



The Sizewell C Project Case Team
National Infrastructure Planning
sizewellc@planninginspectorate.gov.uk
(By email only)

26 August 2021

Planning Inspectorate Reference: EN010012
Our Identification Number: 20025459

Dear Sir or Madam,

Planning Act 2008 – Application by NNB Generation Company (SZC) Limited for an Order Granting Development Consent for The Sizewell C Project

Submission in lieu of attendance at Issue Specific Hearing 10 (“ISH10”) on Biodiversity and Ecology

Thank you for the invitation from the Examining Authority (“ExA”) for the Marine Management Organisation (“MMO”) to speak at ISH10. In the interests of efficient team resource management, the MMO will not be attending ISH10. This is due to capacity issues faced by the MMO at present. However, we have reviewed the detailed agenda and would like to offer our comments in writing on the agenda items we consider to be of relevance to the MMO. Additionally, we are happy to address any further points in writing as part of any future Written Questions from the ExA, and we will continue to provide written representations at each future deadline until such time as the examination comes to a close.

This written response 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.

1. Agenda Item 3: Marine Ecology

1.1 Agenda Item 3(a): *Sabellaria spinulosa*, in general and progress with a Sabellaria mitigation and monitoring plan which is awaited from the Applicant - see also Natural England’s position set out in their post-ISH7 submission [REP5-160] what DML conditions are proposed for mitigation and comments on likelihood of



presence and need for compensation (see also MMO's REP6-039] paras 1.3.6.6 and 1.3.7.6)

- 1.1.1 There has been no progress on this topic for the MMO since our previous comments in REP6-039, although we are aware that the Applicant has begun to engage with Natural England on the preparation of a *Sabellaria spinulosa* Monitoring and Mitigation Plan. This plan should include details of how any negative impacts to *Sabellaria spinulosa* habitat will be avoided, mitigated, or compensated. Additionally, should *Sabellaria spinulosa* be present prior to construction, the plan should outline that on-going monitoring will be required to understand the extent of the reef pre and post construction and throughout the operation phase. The MMO defer to Natural England for ecological advice on the appropriate scope and frequency of the mitigation and monitoring, however MMO would also wish to review and comment on this draft plan when it is produced.
- 1.1.2 The MMO advises that a draft plan should be agreed in examination and become a certified document as an 'in-principle' *Sabellaria spinulosa* Monitoring and Mitigation Plan and linked to the Deemed Marine Licence ("DML") condition. Post consent a final monitoring and mitigation plan which contains the finer details of the monitoring and mitigation, in line with the 'in principle' plan, should be submitted to the MMO for approval prior to the marine works commencing.
- 1.1.3 The MMO still require the Applicant to make changes to Condition 45 in the draft DML [REP6-007] so that the condition clearly states that a *Sabellaria spinulosa* monitoring and mitigation plan is required, which includes the details stated above in 1.1.1. The condition should state that the monitoring and mitigation plan will be in accordance with the 'in-principle' plan in the certified documents and that mitigation or compensation will be implemented as per the agreed plan.

2. Agenda Item 5: HRA issues

2.1 Agenda Item 5(a): The Applicant's HRA screening assessment – to seek clarification on specific European sites and qualifying features, with views also sought from Natural England and IPs to understand any outstanding differences between the Applicant and Natural England/IPs with regards to the conclusions of no likely significant effects

- 2.1.1 The MMO defers to Natural England's expert opinion as the statutory nature conservation body with regards to the conclusions of the HRA.
- 2.1.2 However, the particular areas of concern for the MMO relate to the underwater noise impacts on the harbour porpoise feature of the Southern North Sea Special Area of Conservation ("SAC") and the noise/visual impacts from vessels on the Red-Throated Diver feature of the Outer Thames Estuary Special Area of Protection ("SPA").
- 2.1.3 The MMO cannot support the conclusion of no adverse effect on harbour porpoise until the 'in-principle' Southern North Sea SAC Site Integrity Plan has been agreed



during examination. The MMO is still reviewing this document and is aware that Natural England are doing the same.

- 2.1.4 Additionally, the MMO cannot support the conclusion of no adverse effect on the red-throated diver feature of the Outer Thames Estuary SPA until the Outline Vessel Management Plan [REP6-027] has been agreed during examination. The MMO is aware that this was submitted by the Applicant at Deadline 6. The MMO defer to Natural England on the appropriate mitigation that should be contained within this plan to reduce the disturbance and displacement to red-throated divers from vessels throughout the construction and operation of the project.
- 2.1.5 Finally, the MMO welcome that the Applicant has submitted a underwater noise report [REP5-124] to address the questions MMO raised about the Habitats Regulations Assessment (“HRA”) underwater noise assessment for marine mammals and fish, in relation to the DCO changes [REP6-039]. The MMO are still reviewing this report to determine if this resolves our queries and we will aim to provide comment on this at Deadline 8 (where possible the MMO will endeavour to submit any comments at Deadline 7).

2.2 Agenda Item 5(c): HRA and recreational pressure on European sites - to understand the position of the Applicant and IPs, including Natural England, with regards to the proposed mitigation to avoid adverse effects on the integrity of European sites arising from recreational pressure, including progress on the two Management and Monitoring Plans and the securing of such measures

- 2.2.1 The MMO require further clarity on this agenda item before being able to provide comments. The MMO will review the ISH minutes and raise any comments it has on this matter at Deadline 7.

2.3 Agenda Item 5(d): Outer Thames Estuary SPA and red throated divers – to explore the assumptions made by the Applicant in their assessment and the Outline Vessel Management Plan with regards to the timings of vessel movements and how timing restrictions are secured. To seek comments from Natural England, the MMO, RSPB/SWT and IPs on the Outline Vessel Management Plan

- 2.3.1 The MMO defer to Natural England on the appropriate mitigation that should be contained within the Outline Vessel Management Plan to reduce the disturbance and displacement to red-throated divers from vessels throughout the construction and operation of the project.
- 2.3.2 If Natural England state that there should be timing/date restrictions on vessel movements then we advise that there should be a condition within the DML detailing the restrictions. The MMO is willing to discuss the wording of such a condition with the Applicant once the appropriate mitigation has been agreed with Natural England via the Outline Vessel Management Plan.
- 2.3.3 Once agreed, the Outline Vessel Management Plan should become a certified document and there must be a new condition added to the DML which states that a



Vessel Management Plan containing procedures to be followed within vessels transit corridors to minimise disturbance to red-throated diver during the construction, operation and maintenance activities, must be submitted to and approved by MMO in writing prior to the licenced activities commencing. The condition should state that the Vessel Management Plan will be in accordance with the certified Outline Vessel Management Plan.

2.4 Agenda Item 5(e)(i): HRA and marine mammals - Mitigation - to explore whether the draft Marine Mammal Monitoring Plan (MMMP) should be a certified document that the final MMMP should be based upon and therefore referred to in Condition 40 of the DML and certified. To seek the views of NE and MMO on the contents of the draft MMMP and the Applicant's 'Underwater noise effect assessment for the Sizewell C revised marine freight options' submitted at Deadline 5

- 2.4.1 The MMO advises that the draft Marine Mammal Mitigation Protocol ("MMMP") should be a certified document to ensure that the agreed principles in the draft plan will be adhered to in the final MMMP that is submitted post consent.
- 2.4.2 The MMO also advises that Condition 40 of the DML should state that the MMMP submitted to MMO must be in accordance with the draft MMMP to secure this.
- 2.4.3 The MMO defers to Natural England's view on whether the content of the draft MMMP includes sufficient mitigation to prevent injury to marine mammals and follows the current best practice.
- 2.4.4 The MMO is still reviewing the Applicant's underwater noise assessment [REP5-124] for the DCO changes to the Beach Landing Facilities (BLFs) to determine if this resolves our queries [REP6-039] and we will aim to provide comment on this at Deadline 8 (where possible the MMO will endeavour to submit any comments at Deadline 7).

2.5 Agenda Item 5(e)(ii): HRA and marine mammals - Seals – to obtain an update on the discussions between the MMO, Natural England and the Applicant with regards to mitigation proposed for seals; for which European Sites is this relevant?

- 2.5.1 The MMO considers that the HRA assessment for seals is appropriate. The harbour seal is a feature of the Wash and North Norfolk Coast SAC and the grey seal is a feature of the Humber Estuary SAC. Therefore, the MMO ultimately defer to comments from the statutory nature conservation body (Natural England) on this matter.
- 2.5.2 The MMMP, which is discussed above in section 2.4, is the mechanism to ensure that appropriate mitigation is in place to prevent injury to seals. Other than agreeing the draft MMMP and securing this within the DCO and DML appropriately (as explained in section 2.4), the MMO does not consider that any further information/changes are required.



2.6 Agenda Item 5(e)(v): HRA and marine mammals - Draft Site Integrity Plan (“SIP”) – to seek the views of NE, MMO and IPs on the draft SIP and to explore how secured and whether this should be certified document

- 2.6.1 The MMO is still reviewing the ‘in-principle’ or ‘draft’ Southern North Sea SAC SIP [AS-178] and are aware that Natural England are doing the same. The MMO will aim to provide comment on this at the earliest possible deadline.
- 2.6.2 The MMO advise that an agreed draft Southern North Sea SAC SIP should be a certified document to ensure that the agreed principles in the plan will be adhered to in the final SIP that is submitted post consent, which includes the finer details.
- 2.6.3 The MMO welcomes that Condition 40(2)(c) of the draft DML states that a SIP will be submitted to the MMO should impact piling be undertaken for the construction of the BLFs. However, the condition does not currently include enough information. The MMO requires changes to the wording of this condition to ensure that this requirement is robustly secured in the DML. The MMO requires more detail in the condition about what the SIP is for and what designated site this plan relates to. The SIP is to ensure that the Project, alone and in-combination with other plans or projects, will not exceed the noise thresholds assessed within the Southern North Sea SAC Review of Consents Habitats Regulations Assessment (<https://www.gov.uk/government/publications/review-of-consented-offshore-wind-farms-in-the-southern-north-sea-harbour-porpoise-special-area-of-conservation>). This is to ensure that there will be no adverse effects on the harbour porpoise feature of the SAC due to underwater noise.
- 2.6.4 The MMO advises that the Applicant reviews Condition 26 in the DML for the East Anglia Two Offshore Wind Farm project for drafting advice. The DML can be found in REP8-0004 in the East Anglia Two Offshore Windfarm Examination Library: <https://infrastructure.planninginspectorate.gov.uk/wpcontent/ipc/uploads/projects/EN010078/EN010078-001676East%20Anglia%20Two%20Examination%20Library.pdf>.

2.7 Agenda Item 5(g)(i): HRA and migratory fish - Prey species – to seek clarification regarding the relationship between the fish entrapment calculations and indirect impacts of prey availability to SPA and SAC qualifying features; to explore which European sites and qualifying features this applies

- 2.7.1 The MMO defers to Natural England’s view as statutory nature conservation body on HRA impacts to prey species.

2.8 Agenda Item 5(g)(iii): HRA and migratory fish - Entrapment uncertainty report – to seek the views of the EA and NE on the Applicant’s report entitled ‘Quantifying uncertainty in entrapment predictions for Sizewell C’ [REP6-028] and in particular on whether without the LVSE heads effects are below thresholds which would trigger further investigation for potential population level effects.



2.8.1 The MMO are currently reviewing this report [REP6-028] to consider whether this changes/resolves any of our previous comments on impacts to fish. We aim to provide comments on this by Deadline 8 (where possible the MMO will endeavour to submit any comments at Deadline 7).

Yours faithfully,



Ellen Mackenzie
Marine Licensing Case Officer

