



SCOTTISHPOWER
RENEWABLES

East Anglia ONE North and East Anglia TWO Offshore Windfarms

Applicants' Comments on Marine Management Organisation's Deadline 8 Submissions

Applicant: East Anglia TWO and East Anglia ONE North Limited

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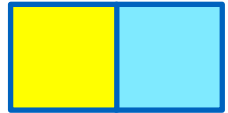
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Applicable to **East Anglia ONE North** and **East Anglia TWO**



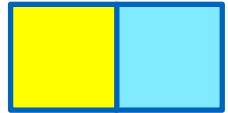
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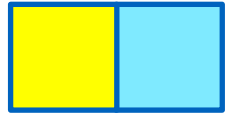
Glossary of Acronyms

AS	Additional Submission
DCO	Development Consent Order
DML	Deemed Marine Licence
EDR	Effective deterrent Range
HDD	Horizontal Directional Drilling
HRA	Habitats Regulation Assessment
IPMP	In-Principle Monitoring Plan
ISH	Issue Specific Hearing
JNCC	Joint Nature Conservation Committee
LCMS	Landfall Construction Method Statement
MMMP	Marine Mammal Mitigation Protocol
MMO	Marine Management Organisation
NE	Natural England
OOMP	Offshore Operations and Maintenance Plan
PD	Procedural Decision
PTS	Permanent Threshold Shift / Permanent Auditory Injury
RTD	Red-Throated Diver
SAC	Special Area of Conservation
SIP	Site Integrity Plan
SNCB	Statutory Nature Conservation Body
SNS	Southern North Sea
SoS	Secretary of State
TTS	Temporary Threshold Shift / Temporary Auditory Injury
UWN	Underwater Noise
UXO	Unexploded Ordnance
WTG	Wind Turbine Generator

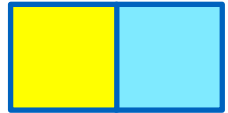


Glossary of Terminology

Applicant	East Anglia TWO Limited / East Anglia ONE North Limited
Construction operation and maintenance platform	A fixed offshore structure required for construction, operation, and maintenance personnel and activities.
East Anglia ONE North project	The proposed project consisting of up to 67 wind turbines, up to four offshore electrical platforms, up to one construction, operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
East Anglia ONE North windfarm site	The offshore area within which wind turbines and offshore platforms will be located.
East Anglia TWO project	The proposed project consisting of up to 75 wind turbines, up to four offshore electrical platforms, up to one construction, operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
East Anglia TWO windfarm site	The offshore area within which wind turbines and offshore platforms will be located.
European site	Sites designated for nature conservation under the Habitats Directive and Birds Directive, as defined in regulation 8 of the Conservation of Habitats and Species Regulations 2017 and regulation 18 of the Conservation of Offshore Marine Habitats and Species Regulations 2017. These include candidate Special Areas of Conservation, Sites of Community Importance, Special Areas of Conservation and Special Protection Areas.
Generation Deemed Marine Licence (DML)	The deemed marine licence in respect of the generation assets set out within Schedule 13 of the draft DCO.
Horizontal directional drilling (HDD)	A method of cable installation where the cable is drilled beneath a feature without the need for trenching.
Inter-array cables	Offshore cables which link the wind turbines to each other and the offshore electrical platforms, these cables will include fibre optic cables.
Jointing bay	Underground structures constructed at intervals along the onshore cable route to join sections of cable and facilitate installation of the cables into the buried ducts.
Landfall	The area (from Mean Low Water Springs) where the offshore export cables would make contact with land, and connect to the onshore cables.
Link boxes	Underground chambers within the onshore cable route housing electrical earthing links.
Meteorological mast	An offshore structure which contains metrological instruments used for wind data acquisition.
Mitigation areas	Areas captured within the onshore development area specifically for mitigating expected or anticipated impacts.
Marking buoys	Buoys to delineate spatial features / restrictions within the offshore development area.



Monitoring buoys	Buoys to monitor <i>in situ</i> condition within the windfarm, for example wave and metocean conditions.
Natura 2000 site	A site forming part of the network of sites made up of Special Areas of Conservation and Special Protection Areas designated respectively under the Habitats Directive and Birds Directive.
Offshore cable corridor	This is the area which will contain the offshore export cables between offshore electrical platforms and landfall.
Offshore development area	The East Anglia TWO / East Anglia ONE North windfarm site and offshore cable corridor (up to Mean High Water Springs).
Offshore electrical infrastructure	The transmission assets required to export generated electricity to shore. This includes inter-array cables from the wind turbines to the offshore electrical platforms, offshore electrical platforms, platform link cables and export cables from the offshore electrical platforms to the landfall.
Offshore electrical platform	A fixed structure located within the windfarm area, containing electrical equipment to aggregate the power from the wind turbines and convert it into a more suitable form for export to shore.
Offshore export cables	The cables which would bring electricity from the offshore electrical platforms to the landfall. These cables will include fibre optic cables.
Offshore infrastructure	All of the offshore infrastructure including wind turbines, platforms, and cables.
Offshore platform	A collective term for the construction, operation and maintenance platform and the offshore electrical platforms.
Platform link cable	Electrical cable which links one or more offshore platforms. These cables will include fibre optic cables.
Safety zones	A marine area declared for the purposes of safety around a renewable energy installation or works / construction area under the Energy Act 2004.
Scour protection	Protective materials to avoid sediment being eroded away from the base of the foundations as a result of the flow of water.
Transition bay	Underground structures at the landfall that house the joints between the offshore export cables and the onshore cables.
Transmission DML	The deemed marine licence in respect of the transmission assets set out within Schedule 14 of the draft DCO.



1 Introduction

1. This document presents the Applicants' comments on the Marine Management Organisation's (MMO) Deadline 8 submissions (REP8-156). It should be noted that the Applicants have not reproduced all the text within the MMO Deadline 8 submission. Where the Applicants have 'no further comment' on specific sections of the response, the section heading has been included in the second column and then 'no further comment' included in the Applicants' response column.
2. This document is applicable to both the East Anglia TWO and East Anglia ONE North DCO applications, and therefore is endorsed with the yellow and blue icon used to identify materially identical documentation in accordance with the Examining Authority's procedural decisions on document management of 23rd December 2019 (PD-004). Whilst this document has been submitted to both Examinations, if it is read for one project submission there is no need to read it for the other project submission.



2 Comments on MMO's Deadline 8 Submissions

ID	MMO Comment / Section of MMO Response Considered	Applicants' Comments
1. Summary of Oral Cases made during the Biodiversity and Habitats Regulations Assessment (HRA) Issue Specific Hearing (ISH) 14		
1	1.1 Agenda Item 2 (c)	No comment
2	<p>1.2 Agenda Item 3(d)(i)</p> <p>The MMO notes the Applicant's points made regarding the Best Practice Protocol for Red Throated Divers (RTD) and ultimately defers to NE on the appropriateness of the content of this document.</p> <p>The MMO intends to discuss internally the proposition that a condition should be inserted into the DML to secure the use of this document and will endeavour to provide an update on its position at Issue Specific Hearing 15 (19 March 2021). Please see Section 8.10 for the MMO position on this matter.</p>	See ID 34
3	<p>1.3 Agenda Item 3(e)(i)</p> <p>1.4 Agenda Item 4(b)(i)</p> <p>1.5 Agenda Item 6(a)(ii)</p>	No comment
4	<p>1.6 Agenda Item 7(a)(ii)</p> <p>The MMO notes the points made by the Applicant regarding the content of their compensation packages, however, the MMO defers the appropriateness of this detail to NE. The MMO notes that the updated compensation packages are contained in Schedule 18 of the DCO. Furthermore, the MMO consider this is an appropriate mechanism for these measures as, ultimately, they are for the decision of the Secretary of State as the competent authority.</p>	No comment



ID	MMO Comment / Section of MMO Response Considered	Applicants' Comments
	<p>Therefore, the MMO is of the opinion that the DCO is the appropriate place to secure them.</p> <p>The MMO also wishes to make it clear that our comments on the updated Schedule 18 will be submitted in its Deadline 8 response and will concentrate on these projects specifically and will avoid comment on Hornsea Project Three Offshore Wind Farm (HOW03) at this stage.</p> <p>The MMO intends to consider the ExA question as to whether securement of the compensation packages need to be conditioned in the DML as well as being included in the DCO Schedule 18 and will provide an update at Issue Specific Hearing 15 after seeking internal guidance, however, the MMO notes the Applicants point that replication of security should be avoided so as to not overpopulate the DCO. The MMO also notes that whilst consenting HOW03, the SOS expressed the necessity for securing compensation at the Examination stage.</p>	
5	1.7 Agenda Item 11 (a)(i)	No comment
6	<p>1.8 Agenda Item 11 (a)(ii)</p> <p>The MMO welcomes the Applicants update to Condition 16 of Schedule 13 and Condition 12 of Schedule 14 to include the provision of a UXO close out report. The MMO is largely content with the wording for the condition, however, the MMO has been in discussion with the Applicant in relation to a time scale to produce this report and has proposed three months. Additionally, the MMO is confirming the appropriateness of the wording with NE and are aiming to agree this for Deadline 8. Please see Section 8.9 for the MMO position on this matter.</p> <p>The MMO, in principle, agrees with the wording of the Condition 27 of Schedule 13 and Condition 23 of Schedule 14 in the DCO. The MMO is currently discussing with both NE and the Applicant as to whether UXO detonation needs to be defined in the DCO. This</p>	<p>Within the updated draft DCO submitted at Deadline 8 the Applicants agreed with the MMO to include the following with regard to timescales for delivery of a UXO clearance close out report:</p> <p><i>...a UXO clearance close out report must be submitted to the MMO and the relevant statutory nature conservation body within three months...</i></p> <p>The Applicants agreed with the MMO and NE that it was not necessary or appropriate to update the condition wording to include a definition of UXO detonation and instead further detail would be provided within the draft MMMP and in-</p>



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	<p>is in the event UXO clusters are to be used in this project or indeed, in future Offshore Wind Farms. Please see Section 8.9 for the final MMO position.</p>	<p>principle SIP to provide clarity in respect of what is meant by the term “UXO detonation” and which takes into account the potential for existing clustering of UXO devices e.g. where two devices are found in such close proximity that detonation of one would likely result in detonation of the other. Updated versions of the draft MMMP and Outline SIP which address this matter were submitted at Deadline 8 (REP8-030 and REP8-032 respectively).</p> <p>The Applicants understand that the MMO and NE are now content with the condition wording and that this matter is resolved.</p>
7	<p>1.9 Agenda Item 11 (a)(iii)</p> <p>The MMO's position remains that it considers UXO activities are better suited to a separate marine licence but continues to work on its without prejudice position with the Applicant.</p> <p>The MMO welcomes the progress made by the Applicant on the UXO condition, however, the MMO's position remains unchanged and consider it is now up to the ExA recommendation and Secretary of State (SoS) to make a decision on this matter.</p> <p>The MMO asserts that this is a concern for consistency with existing Offshore Wind Farms, if UXO clearance activities are included within in the DML, this does set a precedent. The MMO considers that it could be difficult to manage multiple consents that have UXO clearance activities on the main DCO in relation to in-combination effects.</p> <p>The MMO believes that UXO clearance is a high risk activity and it is more appropriate to manage these activities through a separate marine licence. The reasoning behind</p>	<p>The Applicants maintain their position that it is appropriate to secure UXO clearance activities within the DMLs and that such activities are appropriately controlled by conditions within the DMLs.</p> <p>The Applicants have no further comment on this topic.</p>



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	<p>this is for the consideration of best available evidence and technology which may have progressed by the time the activity is taking place.</p>	
8	<p>1.10 Agenda Item 11 (b)(i)</p> <p>The MMO understands that for in-combination impacts, NE are still not content as there is no mechanism to manage this.</p> <p>The MMO believes the SNS Special Area of Conservation (SAC) SIP is the appropriate mechanism that allows review of cumulative noise activity at the time to ensure all activities are within the conservation objectives/guidance.</p> <p>The MMO reiterates that SNS regulators group will be meeting 18 March 2021 and the MMO will be providing an update at Deadline 8 for the benefit of the ExA.</p> <p>Please see Section 10.1.</p>	<p>The Applicants agree that the SIP is the most suitable mechanism for managing in-combination underwater noise impacts in the southern North Sea.</p>
9	<p>1.11 Agenda Item 11 (b)(ii)</p> <p>The MMO welcomes the exclusion of project alone impacts from the IPSIP. The only, outstanding issue which remains in regard to this document from the MMO standpoint is the usage of Temporary Threshold Shift (TTS) by the Applicant.</p> <p>The MMO understands the Applicant has responded on this point in their Deadline 7 response to advise that this is included within the disturbances set out in Table 5.1. The MMO understands this point and is currently awaiting confirmation from our scientific advisors that the inclusion of the TTS is appropriate. Please see Section 7.4.</p>	<p>The Applicants do not consider that TTS is required to be included because the SIP's purpose is to manage 'significant disturbance'. Therefore, the currently recommended Effective Deterring Ranges (EDR) in JNCC <i>et al.</i> (2020) (AS-045) which assesses disturbance is the metric used in the SIP.</p> <p>TTS is the Temporary Threshold Shift or temporary change in hearing sensitivity of marine mammals.</p> <p>The impact ranges for TTS are also often used as a proxy for fleeing response, in that if the noise levels are high enough to result in a temporary change in hearing sensitivity then they could illicit a behavioural response such as fleeing in marine mammals. However, disturbance for many marine mammal species can occur at noise levels less than the noise levels that cause TTS and therefore disturbance can</p>



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		<p>potentially occur over greater distances than predicted by the modelled ranges for TTS.</p> <p>Mitigation to reduce the risk of any permanent auditory injury is covered in the MMMP based on the maximum predicted impact ranges for PTS (Permanent Threshold Shift) which also reduces the risk of TTS.</p> <p>Nonetheless, as requested, the Applicants included a row for TTS within Table 5.1 of the SIP submitted at Deadline 8 (REP8-032).</p> <p>The Applicants consider this matter to be closed.</p>
10	<p>1.12 Agenda Item 11 (b)(iii)</p> <p>Regarding the SNS SAC SIP condition, Condition 26 of Schedule 13 and Condition 22 of Schedule 14 of REP7-0007/8, the MMO is content with the current wording of this condition from the Applicant. Please see Section 8.8 for the MMO position on this matter.</p>	<p>The Applicants welcome this position.</p> <p>The Applicants consider this matter to be closed.</p>
11	<p>1.13 Agenda Item 11 (c)(i)</p> <p>The MMO asserts that the outstanding comments on this document were in relation to the metric used for UXO detonation and that the maximum potential Permanent Threshold Shift being used.</p> <p>The MMO understands that the Applicant has made amendments to the MMMP. The MMO welcomes this and hopes to agree all unresolved issues at Deadline 8, the MMO is also discussing these points with our scientific advisors to close out these points. Please see Section 7.3.</p>	<p>See ID 38a</p>



ID	MMO Comment / Section of MMO Response Considered	Applicants' Comments
	<p>The MMO also believes that NE may still have outstanding concerns on this document, and we support these concerns. The MMO will work with NE and the Applicant to provide a position on anything else raised.</p>	
12	<p>1.14 Agenda Item 11(d)(i)</p> <p>The MMO welcomes the Applicant's inclusion of Underwater Noise monitoring provisions. The MMO notes this was requested by NE and defers to NE to advise if this is acceptable.</p> <p>The MMO also notes the Applicant's point regarding reverting back to the original wording for securing these measures, the MMO will discuss this with the Applicant and aims to have this agreed at Deadline 8. Please see section 8.11 for the MMO's final position.</p>	Noted
13	<p>1.15 Agenda Item 11 (e)(i)</p> <p>With regards to the timescales for Condition 16(3) of Schedule 13 and Condition 12(3) of Schedule 14, the MMO is content with all the timescales relating to UXO clearance activities. The MMO notes this does not alter the without prejudice position as set out in Section 9.5 for the MMO position on this matter.</p>	Noted
14	<p>1.16 Agenda Item 11 (e)(ii)</p> <p>With regards to Condition 25 of Schedule 13 and Condition 21 of Schedule 14, the MMO welcome all the updates from the Applicant and are content with all of the changes made in relation to the co-operation condition.</p>	<p>The Applicants welcome this position.</p> <p>The Applicants consider this matter to be closed.</p>
15	<p>1.18 Agenda Item 11 (f)</p> <p>The MMO has one outstanding concern relating to Underwater Noise and marine mammals which relates to the modelling conducted by the Applicant for piling in a 24-hour period. The MMO notes that the response by the Applicant in REP-075/076 have been linked to point 060 which discusses the updates to the DCO in the new</p>	See ID 47



ID	MMO Comment / Section of MMO Response Considered	Applicants' Comments
	<p>commitment, Schedule 13 Condition 27/Schedule 14 Condition 23, Control of piling and UXO detonations.</p> <p>Currently, the MMO understands that paragraph 3 of this relates specifically to the winter period of the SNS SAC and this does not alleviate the concerns in relation to the modelling. The MMO understands that if the Applicant is going to pile more than once within the 24-hour period (of the summer period) then the modelling needs to be updated to take this into account as set out in points 075/076 of our Deadline 5 response [REP5-075]. The MMO will continue to work with the Applicant to address this concern for Deadline 8. Please see Section 9.2 for the MMO position on this matter.</p>	
<p>2. Summary of Oral Cases made during the draft Development Consent Orders & Other Matters Issue Specific Hearing (ISH) 15</p>		
16	<p>2.1 Agenda Item 2</p> <p><u>Article 5 – Benefit of the order</u></p> <p>In relation to Article 5 of the dDCO (REP7-006), the MMO notes the points raised by the Applicant in Applicants' Comments on Marine Management Organisation's Deadline 6 Submissions [REP7-055] however, the MMO believes that further information should be included in this article in the interest of clarity.</p> <p>The MMO refers to Article 6 of the Norfolk Vanguard Offshore Wind Farm DCO and Article 5 HOW03 DCO, in particular, parts 1, 4, 10c or 6c and 14, 15 and 16 or 9, 10 and 11. The MMO believes that these sections should be included in the dDCO to ensure that there is a standard condition for all DCOs going forward. Please see Section 9.7 for the full MMO position on this matter.</p>	<p>The Applicants disagree that the benefit of the order provision requires to be standard across DCOs. Each project is different, and it is not necessarily appropriate for identical provisions to be applied. The Applicants do not consider that this is an appropriate rationale to justify the changes proposed by the MMO.</p> <p>With respect to the specific provisions proposed, paragraph (1) of Article 6 of Norfolk Vanguard is not appropriate in the context of the Order as there are provisions within the DCO that are for the benefit of others (e.g. protective provisions). Such a provision is inappropriate and in any event is entirely unnecessary. It is akin to a “for the avoidance of doubt” provision which the Applicants do not consider should be included within the DCO. The MMO has not explained why such a provision is considered necessary or appropriate for inclusion in the DCO for the Projects beyond citing a desire for consistency with some recent DCOs.</p>



ID	MMO Comment / Section of MMO Response Considered	Applicants' Comments
		<p>Paragraph (4) requires notification to be given to the Secretary of State prior to an application for a transfer being made and the Applicants do not consider this to be necessary. Whilst this appears in the recent Norfolk Vanguard, Hornsea Three and Cleve Hill Solar DCOs, the Applicants are not aware of it appearing in any other DCOs to date. The Applicants would query why this is of relevance to the MMO and would assume that if the Secretary of State wishes for this to be included then in the event that consent is granted, the Secretary of State will include such provision at that stage.</p> <p>With respect to paragraph (10)(c) of Article 6 of the Norfolk Vanguard DCO, the Applicants consider that this is duplication and should not be included in the draft DCO as equivalent provision is included within paragraph (5) of Article 5 of the draft DCO. It is not clear to the Applicants why the MMO consider such provision to be necessary. The Applicants note that this duplication appears in Norfolk Vanguard but not in Hornsea Three. The Applicants consider that such an amendment would not be appropriate or necessary and could lead to confusion.</p> <p>The Applicants have however agreed to the inclusion of paragraphs (14), (15) and (16) of Article 6 of the Norfolk Vanguard DCO in order to provide further clarity around the notification procedures. This change is reflected in the draft DCO submitted at Deadline 8.</p>
17	<u>Requirement 13 – Landfall Method Statement</u>	The Applicants have included the MMO as a consultee in respect of the offshore elements of the Landfall Construction



ID	MMO Comment / Section of MMO Response Considered	Applicants' Comments
	<p>In respect of requirement 13 and the Landfall Construction Method Statement, the MMO has reviewed this requirement and propose an amendment, to the Applicant, in that the MMO and NE should be cited as consultees on this document. This position has been formulated following discussions with East Suffolk Council and NE. The MMO is in the process of clarifying this position internally and will provide an update in writing at Deadline 8. Please see Section 8.11 for the MMO's final position on this matter.</p>	<p>Method Statement within requirement 13 and consider this matter to be resolved.</p>
18	<p><u>Condition 16 (Schedule 13) and Condition 12 (Schedule 14)</u></p> <p>The MMO is content with the updates made by the Applicant.</p> <p>The MMO does have some outstanding issues regarding this condition that have been mentioned by the Applicant, the MMO welcomes the Applicants commitment to change the word 'may' to 'will' and have no other issues regarding phraseology. The MMO also welcomes the Applicants commitment to updating the condition to include a three-month timescale, the MMO is confident that other than the without prejudice position for UXO clearance activities being included in the DCO the wording of the condition will be agreed by Deadline 8. Please see Section 9.5 for the MMO's final position on this matter.</p>	<p>The Applicants have included a requirement to submit the close out report within three months and have also amended the text in paragraph (6) from "may" to "will" and this is reflected in the draft DCO submitted at Deadline 8.</p> <p>The Applicants consider this matter to be closed.</p>
19	<p><u>Condition 17 (Schedule 13) and Condition 14 (Schedule 14)</u></p> <p>The MMO is content with all the updates made to Schedule 13, Condition 17(1)(g) and Schedule 14, Condition 13(1)(g) and have no further comments to make.</p>	<p>The Applicants welcome this position.</p> <p>The Applicants consider this matter to be closed.</p>
20	<p><u>Condition 21 (Schedule 13) and Condition 17 (Schedule 14)</u></p> <p>The MMO agrees with the Applicant in respect of Schedule 13, Condition 21 in that there has been disagreement between parties due to the use of the word 'statistically'. The MMO notes the Applicant's suggestion of reverting back to the original wording of this condition, the MMO welcome this commitment and consider it to be wholly appropriate and believe this will be included in the next iteration of the draft DCO.</p>	<p>The Applicants reverted back to the original wording of this condition in the draft DCO submitted at Deadline 8 and the Applicants therefore consider that this matter is closed.</p>



ID	MMO Comment / Section of MMO Response Considered	Applicants' Comments
21	<p>Condition 24 (Schedule 13) and Condition 20 (Schedule 14)</p> <p>The MMO maintains its position on the inclusion of new scour and cable protection in that it cannot be installed in locations where protection was not installed during construction. The MMO considers that this activity would require a separate marine licence.</p> <p>The MMO has worked on a without prejudice basis to draft a condition to include these activities in the DML for a maximum of five years after completion of construction and the MMO is content with the wording of this condition in its current form and have no further comments to make on the condition. Please see Section 9.6 for the MMO position on this matter.</p>	<p>The Applicants welcome that the MMO has agreed to the condition wording on a without prejudice basis.</p>
22	<p>Condition 25 (Schedule 13) and Condition 21 (Schedule 14)</p> <p>The MMO is content with the updates made by the Applicant and has no further comments to make.</p>	<p>The Applicants welcome this position.</p> <p>The Applicants consider this matter to be closed.</p>
23	<p>Condition 26 (Schedule 13) and Condition 22 (Schedule 14)</p> <p>The MMO is content with the updates made by the Applicant in relation to the SNS SAC SIP and thank the Applicants for including this condition in the most recent version of the draft DCO. Please see Section 8.8 for the MMO's final position.</p>	<p>See ID 44</p>
24	<p>Condition 27 (Schedule 13) and Condition 23 (Schedule 14)</p> <p>The MMO is, in principle, content with the wording set out in the control of piling and UXO detonations condition. However, the MMO is engaged in ongoing discussions with the Applicant and NE to discuss the inclusion of a definition of 'UXO Detonation' in the possible event that clustering is used. The MMO is confident that this issue will be closed out by Deadline 8. Please see Section 8.9 of this document for the MMO's final position.</p>	<p>See ID 6</p>



ID	MMO Comment / Section of MMO Response Considered	Applicants' Comments
25	<p><u>Condition 27 (Schedule 13) and Condition 23 (Schedule 14)</u></p> <p>In relation to the issue of Herring spawning the MMO remains in discussion with the Applicant.</p> <p>The MMO is content with the updates put in place by the Applicant in relation to the addition of 'unless otherwise agreed in writing' in part 2 and the inclusion of the method to the analysis, however, there is an outstanding concern regarding the phraseology 'period of approximately 14 days'.</p> <p>The MMO considers that a specific number of days should not be included in this condition. The MMO understands the Applicant's concerns regarding that without this wording the whole period from November-January would potentially need to be excluded from their works schedule.</p> <p>The MMO asserts that if an agreement cannot be reached between the Applicant and MMO regarding this issue, the MMO will insist on a condition that excludes the period of November-January in order to account for Spawning Herring.</p> <p>The MMO also wish to point out that this is not a live consideration, the period would be set and would be derived from the most up to date and appropriate data sources on the matter. The MMO will continue engaging in dialogue with the Applicant and hope to resolve this by Deadline 8. Please see Section 9.4 of this document for the MMO's final position.</p>	See ID 49
26	<p><u>Additional Conditions</u></p> <p>The MMO wishes to raise the issue of contaminant sampling and the associated condition the MMO consider necessary to secure further sampling be undertaken by the Applicant. The MMO has received a draft version of this proposed condition from the Applicant, the MMO will review this and look to have this issue closed out before Deadline 8. Please see Section 8.6 of this document for the MMO's final position on this matter.</p>	See ID 42



ID	MMO Comment / Section of MMO Response Considered	Applicants' Comments
27	<p>The MMO welcomes the Applicants commitment to including a headroom/close out construction report condition in this DCO. The MMO will review this and aim to have this condition finalised by Deadline 8. Please see Section 8.7 of this document for the MMO's final position on this matter.</p>	<p>See ID 43</p>
28	<p>Finally, regarding Examiner Powis' point raised during ISH 14 regarding the MMO's opinion on whether the provisions contained in the RTD Best Practice Protocol should be conditioned in the DML, the MMO has had some provisional discussions with NE and consider that this would be appropriate as it is linked to potential mitigation strategy, the MMO will continue discussions with both the Applicant and NE on this matter and aim to resolve this issue by Deadline 8. Please see Section 8.10 of this document for the MMO's final position.</p>	<p>See ID 34</p>
29	<p>2.2 Agenda Item 4 Schedule 18</p> <p>In respect of the point made by Examiner Smith at the beginning of ISH 15 regarding the potential for changing the name of 'Compensation' in schedule 18 to 'Compensatory Measures', the MMO considers this would be an appropriate change for the Applicant to make.</p> <p>The MMO defers to NE on the appropriateness of the content of any compensation measures however, the MMO is content that these measures be controlled via Schedule on the DCO as it is for the SoS to approve compensation as the competent authority.</p> <p>The MMO highlights to the ExA that any condition within the DML needs to meet the five tests, therefore, a condition needs to be necessary, related to the activities or project, precise, enforceable and reasonable. Given that the MMO is unaware at this stage whether or not the compensation measures proposed by the Applicant will be</p>	<p>The Applicants have updated the text in Article 44 and Schedule 18 to refer to "offshore ornithology compensation measures" to clarify the context in which the word "compensation" is used. This is reflected in the draft DCO (REP8-003) submitted at Deadline 8.</p> <p>The MMO have requested that a consultation period be specified within paragraph 3 of each part of Schedule 18. The Applicants do not consider this level of detail to be appropriate for inclusion in the Schedule. The drafting seeks to provide a clear process and mechanism for the delivery of compensation measures and specific details in relation to timescales for consultation etc. are not considered to be appropriate for inclusion in the Schedule. Such details will be determined by the Secretary of State at the relevant time.</p>



ID	MMO Comment / Section of MMO Response Considered	Applicants' Comments
	<p>related to the marine environment, it is not appropriate to include compensation in the DML conditions.</p> <p>In relation to the wording of the Schedule 18, the MMO requests that the Applicant includes a timescale for the consultation period the MMO, and other stakeholders, would have to review in Part 3 of all compensation measures. The MMO suggests that a period of 6 weeks would be appropriate, this is because these works are beholden to Environmental Impact Assessment (EIA) regulations and this is the standard consultation period. Please see Section 9.8 for the MMO's final position on this matter.</p>	
3. Action Points from ISH 14		
30	<p>3.1 Action point 15</p> <p><u>DML condition 27 (Schedule 13) and condition 24 (Schedule 14): control of piling and UXO detonations</u></p> <p><i>The Applicants and MMO to report on discussions with regard to modelling for piling in the SNS SAC in the summer period.</i></p> <p>The MMO and the Applicant had a meeting on 22 March 2021, the Applicant presented the updated modelling. The MMO agreed to review the document prior to Deadline 8. The MMO has reviewed the document and provide an update in Section 9.2.</p>	See ID 47
4. Action Points from ISH 15		
31	<p>4.1 Action point 2</p> <p>Responses to Applicants Revised Preferred dDCOs. Responses to be provided to Applicants' final Draft DCOs.</p> <p>The MMO notes this action and will provide a response at Deadline 9.</p>	Noted
32	<p>4.2 Action point 5</p>	Noted



ID	MMO Comment / Section of MMO Response Considered	Applicants' Comments
	<p><u>Schedules 17: Documents to be certified</u></p> <p><i>Having regard to the Applicants' dDCOs submitted at D8, provide any final comments on the documents (and document versions) to be included in Schedule 17.</i></p> <p>The MMO notes this action and will provide a response at Deadline 9.</p>	
33	<p>4.3 Action point 8</p> <p><u>Requirements 13: Landfall Construction Method Statement (LCMS).</u></p> <p><i>Applicants are asked to respond to proposition that both NE and MMO are named as consultees on the LCMS under Rs13.</i></p> <p>The MMO has liaised with the Applicant and is content with the update to Requirement 13 to be submitted in the dDCO at Deadline 8. The MMO will confirm this at Deadline 9.</p>	See ID 17
34	<p>4.4 Action point 9</p> <p><u>Red-Throated Diver (RTD)</u></p> <p><i>A new Condition should be provided in the Deemed Marine Licences (DMLs) (rather than in the Best Practice Protocol) regarding seasonal restrictions on vessel movements to mitigate RTD disturbance. If agreement cannot be reached then Applicants, NE and MMO to provide drafting for their preferred wording for DML Conditions.</i></p> <p>The MMO provided the following updated wording in relation to Condition 17 (1)(g)(vi):</p> <p><i>17.—(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—...</i></p> <p><i>(e) A project environmental management plan covering the period of construction and operation to include details of—</i></p>	The Applicants can confirm that this update was included within the draft DCO (REP8-003) submitted at Deadline 8 and therefore that this matter is closed.



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	<p>(i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents of the authorised scheme in relation to all activities carried out;</p> <p>(ii) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;</p> <p>(iii) waste management and disposal arrangements;</p> <p>(iv) the appointment and responsibilities of a fisheries liaison officer;</p> <p>(v) a fisheries liaison and coexistence plan, in accordance with the outline fisheries liaison and coexistence plan, to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to condition 10 and to address the interaction of the licensed activities with fishing activities;</p> <p>(vi) procedures <i>which must</i> to be adopted within vessels transit corridors to minimise disturbance to red-throated diver, <i>during 1 November to 1 March inclusive</i>, which must be in accordance with the best practice protocol for minimising disturbance to red-throated diver.</p> <p>The MMO believes NE are content with this condition and the Applicant has updated this in the dDCO to be submitted at Deadline 8.</p>	
<p>5. Comments on any additional information/submissions received at Deadline 6</p>		
34a	<p>5.1; 5.3-5.8 (inclusive); and 5.10-5.22 (inclusive)</p>	<p>No comment</p>
35	<p>5.2 Offshore In-Principle Monitoring Plan (IPMP)- Version 03 [REP6-015]</p> <p>The MMO welcomes the updates to the IPMP and notes that the benthic section has been updated to include monitoring for non-native species and wider benthic communities. The MMO can confirm this alleviates the concerns in relation to benthic matters. The fisheries section has also been updated to include sandeel monitoring</p>	<p>The Applicants note that the IPMP was also updated at Deadline 8 (REP8-028) to remove the word '<i>statistically</i>' and address other minor comments from Natural England.</p> <p>The Applicants consider this matter to be closed.</p>



ID	MMO Comment / Section of MMO Response Considered	Applicants' Comments
	<p>through particle size analysis and this closes out the outstanding sandeel matter. The MMO notes the updates include sections on ornithology and defers to NE on the information within this section. In relation to marine mammals the MMO welcomes the inclusion and references of all monitoring in the document but understands there is still an outstanding issue on the word 'statistically'. The MMO has provided an update on this matter in Section 8.11 of this document.</p>	
36	<p>5.9 Applicants' Responses to Hearings Action Points- Version 01 [REP6-049]</p> <p>Issue Specific Hearing 7</p> <p>The MMO welcomes the Applicants commitment to include a condition that specifically restricts piling and Unexploded Ordnance (UXO) detonation to a single event in a 24-hour period during the winter season (October to March inclusive) and appreciate the engagement the MMO has had with the Applicant on this. The MMO has provided comments on the IPMP and MMMP in other sections of this submission.</p> <p>The MMO welcomes the Applicants engagement on the SNS SAC SIP DML condition wording and the MMO has provided comments on the condition in Section 8.8 of this document.</p> <p>The MMO welcomes the Applicants engagement and co-operation on the DML condition wording and the MMO is content with this wording.</p>	Noted
37	<p>6. MMO Response to Aldeburgh Town Council Deadline 6 Response</p>	No comment
<p>7. Comments on any additional information/submissions received at Deadline 7</p>		
38	<p>7.1-7.2; 7.5-7.9 (inclusive); 7.11-7.13 (inclusive).</p>	No comment
38a	<p>7.3 Draft Marine Mammal Mitigation Protocol (MMMP)[REP7-030]</p>	<p>The Applicants welcome this position.</p> <p>The Applicants consider this matter to be closed.</p>



ID	MMO Comment / Section of MMO Response Considered	Applicants' Comments
	<p>The MMO notes that the Applicant has removed the sections in relation to project alone impacts and welcomes this.</p> <p>The MMO notes that there were two previous concerns in relation to this document. These were that the MMMP should take into account the maximum potential Permanent Threshold Shift (PTS) impact ranges for marine mammals and that the most appropriate metric for assessing the potential impacts of UXO detonation is the peak sound pressure level (SPL_{peak}) (rather than the single strike sound exposure level). The MMO can confirm that these points were amended in REP3-043 and these points are now agreed.</p>	
39	<p>7.4 In Principle Site Integrity Plan for the Southern North Sea Special Area of Conservation [REP7-031]</p> <p>The MMO notes that the Applicant has removed the sections in relation to project alone impacts and welcomes this.</p> <p>The MMO has one outstanding concern in relation to this point and this is that the TTS is also considered, in addition to permanent auditory injury and disturbance. The Applicant responded to this point in REP6-029 advising TTS is included in their definition of disturbance and as such, consider this issue had been addressed.</p> <p>The MMO was not content with this response and has continued discussions with the Applicant. The Applicant confirmed the document will be updated at Deadline 8 to ensure this is included. The MMO will confirm their contentment at Deadline 9.</p>	See ID 9
40	<p>7.10 Appendix A15b Natural England's response to Offshore Ornithology Compensation and Derogation documents [REP7-071]</p> <p>The MMO notes that the issue of potential Adverse Effect on Integrity on designated sites is still not agreed between the Applicant and NE, this has been the case throughout the entirety of the Examination and is something the MMO consider will not be resolved prior to the end of Examination.</p>	<p>For engagement on compensation between the Applicants and NE refer to section 2 of Applicants' Comments on Natural England's Deadline 7 Submissions (REP8-049).</p> <p>The Applicants updated the Offshore Ornithology Without Prejudice Compensation Measures document at Deadline</p>



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	<p>The MMO notes that NE disagrees with the Applicants approach to devising compensatory measures using the mean/central prediction and assert that a range-based approach would be more appropriate.</p> <p>The MMO supports NE's view is that it is not acceptable to present the details of compensatory measures to the SoS after they have made a decision on the need for compensation for these projects and suggest that at the point of decision the SoS should be provided with sufficient confidence that appropriate compensation measures are available and have been or can be secured.</p> <p>The MMO attended a compensatory measures workshop with NE and the Applicant on 10 March 2021 and will continue to engage with both parties.</p> <p>Overall, the MMO defers to NE on the appropriateness of all compensation measures. The MMO has provided further comments on the compensatory measures in Section 2.2 and Section 9.8.</p>	<p>8 (REP8-090) to include more detail following meetings with Natural England and Defra.</p> <p>In drafting DCO schedule 18, the Applicants have ensured that the compensation measures proposed are appropriately secured at a level that provides adequate levels of compensation to offset the impacts of the Projects (noting that the extremely low numbers required to be offset for the Projects means that over-compensation is inevitable) whilst providing the necessary flexibility to allow for refinements in detail as the specifics of the measures are developed and agreed with regulatory bodies, stakeholders and partners.</p> <p>Given the very small number of predicted mortalities for all of the species considered in the compensation measures document, the Applicants consider that while there is a risk of incurring a 'mortality debt', the size of debt for a delay of 1 to 2 years (i.e. the anticipated maximum time required to implement the compensation measure(s) following a determination from SoS that this will be required) remains extremely small and would readily be recouped within a year or two of measures becoming effective. Therefore, since the requirement for a long lead-in time is a lower concern for the Projects than, for example Hornsea Project Three, it follows that there is also less requirement for the current compensation schedule to contain detailed designs and site locations. Instead, these aspects can be addressed once a decision on the need to compensate for the Project has been made by the SoS.</p> <p>It is important to stress that the Applicants consider the without prejudice compensation measures being proposed</p>



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		can all be delivered, if required, and that the nature of the NE's concern is merely in relation to the level of detail currently presented, which has been expanded upon in the updated document submitted at Deadline 8.
8. Issues agreed as of Deadline 8		
41	8.1-8.5 (inclusive); 8.11	No comment
42	<p>8.6 Contaminant Sampling and Disposal Sites</p> <p>There remains an issue regarding the sediment sampling conducted by the Applicant for these projects. The MMO's current position is that the sampling that has been completed is not sufficient to allow for the MMO to designate the disposal sites.</p> <p>This is because the sampling undertaken to date does not satisfy requirements set out in the OSPAR Convention for the Protection of the Marine Environment of the North-East Atlantic. In these circumstances, the MMO would normally advise that all dredge and disposal activity should be removed from the dDCO and a separate sediment sampling plan and marine licence sought by the Applicant.</p> <p>However, due to the late stage of the application process the MMO has made a pragmatic decision to agree to the inclusion of the dredge and disposal activity within the DCO consent.</p> <p>The MMO understands that the Applicant considers that sufficient contaminant sampling has been undertaken for these projects and this remains their position, however, the Applicant has engaged with the MMO on this issue in an effort to draft a condition to secure that further sampling should take place, the MMO thanks the Applicant for their commitment to this.</p>	<p>The Applicants can confirm that this condition wording was included in the updated draft DCO submitted at deadline 8 and welcome the MMO's agreement.</p> <p>The Applicants consider this matter to be closed.</p>



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	<p>The MMO notes that Part 1, Paragraph 2 of both Schedule 13 and 14 will be updated as set out in Section 1 of REP7-068.</p> <p>In addition to this update the Applicant has also confirmed the following text will be included in Schedule 13 and 14 as an additional condition at Deadline 8:</p> <p><i>Dredge and disposal</i></p> <p><i>(X) The undertaker must not undertake dredge or disposal activities until the following have been submitted to and approved in writing by the MMO–</i></p> <p><i>(a) details of an additional sediment contaminants sampling campaign; and</i></p> <p><i>(b) a dredge and disposal process report detailing–</i></p> <p><i>(i) the results of the sampling campaign referred to in paragraph (1)(a);and</i></p> <p><i>(ii) the requirements to be adhered to during any dredge and disposal activities.</i></p> <p><i>(2) Any dredge and disposal activities must be undertaken in accordance with the dredge and disposal process report approved under paragraph (1).</i></p> <p>The MMO is content with this wording and therefore for the matters of this Examination this has been agreed in the SoCG to be submitted by the Applicant at Deadline 8.</p>	
43	<p>8.7 Completion of Construction Condition</p> <p>The MMO continued discussions with the Applicant in relation to the inclusion of a condition for the completion of construction and understands the Applicant is updating Schedule 13 and 14 to include the following conditions:</p> <p><u>Schedule 13</u></p> <p><i>Completion of construction</i></p> <p><i>(1) The undertaker must submit a close out report to the MMO and the relevant statutory nature conservation body within three months of the date of completion of</i></p>	<p>The Applicants can confirm that this condition wording was included in the updated draft DCO submitted at Deadline 8 and welcome the MMO's agreement.</p> <p>The Applicants consider this matter to be closed.</p>



ID	MMO Comment / Section of MMO Response Considered	Applicants' Comments
	<p><i>construction. The close out report must confirm the date of completion of construction and must include the following details—</i></p> <p><i>(a) the final number of installed wind turbine generators; and</i></p> <p><i>(b) the installed wind turbine generator parameters relevant for Ornithological collision risk modelling.</i></p> <p><i>(2) Following completion of construction, no further construction activities can be undertaken under this licence.</i></p> <p><u>Schedule 14</u></p> <p><i>Completion of construction</i></p> <p><i>(1) The undertaker must submit a close out report to the MMO and the relevant statutory nature conservation body confirming the date of completion of construction within three months of the date of completion of construction.</i></p> <p><i>(2) Following completion of construction, no further construction activities can be undertaken under this licence.</i></p> <p>The MMO is content with these conditions and believes that this is a good position at this stage and will feed these condition into the discussions at The Crown Estate-sponsored Ornithological Headroom Discussion Group.</p>	
44	<p>8.8 SNS SAC SIP Condition 26 (Schedule 13) and Condition 22 (Schedule 14)</p> <p>The MMO advised that the wording of the SNS SAC SIP condition was agreed at ISH15 with the wording of the condition, however after further discussions with NE on 22 March 2021, it was agreed that there was a need to ensure there would be a separate SNS SAC SIP 6 months prior to each noisy activity (piling and UXO clearance activities) and the MMO believes that the easiest way to set this out is to separate the activities.</p>	<p>The Applicants have included two separate SIP conditions within the updated draft DCO submitted at Deadline 8, one for piling and one for UXO in order to address comments from the MMO.</p> <p>The Applicants wish to note however that they consider that the necessary security was already provided within the original condition wording and that the addition of separate SIP conditions for UXO and piling is superfluous.</p>



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	<p>The MMO proposed wording to the Applicant on 23 March 2021 and after further discussions the MMO can confirm that the Applicant will be updating the dDCO at deadline 8 to include the following agreed conditions.</p> <p><i>Southern North Sea Special Area of Conservation Site Integrity Plan (Piling)</i></p> <p>—a) (1) <i>No piling activities can commence until a Site Integrity Plan (SIP), which accords with the principles set out in the in principle East Anglia TWO Project Southern North Sea SAC Site Integrity Plan, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.</i></p> <p>(2) <i>The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (SNS SAC) as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.</i></p> <p>(3) <i>The SIP must be submitted to the MMO no later than six months prior to the commencement of piling activities.</i></p> <p>(4) <i>In approving the SIP the MMO must be satisfied that the authorised scheme at the pre-construction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.</i></p> <p><i>Southern North Sea Special Area of Conservation Site Integrity Plan (UXO clearance)</i></p> <p>—b) (1) <i>No removal or detonation of UXO can take place until a Site Integrity Plan (SIP), which accords with the principles set out in the in principle East Anglia TWO Project Southern North Sea SAC Site Integrity Plan, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.</i></p>	<p>The Applicants consider this matter to be closed.</p>



ID	MMO Comment / Section of MMO Response Considered	Applicants' Comments
	<p><i>(2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (SNS SAC) as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to removal or detonation of UXO as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.</i></p> <p><i>(3) The SIP must be submitted to the MMO no later than six months prior to removal or detonation of UXO being undertaken.</i></p> <p><i>(4) In approving the SIP the MMO must be satisfied that the authorised scheme at the pre-construction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.</i></p> <p>The MMO has agreed that the Guidance definition will be included as an interpretation within the DMLs and has no further comments on this condition.</p>	
45	<p>8.9 Control of piling and UXO detonations</p> <p>The MMO advised that the wording of Condition 27 (Schedule 13) and Condition 24 (Schedule 14) was largely agreed. The only outstanding issue was the need to define 'UXO detonation' within the condition.</p> <p>The MMO, NE and the Applicant have had further discussions on this matter and it has been agreed that this can be included in the MMMP and SIP. The MMO will review this document and provide final confirmation at Deadline 9.</p>	See ID 6.
46	<p>8.10 Red Throated Diver Condition</p> <p>As set out in response to Action Point 9 (Section 4.4) the MMO has proposed a small amendment to Condition 17 (1)(g)(vi):</p> <p><i>(vi) procedures which must to be adopted within vessels transit corridors to minimise disturbance to red-throated diver, during 1 November and 1 March inclusive, which</i></p>	The Applicants can confirm that this update was included within the draft DCO submitted at Deadline 8 and therefore that this matter is closed.



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	<p><i>must be in accordance with the best practice protocol for minimising disturbance to red-throated diver.</i></p> <p>The MMO believes NE are content with this condition and the Applicant has updated this in the dDCO to be submitted at Deadline 8. This has been included as agreed within the SoCG.</p>	
9. Issues not agreed as of Deadline 8		
46	<p>9.1 Marine Mammals</p> <p>Section 7.4 highlighted that there is one outstanding point in relation to the SNS SAC SIP and that the Applicant will be updating the document at Deadline 8 to ensure TTS is included.</p> <p>The MMO will confirm that this matter is closed at Deadline 9.</p>	See ID 9
47	<p>9.2 Underwater Noise</p> <p>The MMO had a meeting with the Applicant on 22 March 2021 and discussed the outstanding issue in relation to the cumulative sound exposure level (SEL_{cum}) assessment and the modelling for piling more than one pile in a 24-hour period.</p> <p>The Applicant presented information in relation to sequential piling for pin piles (jacket foundation) in a single location and it looked satisfactory on the call. The Applicant provided the information on 23 March 2021 and the MMO has reviewed this and the MMO is content with this information.</p> <p>However, the MMO still requires the worst case scenario in relation to piling within 24 hours for monopiles. The MMO provided comments to the Applicant on 25 March 2021 understanding that there may not be a possibility for this to be updated at Deadline 8. The MMO has included this in Annex 1 of this document.</p> <p>To summarise the MMO requests that this is updated to take the worst case scenario for monopiles into account. This needs to be acknowledged and referenced in the</p>	<p>The Applicants submitted the updated noise modelling for pin piles at Deadline 8 (REP8-040).</p> <p>The Applicants have undertaken additional noise modelling as requested by the MMO and intend to submit an updated document at Deadline 10.</p>



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	<p>document and any evidence or justification to the contrary to be set out in the document. The MMO notes that for monopiles in separate locations in a 24 period – the modelling may need to be updated once the locations of the piles have been identified – if this worst case scenario is required – this should also be referenced within the document as the construction monitoring and analysis report needs to be able to refer back to the predictions in the Environmental Statement.</p>	
48	<p>9.3 Marine Water and Sediment Quality</p> <p>Site Characterisation reports</p> <p>The MMO is still not content with the Site Characterisation Report [REP5-009] at this stage however has agreed this can be updated post consent to alleviate the concerns in relation to the disposal sites. This is still an outstanding matter in the SoCG to be submitted by the Applicant at Deadline 8 as this is an agreed route forward by both parties. The final comments sent to the Applicant on this matter are in Annex 2 of this document.</p> <p>All other matters in relation to marine water and sediment quality have been agreed as per Section 8.6 above.</p>	<p>The Applicants and the MMO have agreed for the site characterisation reports to be approved post consent once the additional contaminant samples have been collected and analysed.</p> <p>The Applicants consider this matter to be closed.</p>
49	<p>9.4 Fish Ecology</p> <p>Herring Spawning</p> <p>The MMO provided detailed comments on herring Spawning in Section 10 of REP6-104 and REP7-068. This included additional data that was required by the Applicant to define a restriction between the Herring Spawning period 1 March and 31 January.</p> <p>It was agreed between both parties that this could be done post consent so the data was up to date. In doing this the MMO proposed a condition to the Applicant which was amended and included as Condition 28 (Schedule 13) and Condition 24 (Schedule 14) in the dDCO submitted at Deadline 7 (REP7-006), set out below:</p>	<p>The Applicants provided their response to REP6-104 within REP7-055 and REP7-068 within (REP8-047).</p> <p>The Applicants fundamentally disagree with the suggestion that reference to “approximately 14 days” should be removed from the herring spawning condition. The reference to “approximately 14 days” is intentional to provide certainty as to the likely extent of the piling restriction whilst not being overly prescriptive and allowing for some flexibility where a slightly longer or shorter period is considered appropriate. The herring spawning period is</p>



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	<p><i>Herring spawning</i></p> <p>24.—(1) <i>The undertaker must not undertake pile driving or UXO detonations during the herring spawning period.</i></p> <p>(2) <i>The “herring spawning period” means a period of approximately 14 days between 1 November and 31 January to be confirmed in writing by the MMO following submission of a herring spawning report by the undertaker which analyses the International Herring Larval Survey data for the periods 1-15 January and 16-31 January for the preceding ten years in order to determine when the highest larval densities occur.</i></p> <p>(3) <i>The report referred in paragraph (2) must be submitted to the MMO at least six months prior to—</i></p> <p>(a) <i>the date on which it is intended for UXO clearance activities to begin; or</i></p> <p>(b) <i>the commencement of construction,</i></p> <p><i>whichever is earlier.</i></p> <p>As stated in Section 2.1 of this document the MMO is content with the proposed updates for Deadline 8 in relation to the addition of unless otherwise agreed in writing in part 2 and the inclusion of the method to the analysis in part 3, however, there is an outstanding concern regarding the phraseology ‘<i>period of approximately 14 days</i>’.</p> <p>The MMO considers that a specific number of days should not be included in this condition as the number of days is unknown at this time, it could be more or less than 14 days.</p> <p>The MMO notes that if this data had been produced a specific restriction could be set at this stage and if the Applicant wanted to change this with more up to date data post consent this could be done with a DML variation. If this data was produced during the Examination then there may not be an outstanding issue as there would be a defined period.</p>	<p>ultimately to be determined by the MMO and so there are sufficient controls in place.</p> <p>This text provides the Applicants with a degree of certainty as to the approximate duration of the restriction. Without this text, the MMO could seek to impose a much longer restriction within the period 1 November and 31 January and this is wholly unacceptable to the Applicants and is neither necessary or reasonable.</p> <p>The MMO states that it considers that the wording “approximately 14 days” does not meet the ‘Five Tests’ for a condition, namely:</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. 5. The condition must be Reasonable. <p>The MMO states that the current condition is not precise enough or enforceable. The Applicants strongly disagree and consider that the reference to “approximately 14 days” provides an indication of how long the period is likely to be to provide certainty however it is ultimately for the MMO to determine the herring spawning period within the wider period of 1 November to 31 January.</p> <p>The MMO contends that the lack of precision would make the condition unenforceable. The Applicants completely</p>



ID	MMO Comment / Section of MMO Response Considered	Applicants' Comments
	<p>The MMO understands the Applicant's concerns in relation to the risk to the business as without this wording the whole period from November-January would potentially need to be excluded from their works schedule and continued liaising with the Applicant to see if there could be changes made to agree this matter.</p> <p>The MMO and the Applicant had a meeting on 22 March 2021 and it was clear that this condition wording would not be agreed by the end of Examination. Therefore the MMO has set out the final position below and believe it is not for the matter of the SoS to make the final decision.</p> <p>The MMO does not believe that the wording '<i>approximately 14 days</i>' meets the 'Five Tests' as adopted from the National Planning Policy Framework (2012), 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. 5. The condition must be Reasonable. <p>The MMO believes that the current condition is not precise enough or enforceable. In relation to precise the word approximately is defined as a word that is used to show that something is almost, but not completely, accurate or exact; roughly. This is the opposite of precise. Therefore the MMO considers that the current draft of the condition is not precise and therefore not enforceable.</p> <p>In addition to this, this wording is not consistent with standard conditions on Marine Licences or other Deemed Marine licences that have been consented. The MMO has agreed to a different wording than that set out in the Rampion Offshore Windfarm herring spawning condition set out in Section 3 (Action Point 15) of REP6-104, however the inclusion of '<i>approximately 14 days</i>' goes against this.</p>	<p>disagree. It is clear from the condition that the period is to be in the region of 14 days. In any event, it is ultimately to be determined by the MMO based on the data provided and so there are sufficient controls in place. The Applicants consider the condition to be entirely enforceable.</p> <p>The Applicants submit that the alternative wording proposed by the MMO would not meet the tests for a condition. This is because a three month piling restriction would be completely unreasonable and entirely unnecessary.</p> <p>The Applicants would reiterate that they do not consider any herring spawning restriction to be necessary in light of the potential impacts of the development (see REP4-019) but agreed to include the restriction at the request of the MMO and so any potential widening of the restriction is considered to be disproportionate, unnecessary and unreasonable.</p>



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	<p>The MMO believes the following condition should be included as this sets out a defined period within the whole herring spawning season.</p> <p><i>Herring spawning</i></p> <p>24.—(1) <i>The undertaker must not undertake pile driving or UXO detonations during the herring spawning period.</i></p> <p>(2) <i>The “herring spawning period” means a period within of approximately 14 days between 1 November and 31 January to be confirmed in writing by the MMO following submission of a herring spawning report by the undertaker which analyses the International Herring Larval</i></p> <p><i>Survey data for the periods 1-15 January and 16-31 January for the preceding ten years in order to determine when the highest larval densities occur.</i></p> <p>(3) <i>The report referred in paragraph (2) must be submitted to the MMO at least six months prior to—</i></p> <p><i>(a) the date on which it is intended for UXO clearance activities to begin; or</i></p> <p><i>(b) the commencement of construction,</i></p> <p><i>whichever is earlier.</i></p> <p>The MMO can confirm that all other comments on Fish Ecology have been resolved.</p>	
50	<p>9.5 UXO clearance activities included in Deemed Marine Licence</p> <p>The MMO position remains that the best mechanism for controlling UXO clearance is a separate marine licence.</p> <p>The MMO believes that this is a concern for consistency with existing Offshore Wind Farms, if the inclusion of UXO clearance activities in the DML, this does set a precedent, the MMO considers that it could be difficult to manage multiple consents that have UXO clearance activities on the main DCO in relation to in-combination effects.</p>	See ID 7



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	<p>The MMO believes that UXO clearance is a high risk activity and it is best placed to manage these activities through a separate marine licence. Further reasoning behind this approach is for the consideration of best available evidence and technology which may have progressed by the time the activity is taking place, and for implementation of this as appropriate.</p> <p>The MMO put forward a without prejudice position on the wording included in Condition 16 (Schedule 13) and Condition 12 (Schedule 14) that highlighted multiple issues with the condition wording. The MMO welcomes the work that the Applicant has done to ensure all factors are secured within the DML and understands only one amendment will be added to the condition in Part 5 to include a timescale of 3 months.</p> <p>Currently both parties and NE agree on the wording of the UXO Clearance Activities condition.</p> <p>Notwithstanding this, the MMO's position remains unchanged and consider it is now up to the ExA recommendation and Secretary of State (SoS) to make a decision on whether UXO clearance activities should be included within the DCO.</p>	
51	<p>9.6 New scour protection and cable protection during operation</p> <p>The MMO considers that new scour and cable protection that is not defined as maintenance should not be included in the DCO and should be in a separate marine licence.</p> <p>This refers to installing new scour and cable protection in locations where protection was not installed during construction. The MMO believes that the Outline Operations and Maintenance Plan (OOMP) should be updated to show a separate licence should be applied for this activity and Condition 24 (Schedule 13) and Condition 20 (Schedule 14) should be removed from the DMLs. The MMO will maintain this position until the end of Examination.</p>	<p>The Applicants consider that installing new scour and cable protection in locations where protection was not installed during construction is appropriately controlled within the DMLs.</p> <p>The Applicants welcome that the MMO and NE have agreed to the condition wording on a without prejudice basis and consider that the outline OOMP should reflect the draft DCO.</p> <p>The Applicants therefore do not consider that the outline OOMP should be updated to reflect that a separate marine licence should be required for the installation of cable or</p>



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	<p>Notwithstanding this, the MMO provided a 'without prejudice' condition at Deadline 6 (REP6-104). This was to ensure if the SoS was minded to include the activity that it would only be allowed for 5 years and that adequate information was provided for each campaign of activities.</p> <p>The MMO and the Applicant continued discussions on this condition wording and the Applicant updated the dDCO to include the agreed wording at Deadline 7 (REP7-006). The MMO is content with this wording and the amendments to the OOMP but maintains the position that a separate marine licence should be sought for this activity.</p>	<p>scour protection in areas where it was not installed previously.</p>
52	<p>9.7 Article 5 – Benefit of the Order</p> <p>The MMO raised some concerns at ISH and has set these out in section 2.1 of this document.</p> <p>To summarise, the MMO refers to Article 6 of the Norfolk Vanguard DCO and Article 5 Hornsea 3 (HOW3) Offshore Wind farm DCOs, in particular, parts 1, 4, 10c or 6c and 14, 15 and 16 or 9, 10 and 11. The MMO believes that these sections should be included in the dDCO to ensure that there is a standard condition for all DCOs going forward.</p> <p>The MMO continued discussions with the Applicant on 22 March 2021 and understands the dDCO will be updated to include the details for the notification information but does not believe that other points are required.</p> <p>The MMO welcomes the inclusions of the notification details and understands the Applicant's position on the other points raised but believes the additional details in set out above are required to maintain a standard across the DCOs.</p> <p>This position is not agreed with the Applicant and this position is unlikely to be agreed by the end of the Examination therefore both parties consider that it should be left to the Secretary of State to decide.</p>	<p>See ID 16.</p>



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53	<p>9.8 Schedule 18</p> <p>The MMO understands that the Applicant is going to update the name of Schedule 18 DCO to 'Offshore Ornithology Compensation Measures'. The MMO is content with this update.</p> <p>At ISH 15, the MMO set out that a timescale should be included in condition 3 of each section of the compensatory packages to ensure that it was clear on how long the consultation period was.</p> <p>The MMO understands the Applicant does not believe that this is necessary or appropriate in the schedule as timescales are not specified elsewhere in the Schedule. The Applicant have advised that a 6 week timescales will be included in the 'Offshore Ornithology Without Prejudice Compensation Measures document' for which the Kittiwake Implementation and Monitoring Plan must be based on and for each of the strategies in the 'Offshore Ornithology Without Prejudice Compensation Measures document'. The MMO however considers that, notwithstanding the Applicant's position, the compensation measures are a key aspect of the DCO. Therefore, the inclusion of consultation timescales will aid clarity and assist the SoS when determining the security of such measures.</p>	<p>See the Applicants response at ID 29. Additionally, reference to a '6 week' consultation timescale for the Implementation and Monitoring Plans was not included in Offshore Ornithology Without Prejudice Compensation Measures (REP8-090) submitted at Deadline 8 for the same reasons as set out in ID 29 in the context of Schedule 18.</p>
54	<p>9.9 Implications of Hornsea Project Three Offshore Wind Farm Decision</p> <p>The MMO's general position is that any compensation should be secured within the DCO as it is for the Secretary of State as the competent authority to ensure the compensation is secured and adhered to and any licensable activities would require a separate marine licence.</p> <p>The MMO notes if there are licensable activities as part of the compensation then the Applicant may request this to be included within the DMLs. Again, the MMO is reviewing how this would work in principle and how this would be considered within a DML.</p>	<p>The Applicants note the MMO's comments on the Hornsea Project Three Offshore Wind Farm Decision.</p> <p>With regard to the general position see ID 40.</p> <p>The Applicants would highlight that the compensation measures currently proposed do not involve licensable marine activities.</p> <p>Schedule 14, Part 2 of the Hornsea Three DCO is not relevant in the context of the Projects as no benthic compensation measures are required.</p>



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	<p>In relation to Schedule 14 the MMO is still discussing the implications in detail internally. The MMO does have comments on Part 2, Benthic Compensation Measures , Part 17 set out below:</p> <p>17. No later than four months prior to each deployment of cable protection, except where otherwise stated or unless otherwise agreed in writing by the MMO, the undertaker must submit the following documents for approval by the MMO:</p> <p>(a) A decommissioning feasibility study on the proposed cable protection to be updated at intervals of not more than every ten years throughout the operational phase of the project; and</p> <p>(b) A monitoring plan including appropriate surveys of cables situated within WNNC and NNSSR that are subject to cable protection to assess the integrity and condition of that cable protection and determine the appropriate extent of the feasibility of the removal of such cable protection having regard to the condition of the cable protection and feasibility of any new removal techniques at that time, along with a method statement for recovery of cable protection.</p> <p>The MMO does note that this wording does not appear in the East Anglia One North (EA1N) and EA2 Schedule 18 but would like to highlight the concerns to inform the SoS if this to be added during the decision making process.</p> <p>Part 17 appears to give the MMO responsibility in signing off the decommissioning feasibility study and a monitoring plan. The MMO believes that the DCO should be the place to manage compensatory measures (unless there is a defined offshore activity at the stage of consent) as the decision maker, and therefore regulator, it is for the SoS to discharge requirements.</p> <p>The MMO is content with being a consultee, but adds, as stated in Section 9.8 that a timescale should be set out within the schedule for the consultation process.</p> <p>The MMO does not have any regulatory role within Schedule 14 and therefore as this is not set out in the DMLs then it does not fall under the Marine and Coastal Access Act</p>	



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	<p>2009, and this means that the MMO has no enforcement powers. The MMO believes that future compensatory measures do not include the MMO signing off documents.</p> <p>Notwithstanding this position, if the SoS is minded for the MMO to discharge documents then this should be part of the of a separate DML that sets out the compensatory measures as the MMO considers that these measures should be decided by the SoS as the competent authority. The MMO believes that if this is part of the decision the MMO should be consulted on any additional conditions added to the compensatory measures</p> <p>The MMO would also add that unless discussed in the Examination that any new conditions that are likely to be added to the DML at the decision stage, the MMO could be consulted on these to ensure they meet the 'five tests' ensuring enforceability.</p>	
55	<p>9.10 Implications of Norfolk Vanguard Offshore Wind Farm Judicial Review Decision</p> <p>The MMO is continuing to discuss this matter internally. However, the MMO notes that the review decision was based upon the intention to defer the cumulative impact assessment to a later DCO application in the same vicinity. The MMO therefore discourages any potential plan to include this approach in any capacity for these applications.</p>	Noted
56	<p>10.Other Comments</p> <p>10.1 SNS Regulators Group</p> <p>The SNS Regulators Group met on 18 March 2021 and the MMO highlighted at this meeting the urgent need to ensure the concerns of the Statutory Nature Conservation Bodies (SNCB) are resolved. The MMO will continue to engage with the group and the SNCB's to establish a process.</p>	No further comment



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57	<p>Annex 1: Monopile within a 24 Hour period</p> <p>Firstly we want to thank all the team for the hard work on supplying the additional information on UWN.</p> <p>The basic position is that they are content with the jacket pin piles but not for monopiles. We will be mentioning this in our Deadline 8 response for audit but are happy to continue discussions next week. If it is easier to send over any additional text to review, we have agreed this is acceptable to try and agree this issue.</p> <p>As noted in the Subacoustech note, no concurrent piling is proposed. The MMO concerns, however, stem from multiple piles installed sequentially. Therefore, modelling has been undertaken to predict the noise exposure from the installation of four sequential piles for a wind turbine generator (WTG) multi-leg jacket foundation, at a single location¹, to marine mammal receptors, in comparison to the single driven foundation pile presented in the EA1N/EA2 Environmental Statement.</p> <p>Remodelling of the underwater noise exposure for marine mammals at EA2 and EA1N has shown that there is a small increase in the PTS and/or TTS ranges for mid-frequency and high-frequency cetaceans and pinnipeds, when considering four sequential driven pile installations compared to a single installation. Overall, the modelling demonstrates that the effect of subsequent piles at a given location is relatively modest, perhaps as expected, since it is presumed that the animals largely vacate the surroundings during the installation of the first pile. Therefore, the MMO is content that my concerns regarding multiple piles installed in a single location have now been addressed.</p> <p>However, in response to the following text on page 4 of the Subacoustech note:</p>	<p>The Applicants have undertaken additional modelling as per the MMO request and intend to submit and updated document at Deadline 10.</p>

¹ Please note that in the Subacoustech note it is stated that “concerns stem from multiple piles installed sequentially from a single location”. However, multiple piles may not be installed in a single location. For example, in the case that more than one monopile is installed, then it is likely that the locations will be different.



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	<p>“These results represent the effect of installation of multiple piles for a jacket foundation in a 24-hour period. It is understood that the monopile option for turbine foundations could potentially include up to two pile installations in a day. The results for monopiles are unlikely to be significantly different to those provided for the pin piles above: while the overall noise level produced by a driven monopile might be slightly greater than from the smaller multi-leg jackets, fewer piles driven in a day will lead to less energy introduced overall”.</p> <p>Please note that the case of more than one monopile installed in 24-hours is likely to be a more complex situation, particularly where the piling locations of the subsequent monopiles are substantially spaced apart. If the piles are sufficiently spaced apart, so that during the installation of the first pile, there is no displacement of animals in the vicinity of the second pile location, then it is expected that the second pile would produce similar impacts as the first, and these would be in addition to the impacts of the first pile. To put it simply if the animal flees it may flee to the second piled location in the 24 hours and therefore have additional impacts.</p> <p>In summary, the evidence presented demonstrates that the potential additional effects from the installation of four piles (jacket foundation) at a single location are relatively modest. With regard to the installation of more than one monopile in a 24-hour period, there will be no concurrent piling and therefore we would not require additional modelling.</p> <p>However, from a technical point of view, we emphasise that the effect areas scale up directly with the number of monopiles installed per day. The affected areas within a 24-hour period, for two monopiles for example, are essentially twice the size if the piles are sufficiently far apart, as noted above. If the monopiles are not spaced sufficiently apart, then there is the risk that a receptor may be exposed to both the first pile, and then the second pile, and may experience effects above what is predicted for a single monopile.</p> <p>The MMO understands that this document will be classed as a certified document. The MMO requests that this is updated to take the worst case scenario for monopiles into</p>	



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	<p>account. This needs to be acknowledged and referenced in the document and any evidence or justification to the contrary to be set out in the document. The MMO notes that for monopiles in separate locations in a 24 period – the modelling may need to be updated once the locations of the piles have been identified – if this worst case scenario is required – this should also be referenced within the document as the construction monitoring and analysis report needs to be able to refer back to the predictions in the ES.</p>	
58	<p>Annex 2 Site Characterisation Report</p>	<p>The Applicants and the MMO have agreed for the site characterisation reports to be approved post consent once the additional contaminant samples have been collected and analysed.</p> <p>The Applicants consider this matter to be closed.</p>