



# Marine Management Organisation

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## (Email only)

MMO Reference: DCO/2019/00004  
Planning Inspectorate Reference: EN010109

16 May 2023

Dear Sir/Madam,

## **Planning Act 2008, Proposed Sheringham Shoal Offshore Wind Farm Extension Project (SEP) and Dudgeon Offshore Wind Farm Extension Project (DEP).**

### **Deadline 4 Submission**

This document comprises the Marine Management Organisation's (MMO) Deadline 4 response in respect to the above Development Consent Order (DCO) Application. This is without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This is also without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

The MMO reserves the right to modify its present advice or opinion in view of any additional matters or information that may come to our attention.

Yours Faithfully


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Marine Licensing Case Officer



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## 1 General Comments

- 1.1 The MMO are continuing to engage with the Applicant regarding any matters still under discussion within the Statement of Common Ground (SoCG) and will be able to provide an update for Deadline 5.
- 1.2 The MMO note that documents submitted at deadline 3 were uploaded to the PINS website on Friday 5<sup>th</sup> May. This has created a short review period for the MMO and has resulted in the deferral of some responses to deadline 5.

## 2 Comments on any other information and submissions received at Deadline 3

### 2.1 **REP3-115 Marine Mammals Technical Note and Addendum**

- 2.1.1 The MMO welcome the inclusion of the Marine Mammals Technical Note and Addendum. The MMO is currently reviewing this document and will provide any comments for Deadline 5. As noted in the Issue Specific Hearings, if resolutions are able to be made between the applicant and the MMO prior to deadline 5, the MMO will endeavour to undertake discussions earlier.

### 2.2 **REP3-012 Draft Development Consent Order (Revision F)**

- 2.2.1 The MMO have carried out a brief review of the revised Draft Development Consent Order (dDCO). Initial comments are below, however, the MMO anticipate further comments will be provided for Deadline 5.
- 2.2.2 The MMO welcome the inclusion of extended timeframes for post-consent documentation as agreed within the SoCG (REP3-078) between the MMO and Applicant.
- 2.2.3 Schedules 10 & 11 Part 2 (15)(1), Schedules 12 & 13 Part 2 (14)(1) – Whilst the MMO still disagrees with a condition which places a time constraint on approval of post-consent documentation, the MMO note that the condition has not been amended to reflect the updated timeframe of the Site Integrity Plan submission to six months.
- 2.2.4 The MMO welcome the inclusion of a Sediment Sampling Condition (condition 23 – Schedule2 10 & 11, condition 22 – Schedules 12 & 13), and Collaboration Condition (condition 24 – Schedule2 10 & 11, condition 23 – Schedule2 12 &13).



## 2.3 APP-097 Marine Mammal Ecology

2.3.1 In the MMO's Deadline 3 response (REP3-133) provided additional comments on the Marine Mammal Environmental Statement Chapter (APP-097). The MMO noted that justification had been provided by the applicant as to the use of Temporary Threshold Shift-onset thresholds as a proxy for disturbance and would review for Deadline 4. Given the submission of the Marine Mammals Technical Note It is the MMO's intention to review this document alongside the Applicants comments and provide additional comments for Deadline 5.

## 2.4 REP3-105 The Applicant's comments on the Marine Management Organisation's Deadline 2 Submissions

2.4.1 *ID 2.1 – 2.1.1* – The MMO notes the Applicant's discussion with the Maritime and Coastguard Agency and have discussed the appropriateness of this provision with the applicant direct. The MMO are currently satisfied with the Applicant's intention for the provision and will provide further comment following submissions at deadline 4.

2.4.2 *ID 4.7.1 – 4.7.7* – As has been stated within the MMOs deadline 3 submission, including the MMOs written summary of oral submissions at the issue specific hearings, there are still concerns regarding the drafting of article 5. The MMO does not intend to reiterate these here, and notes that this is a point of agreed disagreement within the Statement of Common Ground.

2.4.3 *ID 4.7.8 – 4.7.9* – The MMO notes the notification the applicant intends to provide regarding the transfer of the DMLs, however reiterates that no transfer can physically happen to the DMLs without a variation request submitted to the MMO. In past projects the MMO are aware of a notification of the intention to transfer, which has been used to start the variation process.

2.4.4 *ID 5.1.* – The MMO note that they were notified of the intention to withdraw the sampling request for 2023. There has been subsequent work to include sampling requirement conditions within the DMLs. The MMO and the Applicant have agreed on this approach, and the condition wording has been included within the DMLs.

2.4.5 *ID 5.2 – 5.7* – The MMO note the applicants position to continue the discussion of disposal site characterisation post consent, and the intention to apply for an additional licence to cover the disposal of sediment to sea. The MMO is content that an additional licence application can allow the assessment of impact when more specific information is known.



2.4.6 ID 8.9. – The applicant has raised this comment in regards to the use of “materially” – *“This approach is entirely in accordance with general planning and EIA principles and the process routinely undertaken to apply for amendments and variations of any consent in an EIA context, in particular the tests to be considered by the decision maker for a non-material change request as set out in the Planning Act 2008: Guidance on Changes to Development Consent Orders.”*

The MMO reiterate that the DMLs, once made, fall under the Marine and Coastal Access Act 2009 (MaCAA), and not under the Planning Act. The DMLs are enforceable under MaCAA, and there is no allowance for the use of materially when used in this context under MaCAA. There is also no interpretation for a “material difference” in the Marine Works (Environmental Impact Assessment) Regulations 2007. The MMO ask that either the word “materially” is removed from the provision wording, or a definition for “materially” be included within the DMLs.

