



# Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Projects

Written Summary of the Applicant's Oral  
Submissions at Issue Specific Hearing 1

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## 1 Introduction

1. This note summarises the submissions made by Equinor New Energy Limited (the Applicant) at Issue Specific Hearing 1 - Offshore Strategic Matters (ISH1) on 18 January 2023. This document does not purport to summarise the oral submissions of parties other than the Applicant; summaries of submissions made by other parties are only included where necessary in order to give context to the Applicant's submissions.
2. In the Examining Authority's (ExA) **Rule 8 letter** [PD-009], it confirmed that the ISH1 hearing actions have been incorporated into the **ExA's Written Questions (WQ1)** [PD-010] and therefore the Applicant has not produced a separate post hearing actions response document for Deadline 1, save that the Applicant has provided a response to an ISH1 hearing action point that the **Examining Authority's Written Questions (WQ1)** [PD-010] as part of **The Applicant's Responses to the Examining Authority's First Written Questions** [document reference 12.4]. A response to Mr Lines regarding the assertion that the Applicant's proposed Sandwich tern compensatory measure to provide nesting habitat improvements and restoration of lost breeding range at Scar Point, Loch Ryan would involve the relocation of Sandwich terns from colonies in North Norfolk Coast SPA to Loch Ryan is provided in **Annex 1**.
3. The Summary of oral submissions for ISH1 can be found in **Table 1-2**.

**Table 1-1** Written summary of the Applicant's oral submission at ISH 1

ID	Examining Authority Question	Applicant Response
<b>3 Efficacy of Compensation Measures (Ornithology)</b>		
3	Under agenda item 3, the ExA asked about the Applicant's Imperative Reasons of Overriding Public Interest (IROPI) case and whether Natural England (NE) had commented on it.	<ul style="list-style-type: none"> <li>a) In relation to discussions with NE, it was the Applicant's understanding that the position on IROPI has not been expressly addressed and NE will be better placed to confirm their position on the Applicant's argument in this regard; and</li> <li>b) The Applicant's case for IROPI would still exist in the event only one of either the Sheringham Shoal Offshore Wind Farm Extension Project (SEP) or Dudgeon Offshore Wind Farm Extension Project (DEP) were to be constructed.</li> </ul>
3.i	Overarching approach to compensation including the balance between project-led measures and "strategic" and "collaborative" measures as part of any future Marine Recovery Fund.	<ul style="list-style-type: none"> <li>a) The Applicant confirmed it is taking a multi-stranded approach to compensatory measures. Project-led measures are the key focus of the Applicant's efforts to deliver compensation and it is considered that the proposed package of project-led compensatory measures will (if required) fully compensate for the Projects' impacts. The Applicant confirmed that the mechanism to deliver these measures is secured in Schedule 17 of the <b>draft Development Consent Order (DCO) (Revision C)</b> [document reference 3.1]. However, there are also provisions within Schedule 17 whereby the undertaker can formally move away from a project-led approach if other strategic or collaborative options become available, for example, the Marine Recovery Fund and changes arising from the recently announced measures in the Energy Security Bill. Strategic and collaborative measures are therefore intended to provide resilience to the Applicant's compensatory proposals, but also to present alternative options for delivering compensation that could be relied upon to discharge derogation requirements for SEP and DEP.</li> <li>b) As and when materially new information comes to light through the Examination, the Applicant will bring this to the ExA's attention. By the end of the Examination, the Applicant expects to have more clarity on its position regarding strategic or collaborative measures and to take a final position on its compensatory proposals then.</li> </ul>

ID	Examining Authority Question	Applicant Response
		<p>c) The Applicant explained it assumed the ExA would focus on project-led measures through the Examination, whilst also evaluating the mechanisms to allow a future move to strategic or collaborative measures were appropriate.</p>
3.ii	<p>Overarching view as to how compensation is managed within the draft Development Consent Order.</p>	<p>a) The Applicant does not concede that there will be an adverse effect on integrity in respect of the gannet, guillemot and razorbill features of the Flamborough and Filey Coast (FFC) Special Protection Area (SPA) and therefore does not include drafting in the draft Order to provide for compensatory measures in respect of those species. The Applicant does not intend to put such drafting into the draft Order as it has the potential to misrepresent the Applicant's position but has provided this drafting in Section 10 of <b>Appendix 4 – Gannet, Guillemot and Razorbill Compensation Document</b> [APP-074] to demonstrate how such drafting might look. Please see paragraph 5.ii for further actions in relation to this matter.</p> <p>b) For the avoidance of doubt, drafting has been included in the draft Order in relation to compensatory measures for FFC SPA kittiwake and North Norfolk Coast SPA / Greater Wash SPA Sandwich tern, as the Applicant has concluded within its <b>Report to Inform Appropriate Assessment (RIAA)</b> [APP- 059] that AEoI with respect to these sites and features cannot be ruled out.</p>
3.iii	<p>Whether conclusions of an Adverse Effect on Integrity on the gannet feature of the Flamborough and Filey Coast Special Protection Area can be agreed, and implications for the Examination going forward.</p>	<p>a) The Applicant reiterated that NE have confirmed that they are likely to reach a conclusion of no adverse effect on integrity for FFC SPA gannet (both alone and in-combination), on the basis that there is no significant changes to the collision and displacement numbers. Should this be the case, then NE would be satisfied that the Applicant no longer needs to provide compensatory measures for impacts on gannet.</p> <p>b) The Applicant understands that NE wishes to review and comment on the final assessment of impacts on gannet before confirming their position. NE are expected to provide feedback on an Update Technical Note by 15 February 2023.</p> <p>c) The Applicant confirmed that a copy of the <b>Apportioning and HRA Updates Technical Note</b> [document reference 13.3] which includes an updated assessment for gannet will also be submitted into Examination at Deadline 1.</p>

ID	Examining Authority Question	Applicant Response
		<ul style="list-style-type: none"> <li>d) The Applicant explained that updates to the assessment for gannet following NE's update to their guidance (see appendix B1 of their relevant representation [RR-063]) on assessing the effects of displacement on gannet has led to a reduction in predicted mortalities (from a predicted combined collision risk and displacement mortality figure of approximately 10 mortalities per year to 6 mortalities per year)].</li> <li>e) Following confirmation of the position with NE, the Applicant intends to remove gannet from the relevant derogation documents and submit updated versions of these to the Examination.</li> </ul>
3.iv	Efficacy and suitability of Loch Ryan as a site to support sandwich terns, including funding for the compensation.	<ul style="list-style-type: none"> <li>a) The Applicant confirmed that NE are supportive of the measures proposed at Loch Ryan.</li> <li>b) In response to the ExA's question about the historic Sandwich tern population at Loch Ryan, the Applicant confirmed that Sandwich terns did nest at Scar Point, Loch Ryan in the recent past and the nesting site was abandoned in around 2006. The Applicant and NE believe the site offers suitable conditions to support a colony once again with sufficient intervention. The historic population abandoned Loch Ryan due to the erosion of a shingle spit feature on which they nested and due to human disturbance, for example from dog walkers.</li> <li>c) The Applicant's preferred option is to construct an inland pool, with islands for nesting, which would avoid issues arising from the erosion of the shingle spit and will be suitably distanced from potential human disturbance.</li> </ul>

ID	Examining Authority Question	Applicant Response
		<p>d) In relation to the question about NE reference to “insurmountable issues” at Loch Ryan, the Applicant clarified that it was not certain as to where this statement had been made by NE and could not respond to the question fully on that basis [post-hearing note: “insurmountable” is mentioned twice in the NE RR but not in the context suggested at the hearing]. The Applicant confirmed that NE supports the Loch Ryan proposal. The Applicant confirmed that it is pressing ahead with securing the inland pool. There have been ongoing and positive negotiations with landowners within the identified area of search and this has focussed on securing land parcels with the greatest chance of success. Draft heads of terms were shared with landowners and the Applicant is seeking agreement with them for non-intrusive surveys. The Applicant is also engaging with relevant stakeholders to support the securing of this measure. The Applicant explained that overall, it is making good progress with delivering the inland pool measure. The Applicant will provide updates to the Examination and confirmed it recognises the importance of doing so. This will be in the form of SoCGs or position statements, whichever form will be the most helpful for the ExA.</p> <p>e) The ExA referred to National Policy Statement (NPS) EN-1, paragraph 5.3.7 and NE’s comment that compensation measures should be “ambitious”. The Applicant confirmed it had understood the comment from NE to be in relation to the scale of the inland pool being ambitious and has agreed to make changes to the size of the inland pool as a result by including a buffer [comprised of water] to further reduce potential impacts from human disturbance.</p>
3.a	In relation to the points raised by Mr Lines.	<p>a) the Applicant confirmed that it has been in extensive dialogue with NE about the best measures to adopt for Sandwich tern and although locating the measures in Scotland might seem counterintuitive, this has been found to be the best option in the circumstances. This approach is supported by NE. The Applicant agreed to provide a response at Deadline 1 to further explain the position – see [ <a href="#">Annex 1.</a>].</p>
3.v	Extent of success in artificial nesting sites for kittiwakes, and the extent to which offshore options could be developed further.	<p>a) The Applicant confirmed that it has been progressing two options for compensatory measures in relation to kittiwake. The first is at Gateshead and is located on land owned by Gateshead Council. The second is located in Lowestoft.</p>



ID	Examining Authority Question	Applicant Response
		<p>b) The option at Lowestoft remains an option but is not currently being actively progressed as the Applicant is focussed on the option at Gateshead, which will provide sufficient compensation on its own (see the <b>Gateshead Kittiwake Tower Modification – Quantification of Productivity Benefits Technical Note</b> [document reference 13.1] submitted at Deadline 1).</p> <p>c) Following confirmation from East Suffolk Council (ESC) that any proposal for artificial nesting compensation will be required to demonstrate that every opportunity for coordination with other projects has been fully explored before any new or enhanced capacity of existing sites would be considered or supported by the Council, the Applicant confirmed it has been engaging collaboratively with other developers. Although other developers have been receptive to this engagement there remain issues with providing compensation collaboratively. This is due to the fact that other developers whose projects are more advanced have to secure their own compensation as a priority. There is a lack of clarity on the precise capacity they need to provide in terms of compensation (meaning there is uncertainty as to whether there is any “spare” compensation potentially available to other projects) and there is no agreed delivery mechanism for a collaborative approach. As the sector matures further, there will be more opportunities for collaboration, but the current challenges mean it is difficult to meaningfully pursue compensation collaboratively at this precise moment. The Applicant will continue its dialogue with other developers and provide updates to the Examination in respect of any positive outcomes of those discussions, as appropriate.</p>

ID	Examining Authority Question	Applicant Response
		<p>d) The Applicant is confident it will not face the same issues which other developers are currently facing. That is due to the measures proposed at Gateshead being modifications to an existing nesting site which has already proven to be successful, and the Applicant is having positive and supportive discussions with Gateshead Council in relation to the proposed measures. Gateshead Council have agreed to provide a letter of support which will be submitted into Examination when available [see Appendix B of the <b>Habitats Regulations Assessment Derogation and Compensatory Measures Update</b> [document reference 13.7]]. The proposed measure at Gateshead is not within the town itself and does not have the same issues associated with it that ESC raised concerns about in relation to the Lowestoft proposal.</p> <p>e) In addition to land discussions at Gateshead, the Applicant has carried out an inspection of the site to understand constraints. Site investigations are currently being progressed by the Applicant. The Applicant is also pursuing planning support for the proposal and is driving towards submitting a planning application to obtain consent for the proposal. There is an indicative roadmap in APP-069 [post-hearing note: the correct document reference is <b>Appendix 3 - Kittiwake Compensation Document</b> [APP-072] which sets out the milestones. The Applicant confirmed progress is currently aligned with that roadmap.</p> <p>f) The Applicant confirmed that Gateshead will provide the required levels of compensation for kittiwake but until that is secured, there is a need to keep the Lowestoft proposals as a potential option. The Applicant hopes that in the unlikely event that the Gateshead measures do not succeed, the option to collaborate with another developer will be more likely than the option to provide a standalone measure.</p>

ID	Examining Authority Question	Applicant Response
3.vi	Measures and options available in respects of auks, including the merit of the compensation package currently drafted.	<p>a) The Applicant confirmed that the difference of opinion between the Applicant and NE on the matter of whether guillemot and razorbill require compensation is in relation to differing views on the effects arising from in-combination effects. The Applicant confirmed its position has not changed following the relevant representations from NE or the Royal Society for the Protection of Birds and that it maintains its position that it does not concede there is a likely adverse effect on integrity in respect of guillemot and razorbill.</p> <p>b) In respect of without prejudice compensation measures:</p> <ul style="list-style-type: none"> <li>(i) The Applicant confirmed that it is in the process of undertaking work to understand feasibility of fishery bycatch reduction, especially in the northeast of England and another location. The Applicant anticipates being in a position to update on these matters at Deadline 1 [post-hearing note: this will be provided at Deadline 2].</li> <li>(ii) The Applicant confirmed there is evidence to support looming eye buoys as compensation measures and this is set out in <b>Appendix 4 – Gannet, Guillemot and Razorbill Compensation Document</b> [APP-074] but acknowledged this is an emerging area of work. The Applicant will maintain a watching brief over the trials which Orsted are undertaking in relation to Hornsea Project Four.</li> </ul> <p>c) The Applicant confirmed it will continue to engage with NE in relation to the proposed without prejudice compensation measures for guillemot and razorbill to address outstanding concerns where possible.</p>
<b>4 Marine Mammals</b>		

ID	Examining Authority Question	Applicant Response
4.i	The scope and content of the Marine Mammal Mitigation Protocol and whether the matter of disturbance is adequately addressed or requires further detail.	<ul style="list-style-type: none"> <li>a) The Applicant confirmed that the purpose of the <b>Draft Marine Mammal Mitigation Protocol (MMMP)</b> [APP-288] is to reduce the potential for injury to marine mammals and does not mitigate disturbance. The assessments in the Environmental Statement (ES) <b>Chapter 10 Marine Mammal Ecology</b> [APP-096] and the <b>RIAA</b> [APP-059] do not rely on the MMMP for mitigation for disturbance from underwater noise. The Applicant confirmed that the <b>In Principle Site Integrity Plan for the Southern North Sea Special Area of Conservation</b> [APP-290] is used to reduce disturbance from in-combination effects on harbour porpoise related to the Southern North Sea SAC, though it would have some wider incidental benefit for other marine mammal species. The Applicant confirmed it was not aware of any MMMPs which provide mitigation to reduce disturbance.</li> <li>b) The Applicant confirmed it was right for the SIP to be in relation to harbour porpoise only as the SIP is focussed on the Southern North Sea Special Area of Conservation and the only qualifying feature of this is harbour porpoise.</li> <li>c) The Applicant confirmed its approach to implementation of the MMMP would depend on the selection of foundation types and will be finalised at the detailed design stage. If piled foundations are required, then the method of installation will be determined at the time of construction. This approach follows that taken on other offshore wind farm projects.</li> <li>d) The Applicant confirmed the measures in the SIP would reduce impacts on other species but that is not the purpose of the SIP. No other application document includes details of mitigation for marine mammals.</li> <li>e) The Applicant confirmed that the worst case scenario would be a maximum of two simultaneous piling events.</li> </ul>
4.ii	The extent of the assessment of underwater noise and whether this is adequate for all marine mammals and the efficacy of the Site Integrity Plan as mitigation.	<ul style="list-style-type: none"> <li>a) The Applicant confirmed that in relation to underwater noise, the worst case scenario would be a maximum of two simultaneous piling events, and there is currently no potential for three simultaneous piling events to occur.</li> </ul>

ID	Examining Authority Question	Applicant Response
4.iii	The process and timings for arriving at a decision on foundation types for each of the turbines proposed and the likelihood of a decision during the Examination.	<p>a) The Applicant confirmed that they would not be able to conclude within the timeframes of the Examination which foundation type will be chosen. This choice is reliant on a number of factors including carrying out further geotechnical surveys which need to be completed and reported on. This is also influenced by conditions in the market and supply of the turbine sizes at the time and will be decided at detailed design phase, post-consent. The decision taken by the Applicant will be done within the parameters of what is consented.</p> <p>b) The Applicant confirmed it will follow up in writing at Deadline 1 to confirm the technical information which feeds into foundation selection. The Applicant also confirmed it would respond in writing on a point raised by the ExA about precedents for retaining flexibility in the foundation type choice. The Applicant has provided further detail within its response to Q.1.5.1.5 in the <b>Applicant's Response to the Examining Authority's First Written Questions</b> [document reference 12.4] submitted at Deadline 1.</p>
4.iv	Whether additional conditions are required within the draft Deemed Marine Licences for vessel management to avoid conflict with marine mammals.	<p>a) The Applicant noted the point was raised by the MMO and is being actively considered. There is currently a protocol for minimising disturbance to marine mammals from vessels within the <b>draft MMMP</b> [APP-288] and the Applicant is proposing to relocate that to the Outline Project Environmental Management Plan so it would apply to all scenarios – [see the <b>Outline Project Environmental Management Plan (Revision B)</b> [document reference 9.10] submitted at Deadline1].</p>
4.a	Points raised by Orsted Hornsea Project Three.	<p>b) The Applicant confirmed that they will liaise further with Orsted and are keen to have constructive engagement with them on any appropriate protective provisions and any side agreements offshore (as well as onshore).</p>
<b>5 Benthic Ecology</b>		

ID	Examining Authority Question	Applicant Response
5.i	Measures of Equivalent Environmental Benefit available to the Applicant and what, if any, implications arise from the chosen method of oyster bed planting.	<ul style="list-style-type: none"> <li>a) The Applicant confirmed it has consulted extensively through the Evidence Plan Process on potential Measures of Equivalent Environmental Benefit (MEEB) options. Native oyster bed planting within the Cromer Shoal Chalk Beds (CSCB) Marine Conservation Zone (MCZ) is the preferred option and other measures will be considered as part of adaptive management if the preferred measure turns out not to be feasible. There is a preferred alternative measure of native oyster bed planting in the wind farm sites with other further potential measures including e.g. removal of anthropogenic features and extension / designation of a feature in a different location which would be considered, if required, as part of adaptive management following consultation with the MEEB steering group and approval from the Secretary of State.</li> <li>b) The Applicant confirmed that the <b>Stage 1 Cromer Shoal Chalk Beds Marine Conservation Zone Assessment</b> [APP-077] concludes that the conservation objectives of maintaining or restoring the MCZ features to a favourable conservation status would not be hindered. The Applicant notes NE's request that the initial oyster restoration site search area is reoriented to cover an area of coarse sediment as well as mixed sediment and will amend its in-principle plan in the early stages of the Examination to account for this [see <b>Appendix 1 - In-Principle CSCB MCZ MEEB Plan (Revision B)</b> [document reference 5.7.1].</li> <li>c) The Applicant confirmed native oyster bed planting could provide increased biodiversity, water quality improvements and restoration of a historic feature of the region.</li> <li>d) The Applicant confirmed moving the location of the native oyster bed planting site would not require any change to the draft Order.</li> <li>e) The Applicant confirmed that the initial oyster restoration site search area identified a 1km<sup>2</sup> area in which the Applicant proposes to plant a bed in a phased deployment up to 10,000m<sup>2</sup>. It was confirmed that this is as far as the Applicant is intending to specify, in terms of location and proposed size, during the Examination.</li> </ul>

ID	Examining Authority Question	Applicant Response
5.ii	Whether the draft Development Consent Order and its supporting documentation provides suitable means of securing the Measures of Equivalent Environmental Benefit.	<ul style="list-style-type: none"> <li>a) The Applicant confirmed that Annex D of <b>Appendix 1 - In-Principle CSCB MCZ MEEB Plan</b> [APP-083] contains the drafting which would be included in the draft Order if it was accepted. It follows the same approach as taken in the Schedule 17 of the draft Order and provides a mechanism for delivery of the measures.</li> <li>b) The Applicant confirmed it would provide a document to the ExA at Deadline 1 (<b>Proposed Without Prejudice DCO Drafting</b> [document reference 3.1.3]) which sets out what drafting in respect of the without prejudice compensation measures would apply under certain circumstances. This can be drafted as a standalone document which does not need to be certified as the drafting will either be included in the draft Order or not at the end of the Examination.</li> <li>c) The Applicant confirmed that at the end of Examination it would provide an alternative draft Order which included the compensation measures in addition to the main draft Order submitted to the Examination.</li> </ul>
5.iii	Whether evidence regarding the conservation status of the Cromer Shoal Chalk Beds Marine Conservation Zone (CSCB MCZ) can be provided and how the general approach to the cumulative effects upon the Marine Conservation Zone is assessed.	<ul style="list-style-type: none"> <li>a) The Applicant confirmed it did not have any information about the review of the conservation status of the CSCB MCZ by NE however it would liaise with NE to understand its likely release timeframe.</li> </ul>

ID	Examining Authority Question	Applicant Response
5.iv	Whether the conservation objectives for the Marine Conservation Zone would be affected, and if so, how many adverse impacts can be mitigated.	<p>a) The Applicant confirmed there are two options described in ES <b>Chapter 4 - Project Description</b> [APP-090], one of which is a cofferdam which would require cable protection and the other an alternative method which does not require cable protection. The decision of which method will be undertaken will take place at the detailed design stage. [post hearing note: the Applicant wishes to correct its reference to the requirement for a cofferdam noting that as stated in ES <b>Chapter 4 - Project Description</b> [APP-090] whilst other cable installation projects have needed to consider other non-HDD construction methodologies at the landfall, for example involving open cut trenching and the creation of cofferdam structures on the beach, these alternative options have been discounted at an early stage for SEP and DEP. At the HDD exit point in the subtidal there is a requirement for a transition zone between where the ducts exit the sea bed and the point at which it is possible for the burial tool to start the process of burying the cables. There are two options for the transition zone and both options need to be retained in the project envelope pending detailed design studies. These two options are described in paragraphs 260 and 261 of ES <b>Chapter 4 Project Description</b> [APP-090]].</p> <p>b) The Applicant confirmed the cable protection would result in temporary but long-term habitat loss which is assessed in the <b>Stage 1 Cromer Shoal Chalk Beds Marine Conservation Zone Assessment</b> [APP-077].</p>
5.v	Whether any cable protection within the Marine Conservation Zone would result in adverse conservation impacts, including when considered in combination with other projects.	<p>a) The Applicant confirmed a realistic worst case scenario of 1,800m<sup>2</sup> of cable protection in the CSCB MCZ has been assessed. The final figure will not be known until the detailed design stage, but the Applicant confirmed it has sought to minimise the requirement for cable protection and has strong vested interest in reducing cable protection given the financial implications of this. The Applicant confirmed it has committed to removing cable protection on decommissioning.</p> <p>b) The Applicant noted the Dudgeon Offshore Wind Farm cable did not require any external cable protection for unburied cables but there is no guarantee that SEP and/or DEP will have the same ground conditions.</p>



ID	Examining Authority Question	Applicant Response
		<p>c) The Applicant confirmed the proportion of the area of the CSCB MCZ predicted to be affected was based on up to 100m length x 3m width of cable protection at the HDD exit point per cable (of which there could be up to two) and up to 100m length x 6m width of external cable protection per cable at unburied sections of the export cable.</p>
5.vi	<p>Whether the micro-siting of cabling and other infrastructure would be a sufficient method to avoid adverse impacts to priority habitats and other features of ecological importance.</p>	<p>a) The Applicant confirmed that installing external cable protection could result in that artificial substrate being colonised by other species and this is assessed in ES <b>Chapter 8 - Benthic Ecology</b> [APP-094].</p> <p>b) The Applicant confirmed that although it is not possible to say for certain that the ecological environment of the CSCB MCZ would recover after decommissioning of the external cable protection, the Applicant would expect that following its removal the ecological environment would be expected to return to the state it was in prior to installation of the cable.</p> <p>c) The Applicant confirmed that detailed ecological surveys have been undertaken in the CSCB MCZ to inform the ES and <b>Stage 1 Cromer Shoal Chalk Beds Marine Conservation Zone Assessment</b> [APP-077] including sediment core samples and drop down videos which have enabled the Applicant to identify biotopes in the windfarm sites and cable corridors. This information informed the assessment as described in ES <b>Chapter 8 - Benthic Ecology</b> [APP-094] and the <b>Stage 1 Cromer Shoal Chalk Beds Marine Conservation Zone Assessment</b> [APP-077]. Further detail from pre-construction surveys would be available at and would inform the detailed design.</p> <p>d) The Applicant confirmed that there is no guarantee that all features present within the offshore order limits would have been picked up through the surveys undertaken to date but that adequate samples to inform the assessments had been collected and this is typical of the process. Also, given the ephemeral nature of benthic species there is potential for the benthic environment to have changed between benthic characterisation surveys and construction. The Applicant also confirmed that it is a condition of the Deemed Marine Licences that agreed sensitive features are avoided through micro-siting.</p>

ID	Examining Authority Question	Applicant Response
		<p>e) The Applicant confirmed that further surveys that are to be undertaken at the pre-construction stage would be similar to those undertaken so far but would be more targeted to e.g. specific cable routes and turbine locations.</p> <p>f) The Applicant confirmed that the proportion of the entire MCZ with potential to be subject to long term habitat loss from the installation of external cable protection was provided as a comparison alongside the proportions of the broadscale habitat features with potential to be affected. The Applicant clarified that the assessment conclusions are based on the relative proportions of the broadscale habitat features subject to potential long term habitat loss.</p> <p>g) The Applicant confirmed that in relation to micro-siting, they would consult with the MMO and statutory nature conservation bodies to discuss results of surveys and then agree whether any features must be avoided and how that would be undertaken.</p> <p>h) In relation to chalk features, the Applicant confirmed it has committed to avoiding the outcropping chalk feature in the nearshore. The Applicant is aware of areas of sub-cropping chalk but has concluded, following a study in 2019 which looked at the potential for sub-cropping chalk to become exposed (see ES <b>Appendix 6.3 - Sedimentary Processes in the Cromer Shoal Chalk Beds MCZ</b> [APP-181]), that, given the low mobility of the sediments within the export cable corridor, the potential for sub-cropping chalk to become exposed is low and is limited to the areas of subtidal sand.</p>
<b>6 Environmental Statement and the Marine Environment</b>		
6.i	Worst-case scenarios and the mitigation hierarchy, with particular reference to the development options at Dudgeon Extension Project.	<p>a) The Applicant confirmed the mitigation hierarchy has been applied. The Applicant explained the typical approach with DCO applications is that once consent is obtained, the undertaker is entitled to build within the redline boundary. It is unusual for an undertaker to be restricted in terms of only delivering a project within a particular section of the redline boundary.</p>

ID	Examining Authority Question	Applicant Response
		<p>b) The Applicant confirmed that a number of factors are considered when undertaking site selection and drawing the redline boundary. Flexibility within the chosen redline boundary is then required at the detailed design stage to allow the undertaker to balance a range of considerations at that point. It is not an appropriate use of the mitigation hierarchy to specify that one factor should override all other factors at that stage in the process. The Applicant stressed that the question arose as a result of the two array areas which are proposed and if there had been one array area, the question would not have arisen. The size of turbines available at the time of construction is not yet known so flexibility is required to allow for multiple design options regarding placing of the turbines. This is a typical consideration for applications of this type and the Applicant should be given the flexibility they require to account for considerations like this.</p>
6.ii	<p>The extent to which the Applicant is relying on releasing “headroom” and applying Rochdale Envelope principles in its assessments and delivery of the project.</p>	<p>a) The Applicant confirmed the cumulative impact assessment on Sandwich tern and how headroom release would influence that is described in Section 11.7.3.2.5 of 6.1.11 ES <b>Chapter 11 – Offshore Ornithology</b> [APP-097].</p> <p>b) The Applicant confirmed that whilst the Dudgeon Offshore Wind Farm, in theory, has the ability to build out to their full capacity, it had no intention to do so. Appendix A to the <b>Explanatory Memorandum (Revision C)</b> [document reference 3.2] sets out the letter from Dudgeon Offshore Wind Farm confirming their consent to the inclusion of article 45 in the draft Order. This letter is just in respect of the number of turbines.</p> <p>c) The Applicant confirmed that there has been an ongoing industry-wide discussion on “legacy” headroom where existing projects have not been built out to their full capacity (and where assessments were made on a worst aggregate rotor swept area basis, but the actual project constructed has had a smaller such aggregate area). The approach the Applicant is taking is novel with respect to the draft Order but is in the interests of SEP and DEP and the industry to take opportunities which arise to ‘release’ headroom to ensure that assessments are realistic.</p>

ID	Examining Authority Question	Applicant Response
6.iii	The identification of relevant policies from the Marine Plans and whether the Proposed Development is in conflict with them.	a) The Applicant confirmed it is pulling together a Marine Plan compliance document which will be submitted at Deadline 1 in order to assist the MMO.
6.a	Mr Athill comments.	a) The Applicant thanked Mr Athill for supporting the proposed measures in the MEEB and welcomed the comments from Mr Athill that the proposed measures would improve a number of features including water clarity, fish stocks and provide the cultural benefits of restoring an oyster reef in an area where one was lost.
<b>7 Shipping and Navigation</b>		
7.i – 7.iv	Trinity House's (TH) submissions in respect of agenda items 7.i to 7.iv.	a) the Applicant confirmed the two parties are on track towards agreeing a comprehensive SoCG with TH, Maritime and Coastguard Authority and Chamber of Shipping which would not leave any material point outstanding. The Applicant expects this SoCG will reach agreement on all key issues.
7.v	Independent Oil and Gas's (IOG) submissions in respect of agenda item 7.v.	a) the Applicant confirmed it welcomed IOG's submissions and thanked them for their ongoing engagement. The Applicant noted there is a SoCG with IOG which is being progressed and thanked IOG for their engagement with the Applicant.
7.v	Perenco's submission in respect of agenda item 7.v that they require certain measures to be in place in relation to helicopter safety.	a) the Applicant confirmed that they welcome engagement from Perenco, to seek to reach agreement. The Applicant is keen to better understand Perenco's position in order to agree an appropriate solution. ES <b>Appendix 16.2 – Helicopter Access Study</b> [APP-205] sets out the Applicant's current position on helicopter safety provisions. Specifically details on the safety buffer set at 1.3 nautical miles around the Waveney Platform is set out within section 6.1 of that document [APP-205].
<b>8 Fishing and Fisheries</b>		

ID	Examining Authority Question	Applicant Response
8.i	The extent of agreement for the Outline Fisheries Liaison and Co-Existence Plan as an approach for sufficient mitigation and/or compensation for the affected fishing industry.	a) In response to Mr Lines' comments on impacts on fishing, the Applicant confirmed the legal position is there is nothing to prevent fishing within the wind farm array during the operational period. It is, however, recognised that there is an insurance aspect as to whether the ship will enter the arrays and that generally less fishing takes place within arrays than prior to the arrays being in place. The Applicant also confirmed it would set out further information in respect of impacts of the array on fishing and depletion of stock in particular with reference to actual impacts arising from other wind farms. See Annex 1 and responses to WQ 1.7 in the <a href="#">Applicant's Responses to the Examining Authority's First Written Questions</a> [document reference 12.4] for further details.
8.ii	The effects of the development as proposed, along with cumulative effects from other plans, projects and activities, on the UK potting fleet, through displacement effect for example, and whether any effect could be mitigated with justifiable disturbance payments and/or cooperation agreements.	a) The Applicant confirmed they are not pursuing mitigation for fishing impacts save for compensating fishers for impacts (typically in the context of surveys being undertaken) and that this approach is in line with the typical industry approach. The Applicant confirmed it already has a good relationship with fishermen in this location due to the relationships formed during the construction and operation of the Sheringham Shoal and Dudgeon Offshore Wind Farms.  b) The Applicant confirmed it is following the Fishing Liaison with Offshore Wind and Wet Renewables Group guidance which does not address compensation for any onshore fish processing impacts and is not aware of onshore businesses being compensated on other projects. The Applicant confirmed it would set out further detail on this position for the ExA and intends to submit that information at Deadline 1. [Post-hearing note: please see response to WQ 1.7.2.5 in the <a href="#">Applicant's Responses to the Examining Authority's First Written Questions</a> [document reference 12.4]]
<b>9 Development Consent Order Matters</b>		
9.i	Whether a version of the draft Development Consent Order which includes all provisions relating to strategic compensation can be provided.	a) See paragraph 5.ii(c).

ID	Examining Authority Question	Applicant Response
9.ii	<p>The mechanisms in place to ensure two different asset holders (generation assets (Schedules 10 and 11) and two transmission assets) working in the same area would collaborate together, especially with regard to in-combination effects, if transfer of benefit were to happen.</p>	<ul style="list-style-type: none"> <li>a) The Applicant confirmed that SEP and DEP have a common shareholder (Equinor) who is development lead for both projects. Whilst the transfer of benefit option is there, the Applicant would like to emphasise that the most likely scenario going forward is that the two projects will continue to work in tandem within the agreements already set out between them. SEL and DEL made a decision in 2019 to work closely together and there are existing arrangements between the project companies which mean they have a vested interest in working together in a collaborative way. The Applicant noted that there are circumstances in which SEP and DEP may decide to work separately, most likely as a result of the outcome of the Contracts for Difference (CfD) process, for example if one project got CfD and the other did not. To take an entirely separate approach (i.e. selling one project to an arms' length owner) would be completely contrary to what has taken place for the last 4 years and there would have to be extensive commercial arrangements put in place to facilitate that.</li> <li>b) The Applicant also confirmed there is a mechanism in the draft Order whereby one project cannot proceed with using compulsory acquisition powers without the consent of the other. The agreement to do so wouldn't be forthcoming if there was not an agreement to ensure collaboration.</li> <li>c) The Applicant confirmed it is in discussions with the MMO with regards to their concerns over collaboration in respect of the offshore environment.</li> <li>d) The Applicant confirmed it would consider whether additional drafting around collaboration is required in the draft Order and confirm its position to the ExA at Deadline 1. [Post-hearing note: Please see response to WQ 1.11.3.2 in <b>The Applicant's Responses to the Examining Authority's First Written Questions</b> [document reference 12.4]. The Applicant is still in discussions with the MMO with regards to including drafting for a potential collaboration condition.]</li> </ul>

ID	Examining Authority Question	Applicant Response
	The ExA's questions around the transfer of benefit article (article 5 of the draft Order) and the risks around the inclusion of bespoke drafting to allow a transfer to a subsidiary of the undertaker	a) The Applicant confirmed the drafting was included to allow for a transfer of benefit into a subsidiary company prior to the transfer of assets to 'GridCo' in anticipation of the future transfer to an OFTO. The Applicant recognises the drafting is novel but the Applicant is making an assumption that there is an implicit level of comfort provided by the fact the transfer would be within an existing corporate structure. The transferee would at some point still need to obtain an electricity licence which itself has its own due diligence process.
9.iii	How separate ownership of the Deemed Marine Licences would impact responsibility for undertaking joint project works, and post consent submissions, in response to the concerns raised by Marine Management Organisation [RR-053].	a) The Applicant confirmed it is in discussions with the MMO with regards to their concerns over separate ownership in the context of approval of plans and information. The Applicant noted other examples of joint working within the Deemed Marine Licences in the draft Order such as condition 4(2) (in Schedules 10 and 11) and 3(2) (in Schedules 12 and 13) which requires the undertaker to notify the chosen scenario to the MMO and obtain their approval of a phasing plan and that is an obligation on both SEP and DEP to carry out prior to commencement. There is a possibility for joint phasing plans to be submitted where scenario 4 is chosen. The provision of joint plans to the MMO post-consent has been done in respect of other DCOs that include consent for two projects. The Applicant confirmed that in other scenarios, phasing plans would reflect the chosen scenario and would identify the opportunities for joint working.
9.iv	How the Applicant can reassure the Examining Authority and Interested Parties that coordinates in the draft Development Consent Order are checked and correct.	a) Following queries raised by the MMO in their Relevant Representation [RR-053], the Applicant confirmed it has now undertaken a thorough check of the listed grid coordinates and has corrected any errors as in the draft Order. An updated draft Order will be submitted at Deadline 1 [Post-hearing note: see the <b>Draft Development Consent Order (Revision C)</b> [document reference 3.1]].

ID	Examining Authority Question	Applicant Response
		<p>b) The Applicant confirmed both it and the main consultants/contractors working on this project use the worlds most advanced and approved Geographical Information System (GIS); namely ArcGIS made by ESRI. It includes, among other functions, an advanced system for conversion between different coordinate reference systems. The Applicant and the main consultants/contractors working on this project have dedicated professionals handling the above mentioned GIS applications. The Applicant has issued a document/guideline that is shared to all contractors working for the Applicant SEP and DEP to ensure that all involved use the same coordinate reference system and transformation. The Applicant confirmed that the errors in the draft Order arose when these were transposed into the draft Order by the Applicant's legal representatives, and these have now been corrected.</p>
9.v	<p>The justification for four months' timescale for submission of discharge documents, and an objective comparison of the implications of the four months' timescale, six months' timescale, and no timescale including precedence for all.</p>	<p>a) The Applicant confirmed its drafting was based on precedents from previous offshore wind farm DCOs, for example Norfolk Vanguard and Norfolk Boreas and Hornsea Project Three. Internal discussions within the Applicant then confirmed those timescales based on prior experience of dealing with submission of documents and approvals. Wording in the relevant conditions does allow those timescales to be amended by agreement with the MMO. The Applicant is committed to working with the MMO on this matter and last week at a meeting with the MMO put forward an amendment to the timescale for submission of SIP to be 6 months prior to commencement. The Applicant will confirm this drafting change at Deadline 1. [Post-hearing note: This has been included in the <b>Draft Development Consent Order (Revision C)</b> [document reference 3.1]].</p> <p>c) In respect of the impact of this change on construction timescales, the Applicant confirmed there would be no impact as the plan will just be submitted to the MMO for approval earlier. The Applicant noted that it is important that the timescales are appropriate for the information being submitted, for example there is some information which must be submitted to the MMO which requires information from contractors that will not be available until closer to commencement.</p>



ID	Examining Authority Question	Applicant Response
		<p>d) The Applicant confirmed that the position with the MMO will be set out in the <b>Draft Statement of Common Ground: Marine Management Organisation</b> [document reference 12.11] at Deadline 1. [Post-hearing note: Please see response to WQ1 1.11.6.1 in <b>The Applicant's Responses to the Examining Authority's First Written Questions</b> [document reference 12.4].]</p>
9.vi	<p>On the question of mitigations that Natural England require to be secured in the draft Development Consent Order and Deemed Marine Licenses, that are concerning for the Applicant [RR-063, Page 6] (agenda item 9.vi) the ExA confirmed they would raise this in written questions for NE to respond.</p>	
9.vii	<p>On the question of the timescale for addressing the drafting and consistency matters raised by Marine Management Organisation and Natural England.</p>	<p>a) The Applicant confirmed these would be addressed in the updated draft Order to be submitted at Deadline 1. [Post-hearing note: The draft Order has been amended to address the MMO's concerns in the <b>Draft Development Consent Order (Revision C)</b> [document reference 3.1]].</p>
<b>10 Procedural Decisions, Review of Actions and Next Steps</b>		
10.a	<p>TH's request that the Applicant review table 21.1 of the Navigational Risk Assessment [APP-198] and its inclusion of a Navigational Management Plan and whether this document should be secured in the draft Order.</p>	<p>a) The Applicant confirmed it would undertake such a review and confirm its position at Deadline 1. [Post-hearing note: The draft Order has been amended to include reference to the Navigational Management Plan in the pre-construction plans and documents condition in all four DMLs in the <b>Draft Development Consent Order (Revision C)</b> [document reference 3.1]].</p>
10.b	<p>In response to the point noted by Hornsea Project Three that the protective provisions currently included in the draft Order for their benefit only cover onshore matters.</p>	<p>a) The Applicant confirmed it would actively seek agreement with Hornsea Project Three on suitable protective provisions.</p>

ID	Examining Authority Question	Applicant Response
10.c	<p>The ExA requested that confirmations be provided by the Applicant around what is happening in respect of certain compensatory matters for which details have not yet been provided and when the Applicant will be able to provide that information during the Examination. Where the information cannot be provided in the Examination, the ExA requested that confirmations be provided by the Applicant as to what the ExA can rely on in their decision making.</p>	<p>a) The Applicant explained that it was promoting the project in a complex and ever evolving situation pertaining to different species as well as dealing with some novel issues for the project. It had delayed the application substantially to allow further evolution of its ornithological proposals, in particular. It has followed an iterative process throughout, with substantial engagement with Natural England and other key stakeholders. It reached the point where NE was satisfied with the degree of maturity of its proposals and encouraged the Applicant to submit. The Applicant has kept the Planning Inspectorate regularly updated and PINS had attended ornithological expert topic group meetings at the Applicant's request as an observer. The Applicant asked for and held a meeting with PINS in the final period before the application was submitted to ensure that PINS fully understood the degree of maturity of its conceded and without prejudice positions, so that this could be taken into account during the acceptance process. The application sets out a roadmap for the different measures and the Applicant continues to act in accordance with that. Accordingly, the fact that the measures would continue to be developed was always intended on the face of the application. That is also anticipated by the drafting in the DCO, which does not rely on specific finalised measures but instead provides approval and governance mechanisms, following the precedent of the Hornsea Project Three DCO.</p>
10.d		<p>The Applicant will ensure that the ExA is fully informed as to the position in relation to each proposed compensatory measure (and without prejudice MEEB proposals) so that it can have confidence that it can recommend approval, with the comfort that there are credible proposals either in place or in development, as appropriate.</p>

## Annex 1

4. The Applicant's response to the representation made by Mr Lines at ISH 1 is as follows:
5. As outlined in **Appendix 2 – Sandwich Tern Compensation Document** [APP-069] and **Annex 2B: Sandwich Tern Nesting Habitat Improvements Site Selection** [APP-071], the Applicant's approach to identifying potential compensatory measures focused initially on the North Norfolk Coast (NNC) Special Protection Area (SPA) before widening to consider nearby and more distant SPA and non-SPA sites. The iterative development of the proposals (including site selection) has been undertaken through a detailed consultation process with relevant stakeholders via the Ornithology Compensation Expert Topic Group (ETG) (see the **Consultation Report Appendix 1 – Evidence Plan** [APP-030] for a record of meeting minutes and agreement logs). As documented, it was necessary to look further afield in light of stakeholder feedback and challenges around additionality in delivering compensation within the NNC SPA. In doing so, it was recognised by the Applicant that measures to restore breeding sites outside of the NNC SPA would not only provide compensation by increasing breeding numbers but would also have the very strong qualitative merit of restoring the former breeding range of this species in Britain and Ireland which has been lost.
6. The Applicant's proposed compensatory measures at Loch Ryan would not involve direct relocation of Sandwich terns from Norfolk to southwest Scotland. As described within **Appendix 2 – Sandwich Tern Compensation Document** [APP-069], a breeding colony of Sandwich terns was present at Loch Ryan up until 2006. The breeding colony was believed to be lost because the gravel spit on which the birds used to nest was subject to erosion and human disturbance. Prospecting Sandwich terns are present at Loch Ryan during the breeding season, and a healthy prey population is also known to exist in the Firth of Clyde; however, due to a lack of suitable nesting habitat, there are currently no breeding pairs at Loch Ryan or indeed throughout the whole of the west of Scotland with all former colonies having been lost. A metapopulation is one in which birds nest in a number of different colonies in different locations, but young birds may move from where they were born to breed in a different colony. On occasions, adults may also abandon one colony where conditions have become unsuitable and move to another. As a result, the conservation of the metapopulation is influenced by conditions and conservation measures throughout the area. It is understood from studies of colour-ringed Sandwich terns that birds spending the summer (but not breeding) at Loch Ryan include many birds that were born in colonies in Northern Ireland, the Republic of Ireland, Wales, south and west England, and a few from the east of England (including north Norfolk), east Scotland, and even from The Netherlands (Henderson 2022).<sup>1</sup> The conservation status of the Sandwich tern metapopulation

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<sup>1</sup> Henderson, B.D. 2022. Origins and behaviour of marked Sandwich terns observed at Stranraer/Loch Ryan, Dumfries and Galloway. *Scottish Birds* 42: 291-297

would be improved if breeding can be restored at Loch Ryan so that the breeding population is more widely distributed geographically, but it is likely that only small numbers of Sandwich terns would move between the colonies at north Norfolk and Loch Ryan, and movement of birds would be likely to be in both directions.