written Scheme of Investigation and Protocol for Archaeological Discoveries (APP-222) • Outline offshore operations and maintenance plan (APP-224) • Offshore In Principle Monitoring Plan (APP-225) • Outline Vessel Traffic Management Plan (APP-226) • Dredging and disposal - site characterisation plan (APP-227) • Cable Statement (APP-228)		
RR-1414-33	<p>Outline Marine Mammal Mitigation Protocol (MMMP) (APP-223)</p> <p>5.2.1 Please see the comments in Section 2.1 for UXO inclusion on a DML.</p> <p>5.2.2 Regarding the Outline Marine Mammal Mitigation Protocol (MMMP), the MMO notes that Table 1.6 in the document shows the minimum Acoustic Deterrent Devices (ADD) duration for high order UXO Clearance and the associated displacement distances. The table highlights that for a UXO size of 26 kg to 130 kg, a 60- minute ADD duration will not be sufficient to deter Very High Frequency (VHF) cetaceans, such as harbour porpoises, out to 8,045 metres, which is the maximum PTS range. It is important to note that while a UXO size of 130 kg is considered the most likely scenario, the worst case scenario of up to 907 kg is not addressed in Table 1.6. However, other tables in the MMMP, such as Table 1.5, do consider a UXO size of 907 kg. This should be amended in Table 1.6.</p>	<p>5.2.1 The Applicants note the submission.</p> <p>5.2.2. and 5.2.3 Please see the Applicants response to 1414.2 (regarding the removal of high order UXO detonation from the draft DCO). The removal of high order UXO detonation from the draft DCO (AS-004) (as detailed in RR-1414.2) means that the maximum design scenario for UXO clearance is low order clearance. The largest modelled PTS ranges for low order UXO clearance is for Very High Frequency (VHF) cetaceans (such as harbour porpoise) at a maximum of 2,290 m. Whilst mitigation will therefore still be required beyond embedded mitigation, to ensure animals are out with the injury zone, the application of an ADD for 30 minutes would be sufficient to deter all marine mammals from the</p>	<p>The MMO welcomes the update to remove high order UXO clearances from the project.</p> <p>The MMO will review the updated document and provide comments Deadline 3.</p>

	<p>5.2.3 The MMO notes that section 1.5.5.3 of the MMMP states that “for UXO sizes larger than 130 kg, the use of NAS as an additional secondary mitigation technique will be considered as an option post-consent.” Please note that Noise Abatement Systems (NAS) (e.g., a bubble curtain) must be deployed for ALL high order clearance, not just for UXO sizes over 130 kg. Additionally, it is the MMO’s position that that deploying a bubble curtain is mandatory for high order UXO clearance and cannot be considered as an option post-consent, unless other noise abatement is presented post consent.</p> <p>5.2.4 The MMO notes that the MMMP includes the standard measures such as the implementation of a mitigation zone (the mitigation zone will be determined considering the largest injury zone across all species) and Marine Mammal Observers, the potential requirement for Passive Acoustic Monitoring (PAMs) and the use of ADDs. The MMO welcomes that the Applicants has committed to the prioritisation of low order clearance methods in the first instance, where possible.</p>	<p>relevant injury zones. Detailed Marine Mammal Mitigation Protocol(s) (MMMPs) (and ADD parameters) will be developed in lines with the outline plan (APP-223) and in consultation with relevant stakeholders, post-consent, and will be informed by the most recent guidance. The Applicants will therefore update the Outline MMMP (APP-223) to focus on low order UXO clearance only, removing mitigation for high order UXO detonation including the use of scare charges as a mitigation option for high order detonation. Mitigation for high order UXO detonation will still be included as an Addendum to the Outline MMMP (APP-223) to align with the assessment of high order UXO in Volume 2, Chapter 4: Marine Mammals (APP-050) and to support a separate standalone marine licence if high order clearance is required. Should Noise Abatement Systems (NAS) for high order clearance be required, this will be discussed and agreed with the MMO and relevant stakeholders if and when a separate Marine Licence application may be required for high order UXO detonation. Therefore the</p>	
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		<p>Applicants confirm that Table 1.6 (Minimum ADD duration for high order UXO clearance and associated displacement distance, showing whether the individual can move away from the injury range during ADD activation) of the outline MMMP will be updated to “Table 1.6: Minimum ADD duration for low order UXO clearance and associated displacement distance, showing whether the individual can move away from the injury range during ADD activation” and therefore does not include details on high order UXO detonation for UXO of 907 kg. The Applicants highlight that the detailed MMMP(s), which will be developed in accordance with the outline MMMP (APP-223), are intended to operate as a live document which will be updated through discussions with stakeholders and agreed with the MMO prior to commencement of construction. The detailed MMMPs (and ADD parameters) will be developed in consultation with relevant stakeholders and will be informed by the most recent guidance.</p> <p>5.2.4 The Applicants note the submission and highlight the</p>	
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		responses to 5.2.3 and 5.2.4 (regarding the removal of high order UXO clearance from the draft DCO (AS-004)).	
RR-1414-34	Habitats Regulations Assessment (APP-015 – APP-018) 5.3.1 The MMO defers to and supports NE as SNCB regarding the Habitats Regulations. 5.3.2 The MMO will keep a watching brief on these documents and would ask for any compensation requirements to be included within the DCO at this stage to ensure all parties have reviewed the wording, should the Secretary of State be minded to include compensation.	The Applicants note this response.	The MMO will maintain a watching brief.
RR-1414-35	Marine Conservation Zone Assessment (APP-019) 5.4.1 The MMO defers to and supports NE as SNCB regarding impacts to Marine Conservation Zones for the project. 5.4.2 The MMO will keep a watching brief on this document and discussions in relation to MCZs and would remind the Applicants that any mitigation secured through these assessments will need to be included within the conditions on the DML.	The Applicants note this response.	The MMO will maintain a watching brief on the assessments. The MMO would highlight that we are currently reviewing the impacted MCZ's in relation to our protection legislative requirements and may provide further comments at Deadline 3.
RR-1414-36	Habitat Suitability Assessments 5.5.1 The MMO notes that the Particle Size Analysis (PSA) data used to assess habitat suitability for herring spawning within the Transmission Assets Boundary (TAB) showed that only 2 stations out of 103	The Applicants note this response and welcome the agreement from the MMO that the majority of the Transmission Assets Order Limits is unsuitable for herring spawning habitat and unlikely to result in	The MMO has no further comments on herring spawning. Further comments have been provided in row RR-1414-24.

	<p>sampled were comprised of sediments that are suitable for herring spawning. The Applicants suggests that this indicates a relatively low potential for herring spawning habitat to be present throughout the TAB. Based on the presentation of PSA data in Figure 3.2 which have been appropriately categorised as 'preferred', 'marginal' or 'unsuitable' (as per Reach <i>et al.</i>, 2013), the MMO agrees with the Applicant. Given the TAB's location in relation to the main herring spawning grounds around the Isle of Man, and the PSA data presented in Figure 3.2 which shows the majority of the TAB area is not suitable herring spawning habitat, the MMO is content with the Applicant's assessment of temporary habitat loss and physical disturbance during construction of the TAB being unlikely to result in significantly adverse effects on herring spawning habitats in the area.</p>	<p>significantly adverse effects on herring spawning habitats in the area.</p>	
RR-1414-37	<p>5.5.2 In addition to the previous point, the MMO notes that PSA data was also used to assess habitat suitability for sandeel within the TAB. Analysis of the sediment composition indicated that "83% of the surveyed stations comprised mud content in excess of 4%, rendering the majority of sediments within the [TAB] outside of the preferred sandeel habitat composition". The Applicants takes this to conclude that the seabed area within the TAB has low potential for sandeel habitation and spawning. Figure 3.3 shows that approximately 39 stations out</p>	<p>The Applicants note this response and welcome the agreement from the MMO that the Transmission Assets Order Limits is unlikely to result in significant adverse effects on sandeels in the area.</p>	<p>The MMO has no further comments</p>

	<p>of the 103 locations sampled were classed as having marginal potential as sandeel habitat based on the classifications of Latto <i>et al.</i>, 2013, and the majority of these locations are located within the Morgan Array portion of the TAB. Figure 3.3. Although the PSA data presented in Figure 3.3 shows that the Morgan Array portion of the TAB has a matrix of some preferred, mostly marginal, and some unsuitable sediment types for sandeel, given the wider availability of seabed substrates that are suitable as sandeel habitat outside the TAB area, the MMO is content with the Applicant's assessment of temporary habitat loss and physical disturbance during construction of the TAB being unlikely to result in significant adverse effects on sandeels in the area.</p>		
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2. The MMO comments on the updated DCO/DML

2.1 General Comments

- 2.1.1 The MMO notes that the following revisions were submitted at Deadline 1 by the Applicant:
- REP1-008 – C1 Draft Development Consent Order (Clean) - Rev F03
 - REP1-066 - S_S51_2 Schedule of Changes to the Draft Development Consent Order including Draft Deemed Marine Licenses - Rev F02
- 2.1.2 The MMO is reviewing the updates made to date and will provide comments at Deadline 3.

3. Initial comments on stakeholders Deadline 1 submissions

3.1 Canal & River Trust (REP1-074)

- 3.1.1 The MMO note that SoCG talks have not yet been initiated between the Applicant and the stakeholder. However, it is noted that given the progress made on addressing the Trusts concerns, it may be the case that a SoCG may not be required.
- 3.1.2 No other points raised by this stakeholder were of major concern to the MMO, and ongoing discussions centre around the landward works.

3.2 Environment Agency (REP1-076)

- 3.2.1 The MMO notes that there are ongoing discussions between the Applicant and the Environment Agency (EA) regarding otter and wetland habitat creation. The MMO will keep a watching brief over these developments.
- 3.2.2 The MMO acknowledges the following issues have been closed between the Applicant and the EA:
- Potential impact of EMF on fish
 - Biosecurity Plan
 - Water vole surveys
 - Requirement 12 – Ecological Management Plan
 - Invasive non-native species technical report
 - Outline Ecological Management Plan (Section 1.6.4.28, CoT128 & CoT104)
 - Otter survey technical report
 - Outline Pollution Prevention Plan
 - River Ribble Crossing Potential for flood risk and environmental impacts.
- 3.2.3 The MMO welcomes the efforts made between the Applicant and the EA to resolve a substantial number of issues, and we will be keeping a watching brief over these developments.
- 3.2.4 The MMO notes there are still some outstanding issues in which the EA have advised that on-going discussions continue. The MMO will keep a watching brief over the following issues:



- Mitigation for otters
- Habitat creation for otters
- Protective Provisions

3.3 Historic England (REP1-082)

- 3.3.1 The MMO has reviewed Historic England's (HE) Deadline 1 Written Representation (REP1-082). The MMO defers to Historic England regarding matters of the historic environment.
- 3.3.2 The MMO notes that HE refers to UXO clearance and acknowledge the attention given in paragraph 3.12.3.9 regarding a consent obligation that any UXO identified for clearance does not coincide with archaeology/sensitive seabed features.
- 3.3.3 In regard to export cable installation, HE recommends that to effectively plan any campaign of cable installation using trenching, plough, jetting or mechanical cutting, it will be essential to subject all pre-construction geophysical survey data to archaeological analysis and interpretation.
- 3.3.4 HE notes that one (military) aircraft loss record is attributed to the proposed development corridor, as described in paragraph 8.6.3.25. If this record is confirmed, it is important to be aware that it could be subject to the Protection of Military Remains Act 1986.
- 3.3.5 The MMO notes that HE agrees with the Applicant's Outline Offshore Written Scheme of Investigations (WSI) for Archaeology which includes the use of Archaeological Exclusion Zones (AEZs) and a Protocol for Archaeological Discoveries (PAD). HE concurs with approach to using AEZs (as described in Section 8.8.2 and Table 8.16). The MMO welcomes this approach.
- 3.3.6 The MMO highlights that in the Applicant's (Environmental Statement) ES Chapter 8, it states there are 14 "*medium*" anomalies within the Offshore Order Limits (paragraph 8.6.4.3), as does the Annex 8.1 Technical Report (in paragraph 1.5.6.3), but paragraph 1.5.6.5 states there are 13 "*medium*" potential. HE requires clarity on the actual number of anomalies afforded "*medium*" status.
- 3.3.7 The Outline Offshore WSI, Section 1.4.5 (Archaeological Curator), HE notes that the text of this section requires amendment given that it is the relevant Local Authority historic environment advice service that is the primary body responsible for advice within any intertidal area and therefore up to MHWS and should be included accordingly in Table 1.2.
- 3.3.8 Similarly, in the Outline Offshore WSI Paragraph 1.4.8.2, the use of "approval", as a consent requirement, is only possible from the MMO (as the competent authority). This will require updating to clarify.
- 3.3.9 In relation to the DCO, HE recommends that attention is given to Schedules 14, condition 18(1)(g) and Schedule 15, condition 18(1)(g) regarding the production of a scheme specific Offshore Written Scheme of Investigation (WSI). HE requests that conditions 11(2) and 11(3) in Deemed Marine Licence Schedule 12 (Transmission Assets) in the Rampion 2 Offshore Wind Farm Order 2025 (made



4 April 2025) are used as a template for this draft DCO to ensure projects are delivered consistent nationally. The MMO is content with this approach.

3.4 Lancashire Association of Local Councils Fylde Area Committee Energy Working Group (REP1-083)

- 3.4.1 The MMO notes that the Council's main concerns centre around energy efficiency and costings. Therefore, the MMO does not have anything further to add.

3.5 Natural England (REP1-092 & REP1-093)

- 3.5.1 The MMO notes that Natural England (NE), alongside their written submissions for Deadline 1, have also submitted a Risk and Issues Log (REP1-093) which will be updated regularly throughout examination. The MMO will keep a watching brief over this log.
- 3.5.2 The MMO notes that NE have submitted a Principal Areas of Disagreement Summary Statement (PADSS) in place of a SoCG at Deadline 1. The PADSS can be found within the Risk and Issues Log.
- 3.5.3 NE has recommended that the Applicant develops and maintains a draft SoCG based on their R&I log and PADSS, which NE will engage with at the final SoCG deadline as requested by the Examining Authority (ExA).
- 3.5.4 It is noted by MMO that, due to resourcing, NE wishes to highlight that the focus of their engagement during Examination will be on reviewing relevant updated documents/outline plans submitted by the Applicant. NE are unlikely to respond directly to commentary on their representations (including on the Risk and Issues Log) from the Applicant or Interested Parties, unless there is significant new material included, a misinterpretation of NE's position, or if the ExA questions direct us to do so.
- 3.5.5 NE highlights as an overarching comment that several of the RAG ratings within the Applicants responses to NE's Relevant Representations (RRs) differ from NE's own RAG ratings provided within their RR [PDA-014 – PDA-024]. These are therefore not reflective of NE's assessment of risk as indicated in their RAG ratings, for which the R&I Log and PADSS must be consulted.
- 3.5.6 NE notes the Applicants Construction Scenarios submissions. However, NE maintains their original comments as outlined in RRs [RR-1601]. The main points include:
- A four-year gap may allow for some recovery of seabed habitats and species from the first works. The Applicant has not considered the potential for recovery and the impact from repeated interventions within the ES.
 - The baseline data used to inform impact assessments could become outdated and impacts not accurately assessed; and,
 - The sequential scenario could result in a cumulative impact over a longer duration; this has not been considered in the cumulative assessment.



3.5.7 The MMO notes that NE and the Applicants attended a site visit on 28 April 2025 to discuss potential ornithological impacts associated with the Ribble and Alt Estuary SPA and Liverpool Bay SPA. NE provided written advice to the Applicants on mitigation and how to resolve our concerns. The MMO notes that the Applicant will be submitting updates at Deadline 2 to include further mitigation for these sites/features.



3.6 Preston City Council (REP1-095)

- 3.6.1 The MMO notes that ecology comments are being prepared separately by the Greater Manchester Ecology Unit who act as the Council's Ecology advisors. The MMO will keep a watching brief over future submissions.

3.7 Flyde Borough Council (REP1-079)

- 3.7.1 The MMO notes that Flyde Borough Council (FBC) raise concerns regarding the draft DCO (dDCO). Specifically, the guidance (Paragraph 008 Reference ID 04-008-20240430) requires that the parameters used must be no more than necessary to accurately contain the proposed development. This goes on to explain that where the final positioning of works is to be secured by detailed design, these must be accompanied by the precise location of works, subject to limits of deviation. The dDCO does not include such locations and limits, for example with regards to dams in the dune areas and junction boxes along the route.
- 3.7.2 FBC highlight that the ES is deficient and therefore the dDCO cannot be accurate and effective. The dDCO does not provide appropriately specific controls to ensure that the works are carried out in a way which appropriately reflects the assessment in the ES and which enables appropriate control with reference to requirements to be discharged by FBC. FBC is of the opinion that it is unacceptable that the dDCO does not properly define the works or control the construction, commissioning, operations and decommissioning.
- 3.7.3 The MMO acknowledges FBC's opinion that parts of the ES are inappropriate, incomplete or inconsistent. However, these concerns relate to Human Health and Recreation, and Risk Management and Resilience which are outside of the MMOs jurisdiction and defers to the council on these matters.
- 3.7.4 In terms of impacts to the environment, FBC note that the Coastal Change Management areas in Fylde are particularly sensitive to change and include the Ribble Estuary SSSI and adjoining Lytham St. Anne's Dunes SSSI which in turn support Sand Lizards which are a priority species, protected under the Wildlife and Countryside Act, 1981. The proposed development will impact upon these areas, and it is very concerning to see a lack of detail about what is proposed. For example, the timing, duration and frequency of works, the access management, the size, number and location of build infrastructure, all within these sensitive areas are not specified. The MMO defers to NE as the SNCB in relation to the SSSI and will maintain a watching brief on any issues.

3.8 Maritime and Coastguard Agency (REP1-088)

- 3.8.1 The MMO notes that the Maritime and Coastguard Agency (MCA) are satisfied with the Navigational Risk Assessment (APP-057 & APP-058) provided by the Applicant.
- 3.8.2 The MCA refers to cable routes and protections, highlighting the need for cable burial and cable protections. If cable protection measures are required e.g., rock



bags or concrete mattresses, the MCA would accept a maximum of 5% reduction in surrounding depth referenced to Chart Datum.

- 3.8.3 The MMO notes that the MCA has requested HM Coastguard (HMCG) must be notified at least seven days in advance of any proposed UXO clearance works. A standard notification condition has been suggested.
- 3.8.4 The MCA will expect post-construction surveys of cable burial and hydrographic surveys to be carried out to confirm where the target depths have or have not been met.
- 3.8.5 The MMO acknowledges that the MCA have requested amendments to the draft DMLs (APP-005). These include corrected contact details in Schedules 14, 15, 16 & 17 (part 1), and in Schedules 14, 15, 16 & 17 (part 2), they have requested:
- Condition 14(9) – replace “regular intervals” with “weekly intervals”. This was requested at the PEIR stage.
 - Condition 24(4)(a) – side scan sonar data is not necessary for the bathymetry survey, therefore suggest removing “and side scan sonar, of the area(s)”.
 - Condition 26(3)(a) – side scan sonar data is not necessary for the bathymetry survey, therefore suggest removing “and side scan sonar, of the area(s)”.
 - Condition 28(1) – the close out report must be submitted within three months of the date of completion. This was requested at the PEIR stage.
- 3.8.6 The MMO is content with these requested updates and will review updated DMLs to see if these have been updated.

3.9 South Ribble Borough Council (REP1-097)

- 3.9.1 The MMO notes that the South Ribble Borough Council (SRBC) highlights some remaining concerns to be addressed. These include:
- Impact on Ribble and Alt Estuaries Designated Sites (Birds) - further proposals are required to ensure that impacts on notable bird species associated with the Ribble and Alt Estuaries designated sites where landfall occurs within and close to the intertidal zone can be avoided and/or successfully mitigated
 - Outline Ecological Management Plan and Biodiversity Benefit Statement - further details to follow if the scheme is permitted.
 - The Biodiversity Benefit Statement - refers to habitat creation and enhancement as ‘indicative’ rather than confirmed.
 - Cumulative Impacts – SRBC
 - are not convinced that the cumulative impacts of the proposals in relation to recent and planned development pressures along the route of the transmission assets have been comprehensively assessed.
 - River Ribble Crossing - Plans provided do not appear to clearly show how works to cross the River Ribble will be conducted.



- 3.9.2 The MMO will keep a watching brief over these matters and will expect to see progress made between the Applicant and SRBC throughout examination.

3.10 Corporation of Trinity House of Deptford Strond (REP1-209)

- 3.10.1 The MMO notes that Trinity House has requested the wording for Arbitration be amended to reflect the 'Savings Provisions for Trinity House' clause as follows:

“(1) Subject to article 38 (saving provisions for Trinity House), any difference under any provision of this Order, unless otherwise provided for, is to be referred to and settled in arbitration in accordance with the rules at Schedule 13 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

“(2) For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order, is not subject to arbitration.”

- 3.10.2 Trinity House have also requested an amendment to Schedules 14 & 15, part 2 sub-clause to read:

“(b) an aids to navigation management plan to be agreed in writing by the MMO following appropriate consultation with Trinity House specifying how the undertaker will ensure compliance with condition 15 from the commencement of construction of the authorised scheme to the completion of decommissioning of the authorised scheme;”

- 3.10.3 The MMO agrees with these proposed updates and review updated DMLs to see if these have been updated.

3.11 The Wildlife Trusts (REP1-210)

- 3.11.1 The MMO notes that the Wildlife Trusts have some outstanding concerns which have not yet been addressed by the Applicants. These include:

- Deficiencies in the content and clarity of the applicant's submission, compounded by errors and omissions that have undermined confidence in its credibility.
- Spatial overlap between the transmission asset and Fylde Marine Conservation Zone (MCZ). The Wildlife Trusts have requested a MEEB
- Potential habitat loss in the MCZ.
- Subsea Construction Noise.

- 3.11.2 The MMO notes that the majority of the Wildlife Trusts' concerns centre around the onshore works. The MMO will keep a watching brief over the offshore elements of the project in relation to the Wildlife Trusts' concerns.



4. Initial comments on the Applicant's Deadline 1 submissions

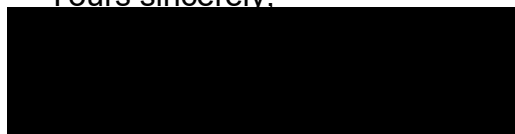
4.1 General Comments

4.1.1 The MMO notes that the following revisions were submitted at Deadline 1 by the Applicants:

- REP1-010 - C3 Explanatory Memorandum (Clean) - Rev F02
- REP1-012 - D2 Statement of Reasons (Clean) - Rev F03
- REP1-020 - F1.5.5 Volume 1, Annex 5.5: Cumulative screening matrix and location plan (Clean) - Rev F02_F03
- REP1-047 - S_D1_6 The Applicants' Statement of Commonality - Rev F01
- REP1-059 - S_D1_9 Stage 2 MCZ Assessment - Rev F01
- REP1-060 - S_D1_10 Clarification Note: Construction Scenarios - Rev F01
- REP1-064 - S_D1_14 Errata - Rev F01

4.1.2 The MMO is reviewing the amended documents submitted by the Applicants and other relevant representation and will provide a response at Deadline 3

Yours sincerely,



Marine Licensing Case Manager



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