

Date: 23 March 2023
Our ref: Case: 13015
Your ref: EN010109



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BY EMAIL ONLY

Dear Sir/Madam,

Sheringham Extension Project (SEP) and Dudgeon Extension Project (DEP) Offshore Wind Farm

In lieu of attendance at the SEP and DEP Issue Specific Hearings (ISH) week commencing 20 March 2023 and 27 March 2023, Natural England provide updates in Annex 1 to 3 of this letter in relation to the published agendas for ISH 4, 5 and 6.

We hope this will help facilitate the ISH by identifying those issues which Natural England considers have been resolved or are progressing towards resolution, and those issues with outstanding concerns – and therefore are those that the ISH could usefully focus on. Our full comments and updated Risk and Issues Log will be provided at Deadline 3.

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

Yours faithfully,

Helen Mann
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Annex 1: ISH4 on Development Scenarios, Landscape and Seascape

Please note, the RAG status provided relates specifically to the advice provided under “Natural England Comments” and are not an over-arching position applicable to other issues that may be discussed under the respective agenda headings.

Summary

- Natural England’s advice in relation to the different development scenarios remains unchanged from our relevant/written representation [RR-063].
- For Agenda Item 7 ‘Landscape’ we defer to the Norfolk Coast AONB and the Local Planning Authorities who are best placed to address these items due to local knowledge and remit.
- Natural England’s advice on ‘Seascape’ remains unchanged from our relevant/written representation [RR-063]. Please note that this position is unlikely to change during examination in relation to the potential harm to the special qualities of the NCAONB and its statutory purpose, resulting from the proposed development.
- For Agenda Item 9 ‘Design’ we defer to the Norfolk Coast AONB and the Local Planning Authorities who are best placed to address these items due to local knowledge and remit.

Agenda item		Natural England’s Position	RAG
3. Development Scenarios and Alternatives			
3i	<i>The need for the flexibility afforded to the Applicant in the selecting Development Scenario and communicating with parties about it; the possibility, implications, benefits and risks of introducing and securing a cut off point of selecting a development Scenario as a point of no return,</i>	As advised in our relevant representation [RR-063] Natural England continues to advise that simultaneous installation of the cable infrastructure for both the SEP and DEP projects when the first of the two proceeds will significantly lessen any ecological impacts (both offshore and onshore) where the route and/or infrastructure is shared.	
3ii	<i>Comparing the absolute worse case scenario in the current application, to the two proposals (SEP and DEP) coming forward separately for Examination, which would be worsen.</i>		
3iii	<i>Further explanation of all the possible delivery timescales that could be, under all scenarios and as firmly secured through the dDCO.</i>	If this is not possible, we advise that when the first project proceeds the cable ducts for the second project are installed at the same time to avoid unnecessary direct and indirect impacts for habitats and species. This will significantly reduce the construction time and significantly reduce ecological and visual impacts for these projects. Natural England highlights that any landscape/nature recovery from the first project will likely	

Agenda item		Natural England's Position	RAG
		be undone by the construction of the second project. Therefore, this scenario would enable the commencement of full landscape recovery much sooner than if there was a delay between the two projects.	
3iv	<i>Whether the Environmental Statement suitably assesses the potential for the Proposed Developments to be constructed at the same time but by separate construction crews.</i>	N/A	
7. Landscape			
7i	<i>Whether the evidence provided to date by the Applicant is sufficient to demonstrate that effects on landscape character assessed within the Landscape Visual Impact Assessment are not related to any specific substation layout(s) or the siting of integral elements required for operation</i>	Natural England offers no comment on landscape and visual effects arising from the onshore works of the scheme. Where such effects occur within the NCAONB or the immediate setting of the designated area Natural England advises that close attendance is paid to the comments of the NCAONB Partnership and relevant local authorities.	
7ii	<i>The measures proposed by the Applicant to assess the effects of the substation buildings and structures on the surrounding landscape at detailed design stage.</i>		
7iii	<i>The effectiveness of requirements proposed by the Applicant relating to detailed design of form, massing, building envelope, fencing and screening intended to minimise adverse effects on the surrounding landscape. Discussion to focus on how these requirements should be considered, how they might be secured in the absence of initial design proposals for substation layout(s) and whether the Applicant's approach satisfies the requirements of NPS EN-1 (Part 5.9).</i>		
7iv	<i>The requirement, or otherwise, for dedicated mitigation of visual effects at Attlebridge Main Compound.</i>		
7v	<i>Description of the change proposed for the removal of an additional area of hedgerow close to the main construction compound; and feedback from Local Planning Authority and Local Highway Authority.</i>		
8. Seascape			
8i	<i>Further consideration and explanation of the case for a cumulative impact assessment which examines the existing baseline and its effect on the statutory purpose of the Norfolk Coast Area of Outstanding Natural Beauty.</i>	Regulation 14 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 states that the Environmental Statement must "include the information reasonably required for reaching a reasoned conclusion on the significant effects of the	

Agenda item		Natural England's Position	RAG
		<p><i>development on the environment, taking into account current knowledge and methods of assessment”.</i></p> <p>Natural England advises that the statutory purpose of the NCAONB is already compromised by the existing Offshore Wind Farms within its seascape setting [RR-063]. Natural England advises that a cumulative impact assessment is required to ensure that the additional impact of SEP and DEP on the statutory purpose of the NCAONB, in the context of the existing Offshore Wind Farms, is known (see section 3 of Appendix H of Natural England's relevant representation [RR-063]).</p> <p>It remains Natural England's view that the additional impact of SEP and DEP on the statutory purpose of the NCAONB cannot be understood in the absence of a cumulative impact assessment.</p>	
8ii	<p><i>The extent of additional harm to the Norfolk Coast Area of Outstanding Natural Beauty which would result from the Proposed Development.</i></p>	<p>Based on the Application SLVIA and supporting documentation Natural England has submitted detailed advice in relation to the landscape, seascape, and visual effects of SEP and DEP on the statutory purpose of the NCAONB and its seascape setting [RR-063]. This advice remains unchanged.</p> <p>Appendix H of Natural England's relevant/written representation [RR-063] provides 9 points which summarise the key areas of disagreement between the Applicant's assessment of "harm" to the NCAONB and Natural England's own assessment.</p> <p>Natural England advises that the statutory purpose of the NCAONB is already compromised by existing Offshore Wind Farms within its seascape setting.</p> <p>We draw the examiners attention to our experience from</p>	

Agenda item		Natural England's Position	RAG
		recent Offshore windfarm NSIP examinations, namely East Anglia ONE North and East Anglia TWO, and highlight that due to professional judgements it is unlikely that agreement between Natural England and the Applicant on the significance of the impacts will be reached during the examination process, thereby we are likely to continue to 'agree to differ' in our views.	
9. Design			
9i	<i>The adequacy and suitability of the Applicant's design response to its Landscape Visual Impact Assessment findings of adverse visual effects arising at the proposed onshore substation site.</i>	Natural England offers no comment on landscape and visual effects arising from the onshore works of the scheme. Where such effects occur within the NCAONB or the immediate setting of the designated area Natural England advises that close attendance is paid to the comments of the NCAONB Partnership and relevant local authorities.	
9ii	<i>The extent to which the Applicant has demonstrated that it has applied the principles of good design set out in NPS EN-1 in the design proposals submitted for the onshore substation.</i>		
9iii	<i>The design information directly related to the proposed onshore substation buildings and structures which would be secured within the dDCO.</i>		
9iv	<i>The benefits, or otherwise, to both the Applicant and Local Authorities of an independent design review process to inform the design development of the onshore substation buildings and structures with reference to NPS-EN1, Paragraph 4.5.5.</i>		

Annex 2: ISH5 on Offshore Matters – Ornithology from an EIA and HRA Perspective, Ornithology Compensation

Please note, the RAG statuses provided relate specifically to the advice provided under “Natural England Comments” and are not an overarching position applicable to other issues that may be discussed under the respective agenda headings.

- Summary Ornithology and HRA
 - Substantial material regarding offshore ornithology impacts was submitted at Deadlines 1 and 2, which Natural England is in the process of reviewing. We will update our position on several EIA and HRA receptors at Deadline 3.
 - We recommend the Applicant submit a summary of known HPAI impacts on seabirds in 2022 into the Examination, to inform a risk-based approach to the impact assessment.
 - We advise common scoter was omitted from the HRA screening for Greater Wash SPA and recommend this is rectified.
- Summary Marine Mammals
 - Material regarding marine mammal impacts was submitted at Deadline 2, which Natural England is in the process of reviewing. We are also expecting substantial material on this topic to be submitted at Deadline 3. We will update our position at Deadline 4.

Agenda item	Natural England Comments	RAG	
3. Offshore Ornithology from an Environmental Impact Assessment perspective			
3i	<p><i>Hornsea Project 4, in updating their assessments for the Secretary of State, reported on the impacts upon the Common Scoter feature of the Greater Wash Special Protection Area (SPA). Of particular note, they responded “No assessment of the common scoter feature of the Greater Wash SPA was undertaken by Sheringham Shoal and Dudgeon Extension, therefore a construction phase ECC in-combination assessment was not possible” (reported by Natural England in paragraph 5 of Appendix B to [RR-063]). The Environmental Statement [APP-097, Tables 11-18 and 11-34, Paragraph 425] screens out Common Scoter and sets out that the species is not at risk of collision. Is Natural England content with this position?</i></p>	<p>Noting that the tables and paragraph referenced refer to the EIA assessment, we highlight that there were no common scoter recorded in either SEP or DEP project areas, with occasional observations in the buffer areas of SEP. Table 11-123 presents the results of SOSSMAT (a modelling approach used to assess collision risk for migratory species that uses data of migratory routes and population sizes as opposed to project specific survey data). This indicates that low numbers of common scoter are predicted to collide. NE therefore agrees with the conclusion that common scoter can be screened out of the impact assessment for construction and operational impacts for both displacement and collision at the EIA scale. We note that the Applicant has not specifically provided an assessment on displacement in the export cable corridor (ECC) during construction, but that the</p>	

Agenda item		Natural England Comments	RAG
		<p>conclusion of low numbers in the zone of influence is likely to refer to this area too within the context of EIA.</p> <p>However the reference from Hornsea 4 refers to HRA; the in-combination assessment for common scoter at the Greater Wash SPA, and specifically at the export cable corridor route during construction (the impact of concern here would be displacement). The Applicant has conducted a screening process for HRA, which is presented in APP – 059, 060 and 061. It would seem however that common scoter has been missed from the list of qualifying features in the Greater Wash SPA.</p> <p>To address this omission NE advise that the Applicant should present a screening assessment for all qualifying features at the Greater Wash SPA, including common scoter, to determine whether they should be taken forward into an appropriate assessment. This should include consideration of the numbers of common scoter likely to be present within the ECC (densities can be obtained from the departmental brief for the Greater Wash SPA) and subject to displacement/disturbance.</p>	
3ii	<p><i>The Environmental Statement [APP-097, Table 11-168] reports a moderate adverse cumulative effect (residually) upon Great Black-backed Gull. No further mitigation is proposed for the species. Natural England has set out that, at the Environmental Impact Assessment level, there would be a significant adverse impact on Great Black-backed Gull irrespective of whether the Proposed Development is included in the totals. Reasons for the difference in the conclusions and what, if any, mitigation or compensation should be sought to reduce the impact further?</i></p>	<p>Natural England will set out our position on impacts to great black backed gull (GBBG) at Deadline 3, following review of the Collision Risk Modelling Updates (EIA Context) Technical Note [REP1-056] . However we note that the methods by which Applicants reach conclusions on level of impact, (particularly for EIA where Applicants lean heavily on sensitivity matrices) often differ from that of NE (who do not). We do highlight that our conclusion that OWF are resulting in significant cumulative impacts on GBBG is a long-standing one, and that our previous advice has raised the need to reduce significant adverse effects on seabirds at the EIA level through mitigation measures, in particular raising the 'air gap' between the sea and the turbine blades to reduce collision risk.</p>	

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3iii	<i>The Environmental Statement [APP-097, Table 11-168] reports a minor adverse cumulative effect (residually) upon Lesser Black-backed Gull. No further mitigation is proposed for the species. Is Natural England content with this position?</i>	Natural England will set out our position on impacts to lesser black backed gull (LBBG) at Deadline 3, following review of the Collision Risk Modelling Updates (EIA Context) Technical Note [REP1-056]. We do note that in contrast to GBBG, NE has not historically taken the view that significant adverse effects could arise on LBBG at the EIA scale.	
3iv	<i>Clarification from Natural England on their conclusion that there would be a significant adverse impact at the Environmental Impact Assessment scale on red-throated diver irrespective of whether the Proposed Development is included in the totals. Reasons for the difference in conclusions presented by the Applicant and Natural England.</i>	Natural England was unable to rule out a significant adverse effect for cumulative operational displacement on red-throated diver (RTD) at the EIA scale for East Anglia 1N and East Anglia 2, regardless of whether Hornsea 4 and SEP and DEP were included. This reflects the presence of several existing and proposed OWF (and associated vessel movements) in inshore locations known to hold significant numbers of RTD.	
3v	<i>The Collision Risk Modelling Updates (EIA Context) Technical Note [REP1-056] provides statistics for the little gull species. Are there any unresolved issues or concerns regarding this species?</i>	Natural England will provide a position on little gull following review of REP1-056 (and REP2-036 for HRA matters) at Deadline 3.	
3vi	<i>The Applicant has said they will be advised by Natural England as to how to best incorporate the Highly Pathogenic Avian Flu into the assessments [REP2-017]. Can Natural England clarify how it wants this element to be reported and why?</i>	<p>As the Applicant states we have provided interim guidance on HPAI (Appendix B2 of [RR-063]), and there is an expectation that at a broad level the resultant declines in colony populations will be associated with proportionate reductions in the abundance of birds from such colonies in at-sea surveys, with the consequence that the scale of impact is likely to remain in proportion to the size of the colony. Further to this, NE advised in our Relevant Representation [RR-063] that <i>'the Applicant reviews our guidance (see Appendix B2) on this, and potentially compile available information on current understanding of impacts of HPAI to key species/colonies of relevance to the SEP and DEP application.'</i></p> <p>As noted in our previous advice:</p> <ul style="list-style-type: none"> - where a population has been significantly depleted, it should be considered whether an equivalent level of impact would have greater implications for the newly 	

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		<p>reduced population.</p> <p>- given the significant uncertainties about the health and resilience of seabird colonies introduced by HPAI, Natural England is likely to further emphasise the need to continue with a risk-based approach to its advice on additional impacts from development, particularly where populations have been significantly impacted. This is to ensure that the impacts of HPAI are not compounded by those from development.</p> <p>To clarify further, the Applicant should submit a summary report of the HPAI impacts for 2022 (key species and colonies advised in NE's Relevant Representations), detailing where possible colony count, mortality due to HPAI and productivity (noting some of this has been presented as part of the examination by other parties). This will enable the level of impact arising from SEP and DEP to be contextualised and inform NE and others in regards a risk based approach to advice provision.</p>	
4. Offshore Ornithology from a Habitats Regulation Assessment (HRA) perspective			
4i	<i>The Apportioning and Habitats Regulation Assessment Updates Technical Note sets out the predictions regarding the puffin species [REP2-036]. Is Natural England content that, following the modelling results, an Adverse Effect on Integrity on puffin as part of the seabird assemblage can be ruled out?</i>	Natural England will respond to REP2-036 at Deadline 3.	
4ii	<i>Following the discussion in the Applicant's Apportioning and Habitats Regulation Assessment Updates Technical Note [REP2- 036], in terms of seabird assemblage, does Natural England agree with the approach, assessment and calculation of impacts on the total abundance and diversity of the species components of the assemblage?</i>	Natural England will respond to REP2-036 at Deadline 3.	
4iii	<i>Discussion between parties, in particular Natural England, Royal Society for the Protection of Birds and the Applicant, about the effects of the Proposed Development on seabird assemblage, and the potential need for additional compensation for the Flamborough and Filey Coast SPA.</i>	Until the impacts on all the components of the seabird assemblage are clarified, it is difficult to advise on the potential impacts on the assemblage, and therefore whether compensation is needed beyond that which would be required for qualifying features of the SPA.	

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4iv	<i>The Applicant has set out its case as to why an Adverse Effect on Integrity can be ruled out for red-throated diver [REP2-040]. Can Natural England confirm why, if this is still the case, an AEol cannot be ruled out?</i>	<p>SEP and DEP have the potential to impact upon Greater Wash SPA RTD in the following ways:</p> <ul style="list-style-type: none"> • Installation of the export cable through the SPA • Construction, operation and maintenance traffic transiting through the SPA • Operational displacement within the SPA due to permanent presence of OWF (Sheringham extension only) <p>Natural England has recently received an updated assessment of RTD at the Greater Wash SPA within the Apportioning and HRA Updates Technical Note Revision B. Following review of this, Natural England anticipates being able to provide an updated position.</p>	
4v	<i>Can Natural England confirm that, if the Sheringham Extension Project was not pursued, there would not be any concerns regarding red-throated diver?</i>	No. Concerns would remain over disturbance & displacement due to the construction of the export cable, which passes through the Greater Wash SPA, and vessel movements during the O&M phase and their impact on the either the Greater Wash SPA or Outer Thames Estuary SPA.	
4vi	<i>There remains a fundamental disagreement as to whether compensation is required at all for guillemot and razorbill (notwithstanding any sub-arguments regarding the measures of said compensation). In light of recent submissions by the Applicant, can a resolution be reached, or identify areas pending resolution for discussion.</i>	Natural England will provide an updated position on this at Deadline 3 following review of reports submitted by the Applicant at Deadline 1 and 2.	
5. The extent, suitability and security of Habitats Regulation Assessment compensation for offshore ornithology			
5i	<i>The Statement of Common Ground with the National Trust [REP2- 046] suggests that there need not be any further discussion on the Farne Islands compensation measures. However, before discounting this and moving on, the Examining Authority request that the National Trust a) provide a copy of the Farne Islands Management Plan to the Examination and b) explain why the proposed measures do not represent additionality?</i>	N/A	
5ii	<i>Views from Natural England, National Trust and the Applicant</i>	Please refer to comments made in our Relevant Rep	

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	<i>about the appropriateness to pursue bamboo canes as a compensation measure for the Farne Islands?</i>	Appendix C Offshore Ornithology Compensation, in particular detailed comments 15 and 17.	
5iii	<i>The Applicant has quoted the Energy Security Bill insofar as: “Government is also considering enabling developers to undertake work already identified by Government to improve the condition of protected species and habitats. This would substantially increase the number of measures available to developers and also accelerate marine recovery for some sites” [REP2-038]. Can the Applicant set out whether the management plan for the Farne Islands represents (or is included as part of) any Government document or whether there are any Government-backed measures on the Farne Islands that are on public deposit to which the Applicant is relying?</i>	N/A	
5iv	<i>If the Secretary of State were to ultimately conclude that sandwich tern compensation in respect of the Farne Islands to be insufficient, unsound or not to represent additionality, would this result in the compensation package as a whole being inadequate with only a single-strand approach for Loch Ryan?</i>	Natural England advocates development of compensation packages comprising multiple measures to provide resilience should an individual measure fail or underperform. If habitat creation at Loch Ryan was the sole measure brought forward this would inevitably raise the level of risk regarding whether sufficient compensation would be provided, also noting that the Loch Ryan scheme is at present some way from being secured.	
5v	<i>Foulness Island in Essex has appeared as a possibility for sandwich tern compensation. Is this being pursued as a further site to Loch Ryan and Farne Islands or as a substitute for Loch Ryan or the Farne Islands?</i>	N/A	
5vi	<i>Update the Examining Authority on progress with the Gateshead kittiwake tower compensation measure.</i>	N/A	
5vii	<i>Effectiveness of replacing the poor-performing nests on the south face of the kittiwake tower at Salt Meadows Gateshead with potentially better-performing nests on the north face of the tower (in greater numbers) and if that represents appropriate and qualifying compensation?</i>	As noted in REP2-061, Natural England has reached an in-principle conclusion that augmenting the existing Gateshead Saltmeadows tower on the Tyne with two new nest faces has the potential to provide appropriate compensation for SEP and DEP. However, this is subject to the Applicant providing: <ul style="list-style-type: none"> • more information on the structure design (submission scheduled for Deadline 2 or 3); 	

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		<ul style="list-style-type: none"> • more detailed understanding of the 'baseline' for productivity in and around the existing tower; • more detailed stress testing of the possible scenarios as regards mortality debt. 	
5iii	<p><i>The compensation proposals for guillemot and razorbill, if required, appear to have switched focus from the northeast to the southwest [REP2-040]. Taking this into account, combined with Natural England and the Royal Society for the Protection of Birds both disputing the effectiveness of both bycatch reduction and looming eye buoys, why should the Examining Authority have confidence in, what appears to be, a relatively uncertain compensation strategy?</i></p>	N/A	
5ix	<p><i>At the specific Special Protection Area, with regards to the coherence of the UK National Site Network, if bird losses undermined the overall seabird assemblage (combined with compensation effectively enabling birds to move away from the SPA – managed loss), would that require targeted compensation at the specific Special Protection Area?</i></p>	<p>Targeting compensation at the affected SPA is always preferable, but there may be circumstances where this is neither feasible or appropriate e.g. because the SPA is already under suitable management and therefore it is difficult to provide further benefits to the impacted species.</p> <p>Off-site compensatory measures could deliver benefits to the national site network in different ways, but are not generally considered as 'managed loss'. By way of example – in the case of kittiwake Artificial Nesting Structures (ANS), the concept is that the ANS will ultimately produce additional adult birds that will enter the biogeographic population from which Flamborough & Filey Coast SPA (or other UK SPAs) draws its recruits. This mechanism relies on the relatively low levels of 'homing' behaviour by kittiwakes looking to breed for the first time, meaning that a significant proportion of birds produced at the ANS will head elsewhere to nest. By contrast, it is not expected that habitat creation at Loch Ryan would necessarily directly benefit the North Norfolk Coast SPA population of sandwich tern, instead the primary aim would be to create a new colony that would in due course form part of the national site network.</p>	

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	Regarding seabird assemblages specifically, please see our comment on 5iii) above.		
6. The extent, scope and security of mitigation for marine mammals			
6i	<i>Is there agreement on the content, scope and level of mitigation secured in the Marine Mammal Management Protocol [REP1-014]? If not, what amendments are perceived to be required in order for agreement to be reached?</i>	<p>Natural England agrees with the content, scope and level of mitigation in the Draft Marine Mammal Monitoring Protocol (Revision B) [REP1-014] insofar as the primary purpose of the document, which is to mitigate injury risk to marine mammals.</p> <p>As stated in Natural England's response to Examiner's Questions 1 [REP1-039], any mitigation measures to reduce disturbance should be detailed separately by the Applicant. Any mitigation measures for disturbance must be secured.</p>	
6ii	<i>Does Natural England and the Marine Management Organisation consider that there are any fundamental issues remaining, on either an Environmental Impact Assessment or Habitats Regulation Assessment basis, in respect of marine mammals that warrant further work to be done? Explain with reasons.</i>	<p>Natural England has outlined its fundamental issues in the Relevant Representation [RR-063]. A summary of outstanding issues has been provided in the Marine Mammal Position statement provided by Natural England in response to Q1.12.2.6 in Examiner's Questions 1 [REP1-039].</p> <p>Natural England is currently reviewing the Applicant's response to our Relevant Representations submitted at Deadline 2 [REP2-051] and are not able to provide a response at this stage. Natural England is also awaiting a Marine Mammal Technical Note that the Applicant is proposing to submit at Deadline 3 and we will be aiming to provide a response at Deadline 4.</p>	
7. Draft Development Consent Order			
7i	<i>The Applicant promised a number of documents at Deadline 1 to be submitted 'early in the Examination.' These included the Auk Construction Phase Displacement Assessment Technical Note (received), the Export Cable Laying Vessel RTD Displacement Assessment (though that may have been incorporated in the apportioning and habitats note at D2), the Auk Bycatch Reduction Feasibility Statement and the Marine Mammals</i>	N/A	

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	<i>Technical Note. Can a firm date be confirmed for receipt of these.</i>		
7ii	<i>A number of technical notes were submitted at Deadline 1 and Deadline 2. This supplements, adds to or revises the data used to form the Environmental Statement. Can the Applicant set out how these Examination-based revisions will affect the useability of the Environmental Statement, and which documents require certification as part of the Environmental Statement under the dDCO?</i>	N/A	
7iii	<i>The Marine Management Organisation continue to raise objection to the use of the phrase “materially” within the context of the draft Development Consent Order and Deemed Marine Licenses [REP2-059, paragraph 8.9]. The ExA notes the argument of precedence raised by the Applicant. Can the MMO explain why, if that phrase has been accepted by the SoS in other consented DCOs, it is inappropriate for that phrase to be used in this instance?</i>	N/A	
7iv	<i>Progress on discussion with Marine Management Organisation regarding the timeframes for post-consent submissions for review.</i>	N/A	

Annex 3: ISH6 on Benthic Ecology and Draft Consent Order

Please note, the RAG status provided relates specifically to the advice provided under “Natural England Comments” and are not an over-arching position applicable to other issues that may be discussed under the respective agenda headings.

Summary

- Natural England’s advice remains unchanged from that provided in our relevant/written representations [Appendix G RR-063].
- Other than reduction in the number of cables we believe that the Applicant has likely exhausted known options to mitigate impacts with the MCZ.
- We are supportive of Native Oyster Restoration as a Measure of Equivalent Environmental Benefit (MEEB).

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3. Benthic Ecology			
3i	<p><i>Provide a detailed assessment (or explain why it cannot be provided) of the extent of necessary cable protection needed within the Marine Conservation Zone, designation at the Cromer Shoal Chalk Beds, for this examination, for a more accurate worst-case scenario regarding adverse impacts to the Marine Conservation Zone.</i></p>	<p>Natural England will review any updated outline Cable Specification, Installation and Monitoring Plan once submitted by the Applicant into examination.</p> <p>However, we draw your attention to Natural England’s relevant/written representation advice in relation to Applicant’s worst case scenario as presented in their Application [Appendix G RR-063]. We also note that the Applicant’s other OWF developments have only required cable protection at the Horizontal Directional Drilling exit pits; thereby there may be limited requirement to utilise the full extent of cable protection as set out in their Application. However, other OWF Applications have found the installation process challenging and due to technical issues the WCS has become more realistic during installation. We therefore welcome an assessment not being overly optimistic and potentially resulting in further marine licence applications which can cause construction delays. But that doesn’t preclude a more realistic assessment of which features are most likely to be impacted through cable installation and potential cable protection</p>	
3ii	<p><i>Whether the potentially harmful effects of removing cable protection within the Marine Conservation Zone in the</i></p>	<p>Natural England advises that a real time assessment at the decommissioning phase will be required to determine</p>	

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	<i>decommissioning stage, if it has been in situ for a long period of time, outweighs the benefits of it remaining.</i>	<p>the best course of action. However, Natural England's current advice is that the impacts from DEP and SEP proposed cable protection is likely to result in lasting change/loss of feature over the projects life-time with no guarantee that it can be satisfactorily removed without causing wider damage to the site, and/or that the habitat will ever return to its original state. Therefore the impacts can't be considered as temporary</p> <p>In light of recent offshore windfarm Nationally Significant Infrastructure Projects (NSIPs) decisions identifying adverse effects relating to '<i>lasting effects</i>' and '<i>impeding restoration</i>' (Department for Business Energy & Industrial Strategy (BEIS), 2020) from cable protection within designated sites, we consider it likely that the extent, distribution, structure and function attributes of the MCZ features have already been adversely affected by the existing and proposed infrastructure. This is likely to be hindering the ability of the site to meet its conservation objectives.</p> <p>At this stage, no measures or mechanisms to offset the existing habitat loss/predicted habitat loss have been put in place. Natural England advises that additional reductions to the extent of the features are likely to further hinder the ability of the site to fulfil its conservation objectives.</p>	
3iii	<i>Whether the proposed cables and possible cable protection would impact or counter the conservation objectives of the fishing Bylaws (including Closed Area Bylaw 2021) which cover the Marine Conservation Zone.</i>	Natural England advises that as the regulator for fishery byelaws this is a question for Eastern IFCA. However, we advise that all impacts to outcropping and sub-cropping chalk feature is avoided which would align with the purpose of fishery byelaws for this designated site.	
3iv	<i>Due to their potential adverse impact with the seabed and therefore benthic ecology, whether the use of Jack-Up vessels</i>	Whilst Natural England welcomes the exclusion of jack-up vessels from within the MCZ to reduce the potential	

Agenda item		Natural England Comments	RAG
	<i>could be avoided within the Marine Conservation Zone and what alternatives exist.</i>	impacts; Natural England notes that this agenda item is for the Applicant to respond on. And we would review any updated to the Cable Specification, Installation and Monitoring Plan and Operation and Maintenance plan, should any commitments be made to this effect.	
3v	<i>Natural England consider sub-cropping chalk (chalk covered with a veneer of sediment) to also comprise the subtidal chalk feature [REP2-065]. If this is the case, what are the implications of this on the assessment of potential impacts to the Marine Conservation Zone?</i>	Natural England advises that all installation activities must not physically impact on outcropping or sub-cropping chalk. Where it can be robustly demonstrated that cables will be installed within a static sediment veneer/layer resulting in no impacts to chalk feature we advise that the conservation objectives for the site are unlikely to be hindered. However, we have outstanding concerns in relation to the exit pits.	
3vi	<i>Natural England [REP2-064, Point 31] state in reference to the Marine Conservation Zone that "Should cable protection be placed in the mixed sediment within the cable corridor, then the conservation objectives to restore/maintain features will not be achieved". Could cable protection in mixed sediment areas of the Marine Conservation Zone be avoided or can the impacts be suitably and sufficiently mitigated.</i>	Natural England can only advise on nature conservation concerns along the cable corridor as proposed by the Applicant. But we are aware that it is highly probable that any cable route transecting the MCZ is likely to interact with mixed sediment. From evidence from other projects such as Humber Gateway Offshore windfarm and Viking Link interconnector, mixed sediment areas are challenging to install cables in resulting in scaring and/or sub-optimally buried cables requiring cable protection. As set out in our relevant/written representation Appendix G Point (5) [RR-063] other than progressing a single ops serving both windfarms it is unlikely that further mitigation measures can be implemented to suitably reduce the impacts to acceptable levels.	
3vii	<i>What would be the benthic ecology impacts with the provision of a large oyster bed (as is the preferred option of the Applicant put forward for the Measures of Equivalent Environmental Benefit), as it would cover a significant seabed habitat area. This includes the need for any cultch for the oyster bed and what impacts this could have on existing benthic ecology.</i>	Natural England agrees with the Applicant's updated assessment as set out in REP1-009 Appendix 4 Impacts from MEEB on features of the MCZ.	

Agenda item		Natural England Comments	RAG
3viii	<i>Evidence to demonstrate the effects of the potential oyster bed in terms of impacts to fish species in the area, such as resultant changes in species or numbers/stocks.</i>	For the Applicant to respond, but Natural England would review any updated application documents	
3ix	<i>The chances of success for the oyster bed as a 'Measure of Equivalent Environmental Benefit' and how this would be quantified and assessed; also, whether the oyster bed would be developed and cultivated in sufficient time to suitably offset any adverse impacts to the Marine Conservation Zone.</i>	<p>Natural England draws your attention to our advice included within our relevant/written representation Appendix G Point 10 Para. 25.</p> <p>25. <i>Natural England recognises the time required for ecological functionality to occur and therefore would advise the implementation of Oyster restoration prior to the cable installation but reflecting that it may not be fully delivering. (Para. 93)</i></p> <p>Such a time lag may be considered acceptable by the Secretary of State if the overall ecological benefit is significantly greater than the impact.</p>	
8. Draft Development Consent Order			
8i	<i>Regarding the comments from the Marine Management Organisation for Deadline 2 [REP2-059], whether Part 2, Article 5 of the draft Development Consent Order (Benefit of Order) allows for the transfer or temporary lease of the benefits of the draft Marine Licences in a way which would be a significant departure from the current statutory framework set out by Marine and Coastal Access Act 2009? Also, whether there would be sufficient involvement in such circumstances by the Marine Management Organisation in considering a proposed transfer or lease of development order benefits?</i>	N/A	