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MMO Reference: DCO/2016/00004
Planning Inspectorate Reference: EN010077
Identification Number: 20024128

13 January 2021

Dear Rynd Smith,

**Planning Act 2008, Scottish Power Renewables, Proposed East Anglia One North (EA1N)
Offshore Windfarm Order**

MMO Deadline 4 Response

On 19 December 2019, 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 by Scottish Power Renewables (the “Applicant”) for determination of a development consent order (DCO) for the construction, maintenance and operation of the proposed East Anglia One North Wind Farm (the “DCO Application”) (MMO ref: DCO/2016/00004; PINS ref: EN010077).

The Applicant seeks authorisation for the construction, operation and maintenance (O&M) of the DCO Application, comprising of up to 67 wind turbine generators together with associated onshore and offshore infrastructure and all associated development (“the “Project”). This includes two Deemed Marine Licences (DMLs) under Schedules 13 and 14.

This document comprises the MMO comments in respect of the DCO Application submitted in response to Deadline .

The MMO submits the following:

- 1. Comments on the Applicants’ Revised Draft DCO (dDCO)**
- 2. Comments on any updated Statement of Common Ground (SoCG)**
- 3. Comments on any additional information/submissions received by Deadline 3**
- 4. MMO’s Response to Applicants’ Comments on MMO’s Deadline 2 submissions [REP3-069]**
- 5. MMO’s Comments on Noise Management**

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,



Marine
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...ambitious for our
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Marine Licencing Case Officer



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1. Comments on Applicants' revised dDCO (REP3-011)

1.1 Article 2 (1) Interpretations

The MMO is content with the changes made to the definition of 'deemed marine licences' by the Applicant.

The MMO notes the update to the changes made to "offshore preparation works" and query why the reference to 'seaward of MHWS' [Mean High Water Springs] has been removed by the Applicant. The MMO also understands that this amendment has not alleviated all of Natural England's concerns. The MMO will continue to engage in discussions with both parties.

The MMO notes the additions of several plans to the definitions, particularly the Outline Fisheries Liaison Plan and the Outline Sabellaria Plan. The MMO is content with these updates.

1.2 Articles

The MMO is content with the update to Article 31: Deemed Marine Licences under the 2009 Act.

The MMO notes the updates to Article 36 and has further comments in section 3.12 in relation to the certification of plans.

The MMO welcomes the update to Article 37 as the MMO should not be subject to arbitration.

The MMO notes the update to Article 38 and as this is for Requirements under Schedule 3 Part 1 the MMO is content that they are not subject to Schedule 16.

1.3 Schedule 1, Part 1, Authorised Project

The MMO notes the inclusion of the additional foundation type to include monopiles. The Applicant needs to ensure that the monopile has been assessed in the Environmental Statement (ES) in relation to whether the turbine assessment is sufficient to cover the additional foundations for the offshore platforms. The MMO does not consider that this will have been assessed directly. The MMO notes that the Applicant considers that this will be less of an impact than using eight leg jackets. The MMO appreciates the inclusion of a table in REP3-052 for the worst case scenario which demonstrates that the hammer energy to install the monopile will significantly increase compared to the pin piles for the eight legged jackets. The MMO is currently reviewing this further and will provide a response at Deadline 5.

1.4 Part 3, Requirements

The MMO notes the updated the turbine height from 300m to 282m and air clearance height change from 22m to 24m. The MMO understands this is in relation to the discussions with Natural England on ornithology issues and welcomes this commitment from the Applicant. The MMO defers to Natural England on ornithological matters.

The MMO welcomes the Applicant's commitment that the monopile foundations must not have a total footprint at the seabed, which is more than 177 m², raised in both points 7(3) and 8(3).

1.5 Schedule 13 and Schedule 14, Part 1 (1)

The MMO welcomes the updated definitions to include 'Best Practice Protocol for minimising disturbance to Red-Throated Diver', 'Outline Fisheries Liaison and Coexistence Plan' and 'Outline Sabellaria Reef management plan'. As with comment 1.1 above the MMO query why the reference to 'seaward of MHWS' has been removed in the definition of 'Offshore Preparation Works'.

1.6 Schedule 13 and Schedule 14, Part 1 (1)(4)(b)

The MMO welcomes the updated telephone number for the MMO Coastal Office in Lowestoft.



1.7 Schedule 13, Part 1 (3)(2 &3) and Schedule 14, Part 1 (3)(1 & 2)

Please see comment 1.3 of this document.

1.8 Schedule 13, Part 2 Condition 1 (a & e)

The MMO notes the updates of the turbine height change from 300m to 282m and air clearance height change from 22m to 24m. The MMO understands this is in relation to the discussions with Natural England on ornithology issues and welcomes this commitment from the Applicant. The MMO defers to Natural England on ornithological matters.

1.9 Schedule 13, Part 2 Conditions 8 (3) and 9 (3) and Schedule 14, Part 2 Conditions 4 (3) and 5 (3)

The MMO welcomes the Applicant's commitment that the monopile foundations must not have a total footprint at the seabed which is more than 177m² to reflect the inclusion of a monopile foundation as a potential foundation option for the construction, maintenance and operation platform.

1.10 Schedule 13, Part 2 Conditions 10 (6), 10 (7)(a) and 10 (8) and Schedule 14, Part 2 Conditions 6 (6), 10 (7)(a) and 10 (8)

The MMO notes these conditions have been updated to ensure Unexploded Ordnance (UXO) clearance activities are secured within the notification requirements. The MMO still believes that UXO clearance activities should not be included within the dDCO as set out in Section 5 of this document. Notwithstanding this the MMO welcomes the inclusion of these updates by the Applicant.

1.11 Schedule 13, Part 2 Condition 10 (10) and Schedule 14, Part 2 Condition 6 (10)

The MMO notes these conditions have been updated to ensure UXO clearance activities are secured within the notification requirements. The MMO still believes that UXO clearance activities should not be included within the dDCO as set out in Section 5 of this document. Notwithstanding this the MMO welcomes the inclusion of these updates by the Applicant. In addition to this the Applicant has included a timescale of notification to the MMO and the MMO welcomes this addition.

1.12 Schedule 13, Part 2 Condition 10 (12) and Schedule 14, Part 2 Condition 6 (12)

The MMO understands the update to these conditions is to reflect the standard conditions requested by the Maritime and Coastguard Agency (MCA). The MMO supports the MCA on this matter and welcomes the updated wording of these conditions by the Applicant.

1.13 Schedule 13, Part 2 Condition 16 (1) and Schedule 14, Part 2 Condition 12 (1)

The MMO notes this update is to secure the requirement for environmental micro-siting to be considered in the method statement for UXO clearance activities which must be submitted to and approved by the MMO prior to any UXO clearance activities taking place. The MMO still believes that UXO activities should not be included within the dDCO for the reasoning set out in Section 5 of this document. Notwithstanding this the MMO welcomes the inclusion of these updates by the Applicant.

1.14 Schedule 13, Part 2 Condition 16 (3) and Schedule 14, Part 2 Condition 12 (3)

The MMO understands this has been updated to address concerns raised by the MMO in relation to the requirement for the submission of both the Marine Mammal Mitigation Protocol (MMMP) and the Southern North Sea (SNS) Special Area of Conservation (SAC) Site Integrity Plan (SIP) for UXO clearance activities before UXO clearance activities can take place. The MMO appreciates the Applicant's inclusion of this wording to secure the submission of plans prior to the activities so as to alleviate the concerns raised in the MMO's Relevant Representation (RR-052) and Deadline 1 (REP1-144) response. However, the MMO is not content with the timescale



proposed by the applicant and maintains its position that these documents should be submitted 6 months prior to any UXO activities taking place. The MMO remains in discussion with the Applicant on this issue and has provided an update in Section 5 of this document.

In addition to this the MMO still believes that UXO activities should not be included within the dDCO. The MMO has provided further information in Section 5.

Notwithstanding this, the MMO has provided a without prejudice position in Section 5.4 below. The MMO is continuing discussions with the Applicant and Natural England on the condition wording.

1.15 Schedule 14, Part 2 Condition 13 (1)(d)(ii)(bb)

This condition has been included by the applicant to ensure that the relevant cable landfall information is included in the cable laying plan following MMO comments on the Landfall Construction Method Statement (REP1-042) submitted at Deadline 2 (REP2-048). The MMO is content with the update to this condition and has no further concerns.

1.16 Schedule 13, Part 2 Condition 17 (1)(e)(v) and Schedule 14, Part 2 Condition 13 (1)(e)(v)

The MMO is content with the update to secure the submission of the Fisheries Liaison and Coexistence Plan in accordance with the Outline Plan, the MMO welcomes this inclusion.

1.17 Schedule 13, Part 2 Condition 17 (1)(e)(vi) and Schedule 14, Part 2 Condition 13 (1)(e)(v)

The MMO is content with the update to include the certified document Best Practice Protocol for Minimising Disturbance to Red-Throated Divers.

1.18 Schedule 13, Part 2 Condition 17 (1)(j) and Schedule 14, Part 2 Condition 13 (1)(e)(v)

The MMO is content with the update to include the certified document the Sabellaria Reef Management Plan.

1.19 Schedule 14, Part 2 Condition 13 (1)(d)(ii)(bb)

The MMO welcomes the update to the condition due to the inclusion of the monopile foundation for the offshore platforms. Please see comment 1.3 for the concerns relating to this amendment.

1.20 Schedule 13, Part 2 Condition 20 (2)(b) and Schedule 14, Part 2 Condition 16 (2)(b)

The MMO welcomes the update as requested by the Maritime and Coastguard Agency (MCA) and has no further comments.

1.21 Schedule 13, Part 2 Condition 20 (2)(d) and Schedule 14, Part 2 Condition 16 (2)(d)

This update has been included to secure pre-construction ornithological monitoring as requested by Natural England. The MMO supports Natural England on this matter and is continuing discussions with Natural England on the appropriateness of the wording of this condition.

1.22 Schedule 13, Part 2 Condition 21 (3) and Schedule 14, Part 2 Condition 17 (3)

The MMO welcomes the inclusion of the additional wording in relation to the cessation of piling as requested by both the MMO and Natural England. The MMO is engaged in internal discussions regarding the effectiveness of this condition and will provide a further update in due course.

1.23 Schedule 13, Part 2 Condition 22 (2)(e) and Schedule 14, Part 2 Condition 18 (2)(e)

This update has been included to secure post construction ornithological monitoring as requested by Natural England. The MMO supports Natural England on this matter and are continuing discussions with Natural England on the appropriateness of the wording of this condition.

1.24 Schedule 13, Part 2 Condition 22 (3) and Schedule 14, Part 2 Condition 18 (3)

The MMO is content with the removal of the wording *'for up to 3 years post-construction, which could be non-consecutive years'*.



1.25 Schedule 13, Part 2 Condition 24 and Schedule 14, Part 2 Condition 20

This condition has been included to secure the details of any additional scour or cable protection in different locations to scour or cable protection installed during construction. The MMO welcomes clarity on this proposal and the relevant updates to the Outline Operations and Maintenance Plan (OOOMP).

The MMO is currently reviewing this condition to determine if this alleviates the concerns raised at Deadline 2 (REP2-048). The MMO will engage with the Applicant on any potential updates and will provide an update at deadline 5.

1.26 Schedule 13, Part 2 Condition 25 and Schedule 14, Part 2 Condition 21

This condition has been included by the applicant to ensure co-operation between the undertakers of the East Anglia TWO (EA2) Project and the EA1N Project, the MMO welcomes the inclusion of this condition and is content with its wording.

2. Comments on any updated Statement of Commons Ground (SOCG)

2.1 Draft SOCG with the Ministry of Defence - Version 03 [REP3-078]

The MMO notes that all topics have been agreed between the Applicant and the Ministry of Defence. The MMO welcomes this and have no further comment to make.

2.2 Draft SoCG with the Commercial Fisheries Working Group - Version 02 [REP3-079]

The MMO welcomes that all topics have been agreed upon between the Applicant and the Commercial Fisheries Working Group (CFWG). The MMO also supports the CFWG's position that, where possible, a second Offshore Fisheries Liaison Officer is present during the construction period where there is major activity on both the export cable and wind farm in parallel. The MMO welcomes the Applicant's commitment to considering this action when necessary.

2.3 Draft SOCG with the Royal Society for the Protection of Birds (RSPB) (offshore) [REP3-080]

The MMO notes that there are still topics that remain outstanding between the Applicant and RSPB, the MMO looks forward to their resolution before the close of Examination. The MMO defers to Natural England on issues of Ornithology but will review all updated documents from the Applicant and will provide comment at Deadline 5.

2.4 Draft SOCG with Historic England (Offshore)

The MMO notes there are still topics that remain outstanding between the applicant and Historic England. The MMO looks forward to their resolution before the close of Examination. The MMO supports Historic England's position regarding the wording of Schedule 14, Part 2, Condition 13(1)(g) and look forward to the applicant engaging with both Historic England and Suffolk County Council (if relevant) to discuss this, the MMO reserves comment until having sight of the next version of the dDCO.

3. Comments on any additional information/submissions received at Deadline 3

3.1 Guide to the Application- Version 04 [REP3-002]

The MMO appreciates the usefulness of this document and welcomes the Applicant's updated versions at each deadline throughout the course of the Examination process.

3.2 Schedule of Changes to the Draft Development Consent Order [REP3-013]

The MMO appreciates the usefulness of this document in noting changes made to the dDCO and welcomes the Applicant's updated versions when the dDCO is submitted throughout the course of the Examination process.



3.3 Habitats Regulations Assessment - Appendix 2 - Information to Support Appropriate Assessment Report - Screening Matrices [REP3-016]

The MMO defers to Natural England on Habitats Regulations matters and has no comments on this document.

3.4 Relationship of Offshore Plans Secured by the DCO - Version 2 [REP3-019]

The MMO welcomes this document and believes this is helpful in understanding the relationship of the offshore plans.

3.5 Outline Written Scheme of Investigation Archaeology and Cultural Heritage (Offshore) [REP3-028]

The MMO defers to Historic England on the changes to this document. The MMO supports Historic England's concerns and is discussing the outstanding issues with Historic England and will provide an update at Deadline 5

3.6 Outline Offshore Operations and Maintenance Plan (OOOMP) [REP3-038]

The MMO is currently reviewing the updates to the document and will provide a response at Deadline 5.

The MMO highlighted concerns at Deadline 2 (REP2-048) in relation to the inclusion of any additional scour or cable protection in different locations to scour or cable protection installed during construction. The MMO notes the Applicant has now included this activity within the dDCO at Schedule 13, Part 2 Condition 24 and Schedule 14, Part 2 Condition 20 and this has also been updated within the OOOMP, with reference to these conditions.

The MMO is currently reviewing this condition to see if they alleviate the concerns raised and will provide further comments on the requirements within the OOOMP. The MMO will provide an update at Deadline 5.

3.7 Offshore In-Principle Monitoring Plan (IPMP) [REP3-040]

In relation to Section 1.4.1 Key Project Characteristics Parameters – the MMO welcomes the updated parameters for maximum wind turbine tip height (LAT) and minimum clearance above sea level.

Section 1.7.4 Benthic Ecology has been updated to reflect the inclusion of the Sabellaria Reef Management Plan. The MMO will confirm at Deadline 5 if these updates are satisfactory.

The MMO is content with the updates to Section 1.7.8 Commercial Fisheries.

The MMO welcomes the updates to section 1.7.11 Marine Archaeology and Cultural Heritage.

The MMO understands Natural England has requested further information in relation to Ornithology and the MMO is in discussion with Natural England to understand if the IPMP includes enough information to alleviate their concerns.

3.8 Draft Marine Mammal Mitigation Protocol (MMMP) [REP3-042]

The MMO is currently reviewing this document and will provide updates at Deadline 5.

3.9 In-principle Southern North Sea Special Area of Conservation Site Integrity [REP3-044]

The MMO has major concerns related to the inclusion of UXO activities and the use of the SNS SAC SIP for project alone impacts. As these concerns are linked and the MMO has provided further comments in Section 5 of this document.



3.10 Outline EA1N & EA2 Displacement of red-throated divers in the Outer Thames Estuary SPA – Version 01 [REP3-049]

The MMO defers to Natural England on ornithological matters. The MMO understands there are ongoing discussions between the Applicant and Natural England with regards ornithology. The MMO is reviewing this document and will review Natural England's response with a view to providing comments on impacts to the dDCO/DMLs at Deadline 5 if required.

3.11 Outline Fisheries Liaison and Coexistence plan [REP3-050]

The MMO welcomes the updates to the document, particularly pertaining to roles and responsibilities in Appendix 1 of the Outline Fisheries Liaison and Co-existence Plan [REP3-050].

The MMO notes that the Applicant has not included a table of timescales as set out in section 1.4.2 of the MMO's Deadline 2 response [REP2-048]. The MMO has had further discussions with the Applicant and is now content with this approach.

The MMO does have further concerns in relation to the impact on the local fishing industry. These have been set out below:

- a) Transfer of rock armour between vessels - The MMO highlights that there is currently a number of major concerns regarding the use of rock protection and the increase in rock dropped when transferring between vessels in known fishing grounds. The MMO is in discussion with the Applicant to ascertain whether any further information can be provided at this stage to alleviate these concerns. The MMO is reviewing the dropped object form set out in Schedule 13, Condition 14 (10) and Schedule 14, Condition 10 (10) and the Notification to Mariners conditions to decide if any amendments are required to ensure all parties are aware of the location of the rock at the earliest opportunity.
- b) The size and grade of rock protection – The MMO would like to ensure that any rock used for protection is suitable for the marine environment and minimises risk to the fishing industry and this should be provided once the protection is identified.

The MMO notes that there is a conflict of interest between Natural England and the fishing industry on the type of protection used. The MMO notes that the fishing industry prefer rock protection as this is less of a snagging risk to trawling vessels. However, Natural England prefer concrete mattresses due to their ability to be extracted. Concrete Mattresses - The MMO has concerns about the use of concrete mattresses, in particular the major snagging risk for trawling vessels.

3.12 Deadline 3 Project Update Note [REP3-052]

The MMO welcomes this document, as set out in section 1.3 the MMO is currently discussing the inclusion of the monopile foundation and will provide an update at Deadline 5.

The MMO questions if this document will be certified during the Examination process. The MMO believes that any updates or references to updates to the Environmental Statement (ES) Assessments should be a certified document and should be set out within the dDCO. The MMO believes this is in line with the comments raised in section 2.4 of the MMO's Deadline 2 response [REP2-048/050]. The MMO believes that it needs to be clear at the outset of the dDCO which documents and information is certified at the consenting stage. The MMO believes that putting certified documents within a separate schedule allows for more detail to be captured, for example any documents linked with the ES. This will reduce any issues that may arise on the exact parameters/agreed mitigation at post consent stage.

The MMO is continuing discussions with the Applicant and will provide an update at Deadline 5.



3.13 HRA Derogation Case- Version 1 [REP3-053]

The MMO welcomes the provision of this document at Deadline 3. The MMO defers to Natural England on ornithological matters and Habitats Regulations Assessment (HRA) matters. The MMO understands there is ongoing discussions between the Applicant and Natural England regarding Ornithology. The MMO is reviewing this document and will review Natural England's response with a view to providing comments on impacts to the dDCO/DMLs if required at Deadline 5.

3.14 HRA Compensatory Measures [REP3-054]

The MMO has reviewed this document and defers all Habitats Regulations matters to Natural England and therefore defers the appropriateness of these measures to Natural England.

3.15 Clarification Note- Effects on Supporting Habitats of Outer Thames Estuary Special Protected Area (SPA) [REP3-059]

The MMO welcomes this clarification by the Applicant as to the effects on supporting habitats of the Outer Thames Estuary SPA. The MMO defers to Natural England on Habitats Regulations matters, however the MMO will monitor the discussions and submissions throughout Examination and provide any comments in relation to any requirements that impact the DMLs.

3.16 Applicants' Comments on Marine Management Organisations Deadline 2 submissions [REP3-069]

Due to the size of this document the MMO has provided further comments in Section 4 of this document.

3.17 Applicants' Comments on Natural England's Deadline 2 Submissions [REP3-070]

The MMO has reviewed this document and at this stage has no additional comments. The MMO understands there are a number of outstanding issues between the Applicant and Natural England in relation to offshore matters. The MMO will continue to review the status of these discussions and be involved in any matters relating to the dDCO where required.

3.18 Offshore Commitments- Version 1 [REP3-073]

The MMO believes this document presents the Applicant's offshore commitments clearly and the MMO is content that the commitments have been secured within the dDCO. The MMO understands these issues relate to Ornithological, Seascape Landscape and Visual Impact Assessment (SLVIA) and Habitats Regulations matter. The MMO defers to Natural England on these issues. The MMO understands there is ongoing discussions with Natural England and the MMO will provide any future comments as required.

3.19 Best practice protocol for minimising disturbance to Red-Throated Diver [REP3-074]

The MMO welcomes the inclusion of this document and the updated conditions within the dDCO to secure this document. The MMO defers to Natural England on the appropriateness of the information in the document.

3.20 Applicants Responses to Hearings Action Points (ISH1, CAH1, ISH2) [REP3-083]

The MMO believes any comments on these action points have been covered in the specific documents above and has no comments to add.

3.21 Written Summary of Oral Case (ISH1) [REP3-084]

The MMO welcomes the table in Section 2 which highlights the current disagreements on Habitats Regulations Issues.

The MMO believes any ongoing discussions are covered within Section 1, 4 and Section 5 of this document and has no further comments on this document.



3.22 Historic England Deadline 3 Submission [REP3-107/108]

The MMO notes these documents relate to Onshore matters and therefore has no comments to add.

3.23 NE Comments on Cumulative Auk Displacement Seabird Assemblage Assessment of FFC SPA and Gannet PVA [REP2-006] [REP3-116]

The MMO have reviewed the comments provided by Natural England. The MMO defers to Natural England on ornithological matters and acknowledge that there remains unresolved issues between the Applicant and Natural England regarding Cumulative Auk Displacement. The MMO hopes this can be resolved prior to the conclusion of examination. The MMO also notes that progress has been made between the Applicant and Natural England regarding the incorporation of data from the Hornsea 3 and Hornsea 4 projects into data modelling for EA1N and EA2, the MMO welcomes this progression.

3.24 Appendix A11 NE Offshore Ornithology update [REP3-117]

The MMO have reviewed this document and appreciate its usefulness with regards to monitoring ornithological issues related to EA1N and EA2. The MMO defers to Natural England on ornithological matters.

3.25 Appendix B2 NE Comments on Information to Support Appropriate Assessment – Addendum for Marine Mammals [REP1-038] [REP3-118]

The MMO have reviewed Natural England's comments, the MMO is in agreement with Natural England in that neither UXO detonations or piling should, or would, ever take place without mitigation in place which has been approved by MMO in consultation with Natural England, prior to works commencing. The MMO acknowledges Natural England has some concerns that the commitments listed in the draft SIP are immutable and should be conditioned on the face of the DML to ensure they are adhered to. The MMO will review the progress between the Applicant and Natural England on this matter and provide any comments relating to DMLs where required.

Furthermore, the MMO shares Natural England's disagreement with the proposal to expand the scope of the SIP for the Southern North Sea SAC to include project-alone impacts please see Section 5 of this document on this matter. On all matters related to HRA, the MMO defers to Natural England.

3.26 Appendix D2 NE Comments to Sizewell C Cumulative Impact Assessment (Landscape and Visual) Clarification Note [REP2-010] [REP3-119]

The MMO have reviewed this document. The MMO notes that impacts to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) remain an issue between the Applicant and Natural England, the MMO hopes these issues can be resolved prior to the close of Examination. The MMO defers to Natural England on all matters related to potential impacts to AONB.

3.27 Appendix E3 Natural England's Comments to Effects with Regard to SCHAONB and Accordance with NPS Policy [REP2-008] [REP3-120]

The MMO have reviewed this document. The MMO notes that Natural England and the Applicant disagree about the potential impacts to both Suffolk Coast and Heath AONB (SCHAONB) and Suffolk Heritage Coast (SHC) and as a result, have not been able to close this issue out through the Statement of Common Ground process. The MMO also notes that Natural England consider an agreement will not be reached between themselves and the Applicant on this issue unless a substantive redesign of the scheme is undertaken by the Applicant. The MMO defers to Natural England on all matters related to impacts on AONB.



3.28 The Wildlife Trust's Summary of Oral Submission and Comments on the Addendum for Marine Mammals [REP1-038] [REP3-148]

The MMO acknowledges the comments made by The Wildlife Trust in relation to the SNS SAC noise management mechanism and will continue to provide updates on the status of the discussions in the SNS Regulators Working Group throughout Examination.

In relation to the comments on the SNS SAC SIP the MMO agrees the SIP should only be used for in combination impacts and has provided further comments in Section 5 of this document.



4. MMO's Response to Applicants' Comments on Marine Management Organisations Deadline 2 submissions [REP3-069]

4.1 Table 1: MMO's Comments on the Applicants Response to MMO's Deadline 2 response

Point	MMO Deadline 2 Comments	Applicant's Response at Deadline 3	MMO Deadline 4 Comments
001	<p>The MMO has reviewed a number of documents submitted at Deadline 1, these are shown in Appendix 1, any comments on these have been set out below.</p> <p>The MMO notes that the Applicant and other Interested Parties have outstanding concerns and ongoing discussions on a number of offshore issues that may be resolved when the Applicant updates the relevant documents at Deadline 3. The MMO has noted these concerns but has not provided comments at this stage. The MMO will review the updated documents and relevant Interested Parties responses and provide comments at Deadline 4 or Deadline 5.</p>	Noted	N/A
1.1 Historic England written representation [REP1-143]			
002	1.1.1 The MMO defers all issues related to heritage assets and archaeology to Historic England.	Noted	N/A
003	1.1.2 The MMO agrees with point 5.3.1 of Historic England's Written Representation in that the wording of the Offshore In-Principle Monitoring Plan should be amended to read "The Outline WSI includes provision to update the document as the project design is refined and as the results of further archaeological assessment become available. With the final agreed WSI acting as a 'point-in-time' document and submitted to the Marine Management Organisation (MMO) 6 months in advance of the licensed activities".	Noted, the Applicants have incorporated text within the In-Principle Monitoring Plan (an updated version has been submitted at Deadline 3, document reference 8.13) to address this comment.	The MMO welcomes this updated text within the In-Principle Monitoring Plan and has no further comments.

004	1.1.3 The MMO supports the changes requested in 6.1.2 and 6.1.	See the Applicants response to Historic England's written Representation (REP2-016).	The MMO is currently in discussions with Historic England and will provide an update at Deadline 5.
	<p>1.1.4 The MMO concurs with Historic England's opinion raised in point 6.1.4 that Schedule 14, Part 2, Condition 13(1)(g) should be amended to read</p> <p><i>'A written scheme of archaeological investigation in relation to the offshore Order limits seaward of mean high water, which must be submitted to the statutory historic body at least six months prior to commencement of the licensed activities and to the MMO at least four months prior to commencement of the licensed activities and which must accord with the outline written scheme of investigation (offshore) and industry good practice, in consultation with the statutory historic body (and, if relevant, Suffolk County Council) to include—'</i></p>	See the Applicants response to Historic England's written Representation (REP2-016).	The MMO is currently in discussions with Historic England and will provide an update at Deadline 5.
005	1.1.5 The MMO supports the points raised by Historic England in Section 6.2.1 and 6.2.2.	See the Applicants response to Historic England's written Representation (REP2-016).	The MMO is currently in discussions with Historic England and will provide an update at Deadline 5.
1.2 Maritime and Coastguard Agency (MCA) Statement of Common Ground [AS-047]			
006	<p>1.2 Maritime and Coastguard Agency (MCA) Statement of Common Ground [AS-047]</p> <p>1.2.1 The MMO welcomes point 'MCA-105' in the Statement of Common Ground (SoCG) that states that the Applicant will be placing all the 'standard conditions' in the DCO/DML and supports MCA in this consideration. The MMO looks forward to viewing the updated DCO/DML at deadline 3.</p>	Noted	N/A
1.3 Trinity House Statement of Common Ground [AS-053]			

007	<p>1.3.1 The MMO supports Trinity House's position on the point TH-105' and look forward to viewing the updated DCO/DML at deadline 3.</p> <p>1.3.2 The MMO welcomes Trinity House's support on Arbitration and has provided further comments in Section 3 of this document in response to ExA written question 1.5.18.</p>	Noted	N/A
1.4 Applicant's Fisheries Liaison and Co-existence Plan [REP1-045]			
008	<p>1.4 Applicant's Fisheries Liaison and Co-existence Plan [REP1-045]</p> <p>1.4.1 The MMO notes the Outline Fisheries Liaison and Coexistence Plan will be developed further at the post consent stage. The MMO requests the Applicant provides further detail at this stage. The MMO believes there is enough information available to include more descriptive roles and responsibilities. A Fisheries Liaison and Co- existence Plan has been used on multiple OWF projects and as the document states it has been developed using best practices from East Anglia One. Therefore, the MMO requests that this section can be expanded with at least the expected roles and responsibilities – this can be amended at post consent if required.</p>	The Applicants have updated the Outline Fisheries Liaison and Co-existence Plan (REP1-045) submitted at Deadline 3 to include further details of the roles and responsibilities of key roles in fisheries liaison.	The MMO welcomes this update to the document on roles and responsibilities in Appendix 1 of the Outline Fisheries Liaison and Co-existence Plan [REP03-050].
010	<p>1.4.2 Section 2.3 highlights that timescales will be added at the post consent stage. The MMO believes that as a minimum a table should be included to advise when information will be shared at the construction, operation and maintenance stages. The MMO notes this information is readily available similar to the table below: (Please see REP2-048)</p>	Section 2.3 of the Outline Fisheries Liaison and Co-existence Plan (REP1-045) secures inclusion of timings for information distribution in the final Fisheries Liaison and Co-existence Plan (FLCP). The Applicants would anticipate inclusion of a table similar to that suggested by the MMO in the final FLCP and indeed, such a table was included in the East Anglia ONE FLCP. However, the Applicants have not made this change in the updated Outline Fisheries	The MMO notes the Applicant's response and at this stage the MMO is continuing internal discussions and will provide an update at Deadline 5.

		<p>Liaison and Co-existence Plan (REP1-045) for the following reasons:</p> <ul style="list-style-type: none"> • Timing for provision of key information are secured in the draft DCO for example under condition 10 of the generation Deemed Marine Licence (DML) and condition 6 of the transmission DML; and • The draft DCO submitted at Deadline 3 includes revisions to several timings for information distribution made to address stakeholder comments; <p>Given that further revisions to the timing of information distribution within the draft DCO could be made during the course of the Examination in response to stakeholder comments, the Applicants suggest that further revisions regarding this matter are deferred to the final FLCP, should consent be granted.</p>	
011	<p>1.4.3 In addition to the above comments the MMO requests it is made clear within the document that 'the MMO will not act as arbitrator and will not be involved in discussions on the need for, or amount of, compensation being issued'. The MMO believes this should be made clear at this stage to ensure all parties are aware that the MMO will not be part of this process.</p>	<p>The Applicants have updated the Outline Fisheries Liaison and Co-existence Plan (REP1-045) submitted at Deadline 3 to address the MMO's comment.</p>	<p>The MMO is content with the updated wording in Section 3.1 of the Outline Fisheries Liaison and Co-existence Plan [REP03-050].</p>
1.5 Applicant's Outline Landfall Construction Method Statement [REP1-042] & Natural England's (NE's) Comments on Draft Outline Landfall Construction Method Statement [REP1-153]			
012	<p>1.5.1 The MMO believes the Outline Landfall Construction Method Statement document is well structured. In light of NE's comments submitted at deadline 1 the MMO defers to NE</p>	Noted	N/A

	and the Local Planning Authority (LPA) on the detail within this document.		
013	1.5.2 The MMO notes the document is required under Requirement 13 of the DCO. The MMO notes the document references Works No.6 the offshore exit pits.	Noted	N/A
014	1.5.3 The MMO would like to open discussions with the Applicant and the LPA on how the information relating to offshore works would be reviewed by the MMO and if this is captured within the DMLs. The MMO believes any information relating to offshore works (including HDD works) below mean high water springs should be reviewed and approved under the DML.	The draft DCO submitted at Deadline 3 has been updated to make it clear that the detailed Cable Laying Plan required under condition 13(1)(d)(ii)(bb) of the Transmission DML will include details of cable landfall.	The MMO welcomes this inclusion and has no further comments at this stage.
1.6 Applicant's Outline Sabellaria Reef Management Plan [REP1-044]			
015	1.6.1 The MMO believes the management proposals for Sabellaria reef are generally acceptable. The MMO agrees that any conflicts between the proposed development, Sabellaria reef and other receptors (e.g. archaeology) that can't be easily resolved by micro-siting should be addressed by consultation with the MMO, NE and Historic England.	Noted	N/A
016	1.6.2 In the Sabellaria reef management plan (Section 1.2, paragraph 6), it is stated that ground-truthing will be carried out using grab samples if visibility prevents confirmation by drop-down video. The MMO recommends exploring the use of either a freshwater lens or an acoustic camera as alternatives to grab sampling if a standard drop-down camera is insufficient. Please review - Griffin et al. (2020) Effectiveness of acoustic cameras as tools for assessing biogenic structures formed by Sabellaria in highly turbid environments.	The Applicants will review best practice methodology when developing the survey strategy in light of the survey requirements and the potential conditions (i.e. highly turbid environments).	The MMO notes the Applicant's comments and notes the Applicant is currently discussion with Natural England on outstanding comments and may submit an updated version of the Sabellaria Reef Management Plan at a future deadline. The MMO will provide any further comments at Deadline 5.

	Aquatic Conservation: Marine and Freshwater Ecosystems 30: 1121-1136.		
017	1.6.3 The MMO believes this will assist in robust data as the patchy nature of many Sabellaria reefs would make it difficult to confirm the absence of this habitat using a benthic grab, which samples a very small area of the seabed each time it is deployed. Moreover, any grab samples that do extract reef will cause damage to the habitat.		
018	1.6.4 The MMO still has concerns in the case that potential impacts on Sabellaria reef remain following practicable design changes, however the MMO defers to NE on matters under the Natural Environment and Rural Communities Act 2006.	The Applicants have received feedback from NE on the Outline Sabellaria Reef Management Plan (REP1-044) at Deadline 2 and have provided responses to NE's detailed comments (document reference ExA.AS-18.D3.V1). A further iteration of the Outline Sabellaria Reef Management Plan (REP1-044) will be submitted into the examination with any necessary changes once matters are closed out with NE.	The MMO notes the Applicant is currently in discussion with Natural England on outstanding comments and may submit an updated version of the Sabellaria Reef Management Plan at a future deadline. The MMO will provide any further comments at Deadline 5.
019	1.6.5 The MMO notes the Applicant has advised that the Sabellaria Reef Management Plan will be secured through a condition which will be in the updated DCO submitted at Deadline 3. The MMO will review this amendment and provide any further comments at this stage.	Noted	The MMO has reviewed the updated dDCO [REP03-011] submitted at Deadline 3 and is content with the wording of the condition.
1.7 Applicants ISAA (HRA) Addendum Marine Mammals [REP1-038]			
020	1.7.1 Point 17 in Section 2 of the Habitat Regulations Assessment (HRA) Addendum states the following: "The Applicant has also committed to the following in order to reduce the potential for significant disturbance of harbour porpoise in	The 'without mitigation' refers to at-source noise mitigation (such as use of bubble curtains or other noise attenuation) with regard to reducing the potential for significant disturbance of harbour porpoise in relation to the Conservation Objectives and current guidance for the Southern North Sea SAC.	The MMO notes this comment and is currently reviewing this comment alongside the updated MMMP and SNS SAC SIP and will provide comments at Deadline 5.

<p>relation to the Conservation Objectives and current guidance for the SNS SAC. These commitments apply to the project alone case as well as in-combination with other projects:</p> <p>Only one detonation at a time during UXO clearance operations in the offshore development areas. There would be no simultaneous UXO detonations in either season. In the summer period in the summer area potentially more than one UXO detonation could occur in a 24 hour period. In the winter period in the winter area, only one UXO detonation without mitigation could occur in a 24 hour period.</p> <p>There would be no concurrent piling within the offshore development area in either season, with only one pile being installed at a time, with no overlap in the piling duration of any two piles. In the summer period in the summer area potentially more than one piling event could occur in a 24 hour period. In the winter period in the winter area, only one piling event without mitigation could occur in a 24 hour period.</p> <p>During the winter period there would be no UXO detonation without mitigation in the offshore development area in the same 24 hour period as any piling without mitigation in the offshore development area.</p> <p>There would be no concurrent piling or UXO clearance between the proposed East Anglia TWO and East Anglia ONE North projects in</p>	<p>This does not refer to embedded mitigation secured through the Marine mammal Mitigation Protocol (MMMP) (i.e. establishing a mitigation zone based on the maximum potential range for PTS, soft-start and ramp-up, and activation of ADDs prior to soft-start) all of which would be applied to each and every UXO detonation and piling event.</p> <p>This was explained in Paragraph 17 of the Applicants ISAA (HRA) Addendum Marine Mammals [REP1-038] which stated (emphasis added):</p> <p><i>“In addition to the mitigation secured through the MMMP, the Applicant has also committed to the following in order to reduce the potential for significant disturbance of harbour porpoise in relation to the Conservation Objectives and current guidance for the SNS SAC. These commitments apply to the project alone case as well as in-combination with other projects”</i></p>	
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	<p>either season.”</p> <p>The MMO notes the Applicant is clear that there will be no concurrent piling or Unexploded Ordnance (UXO) clearance between EA1N and EA2 in either season. However, The MMO is unsure as to why there is a reference to unmitigated piling and UXO, e.g. “only one UXO detonation without mitigation could occur in a 24-hour period”. The MMO understands that any piling activity or UXO clearance will need to be, and should be, appropriately mitigated. The MMO requests the Applicant could clarify this and that this is clear in both the Southern North Sea (SNS) Special Area of Conservation (SAC) Site Integrity Plans (SIP) and the Marine Mammal Mitigation Protocol (MMMP).</p>		
021	1.7.2 The MMO believes having an appropriate MMMP and SNS SAC SIP in place is likely to reduce the risk of potential impact on marine mammals.	Noted	N/A
022	1.7.3 The Applicant proposes that the In-Principle SIP for the Project is expanded in scope to reflect the project-alone effects as well as in- combination effects. Then should the Applicant wish to undertake multiple UXO clearance or piling events on the same day in the winter period, this will be possible if it can be demonstrated that effective mitigation can be provided.	Noted	N/A
023	1.7.4 The MMO does not believe the approach to updating the SIP for project-alone effects is appropriate and will provide further comments at Deadline 3.	The Applicants will await these comments but maintain the position that the SIP provides the most appropriate and flexible mechanism for adaptive management. The in-combination management determined through the SIP process will need to take account of the	Please see comments in Section 5 of this document.

		project-alone information for the Projects and therefore this information will be included within the SIP in any event.	
1.8 Ornithology			
024	1.8.1 The MMO has reviewed the Deadline 1 submission made by the Royal Society for the Protection of Birds (RSPB) [REP1-180] and notes their point that the Special Protection Area (SPA) citation does not reflect the decline in bird populations. The MMO defers further comment on this matter to NE.	Noted	N/A
025	1.8.2 The MMO notes that in REP1-047 [Offshore Ornithology Cumulation and In Combination Collision Risk Update-Rev-01] the Applicant has made reference to updated estimates for several bird species from those presented within the Environmental Statement, Chapter 12 Offshore Ornithology (APP-060) and the Information to Support Appropriate Assessment Report (ISAA) (APP-043). The Applicant further states that this does not alter the conclusions of the Habitats Regulations Assessment (HRA). The MMO defers further comment on this matter to NE.	Noted	N/A
026	1.8.3 The MMO observes that NE has advised that mitigation regarding Red throated diver is front loaded, including consideration of hub height. The MMO is largely in agreement with this view and consider that where possible parameters of draft height are considered and implemented into the Deemed Marine Licence (DML) as part of the design envelope.	Draught height increase mitigation for which the Applicants have committed to an increase in 2m from 22 to 24m above MHWS is reflected in the updated draft DCO submitted at Deadline 3 (document reference 3.1). This mitigation is relevant to collision risk impacts. Red-throated diver are not particularly sensitive to collision risk, the concerns NE have raised relate to displacement of red-throated diver.	The MMO notes this comment and understands there is ongoing discussions with Natural England. The MMO defers to Natural England on Ornithological matters. However, the MMO is reviewing the updated red-throated diver assessment and reviewing Natural England's response and will provide any comments on impacts to the dDCO/DMLs at Deadline 5.

		The Applicants have submitted an updated red-throated diver assessment at Deadline 3 (document reference ExA.AS-4.D3.V1).	
027	1.8.4 The MMO further observes that NE advocate for the construction of the array in excess of 10 kilometres (km) from the Outer Thames Estuary SPA. The MMO defers further comment on this matter to NE but note that this approach may require further assessment of other aspects of the proposed construction, for example cable protection.	<p>The Applicants have committed to an increased buffer distance from the Outer Thames Estuary SPA from approximately 400m to 2km.</p> <p>The worst case scenarios for cable protection assessed in the ES are unchanged.</p>	The MMO welcomes this increase and the relevant updates to the EA1N dDCO and defers to Natural England on whether this alleviates their concerns.
028	1.8.5 In their deadline 1 submission NE notes that the Appropriate Assessment should take into account O&M activities. The MMO supports this approach but advise that should additional O&M consents be necessary, further assessment of these impacts is likely to be required.	The Effects on Supporting Habitats of the Outer Thames Estuary SPA note submitted at Deadline 3 (ExA.AS-13.D3.V1), provides an assessment of O&M activities on the supporting habitats.	The MMO is reviewing this document and Natural England's response and will provide any comments on impacts to the dDCO/DMLs at Deadline 5.
029	1.8.6 The MMO understands that NE has suggested a seasonal restriction should be in place in respect of cable laying activity in the Outer Thames Estuary SPA. The MMO expects to see this reflected in the DML if it is deemed to be an acceptable form of mitigation. The MMO defers further comment until Deadline 4, once a revised DML has been submitted by the Applicant.	The Applicants are continuing to engage with NE on this matter.	The MMO notes this and will review any updates from the Applicant and Natural England.
030	<p>1.8.7 In respect of all proposed DML conditions, the MMO urges that the wording is concurrent with the 'Five Tests'. These are:</p> <ol style="list-style-type: none"> 1. The condition must be Necessary. 2. The condition must Relate to the activity or development. 3. The condition must be Precise. 4. The condition must be Enforceable. 	Noted	The MMO has reviewed the updated dDCO with the updates in relation to the Ornithological Monitoring Plan and is continuing discussions with Natural England on the appropriateness of the wording of this condition and will provide and update at Deadline 5.

	<p>5. The condition must be Reasonable.</p> <p>The MMO reserves the right to comment on matters related to the DML in future deadlines.</p>		
031	<p>1.8.8 The MMO notes that NE propose that post-construction ornithological monitoring is conditioned within the DML with a focus on validating predicted impacts. As above the MMO urges that conditions are reflective of the five tests, and that the MMO reserves comment on these matters to a future deadline.</p>	<p>The in-principle monitoring plan has been updated and submitted at Deadline 3 (document reference 8.13) to include provision for red-throated diver monitoring.</p> <p>The Applicants have updated conditions 20 and 22 of the Generation DML and conditions 16 and 18 of the Transmission DML to make provision for pre-construction and post-construction ornithological monitoring within the updated Draft DCO submitted into the Examination at Deadline 3 (document reference 3.1).</p>	<p>The MMO welcomes this update to the IPMP and the dDCO and is continuing discussions with Natural England on if these alleviate their concerns and will provide an update at Deadline 5.</p>
032	<p>1.8.9 To ensure an efficient examination the MMO would welcome involvement in the production of any proposed DML conditions at the earliest opportunity.</p>		
033	<p>1.8.10 The MMO understands that there are tensions between mitigation for ornithological matters and matters pertaining to Seascape and Landscape Visual Impact Assessment (SLVIA). The MMO defers further comment on this matter to NE.</p>	Noted	N/A
2. MMO Other Comments			
034	<p>2.1 New Cable Protection</p> <p>2.1.1 The MMO notes the Applicant has not advised on if they are going to include new cable protection as part of the O&M activities.</p>	<p>The Applicants have submitted an updated outline Offshore Operations and Maintenance Plan (OOMP) at Deadline 3 (document reference 8.12) which clarifies the process for the installation of additional cable protection during O&M. In addition, a new DML condition has been included in the Generation DML (condition 24) and the Transmission DML (condition 20) to make provision for the installation of additional cable protection (and</p>	<p>The MMO welcomes the Applicant's confirmation of the inclusion of the installation of additional cable protection (and scour protection) in areas where it was not installed during construction.</p> <p>The MMO notes the Applicant has now included this activity within the dDCO at Schedule 13, Part 2 Condition 24 and Schedule 14, Part 2 Condition 20 and this has also been updated within the</p>

		<p>scour protection) in areas where it was not installed during construction subject to MMO approval.</p> <p>The Applicants consider that this approach provides the MMO with sufficient comfort that such activities will not be undertaken without subsequent approval from the MMO whilst removing the need for a separate marine licence post consent. The updated draft DCO has been submitted at Deadline 3 (document reference 3.2</p>	<p>OOMP, with reference to these conditions.</p> <p>The MMO is currently reviewing this condition to see if this alleviates the concerns raised and will provide further comments on the requirements within the OOMP and the dDCO Condition at Deadline 5.</p>
035	<p>2.1.2 The MMO notes the Applicant states that a position statement was being produced in relation to New Cable or Scour Protection. The MMO did work on a potential position statement however to maintain its ability to review each application on a case by case basis and taking account of the specific circumstances of each case, the MMO believes providing a formal position statement would not be appropriate.</p> <p>2.1.3 The MMO notes NE has provided a position statement on this matter and the MMO may take the information within this document into account when reviewing the potential to include new cable protection in any long-term consent.</p> <p>However, to assist the Applicant in deciding their position the MMO has provided some general principles that will be used in assessing new cable protection below.</p>	Noted	N/A
036	2.1.5 Any cable or scour protection which is proposed in areas where no such protection	See response to Point 034 above.	See response to Point 034 above.

	<p>was employed during the construction phase of the wind farm is considered new cable or scour protection, and therefore cannot be properly considered to be a maintenance activity.</p> <p>2.1.6 Any new cable or scour protection must generally be consented through a separate marine licence and not through the O&M plan.</p> <p>2.1.7 In addition to this any separate marine licence for O&M should generally not include new cable or scour protection unless it is for maintenance of protection employed during the construction phase and must generally be consented through a separate marine licence.</p> <p>2.1.8 For marine licence cable and scour protection applications that are not in marine protected areas in respect of benthic habitat features, the MMO may consider it appropriate to offer a long term licence of a maximum of 10 years.</p> <p>2.1.9 For marine licence cable and scour protection applications that are in marine protected areas in respect of benthic habitat features, the MMO will generally require a separate marine licence to be in place for each and every individual campaign of scour and cable protection employed throughout the lifetime of the project.</p> <p>The MMO believes the Applicant should advise the final position on this matter at the earliest opportunity to enable comments by all interested parties.</p>		
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037	<p>2.2 East Anglia One North (EA1N) and East Anglia Two (EA2) Cooperation/Coordination</p> <p>2.2.1 The MMO notes NE has requested that there is a condition added to the DML to ensure there is no concurrent piling between EA1N and EA2. The Applicant has responded and advised that they believe this will be managed using the SNS SAC SIP. The MMO believes the appropriate place to manage the in-combination impacts is the SNS SAC SIP.</p> <p>2.2.2 However, the MMO does agree with NE that there may be concerns in the review and potential overlap of some of the pre-construction documents. The MMO believes that should EA1N and EA2 be constructing at the same time some of the pre-construction documents may be linked, therefore the MMO requests the following conditions are added to Schedule 13 and Schedule 14 to ensure the overlap is fully covered:</p> <p>2.2.3 Schedule 13</p> <p><i>Coordination with EA2 Offshore Wind Farm</i></p> <p><i>18.—(1) Prior to submission of each of the UXO-clearance and pre- construction plans and documentation required to be submitted under condition 16(1) and 17(1) above the undertaker must provide a copy of the relevant plans and documentation to the undertaker of the offshore element of the EA2 Offshore Wind Farm to enable that undertaker to provide any comments on the plans and</i></p>	<p>The Applicants have submitted an updated draft DCO at Deadline 3 (document reference 3.1) which includes a Cooperation/Coordination condition as requested by the MMO.</p> <p>This can be found in condition 25 of the Generation DML and condition 21 of the Transmission DML.</p> <p>The Applicants welcome MMO's advice that the SIP is the best place to manage the commitment to no concurrent piling.</p>	<p>The MMO welcomes this update in the dDCO submitted at Deadline 3 [REP3-011] and has no further comments at this stage.</p>
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	<p>documentation.</p> <p><i>(2) The undertaker must participate in liaison meetings with the undertaker of the offshore element of the EA2 Offshore Wind Farm as requested from time to time by the MMO in writing in advance, which meeting will be chaired by the MMO and may consider such matters as are determined by the MMO relating to the efficient operation of the offshore element of the authorised project and the offshore element of the EA1N/EA2 Offshore Wind Farm.</i></p> <p>2.2.4 Schedule 14</p> <p>Coordination with EA2 Offshore Wind Farm</p> <p><i>18.—(1) Prior to submission of each of the UXO-clearance and pre- construction plans and documentation required to be submitted under condition 12(1) and 13(1) above the undertaker must provide a copy of the relevant plans and documentation to the undertaker of the offshore element of the EA2 Offshore Wind Farm to enable that undertaker to provide any comments on the plans and documentation.</i></p> <p><i>(2) The undertaker must participate in liaison meetings with the undertaker of the offshore element of the EA2 Offshore Wind Farm as requested from time to time by the MMO in writing in advance, which meeting will be chaired by the MMO and may consider such matters as are determined by the MMO relating to the efficient operation of the offshore element of the authorised project and the</i></p>		
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	<i>offshore element of the EA1N/EA2 Offshore Wind Farm.</i>		
	<p>2.3 Completion of Construction</p> <p>2.3.1 The MMO notes NE and the Applicant have discussed including something more specific within the DML to ensure it is clear when the construction phase ends and the O&M phase begins. The Applicant believes that the notification requirement are appropriate.</p> <p>2.3.2 The MMO believes that it would be helpful for a 'close-out' or 'as- built' report to be submitted at the end of construction. This will assist in clarity to all parties on what the final parameters were at the end of construction.</p> <p>In addition to this, a report will ensure that cable protection to be used for maintenance can be set out at the start of the O&M phase ensuring the consenting parameters aren't exceeded. This will also assist at the decommissioning stage to know the exact amount of cable protection placed during the construction phase linking with the O&M plan. The MMO wishes to highlight to the ExA, at this stage, there are current ongoing internal discussions within the MMO about this issue. The MMO welcomes discussions with NE and the Applicant on this matter and will provide an update at future deadlines.</p>	<p>The Applicants consider that the notification requirements within the DMLs are appropriate. It is noted that the MMO state that a 'close out' report may be "helpful", however the Applicants do not consider it to be necessary and therefore such a condition would not meet the tests for a condition as set out in row 030 above.</p>	<p>The MMO notes the Applicant's comments and is continuing internal discussions and will provide an update at Deadline 5.</p>
	<p>2.4 Article 36 – Certified Documents</p> <p>2.4.1 The MMO wishes to propose an update to the dDCO. The MMO believes Article 36 should be amended to include the following</p>	<p>Article 36 of the draft DCO includes a list of all of the documents to be certified and also includes details of the document reference</p>	<p>The MMO notes the Applicant's comments. The MMO believes that any updates or references to updates to the Environmental Statement (ES) Assessments should be a</p>

<p>condition and a new Schedule 16 should be included in the dDCO as per the Schedule 18 of the Norfolk Boreas Offshore Wind Farm dDCO attached in Appendix 2. The MMO believes this will ensure all parties know the consented version of the certified document and prevent confusion at the pre-construction stage.</p> <p>Certification of plans etc.</p> <p><i>36.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the documents listed in Schedule 16 (Documents to be certified) for certification that they are true copies of the documents referred to in this Order.</i></p> <p><i>(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.</i></p> <p><i>(3) Where a plan or document certified under paragraph (1)—</i></p> <p><i>(a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and</i></p> <p><i>(b) identifies that provision by a number, or combination of numbers and letters, which is different from the number, or combination of numbers and letters by which the corresponding provision of this Order is identified in the Order as made</i></p> <p><i>the reference in the plan or document concerned must be construed for the purposes of this Order as referring to the</i></p>	<p>number and version/revision number so that it is clear which version of the document is to be certified. This Article will be updated in each version of the draft DCO to reflect the latest position in respect of each document.</p> <p>In light of the approach taken to Article 36, the Applicants do not consider that a separate schedule is necessary.</p>	<p>certified document and should be set out with in the dDCO. The MMO believes that it needs to be clear on the face of the dDCO what documents and information is certified at the consenting stage. The MMO believes that putting certified documents within a separate schedule, as set out in Appendix 2 of REP2-048, allows for more detail to be captured such as any documents linked with the ES and reduce any issues that may arise on the exact parameters/agreed mitigation at post consent stage.</p> <p>The MMO is continuing internal discussions and will provide an update at Deadline 5.</p>
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	<i>provision (if any) corresponding to that provision in the Order as made.</i>		
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4.2 Table 2: MMO's Comments on the Applicants Response to MMO written questions

Please note the MMO has only included questions where a response is believed to be required and that has not been covered in Section 1-3 or Table 1 above

ExA. Question Ref.	Question addressed to	ExA. Question	Applicants' Response	MMO's Comment at Deadline 2	Applicants' Response to MMO Comment at Deadline 3	MMO 's Comment at Deadline 4
1.0 Overarching, general and cross-topic questions						
1.0.8	The Applicant, ESC, SCC, Historic England, Natural England, AONB Board, Parish Councils, SASES, SEAS, SEAS, SoS	<p>Design Principles</p> <p>In the context of EN-1 paragraph 4.5.5, explain how the design of the EA1N and EA2 projects meet the National Infrastructure Commission's Design Principles for National Infrastructure (February 2020) in respect of Climate, Places, People and Value, both offshore and onshore and in all three phases of construction, operation and decommissioning.</p> <p>Comment on the desirability of implementing the following measures to ensure that good quality sustainable design and</p>	<p>a) Paragraph 4.5.5 of EN-1 states that Applicants should consider taking independent professional advice on the design aspects of a proposal. In particular, Design Council CABE can be asked to provide design review for nationally significant infrastructure projects and applicants are encouraged to use this service.</p> <p>As per Chapter 5 EIA Methodology (APP-053) the Projects are based on a project design envelope (or 'Rochdale Envelope') approach. It is</p>	The MMO notes the Applicants response and agrees with the reference to Offshore Aspects of the project. The MMO considers that implementing an outline of the proposed design process would be useful and could compliment the suite of pre-construction documents required by the Deemed Marine Licence (DML). The MMO should be consulted on this matter.	The Applicants have submitted an updated version of Appendix 6.3 Relationship of Offshore Plans Secured by the DCO (document reference 6.3.6.3) which details the relationship between the offshore plans and the relevant DML conditions.	The MMO welcomes this document and believes this clarifies the relationship of the offshore plans.

		<p>integration of the proposed substations and National Grid substation projects into the landscape is achieved in the detailed design, construction and operation of the projects. How might they be secured? Are any further measures appropriate?</p> <p>A 'design champion' to advise on the quality of sustainable design and the spatial integration of energy infrastructure structures, buildings, compounds, security fences, landscape, heritage, woodland, new landscape features, public rights of way and visual amenity.</p> <p>A 'design review panel' to provide informed 'critical-friend' comment on</p>	<p>recognised by the Planning Inspectorate (The Planning Inspectorate 2018) that, at the time of submitting the applications, offshore wind developers may not know the precise nature and arrangement of infrastructure and associated infrastructure that make up the proposed development.</p> <p>Acknowledging that the onshore substation and National Grid substation must function efficiently and safely as substations, the <i>Outline Onshore Substation Design Principles Statement</i> (APP-585) submitted with the Applications, commits the Applicants to (amongst other things):</p> <p>A design review of the landscape and</p>			
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			<p>building design proposals (i.e. Design Council or Shape East);</p> <p>Consideration of 'Good Design' in line with the requirements of Overarching National Policy Statement for Energy (NPS-EN-1).</p>			
1.2.30	<p>Natural England, Marine Management Organisation, The Wildlife Trusts</p>	<p>Restrictions on Concurrent UXO Detonation and Piling: Security</p> <p>The ExA notes the Applicant's points at Table 36 of [AS-036] in response to Natural England's requests for security in the DMLs to limit UXO detonations and piling events to a total of one in any 24-hour period.</p> <p>Do Natural England, the MMO, The Wildlife Trusts or any other relevant party wish to comment on the Applicant's reasoning in Table 36 of [APP-036] that Site Integrity</p>	<p>Natural England</p> <p>Please refer to NE Deadline 1 response Appendix B1b.</p> <p>The Wildlife Trust</p> <p>TWT would welcome Natural England's view on this matter.</p>	<p>The MMO disagrees with Natural England and The Wildlife Trust but is continuing discussions on this matter.</p> <p>The MMO believes the SIP the appropriate mechanism to manage conflicting noise between UXO and piling.</p>	<p>The Applicants welcome and agree with the MMO that the SIP is the appropriate mechanism to manage conflicting noise between UXO and piling (for which separate SIPs will be produced.</p>	<p>The MMO notes that in response to Written Question 1.2.30 at Deadline 2 [REP2-048] the MMO highlighted that the SIP was the appropriate mechanism to manage both UXO and piling. After reviewing the Applicant's Deadline 3 submissions, and further internal discussion on the implication of this comment, the MMO's still believes the SIP is the appropriate mechanism to manage both UXO and piling but only for in combination</p>

		Plans, agreed post-consent in accordance with the In-Principle SIP, are an appropriate mechanism to manage this matter? If not, why not?				impacts i.e. in combination impacts between different projects not in combination of different noisy activities within the same project (UXO and piling). The MMO does not believe that the SNS SAC SIP is the appropriate mechanism to manage UXO clearance activities and piling activities for a project alone. Please see Section 5 for further comments.
1.2.40	The Applicant	<p>Site Integrity Plans: Point of Clarification</p> <p>The dDCO [APP-023] appears to provide for the production of separate Site Integrity Plans for UXO Clearance and piling activities.</p> <p>Can the Applicant clarify what is the</p>	The <i>draft DCO</i> (APP-023) provides for two SIPs, one for UXO clearance and one for piling. These are secured separately in the Generation and Transmission DMLs but in practice a single SIP, prepared to meet the requirements of both DMLs, would be produced for each activity	The MMO notes the Generation and Transmission Assets construction may not take place at the same time. If there is only one SIP per activity this may require multiple revisions and consultation on each revision. The MMO would like to highlight concerns	A single UXO SIP will be issued to the MMO three months prior to commencement of UXO clearance in the export cable corridor (under the transmission DML) or windfarm site (under the generation DML), irrespective of the sequencing of	The MMO welcomes the acknowledgement of the risk. The MMO has raised concerns in using the SIP for project alone impacts in Section 5.

		<p>maximum number of Site Integrity Plans in relation to the Southern North Sea SAC that may be produced for a single project?</p>		<p>of the potential delay in proceeding with one document for both the Transmission and Generation Assets.</p> <p>For example, if the Transmission Assets begins construction first. The SIP will be submitted 6 months prior to the commencement of the Transmission Assets activity. If there are issues with information in the Generation Assets section this would mean the document could not be discharged until all the issues with the Generation Assets had been resolved.</p> <p>Leading to potential delays to the Transmission commencement date if these weren't resolved in the 6 months.</p>	<p>clearance in the two areas.</p> <p>Similarly, a single piling SIP for piling of wind turbine foundations (generation DML) and offshore platform foundations (transmission DML) will be issued to the MMO six-months prior to commencement of the first piling activity.</p> <p>The Applicants do not consider there to be any significant risks in taking the approach outlined above.</p>	
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				<p>The MMO believes 6 months allows enough time to resolve issues however would like the Applicant to acknowledge the risk of this approach.</p>		
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5. MMO's Comments on Noise Management

5.1 Inclusion of UXO within the dDCO

The MMO maintains the position that UXO clearance activities should be controlled via a separate marine licence. The MMO acknowledges the Applicant's main reasoning for including UXO within the dDCO below:

'The DCO regime set out within the Planning Act is designed to remove the need for Applicants of nationally significant projects to obtain multiple consents from various authorities. Instead, the necessary consents, powers and rights can be included within the DCO, and this includes deemed marine licences. Requesting that the Applicant apply for a separate marine licence for UXO clearance activities, particularly when such activities have been assessed within the ES, is contrary to the intended purpose of the DCO regime.'

In addition to this the MMO understands the Applicant has provided more information within the MMMP and SNS SAC SIP and updated the notification conditions within the dDCO [REP3-011] to ensure that all parties are aware of the UXO activities and bring this in line with similar UXO marine licence conditions. The MMO welcomes these updates and has provided a without prejudice position in Section 5.4.

The MMO has provided further reasoning for the UXO activities not to be included in the dDCO below:

- a) Since the SNS SAC was designated, the MMO has a duty as a regulator to ensure that noisy activities are properly controlled. The key concern, as set out in the Secretary of State (SoS) recent SNS SAC Review of Consents Habitats Regulations Assessment (HRA), was the avoidance of different projects' noisy activities acting in combination.

All approved marine licences are required by law to be placed on the MMO Public Register. The Public Register includes details of all relevant licenced activities. Crucially, it includes spatial data, which is a key aspect of assessing noisy activities. A marine licence including the noisy activity would be more easily available for public, developer, and MMO scrutiny. Therefore, any other applications for noisy activities can be more accurately accessed and assessed for in combination impacts. The MMO highlights that for DML conditions, and any associated approved documentation, whilst also being publicly available do not function in the same way and spatial data is limited.

Through SoCG discussions with the Applicant on 7 January 2021 the MMO notes that the Applicant questions why this is not raised for piling activities. While this concern is present for piling activities, this is less of a risk as the majority of the piling activities are in the Array area and this is easily identifiable on the Public Register. In addition to this we know the maximum number and size for piling at this stage. The UXO locations and impacts due to the size are unknown and will be embedded within a document that will be more difficult to identify for all parties when searching through the Public Register.

- b) The MMO classes UXO detonations as high risk activities and as the number of expected detonations will not be known until after the DCO were to be consented, the MMO has concerns that if a large number or multiple larger size UXOs are required to be detonated then discharging the SNS SAC SIP for UXO activities may be more difficult and take longer than the agreed timescale. Further, this may potentially lead to a material change, which could lead to impacts to the construction programme and cause the developer delays and financial implications. This would put the MMO in a potential position where UXO activities have been consented but due to the impacts we are unable to approve the activities, therefore delaying the project overall.

A marine licence application will contain more up to date information and provide confidence that the concerns can be reviewed in detail at the time of the application and will not impact



on the remaining consented activities. Please also see Section 5.2 on the timescale within Condition 16 (Schedule 13) and Condition 10 (Schedule 14).

- c) As the survey will be carried out at the post consent stage there is the potential for a larger number or size of UXOs to be identified. The MMO believes there is a risk if the survey identified potential larger or more UXOs within the location requiring detonation than had been assessed within the ES. This would mean a separate marine licence would have to be sought at the time to account for the additional assessment of impacts which could cause delay to the project.
- d) The MMO understands that UXO detonation technology is improving at pace and there may be more technologies that are available at the time of signing off the plans. The MMO believes that all of these technologies may not be assessed fully within the Environmental Statement therefore the method would be more accurately described in a marine licence application.
- e) The MMO does not agree with the use of the SNS SAC SIP for project alone impacts between UXO and piling activities. The MMO believes that this is another reason for UXO activities not to be included in the dDCO/DMLs. Please see Section 5.4 for further information.

The MMO will continue discussions with the Applicant and Natural England on these matters.

5.2 3-month versus 6-month timescale for UXO activities

Condition 16 (Schedule 13) and Condition 10 (Schedule 14) were updated at Deadline 3 [REP3-011] to include a timescale of 3 months for the submission of the required information and documents for UXO activities. As highlighted in section 5.1b the MMO's concerns relate to the ability to discharge the condition within the timescale.

UXO clearance activities require detailed assessments and as a SNS SAC SIP would be used for the in-combination impacts (please see section 5.4 for project alone impacts) the discharge process is complex and time consuming. The MMO would highlight that the normal Key Performance Indicator for a marine licence application is 13 weeks, however in recent years UXO clearance applications have taken longer than this up to 8 months.

The MMO believes 3 months is not long enough to adequately assess and approve the information. The MMO believes 6 months is more appropriate to provide more confidence to the Applicant that the document will be discharged prior to the and therefore not impact on the procurement process or construction programme.

The MMO's initial comments on timescales in Relevant Representation [RR-052] and the Applicant's response were in relation to the preconstruction stage and multiple documents being submitted at once (over 30). The MMO has continued discussions with the Applicant on 18 December 2020 and 7 January 2021, during these discussions the Applicant provided further reasoning on the work they would be conducting prior to the submission of these documents and the MMO proposed alternatives to be discussed. The MMO believes 6 months is appropriate but if not has provided an order of preference below:

- 1) 6 months with the wording 'unless otherwise agreed in writing with the MMO' to allow for any potential delays to the document
- 2) 4 months with the wording 'unless otherwise agreed in writing with the MMO' to allow for any potential delays to the document

The MMO will continue these discussions throughout the Examination.

5.3 The Use of the SNS SAC SIP for Project Alone Impacts

The MMO notes that in response to Written Question 1.2.30 at Deadline 2 [REP2-048] the MMO highlighted that the SIP was the appropriate mechanism to manage both UXO and piling. After reviewing the Applicant's Deadline 3 submissions, and further internal discussion on the implication of this comment, the MMO's still believes the SIP is the appropriate mechanism to



manage both UXO and piling but only for in combination impacts i.e. in combination impacts between different projects not in combination of different noisy activities within the same project (UXO and piling). The MMO does not believe that the SNS SAC SIP is the appropriate mechanism to manage UXO clearance activities and piling activities for a project alone.

The MMO has previously raised concerns on the use of a Site Integrity Plan for project alone impacts in the Norfolk Vanguard and Norfolk Boreas Offshore Wind Farm Examination process. The MMO notes that this was in relation to Benthic Ecology matters of Annex 1 features however the same concerns arise.

During the Issue Specific Hearing 1 the Applicant advised that the use of a SIP for the management of project alone noise impacts was a novel approach and has provided further information in the Deadline 3 submission. The MMO welcomed these documents but still believes that the SIP should only be used for in combination impacts. The MMO also note that Natural England does not agree with the use of the SIP for project alone impacts and the MMO supports this position.

The MMO believes there is a fundamental difference in the need for a SIP for noise impacts between the UXO and piling within a project alone and for the in-combination noise impact within the SNS SAC.

The MMO understands that the current DCO process involves project impacts alone being clearly identified, assessed and any possible mitigation proposed, described in detail, which all parties can have confidence in.

The MMO believes that the SNS SAC SIP was specifically utilised for the uncertainty around in combination impacts that would have an adverse effect on the integrity of a designated site. In combination impacts are out of the Applicant's control therefore the SIP guard against the risks associated with long term planning in combination uncertainties.

The MMO understands the Applicant's reasoning to include the project alone impacts within the SIP is due to the assessment of the potential for AEoI in relation to two noisy (UXO or piling) events in the same 24 hours in the winter part of the SNS SAC for the project alone. The MMO defers to Natural England on the conclusions of HRA, however has raised some concerns on the link between potential HRA conclusions and the DCO process in relation to the SNS SAC SIP below.

The MMO reiterates that confidence in the mitigation proposed is a necessary requirement for consent without which there is a burden of risk, the consequences of which is not felt by the developer alone. The MMO notes the Applicant has stated within the ISAA (HRA) Addendum Marine Mammals [REP1-038]:

"The option to allow both piling and UXO clearance in the same 24-hour period in the winter area during the winter period has been removed, unless it can be demonstrated that effective mitigation can be provided for either activity (or both)."

"The SIP will therefore cover this case if this is required to maintain this flexibility for construction."

The MMO does not believe that the flexibility for construction and UXO clearance would be appropriate in this case as the DCO cannot fully condition mitigation that cannot be committed to until post-consent.

The MMO highlights this is a major risk to a consented wind farm. If no possible mitigation solution is found at the post consent stage, or a variation to the DML/Marine licence is not granted, then the developer would have few further options? The risk and consequences would not be felt solely by the developer. The regulator and stakeholders could also feel increased pressure in trying to progress an already consented wind farm whilst still enforcing regulations as per their remit.

The MMO believes that if the SIP is used for project alone impacts there could be a future scenario where multiple wind farms are consented with project alone SIP documents for the same marine



protected area. This could lead to a possibility that the associated risk and in combination impacts could not be assessed fully at the consenting stage.

The MMO, therefore, questions whether it is appropriate for this process to be deferred to post consent as this could lead to looking at other options through the HRA process such as alternatives or compensation which may cause a high risk to the development and a major financial burden to the Applicant.

The MMO believes that this would set a precedent that such uncertainties can be dealt with at a post consent stage. The MMO believes the SoS is required to make a decision on impacts to Marine Protected Areas at consenting stage and using a SIP to manage alone impacts goes against this process. The MMO defers to the advice of the Statutory Nature Conservation Body in relation to the information supplied and the assessment to be made during this application process.

The MMO notes that the Consented Norfolk Vanguard Offshore Wind Farm project included a SIP for project alone impacts within the DCO. The MMO would like to highlight that this was for Benthic ecology within the Haisborough, Hammond and Winterton SAC. The MMO highlights paragraph 5.9 of the SoS Decision Letter states:

'Also in relation to this site, the Secretary of State notes the Applicant's commitment to producing a Haisborough, Hammond and Winterton Site Integrity Plan, which he views as an additional safeguarding mechanism, although it is not critical to our recommendation. The Site Integrity Plan commits the Applicant to agree all works and potential mitigation measures associated with offshore cable installation (including seabed preparation works and cable protection) and maintenance within the Haisborough, Hammond and Winterton SAC, with the MMO in consultation with Natural England, in order to ensure there would be no AEoI. The Secretary of State considers that it provides sufficient detail on potential mitigation measures at this stage, whilst granting the Applicant a flexible approach until the extent and nature of mitigation becomes clear.'

This shows the SIP with information on project alone concerns did not contribute to the assessment decision but was only included as an additional safeguarding mechanism to deal with any concerns on impacts to the designated features at the post consent stage.

The MMO does not agree that the supporting Grampian condition for the SNS SIP should be included for project alone impacts. As stated above the DCO process outlines these issues should be dealt with at consenting stage via the HRA, therefore the MMO does not agree that the SIP is the most appropriate approach.

The MMO believes that the concept of a SIP for a single project be rejected as adopting this approach would theoretically allow for any construction scenario to be carried forward, even if it was assessed as being significant or having an adverse effect during the EIA and/or HRA process.

The MMO considers that this uncertainty also provides reasoning for UXO activities not to be included on the face of the dDCO due to the uncertainties and lack of information.

The MMO will continue discussions with the Applicant and Natural England on this matter.

5.4 Without Prejudice Position on the inclusion of UXO activities

As set out in Section 5.1 the MMO believes the inclusion of UXO activities within the dDCO could cause concerns if consented.

Notwithstanding this the MMO has reviewed the updated dDCO. The MMO welcomes the notification updates but requires further information to be secured:

- a) How will updates between piling and UXO activities will be managed along with a timescale for the submission of potential updates to any required documents?



- b) The MMO believes that there needs to be a requirement for a UXO Clearance Close Out Report to be submitted to the MMO. The report should be provided at agreed intervals during the construction phase and must include each detonation undertaken:
- a. coordinates, depth, current speed, charge utilised and the date and time of each detonation and whether any mitigation was deployed. Including feedback on practicalities of deployment of equipment and efficacy of the mitigation where possible or justification if this information is not available.

The MMO will continue discussions with the Applicant to see if all matters raised could be resolved by updating the condition and be part of a without prejudice position. The MMO will provide an update at Deadline 5.

Yours Sincerely,



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Marine
Management
Organisation

...ambitious for our
seas and coasts

