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MMO Reference: DCO/2016/00005
Planning Inspectorate Reference: EN010078
Identification Number: 200241119

15 April 2021

Dear Rynd Smith,

Planning Act 2008, Scottish Power Renewables, Proposed East Anglia Two (EA2) Offshore Windfarm Order

MMO Deadline 9 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 Two Wind Farm (the “DCO Application”) (MMO ref: DCO/2016/00005; PINS ref: EN010078).

The Applicant seeks authorisation for the construction, operation and maintenance (O&M) of the DCO Application, comprising of up to 75 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 8.

The MMO submits the following:

- 1. MMO Action Points**
- 2. Comments on any additional information/submissions received at Deadline 8**
- 3. Comments on Applicants comments on MMO Deadline 7 response**

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 applications 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 Licensing Case Officer



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1. Action Points from Issue Specific Hearing (ISH) 15

1.1 Action point 2

Responses to Applicants Revised Preferred dDCOs.

Responses to be provided to Applicants' final Draft DCOs.

The MMO set out in its Deadline 8 response [REP8-156] that there were some outstanding issues that related to the wording of the draft Development Consent Order (dDCO), the MMO intends to provide commentary on all of the relevant updates made by the Applicant and present the Examining Authority (ExA) with the final positions that the MMO intend to take.

Article 5 – Benefit of the Order

The MMO previously stated that it had concerns regarding the drafting of this Article, as it differed to Article 6 of the Norfolk Vanguard DCO and Article 5 of the Hornsea 3 (HOW3) Offshore Wind farm DCO. The MMO considered that these Articles should be consistent in order to support standard wording going forward for all DCO's.

The MMO has reviewed the updates to this article and is content that the Applicant has included all necessary notifications. The MMO welcomes these additions from the Applicants and has no further comments to make.

Landfall construction method statement and monitoring plan

In [REP8-156], the MMO requested an amendment be made to this condition to make the MMO a consultee. This position had been formulated by the MMO after discussion with East Suffolk Council (ESC) and Natural England (NE). The MMO has reviewed the updated dDCO and is content with alterations the Applicant has made to this condition. The MMO has no further comments to add.

Schedule 18

The MMO notes that the Applicant has changed the name of this schedule to 'Offshore Ornithology Compensation Measures' as they had indicated that they would. The MMO is content with this change and considers this wording to be appropriate.

In [REP8-156], the MMO stated that although the Applicant has included a 6 week timescale for consultation of Compensation Measures within their Offshore Ornithology Without Prejudice Compensation Measures document [REP6-045] the Applicant should include this timescale on the face of the DCO as this will add clarity and assist the Secretary of State (SoS) when determining the security of such measures. The MMO notes that the Applicant has not made this change to the DCO. The MMO understands the Applicants position but considers this a missed opportunity to provide clarity to the Compensation packages proposed. The MMO has no further comments to make.

New scour protection and cable protection during operation

The MMO's position remains that new scour and cable protection that is not defined as maintenance should not be included in the DCO and should be provided for in a separate marine licence. As a result of this, the MMO considers that Condition 24 (Schedule 13) and Condition 20 (Schedule 14) should be removed from the DMLs. The MMO notes that the Applicants have kept these conditions in the DMLs.

Whilst the MMO in principle does not agree with the inclusion of these conditions, the MMO reminds the ExA that it worked on a 'without prejudice' basis with the Applicant to ensure that the wording of these conditions were appropriate.

The MMO confirmed that the wording was appropriate at Deadline 8 [REP8-156] and this remains the MMO position currently.



UXO clearance activities included in Deemed Marine Licence

The MMO's position remains that the best mechanism for controlling UXO clearance is a separate marine licence. This is because the MMO considers that it could be difficult to manage multiple consents that have UXO clearance activities within their respective DMLs. This is due to potential in-combination effects being more transparent nearer to the activity taking place, and the potential to implement new technology should it become available.

The MMO worked on a 'without prejudice' basis with the Applicant to draft Condition 16 (Schedule 13) and Condition 12 (Schedule 14) in the DMLs. The MMO is content with the amendment made by the Applicant to Part 5 of this condition to include a 3-month timescale.

Furthermore, MMO notes replacement of "*may be provided*" with "*will be provided*" in relation to the submission of UXO clearance activity reports, and the MMO welcomes this update. Overall, the MMO is now broadly content with the wording of this condition, however, remains of the opinion that it should not be included in the DMLs and a separate marine licence should be sought for UXO activities.

The MMO believes that it is now up to the ExA recommendation and SoS to make a decision on whether UXO clearance activities should be included within the DCO.

Herring Spawning

The MMO reminds the ExA that a restriction during the Herring Spawning period between 1 November and 31 January is considered necessary for these projects by the MMO. The MMO also consider that additional data is required from the Applicant to define a restriction during the Herring Spawning period, although it was agreed between both parties that this could be done post-consent, so the data was up to date.

The MMO proposed Condition 28 (Schedule 13) and Condition 24 (Schedule 14) which was amended by the Applicant and included as a condition in [REP7-007]. The MMO has one outstanding concern regarding the inclusion of the phrase '*period of approximately 14 days*' proposed by the Applicant. The MMO refers the ExA to [REP8-156] for detailed comments on this condition.

The MMO proposed revised wording for this condition at Deadline 8, however, the MMO notes that the Applicant has chosen to maintain the condition from [REP7-007] which includes the phrase '*period of approximately 14 days*'. The MMO remains of the opinion that this condition does not meet the tests of enforceability or precision that all marine licence conditions need to meet.

As stated in [REP8-156] the MMO, following advice from Cefas, our scientific advisors, considers that a condition is required that excludes the period of November-January in order to account for Spawning Herring. The MMO proposes the following condition:

Herring spawning

24.—(1) The undertaker must not undertake pile driving or UXO detonations during the herring spawning period.

(2) The "herring spawning period" means the period 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

(3) The report referred in paragraph (2) must be submitted to the MMO at least six months prior to—



(a) the date on which it is intended for UXO clearance activities to begin; or
(b) the commencement of construction,
whichever is earlier.

The MMO has drafted this condition having looked at the Rampion One Offshore Wind Farm (OWF) condition that restricts piling works during the Herring Spawning Season.

The MMO believes that it is now up to the ExA recommendation and the SoS to decide on an appropriate condition to mitigate against impacts to Spawning Herring from these projects.

The MMO also wish to stress 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, including consultation with Cefas, the MMO's scientific advisers.

Completion of Construction Condition

The MMO stated in [REP8-156] that discussions had continued with the Applicant regarding the inclusion of a condition for the completion of construction and the submission of a Wind Turbine Generator construction close out report. The MMO was of the understanding that the proposed wording that was agreed between both parties would be included into the dDCO at Deadline 8.

The MMO has reviewed the updated dDCO and is content with the wording of Condition 31 (Schedule 13) and Condition 27 (Schedule 14) the Applicant has inserted, noting the difference in wording is because the wind turbines are only included in Schedule 13.

Southern North Sea (SNS) Special Area of Conservation (SAC) Site Integrity Plan (SIP) Condition

The MMO stated in [REP8-156] that after further discussion with NE, that there should be a separate SNS SAC SIP submitted 6 months prior to each noisy activity (piling and UXO clearance activities) and that this should be reflected in the DMLs. This was considered to be the most efficient way of separating these activities.

The MMO notes that the Applicant has included an additional condition, specifically for piling, to ensure that these activities are separated sufficiently. The MMO is content with this amendment as it reflects the dialogue had with the Applicant and NE. The MMO has no further comment to make on this matter.

Contaminant Sampling and Disposal Sites

The MMO set out in [REP8-156] that the contaminant sampling conducted by the Applicant at this stage is insufficient. 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. However, due to the late stage of the application process the MMO made a pragmatic decision to agree to the inclusion of the dredge and disposal activity within the DCO consent.

Regarding Schedule 13, Condition 31(1) and (2)/Schedule 14, Condition 27(1) and (2), the MMO is content with the wording of this condition as it accurately reinforces that dredge and disposal activities cannot take place until results of sediment sampling information and proposed dredge and disposal activities have been approved by the MMO.

The MMO highlights that due to the Examination being extended there is still ongoing discussions on these matters with the Applicant to see if the sampling can be provided prior to the close of Examination. This could mean that these conditions may not be required in the final dDCO, the MMO will provide an update at future deadlines.

Additional Points



The MMO notes the inclusion of a definition of ‘JNCC Guidance’ in Article 1 of Schedule 13/14, the MMO is content with this amendment.

The MMO notes the inclusion of a definition for ‘Layout Principles Statement’ in Article 1 of Schedule 13/14. The MMO is content with this amendment.

The MMO notes the rewording of Article 2(i) to confirm that disposal site references are to be provided by the MMO post-consent. The MMO welcomes this amendment.

The MMO notes the updates the Applicant has made to Schedule 13, Condition 17(a)(x) and (e)(iv) and Schedule 14, Condition 13(a)(x) and (e)(vi) to reflect that Wind Turbine Generators layout will be in accordance with the Layout Principles Statement. The MMO notes this is also to ensure that best practice Red Throated Diver (RTD) protocol must be adopted during 1 November to 1 March (inclusive). The MMO welcomes these amendments to this condition.

The MMO welcomes the update the Applicant has made to Schedule 13, Condition 21(3)/Schedule 14 Condition 17(3) by amending “*statistically significant differences*” to “*significantly different impacts*”. The MMO considers this amendment accurately reflects discussions held with the Applicant and NE.

1.2 Action Point 5

Schedule 17: Document to be certified

Having regard to the Applicants’ dDCOs submitted at D8, provide any final comments on the documents (and documents versions) to be included in Schedule 17.

The MMO notes the submission of the Layout Principles Statement as a part of this Schedule. The MMO welcomes the principles set out in the document, which the MMO understands have been agreed with the Maritime and Coastguard Agency (MCA).

The MMO also acknowledges that Principles 1 and 2 are controlled via DCO constraints. The MMO notes that in the relevant conditions in the Generation and Transmission DMLs, the wording specified that “*no part of the authorised scheme may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that part of the authorised scheme, adequately addressed all MCA recommendations as appropriate to the authorised scheme contained within MGN543 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes*”. The MMO is content with this updated wording.

The MMO notes the inclusion of the *Offshore Ornithology Cumulative and In Combination Collision Risk Update* as a certified document. The MMO ultimately defers to NE on the appropriateness of this inclusion.

2. Comments on any additional information/submissions received at Deadline 8

2.1 Appendix A19- NE’s Comments/Conclusions on Environmental Impact Assessment (EIA) Scale Impacts for EA1N and EA2 OWFs [REP8-159]

The MMO notes that NE is unable to rule out an adverse effect cumulatively with other plans & projects for several Ornithological features present near these projects. The MMO also notes NE’s point that because the Norfolk Vanguard consent decision was overturned in February 2021, it is highly probable that East Anglia One North (EA1N) and East Anglia Two (EA2) will be under consideration within the planning system at the same time as Norfolk Vanguard as Vattenfall are aiming to resubmit fresh considerations as soon as possible. Ultimately, the MMO defers to NE on matters of Ornithology and has no further comments to make.



2.2 Appendix A20- Natural England's Red-Throated Diver (RTD) Displacement Clarification Note [REP8-160]

The MMO understands that the issues surrounding RTD remain unresolved between the Applicant and NE and the MMO notes that NE's advice on the displacement of RTD remains the same as their previous submission on the subject [REP7-072]. The MMO defers to NE on all Ornithological matters and has no further comments to make.

2.3 Appendix B3b- NE's Further Comments on the Draft Marine Mammal Mitigation Protocol (MMMP) [REP7-029, REP7-030] and In Principle Southern North Sea SAC Site Integrity Plan (INSIP) [REP7-031, REP7-032] [REP8-161]

The MMO notes that NE are now content with the updated Marine Mammal swimming speed and mitigation commitments secured in the DMLs with regards to the MMMP. The MMO welcomes this position and welcomes the fact that there are no outstanding issues remaining with this document.

The MMO also notes that NE welcome the Applicants updated text for the definition of 'detonation' within the DMLs, which confirms that these works allow some clustering, but only under a very specific scenario where two UXO's are discovered so close that individual detonation is not possible. The definition goes on to state that it is ensured that such a detonation would need specific approval and that it could be expected that information to support this would be provided as part of the approval process. This scenario strengthens the MMO's opinion that the best mechanism for controlling UXO activity is a separate marine licence, as this potential occurrence would not be known until after UXO surveying has been completed. The MMO concurs with NE's contentment on this issue and has no further comments to make on this document.

2.4 Appendix C9-NE's Update and Comments to Terrestrial Ecology Documents Submitted at Deadline 6 and Deadline 7 [REP8-162]

The MMO has no comment to make on this document as it is specifically related to the terrestrial environment.

2.5 Appendix F10- NE's Update on All Other Matters [REP8-164]

The MMO notes that NE does not support the use of new cable protection, or scour protection during the Operations and Maintenance (O&M) phase and therefore cannot agree to the Outline Offshore Operations and Maintenance Plan (OOMP) until this issue is resolved. The MMO notes this position and highlights that this is the same position as the MMO as set out in [REP8-132].

2.6 Appendix G5- NE's Comments on EA1N/EA2 DCO Application Version 5 [REP8-163]

The MMO notes that NE have closed out most of their concerns with the Applicant with regards to the dDCO and welcomes this assertion. The MMO understands that NE has an outstanding concern regarding Schedule 18, Part 5, Condition 3, this is due to the condition currently being incomplete. Having reviewed this condition, the MMO concurs with NE however, the MMO suspects this is a typographical error. The MMO anticipates this will be resolved by Deadline 9.

2.7 Appendix I1f- Natural England's Risk and Issues Log – Deadline 8 [REP8-168]

The MMO appreciates the usefulness of this document insofar as visualising the amount of unresolved issues associated with these applications and welcomes the updates at each deadline.

2.8 Appendix K6- Natural England's Responses to Outstanding ISH Action Points [REP8-165]

The MMO appreciates the formatting of this document and urges NE to continue with this format for any future submissions related to ISH Action Points. The MMO welcomes the NE assertion



that they have agreed to the wording of both Requirement 13 and Condition 17 (1)(vi) proposed 23rd March. The MMO consider these matters to now be closed out.

2.9 Appendix K7- NE's Responses to Rule 17 Letter [REP8-166]

The MMO understands NE's point regarding the implications of the quashing of the decision to grant Norfolk Vanguard DCO in that cumulative and in-combination figures with and without Norfolk Vanguard should be presented in order to 'de-risk' the projects and provide the SoS with all relevant information in order for them to make an informed judgement. Ultimately, the MMO defers to NE on issues related to Habitats Regulations Assessment (HRA) but notes their position.

The MMO also notes that NE has concerns with the Applicant following the same approach as HOW3 in that they disagree with the Applicant pushing Compensation discussions to post-consent. This is because, under this approach, there is no guarantee that the Compensation can be delivered. The MMO supports this position and has engaged in discussions with the Applicant and NE to ensure that the obligation to deliver Compensation is properly secured.

The MMO notes that NE is satisfied that there will be no Adverse Effect on Integrity (AEOI) alone for the harbour porpoise feature of the Southern North Sea SAC. The MMO welcomes this point.

The MMO also understands that NE cannot exclude AEOI of the SNS SAC in-combination until a mechanism is in place to manage multiple SIPs (as per our Relevant Representation). The MMO notes this and concurs with NE that this issue is an industry-wide issue that needs to be explored at a regulatory level.

Finally, the MMO notes that NE maintains that the mechanism for control of in-combination noise impacts needs to be provided at the earliest opportunity. The MMO acknowledges these comments and believes that the SNS SAC SIP is the appropriate document to manage the in-combination noise impacts, along with the SNS Regulators Working Group.

2.10 Appendix K8- Natural England's Comments on Report on the Implication for European Sites (RIES) [PD-033] [REP8-168]

The MMO notes that there remain several unresolved issues regarding potential impacts to the National Site Network and the Ornithological features associated with them. The MMO defers to NE on Ornithological matters and hopes that any unresolved issues can be resolved prior to the close of examination. The MMO has no further comments to make on this document.

2.11 NE Deadline 8 Cover Letter [REP8-158]

The MMO has reviewed this document and has no comments to make on its content.

2.12 Deadline 8 Submission- Guide to the Application [REP8-002]

The MMO appreciates the usefulness of this document and thanks the Applicant for regularly updating it throughout the course of this examination.

2.13 EA2 Draft Development Consent Order (clean)- Version 6 [REP8-003]

The MMO has provided comment on the updated dDCO in Section 1.1 of this document. The MMO asks that the ExA refers to this.

2.14 Schedule of Changes to the draft Development Consent Order [REP8-005]

The MMO appreciates the usefulness of this document in noting changes made to the dDCO and thanks the Applicant for updating this regularly throughout the examination process.

2.15 Appendix 6.2- Relationship of onshore Plans Secured by the DCO [REP8-015]

The MMO has reviewed this document and notes that it is concerned with the terrestrial aspects of these projects. As such, the MMO has no comments to make on this document.



2.16 Offshore In-Principle Monitoring Plan (IPMP)- Version 4 [REP8-028]

The MMO welcomes the updated draft of this document and commends the Applicant for updating it in line with the concerns of the regulatory bodies involved in this examination. As set out in the MMO's Deadline 8 response [REP8-156] the MMO had one outstanding issue regarding this document; the use of the words 'statistically significant' in Table 4.

The MMO notes that this has been amended by the Applicant and has been changed to 'significantly different'. The MMO is content with this change and as such, is content with this document.

2.17 Draft Marine Mammal Mitigation Protocol (MMMP)- Version 4 [REP8-029]

The MMO confirmed at Deadline 8 that this document has now been agreed between both the MMO and the Applicant, this is following the Applicant addressing the MMO's remaining concerns regarding the inclusion of maximum potential Permanent Threshold Shift (PTS) impact ranges for marine mammals and the Applicant's agreement 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 remains in agreement with the Applicant on these points and consider all issues related to the MMMP to be closed out.

2.18 In-Principle Site Integrity Plan for the Southern North Sea Special Area of Conservation (IPSIP)- Version 4 [REP8-031]

The MMO raised one outstanding concern regarding this plan in [REP8-156]. The MMO stated that Temporary Threshold Shift (TTS) should be included as a potential negative impact of these projects, in addition to permanent auditory injury and disturbance. In a meeting between the MMO, the Applicant and the MMO's scientific advisors on 22 March 2021, the Applicant committed to incorporating this into this plan at Deadline 8.

The MMO has reviewed this updated document and can confirm that it is content with all the changes made by the Applicant. The MMO has no outstanding issues in relation to this document.

2.19 Habitat Regulations Assessment Derogation Case- D8 Update [REP8-088]

The MMO ultimately defers matters of Ornithology and Compensation/Derogation to NE. The MMO wishes to point out that the MMO, the Applicant and NE attended a joint workshop on 10 March 2021 to discuss compensatory measures related to these cases and commend the Applicants for their persistent efforts to secure Compensation measures in line with the MMO's requests.

2.20 Offshore Ornithology Without Prejudice Compensation Measures [REP8-089]

The MMO defers the appropriateness of the Compensation measures listed in this document to NE. The MMO provided detailed comments on its position on Compensation measures being secured in schedule 18 of the DMLs in Section 9.8 of [REP8-156] as such, the MMO defers the ExA to this for its position on Compensation.

2.21 Displacement of Red-Throated divers in the Outer Thames Estuary SPA- Deadline 8 update [REP8-033]

The MMO is aware that the displacement of Red Throated Divers (RTD's) remains an outstanding issue between the Applicant and NE. The MMO defers Ornithological matters to NE.

2.22 Deadline 8 Offshore Ornithology Cumulative and In-Combination Collision Risk Update [REP8-035]

The MMO defers matters of Cumulative and In-Combination collision risk to NE and the appropriateness of the updated figures presented by the Applicant.



2.23 Best Practice Protocol for Minimising Disturbance to Red-Throated Diver [REP8-036]

The MMO commends the Applicant for their persistence in updating this document in line with feedback from Interested Parties who are principally concerned with Ornithology. The MMO defers to NE on the appropriateness of the information contained within this document as we do on all Ornithological matters.

2.24 Underwater Noise Modelling Update [REP8-040]

The MMO thanks the Applicant for submitting this data so quickly and with such detail. The MMO and scientific advisors attended a meeting with the Applicant on 22 March 2021 where the detail was presented to the advisors, they confirmed that they are content with most of the data the Applicant had submitted.

However, the MMO has one outstanding issue in relation to this document. The MMO is not content that the Applicant has adequately assessed the risk of installing more than one monopile in a 24-hour period, this is because the monopiles will likely be installed at different locations.

The MMO attended a meeting with the Applicant and the MMO's scientific advisors on 13 April 2021 to discuss updates made by the Applicant to this modelling, the MMO welcomes the Applicants commitment to resolving this issue. The MMO is still reviewing this update modelling data and will provide a finalised position at Deadline 10.

2.25 Applicants' Comments on Historic England's Deadline 7 Submissions [REP8-044]

The MMO notes that most issues appear to be closed out between the Applicant and Historic England (HE). The MMO welcomes this but is aware that the *Onshore Written Scheme of Investigation* remains outstanding between the Applicant and HE. The MMO has no comment to make on this document but hope that this outstanding concern can be addressed prior to the conclusion of examination.

2.26 Applicants' Comments on Natural England's Deadline 6 Submissions: Responses to RTD statistical analysis [REP8-043]

The MMO is aware that the displacement of RTD's remains an outstanding issue between the Applicant and NE. The MMO defers Ornithological matters to NE but hope that a resolution can be reached by the close of examination.

2.27 Windfarm Layout Principles Statement [REP8-082]

The MMO thanks the Applicant for submitting this document and recognises its usefulness at this stage of the examination process. The MMO is content with all the information supplied by the Applicant and has no further comments to make.

2.28 Offshore Ornithology Compensation Measures Funding Statement [REP8-081]

The MMO welcomes the Applicants assertion that the SoS can be satisfied both that funding is likely to be available for any Ornithology Compensation measures determined to be required and also that the Project is soundly backed and that there is no reason to believe that, if the Order is made, the Project will not proceed. The MMO has no further comment to make on the Applicants funding strategy for these projects.

2.29 Deadline 8 Covering Letter [REP8-001]

The MMO appreciates the usefulness of this document and thanks the Applicant for submitting it. The MMO also welcomes the Applicants submission of a table detailing which Statement of Common Grounds (SoCG) have been signed and submitted into this examination as finalised documents.



2.30 Applicant's Comments on the Report on Implications for European Sites [REP8-094]

The MMO is aware that the potential impacts to the National Site Network is still an issue of discussion between the Applicant and NE and that this is unlikely to be resolved prior to the conclusion of this examination. The MMO defers to NE on all matters associated with HRA.

2.31 Statement of Commonality [REP8-102]

The MMO welcomes the submission of this document and appreciate its usefulness in visualising the various topics and issues that stakeholders involved in this examination have either resolved or remain outstanding with the Applicant.

The MMO has reviewed all the positions the Applicant has stated the MMO has taken and concur with all of them. The MMO has no further points to raise on this document.

2.32 Applicants' Comments on Natural England's Deadline 7 Submissions [REP8-043]

Summary of NE's position

The MMO notes that there remains disagreement between NE and the Applicant regarding the appropriateness of the Compensation packages proposed by the Applicant. The MMO largely defers to NE on this matter, however, the MMO provided comments on Schedule 18 in Section 2.2 and 9.8 at Deadline 8 [REP8-156], this remains the MMO position.

Derogations

The MMO understands that the mitigation proposed by the Applicants remains a point of disagreement between the Applicant and NE. The MMO does not consider that this issue will be resolved prior to the conclusion of this examination and will need to be judged by the SoS. The MMO ultimately defers to NE on this matter.

Fisheries Management

The MMO understands that this Compensation measure remains an area of disagreement between the Applicant and NE as the Applicant does not consider that prey enhancement in this way would be a viable Compensation measure.

The MMO also understands that NE does not consider this to be the case but is sympathetic to the Applicants position due to fisheries being under government control. The MMO ultimately defers to NE on the viability and appropriateness of all Compensation matters.

Appendix 1: Kittiwake from the Flamborough and Filey Coast (FFC) SPA

The MMO notes that the Compensation measures proposed by the Applicant to benefit Kittiwake in the FFC SPA remains an area of disagreement between NE and the Applicant. The MMO ultimately defers to NE on the appropriateness of any Compensation packages proposed by the Applicant.

Appendix 2: Gannet from the Flamborough and Filey Coast (FFC) SPA

The MMO notes that the Applicant has attempted to address NE's initial concerns that they have not provided enough data to support their assertion that the provision of artificial nesting sites is a sound Compensation package.

The MMO also notes that the Applicant has included an additional, potential Compensation measure relating to the removal of plastic waste at gannet colonies within the updated Offshore Ornithology Without Prejudice Compensation Measures document [REP6-045].

The MMO welcomes this update from the Applicant and commends their commitment to securing appropriate Compensation packages for all Ornithological species, however, the MMO ultimately defers to NE on the detail of all Compensation packages proposed.

The MMO will review how the removal of plastic waste will be conditioned in Schedule 18, in terms of marine licensing.



Appendix 3 and 4: Guillemot and Razorbill from the Flamborough and Filey Coast (FFC) SPA

The MMO notes that the Applicant has updated their submission to include specific locations for where rat eradication would take place in order to benefit both Guillemot and Razorbill species.

The MMO welcomes that Applicants attempt to answer some of NE's concerns, however, the MMO ultimately defers to NE on the appropriateness of these updates in relation to Compensation for these projects.

Appendix 5: Lesser Black-backed gull from the Alde-Ore Estuary SPA

The MMO notes that the use of New Zealand style predator proof fencing as Compensation for this species in this SPA has been agreed in principle between both the Applicant and NE. The MMO welcomes this position from both parties, however, the MMO notes that NE would prefer the Applicant to have submitted candidate locations for such fence placement, but that the Applicants consider this not to be feasible due to the advanced stage of the examination that the projects are currently in.

The MMO welcomes the Applicant's commitment that should the SoS consider that Compensation packages are required that they would engage in a scoping process with NE to ascertain the most appropriate locations. However, the MMO defers to NE on this matter.

Appendix 6: Red throated diver from the Outer Thames Estuary SPA

The MMO notes that the potential impacts to RTD remain an area of outstanding disagreement between the Applicant and NE and is most likely going to remain as such at the close of this examination.

The MMO notes the Applicant's assertion that they have put forward a practical measure which goes above and beyond the measures proposed in Best-Practice Protocols for Minimising Disturbance to RTD that the Applicants have seen for other windfarm projects. This includes East Anglia ONE and East Anglia THREE (noting that this proposed Compensation measure has incorporated project vessel traffic management for East Anglia THREE) which will see the Applicants avoiding vessel transits through the OTE SPA during the winter period during construction of the projects and during the entire operational period.

The MMO welcomes this commitment from the Applicant, however, the MMO defers to NE on the appropriateness of this Compensation package.

Outline Sabellaria Reef Management Plan [REP6-039, REP6-040]

The MMO is aware that this document remains an area of disagreement between the Applicant and NE, and that NE do not consider that this issue can be resolved prior to the close of examination. The MMO notes NE's position in relation to this plan.

Offshore In-Principle Monitoring Plan [REP6-015, REP6-016]

The MMO notes that the Applicant has tried to address all of NE's concerns regarding the security of monitoring required in relation to Compensation measures, residual impacts to designated sites and the inclusion of sandeel monitoring as a provision of this document.

The MMO also notes that the Applicant has updated the document to include reference to reef recovery, something NE requested of them, the MMO further welcomes this update. The MMO ultimately defers to NE on the appropriateness of these updates and is hopeful that all issues can be resolved as of the conclusion of Examination.

Outline Landfall Construction Method Statement [REP6-022, REP6-023]

The MMO welcomes the Applicant's assertion that have updated the draft DCO at Deadline 8 to include NE and the MMO as a consultee on the Landfall Construction Method Statement.



The MMO has provided detailed comments on the updated dDCO in Section 1.1 of this document. The MMO has reviewed the document and defers to NE and the local planning authority in relation to the content of this plan.

Horizontal Directional Drilling Verification Clarification Note [REP6-024]

The MMO understands that there is disagreement between the Applicant and NE as to the need for this document to be produced for these projects. The MMO supports NE's position on this document but consider this disagreement to be fairly minor in terms of these projects.

3. Comments on Applicant's comments on MMO Deadline 7 Response [REP8-047]

3.1 Deemed Marine Licences

The MMO welcomes the Applicant's commitment to updating the listed DMLs condition and including them in the most recent dDCO submission. The MMO has provided detailed comments on the dDCO in Section 1.1 of this document.

The MMO notes the Applicant's assertion that themselves and the MMO are not agreed on the wording of Condition 29 of the Generation DML and Condition 25 of the Transmission DML with reference to a Herring Spawning restriction. The MMO concurs with this and direct the ExA to Section 9.4 of [REP8-156] for the MMO comments as to why an agreement has not been reached between both parties.

The MMO reiterates that the Applicant and MMO have agreed to include a new sediment sampling condition in the DMLs (Condition 30 of the Generation DMLs and condition 26 of the Transmission DMLs) the MMO acknowledges that the Applicants dispute the requirement for additional sediment contaminants sampling, however, the MMO position remains the same on this issue, further details of which can be found in Section 8.8 of [REP8-156]. The MMO is content with the conditions as they stand in the DMLs.

The MMO would highlight that discussions on this matter are continuing with the Applicant now the Examination has been extended with the hope that the sampling can be completed prior to the close of Examination.

3.2 Resolved Issues

The MMO has no comments on the Applicant's comments on this Section.

3.3 Outstanding Issues

The MMO welcomes the Applicants agreement on all the issues that remaining outstanding for these projects.

Regarding Compensation, the MMO has provided detailed comments on this issue in Section 9.9 of [REP8-156], the MMO defers the ExA to this for our comments.

Yours Sincerely,

[Redacted]
[Redacted]
Marine Licensing Case Officer

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