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Your ref: **20012643**

Our ref: Thanet Extension Offshore  
Windfarm Project (EN010084)

10<sup>th</sup> June 2019

Dear Sir/Madam

### **Thanet Extension Offshore Windfarm Project (EN010084) - Deadline 8 Submission**

The Maritime and Coastguard Agency's (MCA) would like to submit a response to the Examining Authority (ExA) at Deadline 8, if it is considered acceptable by the ExA without a request. The MCA would appreciate the opportunity to bring to the ExA's attention some points of clarification in the recent Deadline 7 responses provided by the applicant to MCA submissions at Deadline 6 and 6A.

There continue to be multiple occasions where the applicant has misinterpreted MCA responses or taken them out of context and provided their own summaries of our position to which the MCA has not intended. This could be misleading for the ExA. A list of examples can be found in the attached table.

We note that the applicant continues to use reference to 'as agreed in the minutes of....' to support their case on numerous occasions. We hold caution to this, as MCA do not comment on every sentence to say agreed or disagreed; if a sentence is stated at a meeting it will be recorded in the final agreed minutes, but it does not mean that MCA agreed that particular line. The line was merely stated during the meeting.

In addition, the applicant continues to use statements 'agreed' by MCA as a statutory navigation authority to reject or dispute comments made by IPs. The MCA has made it clear throughout the examination process that we provide policy advice and guidance on safe navigation for offshore windfarms to the responsible licensing authorities. The views of the IPs must be taken into account as part of MCA assessment to ensure local knowledge and local operational experience are included. The MCA has noticed this in previous submissions and has spent time with the applicant explaining MCA's role and how we operate, in order to address this misunderstanding.



HM Coastguard

Finally, we note that the feedback provided to the applicant on their draft DCO on 5 May 2019 have not been addressed in their final submission. The MCA has received no feedback outside of the examination submissions from the applicant on whether they intend to accommodate our amendment requests for safety of navigation purposes and in order to maintain our SAR obligations as per MGN 543.

The MCA hopes that the ExA will take these items into consideration during its deliberations over the next three months.

Yours faithfully,

Helen Croxson  
OREI Advisor  
Maritime and Coastguard Agency

**Thanet Extension Offshore Windfarm Project (EN010084)**

**MCA Deadline 8 Response regarding Appendix 2 to Deadline 7 Submission: Applicant's Response to Deadline 6 Interested Parties Submissions - Shipping and Navigation**

<b>ExQ3 PINS Quest. no. :</b>	<b>Questions</b>	<b>IP Response</b>	<b>Applicants response</b>	<b>MCA Comment</b>
3.12.6.	c) Is it appropriate for the 1nm safety buffer to be reduced for short durations by the net effect of a 500m "rolling" safety zone.	<p>Question not addressed to MCA.</p> <p><b>PLA/ ESL response:</b></p> <p>c) It is not appropriate for the 1nm buffer to be reduced by 500m temporarily or otherwise. Any safety zone implemented would need to be in addition to the 1nm.</p>	<p>c) The Applicant notes that if rolling safety zones are applied for, and that 500m zones are requested, additional risk controls identified within the original NRA will be place such as guard vessels, that will provide a reduction in risk, likely to be equivalent or better than a small temporary safety zone. <u>The Applicant also notes that this matter has been agreed as commonplace with the MCA in the SoCG submitted with this Deadline 6 submission</u></p>	<p>This is a misinterpretation on what was agreed in the SoCG. MCA agreed that the application of safety zones during construction and major maintenance is common practice. This does not confirm that MCA agrees it is commonplace for safety zones to be established in SEZs.</p> <p>This is an example of the applicant using MCA 'agreement' as an argument to reject or dispute an IP's response.</p>

3.12.19.	<p>Would the PLA, MCA and THLS comment on:</p> <p>a) whether they agree with this statement; and</p> <p>b) whether it addresses the concerns raised in earlier representations; and</p> <p>c) whether there are other considerations of involvement by IPs in maintaining the effectiveness of such embedded or additional risk controls that should be considered by the ExA; and</p> <p>d) whether the commitment made by the Applicant to 2 lines of orientation (thereby proposed as embedded rather than additional mitigation) changes the IPs' view on the "double-counting" of embedded and additional mitigation?</p>	<p>MCA Response</p> <p>a) MCA agrees with the statement: "the embedded and additional risk controls identified as part of the Addendum NRA do not need managing by the PLA". The responsibility of managing risk controls listed in the Addendum NRA (Rev B) paras 134 &amp; 135 should remain with the wind farm operator. However, it is not yet known what the implications will be for third parties through the use of the Shipping and Navigation Plan, and the establishment of the Shipping and Navigation Liaison Group.</p> <p>b) MCA's previous comments at deadline 5 remain: "Optimise TEOW line of orientation and symmetry' is a duplicate of 'Layout plan to be submitted to MCA for approval prior to</p>	<p>a)The agreement of MCA is noted</p> <p>b) The Applicant has committed to provide the layout plan, which will be submitted to the MMO and MCA for approval in accordance with the requirements of</p>	<p>b) Simply submitting the layout plan for approval is not in itself a mitigation measure for reducing risk.</p>
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		<p>construction' in Paragraph 133. Part of this approval process is to ensure the turbine layout design allows for vessels and SAR helicopters to safely transit through the wind farm, therefore it aims to optimise lines of orientation and symmetry".</p> <p>c) The MCA has no other considerations to offer at this time.</p> <p>d) The MCA welcomes the applicant's commitment to at least two lines of orientation. MCA still contends that this is a duplicate of the embedded risk control "Layout Plan to be submitted to MCA for approval prior to construction". MCA and TH approval of a layout plan is a standard DML condition and the discussion on layout with MCA and TH will take place post-consent, if granted. MGN543 Annex 2 section 2.d. states: "Developers should plan</p>	<p>the DCO (this is the embedded risk control component). The further mitigation measure of optimised lines of orientation is secured in the schedule of mitigation and will be reflected in the layout plan submitted pre-construction (and is an additional risk control). This is therefore not a duplicated risk control.</p> <p>c) No comment</p> <p>d) As per item (b). It is considered that this remains an additional risk control and not embedded. The Applicant notes that there is precedent in other ORIE projects for lines of orientation not being symmetrical in either one or two planes of symmetry and therefore it is entirely appropriate for this risk control to remain as an additional risk control</p>	<p>d) All layout plans are assessed on a case by case basis and no layout design provides any precedence for other designs. MCA does not accept this as a justifiable reason.</p> <p>MCA does not agree it is an additional risk control measure.</p>
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		for at least two lines of orientation unless they can clearly demonstrate that fewer is acceptable." Any layout plan submitted to MCA and Trinity	measure and not embedded - the Applicant also notes this concurs with TH position (below).	
3.12.21.	<p><b>Additions to the NRAA made at deadline 5</b> Would the IPs comment on the recent textual changes in regard to risk assessment made at Deadline 5 to the NRAA (rev B) [REP5-039]:</p> <p>a) Para 135: Additional Risk Control: Enhanced promulgation of information (redrafted); Shipping and Navigation Liaison Group Terms of reference (redrafted); Post-consent Monitoring (redrafted); Enhanced optimisation of TEOW line of orientation etc (redrafted); Aids to Navigation etc (redrafted);</p>	<p><b>MCA response:</b></p> <p>a) In the applicant's ISH8 written response (Appendix 7 to Deadline 5 Submission: Response to ExA Action Points arising from Issue Specific Hearing 8 - Shipping and Navigation, section 82) it explains that Information Dissemination is an embedded risk control measure however this is not listed in the Addendum NRA (Rev B) para 134.</p> <p>MCA contends that the promulgation of information, as stated in the NRA Addendum Rev A section 134, should be an embedded risk mitigation measure since the charting of hazards, issuing Notices to Mariners and promulgating information to fishing and recreational</p>	<p>a) This observation is noted although the Applicant notes the differential in this case is that the Risk control has been enhanced to include WFSV plans, maintenance programmes and outputs of the shipping and navigation liaison group - which are in excess of the standard practice embedded risk control measure for dissemination of information. The Applicant has provided further information and clarification in response 3.12.19 with regards to lines of orientation and the commitment to secure this in the Schedule of Mitigation confirming its elevated status to an enhanced</p>	<p>The applicant's response to 3.12.19 does not address MCA comments here under 3.12.21.</p> <p>MCA does not agree that early commitment can be considered to be a risk control measure.</p>

		<p>users are standard practices in the industry for notifying mariners and ensuring they have up to date information so they can safely plan and conduct their passage. Therefore, MCA's opinion is that these need to be separated from the risk control in para 135 into its own embedded risk control in para 134.</p> <p>It is noted that the risk control measure has been amended to "Enhanced Optimisation of TEOW line of orientation and symmetry". Although it is not understood how, by definition, an optimised layout can be enhanced, MCA does not agree that early commitment to two lines of orientation can be considered as an additional risk control measure for the operational phase of the wind farm. Nor do we agree that commitment to two lines of orientation is enhancing optimisation of</p>	<p>risk control measure. In addition to the Applicant's position, it is worthy of note that precedent is made for non symmetrical extensions to exist in wind farms - e.g. Walney Extension it is clear that this early stage commitment is further or enhanced mitigation.</p>	
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		<p>the layout, as explained above in our response to 3.12.19 (d). The intention of at least two lines of orientation applies to wind farms with multiple rows and columns to allow vessels and SAR helicopters to safely navigate through the wind farm. It is likely the locations of the Thanet Extension turbines will surround the current wind farm in one or two columns and the MCA will also be concerned that the rows and columns align with the current turbines at Thanet OWF (in accordance with MGN543 Annex 2 section 2.e.).</p>		
		<p>b) It is not understood what "Enhanced Promulgation of Information" means since Promulgation of Information is not included as an embedded measure in para 134. It is noted that this is separate to "Shipping and Navigation Liaison Group", therefore</p>	<p>See above response and also 3.12.19</p>	<p>This is not explained in the NRAA Rev B</p>



		<p>the implication is that there are two levels of information that can be promulgated to mariners for their safety. If there is enhanced information that could be disseminated to mariners, in addition to the common practices of issuing Notices to Mariners, charting hazards, notifying fishing organisations, this is counter-productive for ensuring safety of navigation.</p> <p>MCA does not agree that "Enhanced Promulgation of Information" and "Enhanced Optimisation of TEOW line of orientation and symmetry" are appropriate additional risk controls, rather they are more suited as embedded risk controls. As such we are unable to confirm agreement of likelihood reduction scores.</p>		
		<p>c) Although there is not a specific section in the original NRA that</p>	<p>The Applicants [sic] notes that the MCA have agreed with the</p>	<p>This is a misinterpretation. Although we agree they are disproportionate we do not consider Table 22 to be a Cost</p>

		addresses cost benefit analysis, if the NRA Addendum (Rev B) is referring to the risk controls that are identified but not recommended in para 138, MCA agrees that they are disproportionate.	qualitative Cost Benefit provided within the original NRA at Table 22 of the original NRA. The Applicant has also commented on this at 4.12.2 of REP6A-002	Benefit Analysis and it is therefore not possible to agree to it.
		f) For baseline risk i.e. the current status quo, it is reasonable to expect the risks are being managed to acceptable levels. The scoring of the risks was discussed but not agreed by IPs, and those not completed during the workshop were scored by the applicant.	<p>The Applicant notes that the MCA agreed the minutes of the workshop as an accurate reflection of the workshop, and that the ports (POTT/LG) confirmed a consensus was reached at the meeting.</p> <p>The Applicants notes that the MCA have agreed that it is reasonable to expect the risks are managed to acceptable levels and therefore the Applicant take this to mean that the baseline risk scores are acceptable.</p> <p>Whilst hazards 5-18 were not scored at the</p>	<p>To reiterate previous MCA comments, IPs raised concerns with the hazard list during the telecon on 2/4/19. MCA considers this telecon as an extension of the workshop held on 29/3/19.</p> <p>This is a misinterpretation. We stated the risks are being managed but it gives no indication on scoring these levels or any agreement.</p>

			workshop, they were rescored based on the risk assessment produced by from ESL / PLA / LPC submitted at Deadline 4C and comments made by POTLL / DPWLG on most likely stakeholder / business consequence scores for commercial vessels and no substantive evidence to dispute the scoring provided in the NRAA.	
		g) These paragraphs show that, in this instance, the applicant has taken the qualitative data (expert opinion of IPs) into account in addition to quantitative data.	The Applicant notes that the MCA have agreed that the Applicant has fully taken on board the qualitative data (expert opinion of IPs) in addition to the quantitative analysis	This is a clear misinterpretation. Our comments only refer to the paragraphs referenced in the question i.e. 152-154
		h) According to the risk matrix in Figure 25, these scores fall into the category of 'Tolerable with controls', not automatically ALARP. It is understood the risk scores	The Applicant would note that the appropriate reference is Table 18 of the NRA which mandates the tolerability levels of risk scores, and as both	Table 18 of the original NRA defines frequency criteria not tolerability levels.  MCA does not agree with the embedded and additional risk control measures and is unable

		have been calculated using the consultants risk scoring software however it is not clear on what these calculations are based.	embedded and additional controls have been met the ALARP level definition, especially in the absence of further cost effective risk control measures.	to accept ALARP has been reached.
		i) MCA does not agree with the list of additional control measures and is unable to agree these risk scores.	The Applicant notes this, however it considers that the effectiveness of the additional controls have been benchmarked against the PLA's own risk assessment and reviewed by experienced mariners and is therefore confident that the hazard scores are accurate and confirm the project is ALARP.	MCA considers this benchmarking analysis as unsuitable since the PLA risk assessment does not identify any risk control measures.
		<b>PLA/ ESL response:</b>  c) The PLA and ESL have not seen a full cost benefit analysis and do not	A qualitative cost effectiveness assessment is contained in the original NRA at table 22, which	The Applicant's response is incorrect since MCA has not agreed there was a cost-benefit analysis.  This is an example of the applicant using MCA

		believe that one was contained in the original NRA.	as noted above is agreed by the MCA	'agreement' as an argument to reject or dispute an IPs response.
		f) Four out of the seven hazards referred to are risks of collisions, where the PLA and ESL believe the methodology for assessing them to be flawed. Therefore the PLA and ESL do not agree that there are seven hazards with a baseline risk ALARP.	<p>The methodology follows that being used by the PLA on other assessments within their jurisdiction as required by PLA guidance and in accordance with templates published on the PLA website (as identified previously by the Applicant).</p> <p>As noted by the MCA above, it is "reasonable to expect the risks are being managed to acceptable levels" and as the scores of these hazards fell into the ALARP zone, and risk controls were applied by the PLA and others as part of the 2015 NE Spit NRA, then it stands to reason that ALARP level scoring and</p>	<p>This is a misinterpretation of what we said in our response. We did not say the baseline risk scores were accepted.</p> <p>This is an example of an MCA response being used to reject or dispute IP's views.</p>

			acceptability are confirmed.	
3.12.23.	<p><b>Decrease of navigational risk since 1997</b> Would THLS comment on the Applicant's statement in [REP2-014] para 49 "... <i>navigational risk has decreased locally and internationally since 1997 (for instance due to new technology)...</i>"?</p>	<p><b>TH response:</b></p> <p>TH do not agree with this statement. Whilst there has been an increase in the technologies available to the marine user (eg electronic charting and satellite navigation devices) not all mariners are equipped with these devices to the same level, and it has been shown that not all make full use of the equipment available to them. There are still numerous vessels with a reliance on traditional navigation methods. The introduction of AIS systems to the marine user has had an impact on navigation for those mariners with access to it but this also has limitations. There are still numerous incidents globally, some extremely serious, every year involving navigational</p>	<p>The Applicant notes that TH does not agree with the MCA that AIS "<i>is a major development in improving safety of navigation</i>" – however TH do state that "<i>navigation risk has decreased locally and internationally since 1997</i>", and the Applicant believes this is due to a number of technological, legislative and operational changes, and has provided examples of each.</p>	<p>This is an incorrect summary of what TH said in their response.</p>

		errors and poor risk management.		
3.12.40.	<p><b>Final recommendation from competent maritime authorities</b> MCA's D5 submission [REP5-063] recommends that in order to mitigate risks to as low as reasonably practicable in the ALARP range, the Applicant should consider "<i>increasing the sea room between the NE Spit buoy and the SEZ boundary to a distance that is acceptable for continued safe pilot transfer operations</i>".</p> <p>The ExA wishes to note that there is no longer any time remaining in the Examination timetable for further material change to the application nor for additional mitigation involving alteration of pilot transfer locations</p>	<p>It is MCA's view that, had time allowed, our preference would have been for the applicant to increase the sea room for pilot transfer operations, as per D5 submission, to the satisfaction of IPs. We are grateful to the applicant for the hard work undertaken in order to try to address the IPs concerns, to satisfy MCA requirements for stakeholder approval at a local level. The introduction of the SEZ has no doubt improved the amount of available sea room, and reduced the constriction placed on vessels operating in the western extent. However, the MCA remains concerned regarding the following:</p> <p>1) the available sea room for Pilot operations to be carried out and the failure to obtain IP agreement</p>	<p>The Applicant notes the MCA response to this question, as the statutory organisation for navigation safety in the TEOW study area, and the confirmation from them that the introduction of the SEZ to alleviate qualitative concerns raised by IPs is an improvement. The Applicant considers the SEZ provides for an acceptable area of available sea room for transit of through vessel and for pilot boarding.</p> <p>In specific response to MCA concerns:</p> <p>1. The Applicant has provided adequate sea room and notes, in particular, that the highest density area of pilot transfers at the NE Pilot Diamond has the</p>	

	<p>(which may need further simulation to demonstrate feasibility of safe navigation and pilot transfer operations in limit-state conditions and in any case could not be recommended to the Secretary of State as risk mitigation without additional Navigation Risk Assessment).</p> <p>Therefore, the ExA seeks a final recommendation from the MCA and THLS on the overall acceptability of the NRA, the NRAA and the application (subject to the SEZ and other proposed risk controls as they currently stand) from the perspective of shipping and navigation safety in all MetOcean Conditions in which PLA pilot operations are able to operate at present. On the basis of the project as proposed,</p>	<p>regarding the risks to pilotage. This therefore has implications on our considerations for the safety of navigation;</p> <p>2) The MCA does not agree with the list of embedded and additional risk control measures as detailed above and therefore are unable to accept the final risk scores as ALARP;</p> <p>3) It is yet to be confirmed what subsea infrastructure, cables, jack up and other construction equipment can be utilised in the SEZ, and how these risks will be mitigated. We also note safety zones could be enforced in the SEZ; and</p> <p>4) We remain concerned about the consequence of an incident in this highly complex area for navigation.</p> <p>Based on the above concerns the MCA is unable to agree that the</p>	<p>2nm plus 1nm sea room request by ESL / PLA, and the residual effect on the remaining pilot boarding areas would be very minimal. This is underpinned by the NRAA.</p> <p>Further, the Applicant does not consider that IP statements should be taken to be the defining conclusion of risk, and based purely on qualitative judgements without evidential basis. The Applicant has undertaken a robust NRA and NRAA supported by additional studies and incorporating expert mariner and local stakeholder qualitative feedback and considers that this body of evidence demonstrates the acceptability of the proposal irrespective of whether all IPs are in full agreement. As was evident at ISH8 there</p>	<p>Qualitative judgment is evidence.</p>
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	<p>including the NRA, NRAA and other submitted evidence, what is the final</p>	<p>proposed project is acceptable with regards to the safety of navigation.</p>	<p>are no consistent positions even between IPs on these matters and therefore these views must be taken in the round, but that the evidential basis provided by the Applicant is considerable, robust and follows MCA guidance requirements.</p> <p>2. Notwithstanding whether risk controls are located within an embedded or additional category (which the Applicant has addressed above) this should not affect the MCA's ability to comment or accept the ALARP basis of results.</p> <p>The MCA basis for acceptability in their concluding statement does not appear to the Applicant to be independently based on any guidance</p>	<p>MCA disagrees.. MCA has an obligation to consider all navigation stakeholder views. Section 9.3 of the risk assessment methodology states: "The aim is to involve stakeholders at all stages with the aim of achieving consensus [on consent decision]. However, DECC/DFT/MCA must make recommendations to Ministers where consensus is not possible, for example because different stakeholders hold opposite views based on deep-rooted beliefs."</p> <p>MCA disagrees. How can risks be judged to be as low as reasonably practicable when the risk controls measures are not agreed?</p>
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			requirements of MGN 543 (M+F) or any other guidance provided by the MCA but the comments above (which the Applicant considers have been addressed) and its stated reliance exclusively on local IP's who are commercial operators in the area	This is incorrect. Port and harbour jurisdictions and pilotage operations are included in the MGN and risk assessment methodology document as areas of navigation that must be considered. Risk control measures are discussed in the methodology document, as is clarification that stakeholder consensus should be reached and if not, MCA makes recommendations.
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