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Your ref: EN010084



National Infrastructure Planning  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

4th Floor Eastleigh  
House Upper  
Market Street  
Eastleigh  
Hampshire SO50  
9YN

**BY EMAIL ONLY**

Dear Sirs

## **EN010084 Thanet Extension Offshore Windfarm – Natural England’s Response at Deadline 8**

1 The following constitutes Natural England’s formal statutory response. We have provided comments on documents submitted by the applicant at Deadline 7 and a single document that was provided ahead of Deadline 8. The following submissions from the Applicant have been reviewed:

- Revised Draft Development Consent Order-Tracked Changes (Annex C to Appendix 6)
- Applicant’s Responses to IP Comments on the ExA’s DCO Commentary (Appendix 3 to Deadline 7)
- Schedule of Mitigation – Revision E – Tracked Changes since Deadline 3 (Annex A to Appendix 8)
- MCZ Assessment Audit (Appendix 9 to Deadline 8)

1.1 Please see below for comments on the documents outlined in section 1 above.

### **2 *Revised Draft Development Consent Order-Tracked Changes***

2.1 Following a review of the latest and updated DCO / DML, Natural England refers to our previous comments and concerns raised in response to deadline 5/5A, 6 and 7. However, please see the table below in section 3.1 for some specific comments on the Applicant’s responses to ExA’s DCO commentary.

### **3 *Applicant’s Responses to IP Comments on the ExA’s DCO Commentary***

3.1 Please see the table below highlighting Natural England’s responses on relevant comments from the Applicant.

Comment Number	Applicant's Comments	NE Response
<b><i>Applicant's Responses to IP Comments on the ExA DCO Commentary</i></b>		
11	<p><b>Definition of commencement</b></p> <p>The Applicant has sought to address this point and ensure that sufficient mitigation is secured for any works carried out prior to formal commencement. At Deadline 6, the Applicant: updated the definition of "pre-commencement works" in the DCO to ensure it includes all works which could have likely significant effects and therefore require mitigation; and inserted a new requirement in Schedule 1 and a new condition in each DML in relation to precommencement works. The requirement and conditions secure the submission and approval of any relevant information required pursuant to the various requirements or conditions listed above in relation to the precommencement works before they can begin. In the Applicant's view all mitigation required for the pre-commencement works is adequately secured and it welcomes Natural England's views on the updated drafting.</p>	<p>Natural England reviewed the amendments made at Deadline 6 and provided comments at Deadline 7.</p> <p>Natural England also notes the applicant's comments in response to comment 13 regarding the need for Offshore Wind Farm DCOs to be consistent. Natural England would note this approach is unique and has not been proposed on Vanguard or any other Offshore Wind Farm and is, therefore, inconsistent with all previous DCOs.</p>
12 and 13	<p><b>Arbitration</b></p>	<p>Natural England's position on arbitration has been made clear through our submissions at various deadlines. The current draft of the arbitration requirement remains unacceptable. With regard to the proposed appeals Natural England supports the position of the Marine Management Organisation.</p>
14	<p><b>Seasonal Restriction</b></p> <p>The Applicant's view is that this mitigation is adequately secured by requirement 25, which requires the implementation of a landscape and ecological mitigation plan, which must accord with the outline</p>	<p>Natural England notes the applicant's comments. The inclusion of wording, to ensure that the seasonal restriction would apply to any works within 250m and in direct line of sight of intertidal habitats, does not</p>

	<p>landscape and ecological mitigation plan. Not only does this plan secure the mitigation but, because of the more nuanced application of a timing restriction within Pegwell Bay Country Park (as opposed to the blanket restriction in the intertidal), it allows for discussion and agreement on matters such as which works are in direct line of sight, and the nature of screening fencing, to ensure that Natural England's concerns are addressed. This plan as such secures the mitigation referred to by Natural England.</p>	<p>prevent the discussion on what works are in line of sight or the nature of the screening. It does however, ensure that this important mitigation is secured on the face of the DCO.</p> <p>Given this mitigation is needed to ensure a conclusion of no AEol on the SPA Natural England retains its request for this mitigation to be secured through requirement.</p>
15	<p><b>Condition 11 (i) (l) of Schedule 12:</b> The Applicant amended the wording of this condition within Schedule 12 for consistency with Schedule 11 at Deadline 6.</p>	<p>Natural England has no further comment.</p>
16	<p><b>Construction monitoring, Noise measurements and cessation of piling.</b></p> <p>The Applicant proposed additional wording at Deadline 6 as requested but would welcome Natural England's comments on the proposed wording.</p>	<p>Natural England is content with the updated wording.</p>
17	<p><b>Need to include ground-truthing within pre construction monitoring conditions.</b></p> <p>The Applicant notes this representation. No amendments to the dDCO proposed.</p>	<p>Natural England has no further comment beyond what was stated at Deadline 5 / 5A.</p>
18	<p><b>Pre construction monitoring and survey condition drafting.</b></p> <p>The Applicant reformatted the Article as recommended at Deadline 6. The Applicant has also amended the reference to state 2(d), rather than 2(c).</p>	<p>Natural England has no further comment.</p>
19	<p><b>Pre-construction monitoring and surveys: "interpreted geophysical monitoring" and survey effort.</b></p>	<p>Natural England notes the amendments made. However, these amendments do not include</p>

	<p>The Applicant provided further information in Appendix 24, item 50 of its submissions Deadline 6 [REP6-034] and has updated the dDCO to refer to ground truthing.</p> <p>Amendments made at Deadline 6, no further amendments proposed.</p>	<p>the inclusion of a need for ground-truthing during the pre-construction surveys. Natural England Reiterates our comments at deadline 5/ 5A.</p>
20	<p><b>Post construction. Natural England requested it be made explicit that monitoring would be undertaken to validate the success of any micro-siting.</b></p> <p>The Applicant has provided post construction monitoring in the BRMP on the face of the Condition in the dDCO as submitted for Deadline 6.</p> <p>Amendments made at Deadline 6, no further amendments proposed.</p>	<p>The amendments made at deadline 6 do not include any reference within the post construction monitoring conditions to validate the success of any micro-siting. Natural England refers to our Deadline 5/5A response.</p>

#### 4 **Schedule of Mitigation – Revision E – Tracked Changes since Deadline 3**

- 4.1 As stated at Deadline 7 Natural England believe the Schedule of Mitigation has been updated appropriately. However, following a brief review of this version there are still a few mentions of Goodwin Sands still being a pMCZ which is no longer valid, as it is now a fully designated Marine Conservation Zone (MCZ).

#### 5 **MCZ Assessment Audit (Appendix 9 to Deadline 8)**

- 5.1 Natural England received this document following Deadline 7 on the 7<sup>th</sup> June 2019. This was following a telecall with the applicant to discuss their previously updated MCZ assessment documents, and to discuss comments made at Deadline 7.
- 5.2 Natural England welcomed the production of this additional document and provided comments on the same day to ensure the Applicant had as much time to make any required changes. The Applicant resubmitted the document for review today (10<sup>th</sup> June 2019) following our comments. We believe this will be the version that will be submitted to the ExA at Deadline 8. We have only briefly reviewed this newer version at Deadline 8. However, Natural England agrees that the assessment has focussed on the main pressures and attributes for both the Thanet Coast MCZ and Goodwin Sands MCZ, nevertheless we have made the following comments below.
- 5.3 *Goodwin Sands MCZ* – the potential worst case scenario for permanent habitat loss due to the use of cable protection is given as 0.025 %. Whilst this relates to a fairly sizable area in km<sup>2</sup>, Natural England accept that this is relatively small in the context of the entire

site. Whilst this is likely to be also relatively small at a feature level, a worst case scenario at the feature level has not been presented to Natural England.

- 5.4 *Goodwin Sands MCZ (Paragraph 8)* – The Applicant states “*It is expected (based on monitoring at Thanet Offshore Wind Farm) that interstitial spaces in cable rock protection would become infilled, and over time the rock protection would itself become covered, by native surficial sediments.*’ Natural England have still not received any evidence to enable us to confidently conclude that this assertion would occur.
- 5.5 *General comment* - Natural England welcome the figures presented in the summary table regarding the percentage area of the MCZ that will be affected by the different pressures. The Applicant also sometimes presents figures of the footprint of impact on sand and gravels together. However, to provide a greater understanding of the impacts upon the MCZ’s individual features, the percentage area of each feature to be impacted should be presented. For example, one of the most important aspects for the assessment was the impact of suspended sediments and smothering on features, in both Thanet Coast MCZ and Goodwin Sands MCZ. The applicant did present detailed information at the feature level for these sites (*Appendix 32 to Deadline 5 Submissions: SAC and MCZ Clarification Note and Annexes*), and Natural England agreed with the conclusion that for this element of the project the impact would not hinder conservation objectives in either site. This information should be reproduced here in the summary to provide a clear audit trail, pulling all the necessary information together.

For any queries relating to the content of this letter please contact me using the details provided below.

Yours sincerely,

Will Hutchinson

Marine Lead Adviser – Major Casework  
E-mail: [william.hutchinson@naturalengland.org.uk](mailto:william.hutchinson@naturalengland.org.uk)  
Telephone: 0208 22 56002