

Vattenfall Wind Power Ltd

Thanet Extension Offshore Wind Farm

Appendix 2 to Deadline 1 Submission: Applicant's Summary of Relevant Representations

Relevant Examination Deadline: 1

Submitted by Vattenfall Wind Power Ltd

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Contents

1	Introduction	5
2	Natural England	6
2.2	Designated Sites	6
2.3	Loss of Saltmarsh Habitat.....	6
2.4	Site Selection and Alternatives	7
2.5	Goodwin Sands pMCZ	8
2.6	Offshore Ornithology	8
2.7	Marine Mammals	8
2.8	DCO and dML	9
2.9	Onshore Biodiversity	9
2.10	Other items.....	10
3	Marine Management Organisation	11
3.2	Draft DCO and deemed Marine Licences.....	11
3.3	Environmental Statement	12
	Physical Processes.....	12
	Sediment Quality and Disposal	12
	Benthic Ecology.....	12
	Fish and Shellfish.....	13
	Fish Ecology.....	13
	Commercial Fisheries	13
3.4	Underwater Noise	13
3.5	Plans	14
4	Environment Agency.....	15
4.2	Saltmarsh.....	15
4.3	Project Design	16
4.4	WFD Assessment.....	16
4.5	Waste	17
4.6	Flood Risk	17
4.7	Draft DCO	17
5	Forestry Commission	18

Figures

No table of figures entries found.

Tables

No table of figures entries found.

1 Introduction

- 1 The Applicant has provided responses to all the Relevant Representations on the Thanet Extension Offshore Wind Farm (Thanet Extension) Application. The detailed responses to the Relevant Representations are provided in Appendix 1 of the Applicant's response to deadline 1. This document provides a summary of the key issues and concerns raised by stakeholders with Relevant Representations exceeding 1500 words, namely:
 - Natural England (PINS Ref RR-053);
 - The Marine Management Organisation (MMO) (PINS Ref RR-049);
 - The Environment Agency (PINS Ref RR-043); and
 - The Forestry Commission (PINS Ref RR-019).
- 2 This document has been prepared to aid the Examining Authority (ExA) by providing the Applicant's understanding of the key issues of the Relevant Representations.

2 Natural England

3 The Natural England Relevant Representation (PINS Ref RR-053) was submitted directly to the Applicant on 13th September 2018.

4 The key themes of the Relevant Representation, as identified in Section 4 of the Representation were:

- The designated sites relevant to the Application;
- The permanent loss of saltmarsh habitat and the associated impacts;
- The reasoning and information provided for the site selection of the landfall option;
- Additional Development Consent Order (DCO) and deemed Marine Licence (dML) Conditions and/or amendments;
- The methodology for offshore ornithology receptors; and
- The Report to Inform Appropriate Assessment (PINS Ref APP-031/ Application Ref 5.2);
- The adequacy of the impact assessments.

2.2 Designated Sites

5 Natural England expressed concerns over the impacts on the following designated sites:

- Thanet Coast and Sandwich Bay SPA and Ramsar;
- Thanet Coast SAC;
- Sandwich Bay and Hacklinge Marshes SSSI; and the
- Proposed Goodwin Sands pMCZ.

2.3 Loss of Saltmarsh Habitat

6 Natural England's primary concern was the permanent loss of saltmarsh habitat in Pegwell Bay under the proposed Option 2 landfall design. Natural England's opinion was that the saltmarsh forms supporting habitat for the Thanet Coast and Sandwich Bay SPA and is also a notified feature of the Sandwich Bay and Hacklinge Marshes SSSI.

- 7 Natural England do not agree with the findings in the RIAA in relation to the permanent loss of saltmarsh in Thanet Coast and Sandwich Bay SPA and Sandwich Bay and Hacklinge Marshes SSSI. This is primarily as they disagree with the Applicant as to whether the habitat is functional supporting habitat to the Thanet Coast and Sandwich Bay SPA.
- 8 Natural England also noted that the saltmarsh is an important habitat for invertebrate species within the Thanet Coast and Sandwich Bay Ramsar site.
- 9 If the Applicant were to commit to Horizontal Directional Drilling (HDD) at the Pegwell Bay landfall Natural England's concerns would be lessened, see section 2.4.

2.4 Site Selection and Alternatives

- 10 As outlined in section 2.3, Natural England's primary concern relates to the permanent loss of saltmarsh in Pegwell Bay if the landfall Option 2 were constructed. Due to the loss of this habitat, Natural England state that the option of making landfall in Pegwell Bay is less favourable than in Sandwich Bay. If the Applicant removed Option 2 from the project design, then the site selection for a landfall in Pegwell Bay would be more robust and preferable to a landfall in Sandwich Bay.
- 11 Natural England note the Applicant's position that the Sandwich Bay Option (SBO) has fewer interactions with designated sites but query that the interaction with the saltmarsh is not considered as a priority habitat. Natural England also noted that the permanent loss of habitat would be harder to compensate than the temporary impacts associated with the SBO option.
- 12 Natural England noted that the Environment Statement (ES) chapter had been updated since the Preliminary Environment Information Report (PEIR) to provide more information regarding the site selection undertaken by the Applicant. However, they noted that additional information and rationale on the decision-making process for the landfall site would be desirable.
- 13 Natural England also queried the use of HDD for the SBO to remove the interaction with the sand dunes and coastal vegetated shingle. Natural England believe that the SBO has been discounted without sufficient consideration of the expected environmental constraints and engineering techniques that could be employed to minimise any potential impacts. Therefore, Natural England has requested the Applicant to provide further technical information on why the SBO was discounted.
- 14 Natural England encouraged the Applicant to undertake Site Investigation works within Pegwell Bay to inform the feasibility of the landfall design options.

2.5 Goodwin Sands pMCZ

- 15 Natural England do not agree with the conclusions reached by the Applicant in the assessment of the potential impacts on proposed Goodwin Sand pMCZ. Natural England stated that a more detailed ecological assessment on the proposed features of the site is required for all stages of the project and cumulatively.
- 16 Natural England also highlighted the importance of cable burial in the site, if this area of the Offshore Export Cable Corridor is utilised, and that lessons should be learnt from the Nemo Interconnect project.

2.6 Offshore Ornithology

- 17 Natural England identified data and methodological concerns relating to the information that underpins the ornithological assessments undertaken by the Applicant within the Habitats Regulations Assessment and ES, these include:
- The methodology for assessing displacement for red throated diver;
 - The Collision Risk Modelling (CRM) predictions using Option 1 should be presented alongside Option 2 outputs; and
- 18 The figures used in cumulative displacement and cumulative CRM assessments. Appendix 1 of Natural England's Relevant Representation (PINS Ref RR-053) provided further detailed comments, on the issues within the bullet points within paragraph 17 above, on the ornithological assessments undertaken by the Applicant.
- 19 Natural England noted that the Applicant has not proposed to undertake monitoring for ornithological receptors.

2.7 Marine Mammals

- 20 Natural England disagreed with the methodology of the Applicant's in-combination assessment of marine mammals, principally the exclusion of Tier 2 projects within the in-combination assessment.
- 21 Through discussions with Natural England the Applicant's understanding that the issues raised in their Relevant Representation regarding the effectiveness of soft start for mitigation purposes are no longer a key concern.

2.8 DCO and dML

- 22 Natural England have provided examples of inconsistencies in the presentation and transcription of project description information into the DCO and dMLs (and other Applicant documents). These are primarily related to the requested disposal volumes, scour protection and cable protection requirements. In particular, Natural England noted the impacts of cable protection should be assessed on both the volume and area of the protection.
- 23 Natural England's Relevant Representation stated that the provision for arbitration within the draft DCO is not appropriate.
- 24 Natural England suggested changes for the made to the draft DCO/ dML, such as the wording for Condition 16 for noise measurements.
- 25 Natural England noted the lack of In-Principle Monitoring Plans in the Application documents - including the draft DCO.

2.9 Onshore Biodiversity

- 26 Natural England were concerned within the potential impacts on European designated site, and in particular the permanent loss of saltmarsh on onshore biodiversity receptors. Natural England also raised concern that the RIAA (PINS Ref APP-031/ Application Ref 5.2) relies on management plans which will be provided post-consent (if granted).
- 27 Natural England confirmed the findings of the Applicant and that the proposed development is unlikely to impact legally protected species.
- 28 Natural England encouraged pre-construction surveys to determine the likelihood for the requirement of any licenses.
- 29 Natural England did note areas of duplication between Volume 3, Chapter 5: Onshore Biodiversity (PINS Ref APP-061/ Application Ref 6.3.5) and the RIAA (PINS Ref APP-031/ Application Ref 5.2) and the terminology used within the assessments.
- 30 Natural England noted that they "accepted" a number of the conclusions drawn in the ES assessment and the RIAA but did have concerns with regards to birds and invertebrates.

2.10 Other items

- 31 Natural England agreed to trial the use of a core reef approach if the conditions outlined in the Relevant Representation are met by the Applicant.
- 32 Natural England noted that in their opinion there has been an insufficient assessment of potential cable repairs and sandwave clearance with the Application.

3 Marine Management Organisation

- 33 The Marine Management Organisation (MMO) Relevant Representation (PINS Ref RR-049) was submitted directly to the Applicant on 12th September 2018.
- 34 The key themes of the MMO's Relevant Representation were:
- The draft DCO/ dMLs submitted within the Application;
 - Marine Processes;
 - Marine Water Quality and Sediment Quality;
 - Benthic Ecology;
 - Fish and Shellfish;
 - Underwater Noise; and
 - Plans.

3.2 Draft DCO and deemed Marine Licences

- 35 MMO's Relevant Representation stated that the provision for arbitration within the draft DCO is not appropriate.
- 36 The MMO proposed that the term 'commencement' should also include all preparation works, including seabed preparation and UXO clearance (if required and consented).
- 37 The MMO provided examples of inconsistencies in the presentation and transcription of project description information into the DCO and dMLs (and other Applicant documents). The MMO requested clarification on the maximum design parameters being applied for by the Applicant, including (but not limited to) the requirements for cable protection, disposal volumes and scour protection.
- 38 The MMO stated that a minimum of a six month period, as opposed to the eight week period in the draft DCO submitted with the Application, should be conditioned for all submitted post-consent documentation to enable adequate time for stakeholder consultation and revisions (if required).
- 39 The MMO requested that details of sandwave and boulder clearance, areas and volumes, should be included in the DCO/dMLs.

3.3 Environmental Statement

40 The MMO stated in their Relevant Representation that the Application documents are fit for purpose.

Physical Processes

41 The MMO requested clarification on the assumptions applied to the local wave energy reduction considered in Volume 2, Chapter 2: Marine Geology, Oceanography and Physical Processes (PINS Ref APP-043/ Application Ref 6.2.2).

42 The MMO also requested additional information to understand the cumulative effects on waves from the presence of both the Thanet Offshore Wind Farm (TOWF) and Thanet Extension, given the locality of the two projects. The MMO note the importance of this cumulative effect as the results feed into other aspects of the Applicant's ES.

Sediment Quality and Disposal

43 The MMO requested some additional clarifications from the Applicant but considered that the proposed disposal sites were appropriate.

44 These clarifications included:

- The requested maximum disposal volume; and
- To ensure that the proposed disposal site does not overlap with existing disposal sites or for the Applicant to apply to use these sites (if required).

45 The MMO considered the risk to be low of designating the 'holes' in the requested disposal sites, to conform with OSPAR requirements, despite not having been assessed in the ES by the Applicant.

Benthic Ecology

46 The MMO noted that the potential effects from Operations and Maintenance (O&M) need to be defined and assessed for benthic ecology.

47 The MMO requested references and figures of the data used to characterise the OECC, in particular the Goodwin Sands pMCZ within the OECC; and for the Applicant to provide further information that the Features of Conservation Importance will not be affected by the proposed works.

- 48 The MMO expressed concerns over the use of the core reef approach and the data which the Applicant propose to use to define areas of core reef. The MMO also requested further information on the survey methodology under low visibility conditions.
- 49 The MMO suggested that post-consent monitoring is extended from the proposed one year to three to provide sufficient evidence. The MMO also suggests that operational monitoring should be undertaken in the O&M phase for benthic ecology.

Fish and Shellfish

Fish Ecology

- 50 The MMO stated that the baseline and study area had been appropriately characterised, and the potential impacts identified and assessed.
- 51 The MMO suggested that additional mitigation is required to minimise the impacts on spawning herring and their eggs. This mitigation could be either a reduction of noise at source (i.e. use of bubble curtains) or the use of seasonal restrictions.
- 52 The MMO suggest that further assessment is required on the impact of sole spawning grounds and a temporal restrictions should be Conditioned.
- 53 The approach undertaken by the Applicant for identifying 'preferred' sandeel habitat is considered appropriate and agree with the conclusions of the approach. The MMO agreed that the recolonisation of sandeel habitat is likely but consider a temporal restriction should be Conditioned during the spawning season (especially for cable installation activities).

Commercial Fisheries

- 54 The MMO considers that the Succorfish data presented by the Applicant suggests that the magnitude of the loss of fishing grounds on the potting fleet should be increased to Medium within the Commercial Fisheries assessment (PINS Ref APP-050/ Application Ref 6.2.9).

3.4 Underwater Noise

- 55 The MMO stated that all consultation responses provided on the PEIR have been appropriately and adequately addressed in the ES submitted by the Applicant. The MMO do however request some further clarifications from the Applicant.

- 56 The MMO recommend reducing of noise at source (such as the use of bubble curtains) and note that the Marine Mammal Mitigation Protocol (MMMP) should be agreed with all relevant stakeholders.
- 57 The MMO queried the use of the mean ranges presented in paragraph 7.11.81 in Volume 2, Chapter 7: Marine Mammals (PINS Ref APP-048/ Application Ref 6.2.7). The MMO also stated that the maximum predicted impact ranges should be used when defining appropriate mitigation measures.

3.5 Plans

- 58 The MMO disagreed with the O&M activities identified as only requiring notification to the MMO with the Outline Operations and Maintenance Plan (PINS Ref APP-145/ Application Ref 8.10). The MMO stated that additional information would need to be submitted to enable the MMO to ensure that the works are within the consent (if granted).
- 59 The MMO queried whether the Fisheries Liaison and Co-Existence Plan (PINS Ref APP-143/ Application Ref 8.8) was the final agreed version and additional contact details should be provided for the Fisheries Liaison Officers.

4 Environment Agency

60 The Environment Agency Relevant Representation (PINS Ref RR-043) was submitted directly to the Applicant on 12th September 2018.

61 The key themes of the EA's Relevant Representation were:

- Saltmarsh;
- Project Design;
- The Water Framework Directive Assessment (WFD) undertaken for coastal and transitional water bodies;
- Waste;
- Flood risk; and
- The draft DCO.

4.2 Saltmarsh

62 The Environment Agency raised concern that there would be possible bisection of the saltmarsh in front of the seawall extension, as the saltmarsh may not establish in front of the structure. The structure may increase erosion of the saltmarsh by the presence of a structure and that no supporting evidence is provided by the Applicant to demonstrate that this would not be the case.

63 The Environment Agency disagreed with the determination of significance (Minor) to the direct disturbance of the saltmarsh habitat to the installation of export cables, on the basis that it does not consider the permanent loss of saltmarsh or the potential bisection of the habitat.

64 The Environment Agency noted that the area of saltmarsh at the proposed landfall is inundated on high tides, and requested the evidence behind the Applicant's characterisation of the habitat.

65 The Environment Agency noted that the saltmarsh within Pegwell Bay is of regional significance and is important for a range of marine fish species. This statement was supported by surveys undertaken by the Environment Agency and the Kent and Essex Inshore Fisheries and Conservation Authority within Pegwell Bay.

4.3 Project Design

- 66 The Environment Agency's landfall methodology preference, including in the Project Design, is Option 1 (HDD).
- 67 The Environment Agency agreed with the assessment of the temporary impacts arising from Option 3 (trenching) and noted that this option could be mitigated.
- 68 The Environment Agency object to Option 2 (seawall extension) due to the potential to bisect the saltmarsh habitat.
- 69 The Environment Agency stated that the rationale for the discounting of landfall location options was not clear and queried why an alternative landfall (up the River Stour channel) had not been considered.

4.4 WFD Assessment

- 70 The Environment Agency stated that the guidance (Clearing the Waters for All) had not be appropriately followed and that an impact assessment should have been scoped in for an impact assessment. Following discussions with the Environment Agency the Applicant has clarified with the Environment Agency that this effect was not scoped out and it was agreed that there is no impact assessment methodology guidance for undertaking a water quality impact assessment.
- 71 The Environment Agency noted that a numerical assessment of the increased contaminant concentrations in the water column relative to the baseline and the two thresholds for contaminants (Annual Average and Maximum Allowable Concentration) had been expected. The Environment Agency stated that a quantitative assessment of dilutions in the receiving waters should have been presented within the assessment.
- 72 The Environment Agency stated that a temporary cessation Condition should be included in the draft DCO as a proportionate control to ensure bathing water quality as data were not available for bacterial levels in the sediments within Pegwell Bay.
- 73 The Environment Agency noted that the proposed activities were not considered likely to result in a deterioration of the WFD status in the water body. However, further numerical evidence was required to support the Applicant's water quality assessment.

4.5 Waste

- 74 The draft DCO appropriately captures the requirements to undertake site investigation works, and notes that investigations should adhere to the CLAIRE definition of waste. Noting that environmental permits may be required for deposit if excavated material is re-used.
- 75 The Applicant should ensure that adequate characterisation of contaminated materials is undertaken and that the Environment Agency may be contacted for advice (if required).

4.6 Flood Risk

- 76 The Environment Agency stated they have no concerns or requirements, providing the recommendations outlined in Volume 5, Annex 6-2: Flood Risk Assessment (PINS Ref APP-116/ Application Ref 6.5.6.2) are adhered to by the Applicant.
- 77 Further discussion on the crossing of Minster Stream and the transitional joint bays would be welcomed by the Environment Agency.
- 78 The Applicant is required to apply for Flood Risk Activity Permits for works within 16 m of the River Stour or 8 m of the Minster Stream

4.7 Draft DCO

- 79 The Environment Agency did not provide detailed comments on the draft DCO. This is primarily due to fundamental issues which the Environment Agency felt need to be resolved prior to a detailed review of the draft DCO, primarily the landfall options included in the project design.

5 Forestry Commission

- 80 The Forestry Commission Relevant Representation (PINS Ref RR-19) was submitted to the Planning Inspectorate (PINS) and was uploaded on to the Thanet Extension PINS webpage on 21st September 2018.
- 81 The key themes of the Forestry Commission's Relevant Representation were:
- Ancient Woodlands and Veteran Trees importance;
 - Mitigation measures; and
 - Overall Net Gain.
- 82 The Forestry Commission encouraged the Applicant to consider the potential wider community benefits of building infrastructure to link urban settlements to the countryside, such as the Jeskyn¹ project.
- 83 The Forestry Commission highlighted additional guidance which is relevant to woodlands (including ancient) and veteran trees.
- 84 The Forestry Commission noted that the Applicant considered the Section 41 (of the NERC Act 2006) habitats, and mixed broadleaved woodland has been assessed.
- 85 The Forestry Commission recommended that any loss of trees and/ or woodlands should be considered to ensure that there will be no net gain of greenhouse gas emissions as a result of Thanet Extension. Any mitigation should aim to compensate for any loss of woodland and indirect effects on surrounding woodlands. The Forestry Commission also recommended that the Woodland Condition Assessment guidance should be adhered to in the Applicant's assessment.
- 86 The Forestry Commission recommended that all woodland as defined on the National Forest Inventory should be considered as woodland and subjected an EIA.

¹ <https://www.forestry.gov.uk/jeskyns>