



# Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Projects

Written Summary of the Applicant's Oral Submissions at  
Issue Specific Hearing 7

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## 1 Introduction

1. This document presents a written summary of Equinor New Energy Limited's (the Applicant) oral case at Issue Specific Hearing 7 (ISH 7) (**Table 1**). ISH 7 on the Sheringham Shoal Offshore Wind Farm Extension Project (SEP) and Dudgeon Offshore Wind Farm Extension Project (DEP) Development Consent Order (DCO) application took place on 21<sup>st</sup> June 2023 at 10:00am at The Kings Centre, 63-75 King Street, Norwich, NR1 1PH.

**Table 1** Written summary of the Applicant's oral submissions at ISH 7

I.D.	Stakeholder Comment	Applicant Response
<b>Shipping and Navigation – Updates on the Ongoing Discussions</b>		
3.i	Maritime and Coastguard Agency and the Applicant to provide an update on progress with negotiations.	<p>A. The Applicant confirmed it had engaged in a series of three meetings with the Maritime and Coastguard Agency (“MCA”) to discuss the MCA’s questions regarding the <b>Navigation Risk Assessment</b> [APP-198] (“NRA”). The Applicant believes it has answered each of the MCA’s questions with technical and evidence responses which ought to satisfy the MCA’s concerns. The Applicant remains confident the NRA [APP-198] is robust and the As Low As Reasonably Practicable (“ALARP”) statement remains valid.</p> <p>B. The Applicant confirmed that the topics discussed with the MCA in detail were the traffic width used for modelling (which the Applicant noted shows that a conservative modelling scenario was used within the NRA [APP-198]) and details of the vessels passing closer than 1 nautical mile (“nm”) to offshore wind farms.</p> <p>C. At Deadline 6 the Applicant also submitted, at the request of the MCA in its Deadline 5 responses, a briefing note to cover localised collision risk results in the area around DEP north [Post-hearing note: <b>Evidence to support the Applicant’s response to ISH7 Agenda Item 4.ii</b> [REP6-024]]. The Applicant noted that this is not new modelling, but localised detail of the modelling required as part of compliance with Marine Guidance Note (“MGN”) 654 Annex 1 which requires modelling to cover the entire study area. The Applicant has also provided additional detail in terms of vessel numbers, movements and draughts. [Post-hearing note: The Applicant provided this information directly to the MCA and will provide additional information in response to Fourth Written Question 4.19.1.1 in document reference 21.5]. The Applicant believes all of this evidence continues to demonstrate its case, that the NRA [APP-198] is robust and risk is ALARP.</p>
3.ii	Is there a potential for a negotiated agreement within the Examination to satisfactorily overcome the Maritime and Coastguard Agency objections with	<p>A. The Applicant confirmed that it is not presently heading towards an agreement with the MCA but remains eager to maintain a continuing dialogue and understand the MCA’s position. The Applicant emphasised that the MCA’s objection in February, after the application had been</p>

I.D.	Stakeholder Comment	Applicant Response
	the Proposed Development? How would any negotiated agreement be secured in the dDCO?	submitted, came as a considerable surprise to the Applicant. The Applicant explained that, the more the Applicant has engaged with the MCA's position, the more the Applicant believes its own position to be supported in line with the NRA conclusion of ALARP.
3.iii	Taking into account the NPS EN-3 (paragraph 2.6.165), would the effects of DEP-North pose unacceptable risks to navigational safety based on current proposed mitigation?	<p>A. The Applicant explained that throughout the NRA process, it has demonstrated that the development is ALARP. The Applicant confirmed that it has produced the <b>NRA</b> [APP-198] in accordance with National Policy Statement ("NPS") EN3 guidance and MGN 654 and is confident that the risks remain ALARP when considered with the embedded and additional mitigations in place.</p> <p>B. The Applicant explained that the NRA [APP-198] considers the output of the hazard log and, most importantly, the outputs of the pre-application consultation including consultation with local mariners operating in the area. At those consultation meetings, the Applicant discussed mitigation for the development including lighting, marking and the layout commitments which are all included in <b>Section 20.2</b> of the <b>NRA</b> [APP-198].</p> <p>C. The Applicant accepted that its proposals involve a reduction of sea room but reiterated its confidence that its measures and calculations are correct and navigation safety remains ALARP.</p>
3.iv	What would be the consequences if there remained an objection to the Proposed Development from the Maritime and Coastguard Agency at the end of the Examination?	<p>A. The Applicant's position (as submitted at Deadline 5 [Post-hearing note: Response to Q3.19.1.11 in <b>The Applicant's response to the Examining Authority's Third Written Questions</b> [REP5-049]) is that it is open to the Secretary of State to grant the development consent in the form that has been submitted and there is sufficient information and analysis in front of the examination to allow the Secretary of State to do so. The Applicant believes that the Secretary of State can, even in the face of an objection from the MCA, properly grant development consent in accordance with the national policy statement. In other words, the Secretary of State can consider the MCA's position and prefer the Applicant's position and the position reflected in the NRA process. However, the Applicant acknowledged it would also be open to the Secretary of State to impose a no structures area if relevant documentation [Post hearing note: this</p>

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		would be achieved by an amended Offshore Works Plan(s) is put before him].
<b>Shipping and Navigation – Consideration of Possible Mitigation</b>		
4.i	Clarification of the likely resultant effects of the Proposed Development of DEP-North on the routes taken by shipping through the remaining sea room corridor.	<p>A. In response to the Examining Authority's ("ExA") request for clarification regarding what the Applicant would consider, from its data, to be a typical and safe clearance distance set by vessels passing wind farms which could or should also apply in these circumstances, the Applicant explained that the modelling it has undertaken reasonably assumes a minimum distance of 0.5nm, in accordance with MGN 654 guidance (that states anything less than 0.5nm is intolerable). However, the Applicant noted that there is evidence that vessels do pass within 0.5nm.</p> <p>B. In response to the ExA's request for confirmation of the redline boundary's 0.8nm encroachment into the shipping corridor, the Applicant noted that the sea area in question is complex to navigate (owing to sandbanks and enclosed sea areas) and includes all of the sea area off the north Norfolk coast, not just the sea area proximate to the Sheringham Shoal Offshore Wind Farm Extension Project ("SEP") and Dudgeon Offshore Wind Farm Extension Project ("DEP"). The Applicant explained that the key considerations concerning the corridor calculations and available sea room are: who uses this sea area, when, and how often. The Applicant's data (over a years' worth) shows that it is not being navigated as a busy sea area - there are 2 or more vessels within half an hour of each other in the Outer Dowsing Channel less than 3.4% of the time. Most of the time, vessels will be on their own in the area and therefore choose exactly how they navigate on that basis. The Applicant explained that if vessels do encounter each other, the International Regulations for the Prevention of Collisions at Sea ("COLREGS"), which apply to every vessel around the world, are perfectly capable of managing these interactions safely.</p> <p>C. The Applicant confirmed it has used a 10 metre contour line because the controlling depths in the entire Outer Dowsing Channel area are as low as 10 metres. When this is considered and the shipping corridor is measured, the Applicant asserted that the available sea room is larger than the MCA claims.</p>

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		<p>D. In response to the ExA's query as to whether it is realistic to consider the shipping lane to extend to the edge of Triton Knoll Bank (given the shallow depth and presence of wrecks in this area), the Applicant reiterated the importance of considering the navigable sea room in the area and the data available. The data shows that vessels navigate in this area based on the waypoints they are heading to and from.</p> <p>E. Noting the MCA's comments that vessels are staying away from the existing wind farms in this area, the Applicant emphasised that vessels are navigating by the features in the area. Applying this to the underlying question of the controlling depth, the Applicant explained that vessels will not consider the area unnavigable because of the 15.3 metre wreck (noting again the defining depth in the area is 10 metres) as the majority of vessels can use this depth. Whether or not vessels actually use the area will depend on where they are heading to or from, not the wreck or proximity to a wind farm.</p> <p>F. The Applicant emphasised that the position taken on controlling depth completely underpins the analysis of navigable sea room. The Applicant highlighted that Trinity House agrees with the Applicant's assessment that the controlling depth is 10 metres and noted that this is a fundamental distinction between the positions taken by Trinity House and the MCA.</p> <p>G. [Post-hearing note: The Applicant notes Figure 4 of Trinity House's <b>Deadline 5 (D5) Submission</b> [REP5-096], which highlights a point on the 10 metre contour and measures a distance of 3.83nm to the line extending between the Mid Outer Dowsing Buoy and the Dudgeon Buoy, which represents the width of available sea space. The Applicant also recalls the remarks of Captain Harris (for Trinity House) at ISH7 that "<i>we are marking the 10 metre contour which we consider to be the controlling depth</i>" (time-stamp 49:32 [EV-095]) and "<i>I do agree with the Applicant on their assessment of the depths</i>" (time-stamp 1:13:20 [EV-095]).]</p> <p>H. In relation to the likely impacts on route planning for vessels traversing the area if DEP North is built as proposed, the Applicant emphasised the importance of analysing the available data on vessel draughts. Firstly, the Applicant explained that the data clearly shows that the average draught of commercial vessels in this area is 6.1 meters and over 90% of vessels</p>



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		<p>have draughts of under 8 meters. Most vessels navigating the area are therefore shallow draught vessels. Secondly, the Applicant explained that historic data shows a change in how traffic navigates the area pre/post-Triton Knoll windfarm. Pre-Triton Knoll windfarm, there were vessels passing within the range of 15.3 metre wreck and post-Triton Knoll windfarm, the traffic was compressed into the route that we now see. In the Applicant's view, this (again) shows that vessels will navigate an area based on where they are going to and coming from. The Applicant therefore expects that if DEP North is built out, vessels will continue taking the same approach: they will look at the weather conditions, consider their type of vessel look at the traffic in the area and decide their course at the time. The Applicant also noted that it has charts from regular operators in the area showing what their course would be post development of DEP North.</p> <p>i. The Applicant explained that there is no case for the 15.3 metre controlling depth argued for by the MCA. Referring to its Deadline 6 submission [Post-hearing note: <b>Evidence to support the Applicant's response to ISH7 Agenda Item 4.ii</b> [REP6-024]], the Applicant noted that less than 1% of vessels recorded within a year were over a draught of 10 metres. The largest draft recorded was 13.4 metres, which the Applicant submit was a unique vessel going through the area. Around 7% to 8% of vessels had a draught of between 8 and 10 metres, around 40% [Post-hearing note: this figure should correctly be approximately 45% [REP6-024]] had a draught between 6 and 8 metres, around 39% had a draught between 4 and 6 metres, and around 5% had a draught of less than 4 metres. The Applicant re-emphasised that, contrary to the MCA's view, vessels do not avoid the wrecks when navigating the area. The Applicant noted that Figure 1 in the MCA's Deadline 5 submission [Post-hearing note: <b>Responses to the Examining Authority's Third Written Questions (WQ3)</b> [REP5-081]] shows dashed-lines of the safe sea room and, with reference to the eastern area of the Outer Dowsing Channel, there are depths of 14 metres where vessels 'looking for deeper water' are navigating in proximity to; an area which is more constrained than that to the west of DEP North.</p>

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		<p>J. With reference to the MCA's concern that the navigational risks to vessels must be acceptable at all times, including where there is more than one vessel in the area, the Applicant noted that balancing risk probability and potential consequences is an important part of the NRA process. From the Applicant's analysis, the probability of there being more than 2 vessels in the area is very low and, where there are 2 or more vessels present, the probability that the COLREGs cannot manage the interactions of those vessels is also very low.</p> <p>K. In relation to the MCA's concern that, if 2 or more vessels are present in the area, there will not be enough sea room for 360-degree collision avoidance manoeuvres, the Applicant reiterated that the COLREGs are capable of dealing with collision avoidance action and feedback from regular operators in the area collected during the NRA process shows operators already navigate in much tighter sea areas than this. The COLREGs (in particular, Rule 8) set out various actions a mariner can take in a situation of collision avoidance and mariners, as prudent and competent persons, will weigh the circumstances, the available sea room and decide what action to take. Taking a full turn is an extreme manoeuvre that a mariner will not regularly perform. Again, probability and potential consequences must be balanced, and the Applicant reiterated that its proposals are within tolerable limits.</p> <p>L. The Applicant reiterated its surprise that it has comprehensively followed the MCA's own process (as set out in Annex 1 of MGN 654) over a four-year period, resulting in the significant consensus conclusion that the redline boundary is in a sustainable position with respect to maritime safety, submitted the development consent order ("DCO") application, and has only received from the MCA an objection to the redline boundary 5.5 months after submission, during the Examination. The Applicant emphasised that throughout the NRA process the Applicant fully engaged with the MCA and with operators (who signed and supported the <b>NRA</b> [APP-198]) and duly concluded that the proposals are tolerable in all circumstances. The Applicant noted that there was no material pushback from the operators and there was no complaint raised on this point regarding the redline boundary.</p>

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		<p>M. In response to the MCA's remark that its position only challenges one aspect of the application, the Applicant noted that the redline boundary is a <u>fundamental</u> aspect of the application. The Applicant emphasised that it had made available the correct survey information at three critical points: the section 42/PEIR consultation [Post hearing note: The Applicant emphasizes the survey information submitted had been agreed in advance with the MCA], the hazard workshop and the final draft NRA that went to all parties before submission. At no point did the Applicant receive any indication that there was a problem with the redline boundary. [Post-hearing note: The Applicant reiterates that the survey information was not challenged and the conclusion was duly accepted.]</p> <p>N. The Applicant firmly challenged the MCA's assertion that, at the preliminary environmental information stage, the full travel survey [i.e. the correct pre-agreed] dataset was not available. The Applicant confirmed that it had completed 14 of 28 survey days that MGN requires and made available a year's worth of Automatic Identification System ("AIS") data (which the Applicant submit goes above and beyond the requirements of MGN 654 and which had been agreed in advance with the MCA as is recorded in the NRA). At the point of the hazard workshop, the Applicant further confirmed that all of the data (including the remaining 14 days) had been obtained and made available and no issues with the data were raised. The Applicant also confirmed that the agreed survey data was available and informed the first and final drafts of the NRA. [Post-hearing note: The Applicant reiterates that the concern raised by the MCA does not go to the survey data in any event. The MCA implies that its participation in the NRA process was constrained by the lack of survey data. The Applicant replies, firstly, that this is simply factually incorrect. Secondly, this is irrelevant – the concern raised does not go to the survey data. Finally, no other participant in the process raised a concern about survey data at the time and nor did the MCA.]</p>
4.ii	In the opinion of the Maritime and Coastguard Agency and any other relevant parties present, does the Applicant's Navigational Safety Technical Note [REP3-031] provide robust and accurate calculations and conclusions with regards to resultant navigational safety and collision risk if DEP-North is	A. The Applicant confirmed its position that the change in collision from the current level of 1 in 9.6 years to 1 in 8.5 years post-construction to be an acceptable change with regards navigational safety.

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	<p>constructed as proposed. Support your response with your evidence and calculations where possible.</p>	<p>B. The Applicant confirmed that the sensitivity analysis shows that the removal of DEP North would have minimal impact on the collision risk in the overall area, amounting to a reduction of only 3%. The Applicant confirmed that the collision risk difference in the Outer Dowsing Channel west of DEP North only would be 23%, but emphasised that it is very unusual, within an NRA, to focus on a specific localised area. This analysis was performed at the specific request of the MCA in an offline meeting (the norm is to consider the overall study area) In further explanation of the analysis, the Applicant confirmed that in a case where DEP North is removed, the collision return period in that localised area rises from 140 to 172 years. The Applicant emphasised the importance of considering the return periods in the context of the 40-year operational lifespan of the development and confirmed that, whether DEP North is built-out or not, no collision would be statistically expected to occur over the lifespan of the proposed development. The Applicant confirmed that the methodology for this analysis was agreed by all parties and emphasised that, when considering the probability of a collision in the area, the probable consequences of a collision must also be considered. The Applicant confirmed that from accident and incident data, the majority of collisions, if they occur, have minor consequences.</p> <p>C. In response to the MCA's concern that collision analysis should be qualitative as well as quantitative and consider all risks besides collision risk, the Applicant clarified that the NRA [APP-198] is a balance of qualitative and quantitative evidence and includes evidence from the Applicant's consultation with regular operators concerning the available data and scenarios at the hazard workshop. The Applicant also confirmed that, in accordance with the agreed methodology, the <b>NRA</b> [APP-198] covers all impacts, including collision risk.</p> <p>D. The Applicant highlighted the concerning implications for the industry of the MCA's objection, noting that a methodology was agreed and a process, in which the MCA participated, was consistently followed and a conclusion fairly reached. This is in contrast with MCA's position that more weight should be given to a qualitative expert assessment made after the conclusion of the full NRA process and submission of the application.</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>[Post-hearing note: The Applicant wishes to emphasize that, if the MCA's position is taken, the qualitative view of an expert could override the NRA, for reasons which do not then withstand scrutiny and are not shared by the expert mariners at the shipping operators who know the route well. The Applicant reiterates that it addressed the concern expressed by the MCA and submits that the MCA should have been prepared to drop its objection at that point. Instead, the MCA has put forward an unsustainable basis (applying the Permanent International Association of Navigation Congresses ("PIANC") calculations based on an incorrect controlling water depth to support an arbitrary line between the two buoys). This point is addressed further in the response to the MCA's Deadline 5 submission.]</p> <p>E. With reference to the Figure entitled 'Comparison - NRA Worst Case Modelling verses MCA Prediction of Future Case Traffic' on page 16 of <a href="#">Supporting Documents for the Applicant's Responses to the Examining Authority's Third Written Questions</a> [REP5-050], the Applicant submits that the modelling undertaken within the <a href="#">NRA</a> [APP-198] and the: <a href="#">Navigational Safety Technical Note</a> [REP3-031]] is robust, conservative and reflects the worst-case scenario. The Applicant explained that three conservative assumptions had been made. Firstly, a 1nm width of traffic, compared to a width of 1.3nm as assumed by the MCA. This leaves plenty of sea room to the west, which was not included in the modelling. From a collision risk point of view, a greater collision risk arises from a more conservative traffic width. The Applicant noted that the current width of traffic is approximately 2.5nm, so the modelling represents an extreme compression of traffic. Secondly, the safety buffer around the windfarm of 0.5nm. From a collision risk point of view, the smaller the buffer the greater the modelled collision risk. 0.5nm is the minimum under MGN 654, which is the worst-case assumption under that guidance. Thirdly, another key input is the volume of traffic (the number of vessels that are assumed to be using the green shaded area). The data reviewed in the <a href="#">NRA</a> [APP-198] indicates an average of 14 vessels will pass DEP North each day, but for the purpose of modelling an average of 18 vessels has been assumed.</p>

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		<p>F. [Post-hearing note: The Applicant notes that, when referring to the Applicant's future case modelling in the Figure entitled 'Comparison – NRA Worst Case Modelling versus MCA Prediction of Future Case' in <b>Supporting Documents for the Applicant's Responses to the Examining Authority's Third Written Questions</b> [REP5-050], Mr Nick Salter (for the MCA) acknowledged that "<i>from this conservative view this is going to be the maximum allision and maximum collision</i>" (time-stamp 50:10 [EV-096]).</p> <p>G. [Post-hearing note: The Applicant wishes to politely clarify a discrepancy in the views expressed by Mr Salter (for the MCA) at ISH7. In response to a question by Mr Rennie (for the ExA) regarding the current width of the traffic (time-stamp 47:45 [EV-096]), the Applicant confirmed the approximate figure of 2.5nm. When Mr Rennie sought the response of Mr Salter (for the MCA), Mr Salter stated that "<i>the figures that are being presented when just on that point just now, it says the current traffic is 2.5 nautical miles width. We say it's 3.1 based on the current traffic levels</i>" (time-stamp 48:45 [EV-096]). The Applicant points out that, in the MCA's <b>Deadline 1 Submission – Written Representations</b> [REP1-117], the MCA describe the Outer Dowsing Channel as a route 2.5nm wide based on the 90th percentile of traffic. In Figure 1 of the MCA's <b>Deadline 5 (D5) Submission - Responses to the Examining Authority's Third Written Questions (WQ3)</b> [REP5-081], the MCA also define the "Current extent of the traffic" as 2.0nm and the 3.1nm distance is given for the "Current searoom available".</p> <p>H. [Post-hearing note: The Applicant wishes to comment on remarks made by Mr Salter (for the MCA) at ISH7 concerning the acceptability of the collision and allision risk. Mr Salter stated that "<i>our concerns are the available sea room that vessels will be squeezed in to. If current traffic is transiting in a [corridor] width of 3.1nm miles wide, and we think it will be squeezed into a corridor 1.3nm wide, that is a significant reduction of searoom</i>" (time-stamp 52:03 [EV-096]). The Applicant clarifies, as above, that the 3.1nm width referred to by Mr Salter correctly refers to the searoom currently available (not the current traffic width - see note at G above) and the 1.3nm width referred to is the reduced traffic width when</p>

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		<p>a 1nm buffer is applied from the development (see Figure 1 of the MCA's <b>Deadline 5 (D5) Submission - Responses to the Examining Authority's Third Written Questions (WQ3)</b> [REP5-081]). Mr Salter was therefore comparing two different values. To clarify the position, in Figure 1 of [REP-081], the MCA gives the current available sea room as 3.1nm and the current traffic width as 2nm. The MCA then assumes post-development reductions of available sea room from 3.1nm to 2.3nm and of traffic widths from 2nm to 1.3nm. In contrast, the Applicant maintains that the current traffic width is 2.5nm and has modelled a post-development reduction in traffic width from 2.5nm to 1nm. The worst-case scenario proposed and assessed by the Applicant is therefore more conservative than the worst-case scenario proposed by the MCA.</p> <p>I. [Post-hearing note: The Applicant notes the approval expressed by Captain Harris (for Trinity House) and Mr Merrylees (for the Chamber of Shipping) at ISH7 of the Applicant's approach to modelling the future worst-case scenario as shown by the Figure entitled 'Comparison - NRA Worst Case Modelling verses MCA Prediction of Future Case Traffic' on page 16 of <b>Supporting Documents for the Applicant's Responses to the Examining Authority's Third Written Questions</b> [REP5-050]. Captain Harris remarked that the dark-shaded area of the Figure correlates with where the majority of traffic currently transits and therefore makes the modelling "acceptable" (time-stamp 52:40 [EV-096]). Mr Merrylees remarked, with reference to the Figure entitled "Modelling Visualisation" in REP5-050 (which shows the vessel mean route positions from AIS data), "<i>I would concur that the modelling shows that a worst-case scenario of traffic moving into to a more constrained 1nm boundary transiting 0.5nm off the edge [of the wind farm boundary]. That would be the worst case, if you like</i>" (time-stamp 54:23 [EV-096]).</p> <p>J. In response to the ExA's concern for the impact of DEP North on the minority of deep draught vessels that navigate the area, the Applicant reiterated that DEP North still leaves options for vessels to navigate at suitable depths. The Applicant confirmed that it did receive feedback from tankers and regular operators and one such response included a chart of a future case route post-development which was the operator's adverse</p>

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		<p>weather route. This indicates that operators remain confident to navigate post-DEP North, even in adverse weather.</p> <p>K. In relation to the Chamber of Shipping's concerns around the overall cumulative effect, the Applicant clarified the use of the word "cumulative" to mean the spatial development of wind farms around the UK rather than cumulative in terms of assessment. The Applicant referred to the <b>Draft Statement of Common Ground with UK Chamber of Shipping</b> [REP2-047], which, in any case, states that, the Chamber's concerns do not have a material impact on the ALARP status of the <b>NRA</b> [APP-198].</p> <p>L. In response to the MCA's concerns about the width of traffic, the Applicant re-emphasised that the purpose of modelling within the <b>NRA</b> [APP-198] is to model the realistic worst-case scenario. All of the values considered at the hearing, excluding the Sensitivity Analysis undertaken in the <b>Navigational Safety Technical Note</b> [REP3-031], are the worst-case collision risk values that are likely to be seen. The Applicant re-affirmed that, in reality, there is more sea room to the west of the corridor which would not have been appropriate to model because doing so would have produced a less conservative output value that would not represent the 'worst case'. The Applicant explained that this is also why the 10 metre contour line was drawn, to make clear what the available sea room would actually be, which is very different to what has been modelled in the collision and allision risk assessment.</p> <p>M. In response to the MCA's concern about the modelled frequency of multiple vessels being in the area, the Applicant re-iterated that, as shown in the Applicant's Deadline 6 Submission [Post-hearing note: <b>Evidence to support the Applicant's response to ISH7 Agenda Item 4.ii</b> [REP6-024]], there are 2 more vessels within half an hour of each other in this area less than 3.4% of the time. Again, risk probability versus consequences must be considered as part of the formal safety assessment process. However, the Applicant made clear that even where 2 or more vessels are in the area, the risk remains acceptable, and that data clearly shows that vessels already pass closer than 1nm to the edge of an array.</p>



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		<p>N. The Applicant also emphasised that this work was performed specifically to answer the key concern raised in the MCA's initial <b>Written Representations</b> [REP1-117], that the increase in collision frequency may have been underestimated as a result of the Applicant not considering the likelihood that 90% of vessels would be constricted into a navigable space that is 1nm wide. The MCA's suggested mitigation was to consider changing the redline boundary. The Applicant emphasised that it had specifically commissioned the modelling to look specifically into this issue, which the Applicant submits should mean the issue has been dealt with.</p>
4.iii	<p>Other than an obstacle/turbine free buffer area on the western side of DEP-North, is there any other form of further mitigation that could be incorporated and secured with the Proposed Development to reduce the effects on collision risk and navigational safety to ALARP?</p>	<p>A. The Applicant confirmed that the <b>NRA</b> [APP-198] remains valid, robust and stands on the evidence provided, including the embedded and additional mitigations that are in place. No additional mitigation, beyond that proposed in the NRA and reflected in the application, is available.</p> <p>B. In relation to the MCA's characterisation of the Navigational Management Plan ("NMP") as being a purely commercial mitigation measure, the Applicant explained that consultation had revealed operator concerns that small crew transfer vessels crossing the corridor would require operators to take collision avoidance action, such as reducing speed. Operators do not want extra vessels crossing the corridors causing them delays due to compliance with COLREGS. The NMP is therefore important mitigation that demonstrates how the NRA process has worked to identify and address issues.</p>
4.iv	<p>Are there alternative routes that vessels traversing through this area could feasibly and reasonably take to avoid the route near DEP-North if considered necessary?</p>	<p>A. In response to the MCA's concern that the alternative routes through the area are not suitable for deeper draughted vessels, the Applicant agreed with the view of Trinity House that deep draught vessels do not use this route in the first place - the sea area off the north Norfolk coast is complex and there are multiple sandbanks to navigate through. The Applicant noted that, where concerns exist, evidence demonstrates that operators will raise commercial and safety issues during the NRA process. The Applicant submit that vessels are content with what is being proposed.</p>

I.D.	Stakeholder Comment	Applicant Response
4.v	If an obstacle free buffer area to the western section of DEP-North was necessary to ensure sufficient and safe sea room for navigation, what extent of buffer would be necessary?	<p>A. In response to the MCA's suggestion that the boundary should be reduced to the line running from the Mid-Outer Dowsing Buoy to the Dudgeon Buoy (shown on Figure 2 of MCA Deadline 5 submission [Post-hearing note: <b>Responses to the Examining Authority's Third Written Questions (WQ3)</b> [REP5-081]], as a minimum, to increase the safe navigable sea room to 2.2nm (when a 1nm clearance distance is applied), the Applicant explained that MGN 654 Annex 1 states that there shouldn't be a focus on simply a risk number and further expressed concerns about the how the MCA has drafted the PIANC calculation.</p> <p>B. First, the calculation assumes that structures are on either side of the traffic route (which is factually incorrect) and therefore a larger than necessary buffer has been applied to the calculation. Second, the calculation assumes that there are four 195-meter vessels passing at the same time, which the Applicant previously explained is an exceptionally improbable scenario in this area. Third, the buffer has been measured from the 15.3 metre controlling depth, which the Applicant previously explained is not an appropriate controlling depth, which is agreed by Trinity House. This point is fully within Trinity House's remit.</p> <p>C. The Applicant further explained that there are a variety of different methods of measuring what is a corridor width for the purpose of the PIANC calculation and the calculation requires intelligent application on a case-by-case basis. It cannot be used to define what a safe sea area is when it uses fundamentally flawed assumptions.</p> <p>D. In response to the ExA's request for the Applicant to provide, on a without prejudice basis, draft wording to secure an obstacle free zone, the Applicant reminded the ExA of the normal tests in relation to DCO conditions, one of which relates to reasonableness and justification. The Applicant explained its view that the no structures area has been put forward on an arbitrary basis, which does not withstand scrutiny, and emphasised that it would not achieve a material navigational safety benefit. The Applicant invited the ExA to think carefully about the implications of setting a precedent of imposing a no structures area in the light of this and despite the Applicant having comprehensively followed the NRA process. The Applicant indicated that it was not minded to submit</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>a without prejudice position but that it would give the point further consideration. [Post hearing note: the Applicant is, reluctantly, putting forward an alternative without prejudice no structures area on the basis explained in the Applicant's response to the MCA's Deadline 5 submission]</p> <p>E. In response to the ExA's query regarding the implications of imposing an obstacle free buffer zone on capacity of the infrastructure, the Applicant explained there a number of factors go into the resource analysis of the site and that there could be capacity implications from the mitigation the MCA proposes. The Applicant noted the importance to the development of the north-western extent of DEP North because it is an area of clean wind (and not in the lee of the existing wind farm in prevailing conditions), the water depth is suitable for construction and, most significantly, the seabed conditions are favourable for foundations when compared to the high-density chalk seabed in the eastern part of the site. The Applicant also pointed out that the developer area is constrained by several additional factors, including the 1nm buffer which may have to be applied to the existing turbines if the arrays do not align. The Applicant reiterated that it takes the MCA's expression of concern seriously but, after careful analysis of the mitigation proposed, the Applicant does not see any justification for the MCA's position and reiterates that the boundary was accepted as ALARP by the expert mariners at the operators who were consulted and participated in the NRA process</p>
<b>Removal of Existing Trees and Hedgerows, Replanting and Management</b>		
5.i	Further reasoning, from the Applicant to clarify why it remains unable to commit to a principle of replanting lost trees and hedgerows to a defined ratio.	<p>A. The Applicant briefly summarised the approach taken in its written answer to the ExA's written question 3.17.3.1 [Post-hearing note: <b>The Applicant's response to the Examining Authority's Third Written Questions</b> [REP5-049]], particularly concentrating on the justification for that approach. The Applicant has committed to a minimum replanting ratio of 1:1 for the replacement of trees and hedgerows so that for every individual tree lost, at least one tree will be planted. Whilst the Local Planning Authorities originally requested a replanting ratio of 3:1, the Applicant has taken this approach because the primary mechanism through which habitat gains and losses will be quantified, including for</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>trees and hedgerows, will be through Defra's Biodiversity Net Gain metric [Post-hearing note: The Applicant notes that the voluntary commitments made as part of Biodiversity Net Gain is detailed in <b>Outline Ecological Management Plan (Revision D)</b> [document reference 9.19] and further detailed is provided in the <b>Outline Biodiversity Net Gain Strategy</b> [APP-306], which is also appended to the Outline Ecological Management Plan]. The Applicant has committed to using this more robust and detailed approach to evaluate habitat losses and gains, rather than a simple count of ecological features, because the basic count is unlikely to capture the more nuanced changes in ecological function. In conjunction with biodiversity net gain, the Applicant has also committed to a minimum 1:1 replanting regime for all trees and hedgerows. This is because the biodiversity metric values ecological features based partly on quantitative data and partly on qualitative data and so it would be mathematically feasible for there to be a loss in the number of trees or length in hedgerows in order achieve a biodiversity net gain in the Defra metric calculator. For example, this could be achieved by enhancing the condition of existing trees and hedgerows. The aim of this dual commitment is to ensure that (a) there is an overall improvement in habitat, and (b) that there is no net loss in the number of trees and the length of hedgerows. Overall, the 1:1 replanting ratio is not an isolated mitigation strategy, but rather a backup measure to be applied in conjunction with biodiversity net gain.</p> <p>B. In relation to local authorities' original concerns that a replanting ratio of 1:1 cannot mitigate for the loss of a mature tree in terms of carbon sequestration or ecological value, the Applicant explained that a number of features of any particular tree (for example, whether it is native and its age) which are input into the metric to provide an overall score for the trees. [Post-hearing note: the Applicant notes that the Local Authorities concerns are now resolved as confirmed within the North Norfolk District Council <b>Additional Submission accepted at the discretion of the Examining Authority</b> [AS-066] and by Broadland District Council and South Norfolk Council at Issue Specific Hearing 7].</p> <p>C. The ExA noted the Applicant's response to written question 3.17.3.2 [Post-hearing note: <b>The Applicant's response to the Examining</b></p>

I.D.	Stakeholder Comment	Applicant Response
		<p><b>Authority's Third Written Questions</b> [REP5-049] that the Applicant is unable to commit to any habitat enhancement outside of the order limits, and referred to section 1.4.1.1 of the <b>Outline Biodiversity Net Gain Strategy</b> [APP-306], and questioned whether the Applicant would consider offsite net gain compensation measures in the future. The Applicant confirmed that enhancement measures might be sought outside of the Order limits as part of the evolving biodiversity net gain strategy, subject to consultation with landowners. The Applicant noted that whilst this is being actively pursued, there is sufficient land within the Order limits for mitigation purposes.</p> <p>D. In response to the ExA's query as to how far from the Order limits the Applicant considers it reasonable to provide such enhancement, the Applicant referred to the mitigation hierarchy within the biodiversity metric [Post-hearing note: section 1.4.1.1 of the <b>Outline Biodiversity Net Gain Strategy</b> [APP-306]]. The first principle is that enhancement should be as close to the development as possible, and the Applicant confirmed it is looking for opportunities within and within the vicinity of the development itself. The Applicant further clarified that this does not discount enhancement at a further distance from the development. In relation to the hypothetical measures suggested by the ExA, of replanting native forests in Scotland, the Applicant reiterated the first principle of finding enhancement close to the site and noted that the Biodiversity Net Gain Strategy is secured under the <b>Outline Ecological Management Plan (Revision D)</b> [document reference 9.19] and is therefore something that local authorities must approve.</p> <p>E. In relation to how the ultimate proximity of any enhancement might be secured, the Applicant confirmed this would be achieved through the <b>Outline Ecological Management Plan (Revision D)</b> [document reference 9.19], which is secured by requirement 13 of the <b>draft DCO (Revision J)</b> [document 3.1].</p> <p>F. In relation to the suggestion by Broadland District Council and South Norfolk Council that successful establishment and long-term management of any enhancement measures could be secured through a unilateral undertaking, the Applicant confirmed that this mechanism could be</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>considered with the local authority as the Biodiversity Net Gain strategy evolves. The Applicant clarified that the Biodiversity Net Gain strategy is, itself, a voluntary undertaking and enhancements outside of the Order limits are voluntary and separate from mitigation required for the development itself. The Applicant emphasised that these voluntary enhancements outside of the Order limits are not necessary to meet or satisfy the objections of the Councils in terms of replacement ratios. Any mitigation, as opposed to enhancement, will be within the Order limits and will be approved as part of the <b>Outline Landscape Management Plan (Revision D)</b> [REP5-031] and the <b>Outline Ecological Management Plan (Revision D)</b> [document reference 9.19], as submitted to the local planning authorities for approval. The Biodiversity Net Gain Strategy is an additional measure.</p>
<b>Historic Environment Onshore and Offshore</b>		
6.i	<p>The Applicant to provide an update on progress of a Statement of Common Ground with Historic England which covers both the onshore and offshore historic environment.</p>	<p>A. The Applicant confirmed that a meeting was held on Monday 19 June with Historic England's offshore and onshore teams regarding the statement of common ground. The Applicant confirmed that both the Applicant and Historic England are working towards submitting a statement of common ground at Deadline 7. [Post hearing note: see <b>Final Statement of Common Ground with Historic England (Onshore and Offshore)</b> [document reference 2.19].</p> <p>B. In relation to the potential scenario that a statement of common ground is not agreed by the end of the examination, the Applicant confirmed that Historic England has engaged in the Examination (as demonstrate by its responses to written questions) and that, following the meeting on Monday 19 June, the majority of items have been agreed and there are no issues of substance outstanding.</p>
<b>Helicopter Access to Waveney Platform – Updates on the Ongoing Discussions</b>		
7.i	<p>Perenco and the Applicant to provide an update on progress with negotiations.</p>	<p>A. The Applicant noted that, since Deadline 5, there has been a meeting between Perenco and the Applicant and that further information had been submitted by Perenco at Deadline 6. The Applicant agreed with the summary by Perenco that there has been progress on crystallising where</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>the differences between the parties are. The Applicant reported that there is broad agreement on: categorising the meteorological conditions from the historical data, the level of Visual Meteorological Conditions (“VMC”) access in daylight being between 90% to 95%, and that the likely impact will be that Instrument Meteorological Conditions (“IMC”) is lost. The key difference is the starting point of the obstacle free buffer zone and the difference there of being either 1.01nm, which the Applicant assumed for its calculations on, or 1.26nm, which Perenco has assumed. The Applicant also reported that it received an <b>Indicative Economic Assessment</b> [REP6-037] (“IEA”) from Perenco in the afternoon of 21 June, which the Applicant views as moving the negotiation forward from the position at Deadline 5. [Post-hearing note: The Applicant and Perenco have submitted a joint statement at Deadline 7 which confirms that the parties are submitting separate protective provisions at Deadline 7 with the main difference being the distance which defines the “facilities proximity area” for the existing Waveney platform. See <b>Appendix A.7 in Supporting Documents for the Applicant's Responses to the Examining Authority's Fourth Written Questions</b> [document reference 21.5.1]].</p>
7.ii	<p>Is there a realistic potential negotiated agreement between both the Applicant and Perenco that could be reached before the end of Examination? How could such a negotiated agreement be secured through the DCO?</p>	<p>A. The Applicant's view was that there is a good chance of the parties coming to an agreement by the end of the Examination. The Applicant was reluctant to analyse the IEA very recently received from Perenco, but indicated that it contains some points that will need to be resolved.</p>
7.iii	<p>As per the wording of NPS EN-3 (paragraph 2.6.183), does the Proposed Development minimise negative impacts and reduce risks to as low as reasonably practicable, and does it avoid or minimising disruption, economic loss or adverse effects on safety, to other offshore industries?</p>	<p>A. The Applicant confirmed that the 1nm buffer zone is sufficient mitigation to meet the tests in NPS EN-3, notwithstanding the ongoing discussions with Perenco. The Applicant confirmed its intention to reach agreement with Perenco on this point.</p>
7.iv	<p>What would be the implications if there was to be no agreement between the parties on these matters and an objection remained from Perenco at the end of Examination?</p>	<p>A. The Applicant emphasised the Applicant is making a concession to move the mitigation from 1.0nm to 1.01nm, based on the calculations of the two experts, which is expected to be secured through the Works Plans. [Post-hearing note: Further to the statements made at ISH7, the Applicant has included Protective Provisions for the benefit of Perenco at Part 15 of</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>Schedule 14 of the <b>draft DCO (Revision J)</b> [document reference 3.1] which secures the 1.01nm buffer.] The Applicant believes that the NPS tests have been met and that the ExA can be satisfied that the site selection and site design for the development has been made with a view to avoiding or minimising the economic loss and any adverse impact on safety to offshore industries.</p>
<p><b>Helicopter Access to Waveney Platform – Consideration of Possible Mitigation</b></p>		
8.i	<p>Updates on the Civil Aviation Authority's anticipated new regulations in relation to aviation in the vicinity of windfarms and how this could affect both night-time flights and flights in instrument meteorological conditions to and from the Waveney installation.</p>	<p>A. The Applicant reported that it is not aware of a specific time for the regulations to come into force, but it is expected to be 3 to 4 years from now. The regulations are expected to involve a slight change to the cloud base and a slight change to visibility, but the Applicant has taken those into account as part of its assessment of the worst case and views the impact of these proposed regulations as being a very small change on the current assessment.</p>
8.ii	<p>Whether the layout of the turbines would allow for safe take off from Waveney, including in one engine inoperable situations; and how would this be secured?</p>	<p>A. The Applicant confirmed that it shared two indicative layouts with Perenco to aid discussions and that these indicative layouts were from different chapters of the Environmental Statement – one was from the <b>Seascape and Visual Impact Assessment</b> [APP-111] and one was from the <b>Navigation Risk Assessment</b> [APP-198]. These layouts represented the two ends of the development envelope. The Applicant acknowledged that these layouts do not necessarily represent a worst-case access for Waveney. The Applicant further explained that there were other features on the charts, such as the 1nm buffer around existing sites and (critically) the implementation of a 1km wide corridor (being 500 metres either side of the Waveney to Durango Pipeline) which will be free of surface infrastructure. [Post hearing note: The Waveney to Durango Pipeline corridor is also included in the Protective Provisions for the benefit of Perenco at Part 15 of Schedule 14 of the <b>draft DCO (Revision J)</b> [document reference 3.1]. In this context and considering the other layout commitments that are embedded within the Environmental Statement [Post-hearing note: The Applicant refers to the project description in its Deadline 5 Submission – <b>Chapter 4 Project Description (Revision C) (Clean)</b> [REP5-021]], including the minimum spacing between turbines</p>



I.D.	Stakeholder Comment	Applicant Response
		<p>which is 1.05km to centre and 0.7km tip to tip, the Applicant is confident that the layouts available within these parameters will not impact take-off. The Applicant noted the current practice at nearby Blythe platform, 10 miles to the south, which has a jack-up in operation. At this platform there are several turbines within 1,200 metres and they are flying safely within the current day VMC rules.</p> <p>B. In relation to Perenco's position on embedded mitigation, that the buffer zone must be 1.32nm or alternatively 1.32nm with one turbine to be agreed by the parties within that radius, the Applicant first clarified the distances in question. The Applicant understands that 1.01nm is the distance to the turbine rotor tip and 1.32nm is the distance to the turbine base. To align both figures relative to the turbine rotor tip, the distances are 1.01nm and 1.26nm. The Applicant then referred to the statement made by Mr Harlow (for Perenco) at Issue Specific Hearing 6, that "<i>if. . . the offshore installations that we are operate to are the centroids of a lane, then it becomes a lot easier</i>" [Post-hearing note: time-stamp 31:10 [EV-086]]. The Applicant's view is that there is a lane, i.e. the pipeline. Mr Harlow also made statements about take-off directions, saying how they'd be taking off into the heart of the windfarm at 220 degrees. The Applicant clarified that this direction is actually the narrowest segment of DEP North and it is not correct to say that helicopters would take off into the heart of the windfarm. Following the previous hearing, the Applicant had a meeting with Perenco to clarify some of these misconceptions.</p> <p>C. [Post-hearing note: The Applicant wishes to clarify the buffer distances referred to in paragraph B above. In the discussion of Perenco's position on embedded mitigation at ISH7 (from time-stamp 44:00 onwards [EV-097]), Mr Rennie (for the ExA) referred to a buffer distance of 1.32nm and this figure was repeated by Mr Sanders (for Perenco). The Applicant notes that Perenco's written submissions are based on a distance of 1.26nm and that Mr Rennie and Mr Sanders subsequently correctly referred to the 1.26nm figure in their subsequent discussions (from time-stamp 1:11:05 onwards [EV-097]).]</p> <p>D. In response to Perenco's comment that comparisons with the Blythe platform are irrelevant for the Waveney platform because Perenco are</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>generally using different airframes and different loads, the Applicant clarified that the same kind of aircraft are, in fact, being used within both windfarms. The Applicant also explained that, in any case, the physics of flight does not significantly vary with the size of the aircraft.</p> <p>E. The Applicant confirmed that at the meeting of Mr Prior (for the Applicant) and Mr Harlow (for Perenco), the parties were closely aligned on the distances needed for the approach. The only differences remaining between the parties were, firstly, the point at which the approach becomes stable. This is the point at which aircraft must be orientated towards the point where it plans to land, travelling at the correct speed, with all checks complete. The Applicant confirmed the guidance states this should be 0.5 nm and the incumbent operator (Bristow) for Perenco used 0.5 nm. In contrast, Perenco's new operator (Bond) is choosing to use 0.75 nm because Bond have used the baseline radar for their aircraft, which has a large minimum range. This means that within 0.75 nm, the aircraft cannot see where they are going on the radar. The Applicant submit that use of radar should not be a factor for two reasons. Firstly, the approach is being done in good visual conditions when radar is not needed to see obstacles in the flight path. Secondly, radar can be used if there are several places to land, but in this case there is only one. The Applicant re-iterated that current practice is 0.5 nm, leading to a distance of 1.01 nm. However, Mr Harlow (for Perenco) then added on the 0.25 nm to get 1.26 nm. The second difference between the Applicant and Perenco concerned One Engine Inoperative ("OEI") take-off. The Applicant explained that Mr Harlow (for Perenco) chose an extreme case from the metrological data. In that case, the aircraft had maximum weight on a very low-pressure day, which produced an OEI take-off figure of 1.34nm [Post-hearing note: The correct OEI take-off figure is 1.32m, as set out in Perenco's Deadline 6 (D6) Submission – <b>Comments on any other information and submissions received at Deadline 5</b> [REP6-036]]. The Applicant emphasised that this set of conditions occurred for only 10 minutes during the 3 years of MET data. In contrast, the Applicant's OEI take-off figure was 0.97 nm.</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>F. In response to Perenco's statement that its flight operator, Bond, could not make an exception to their normal procedure and use a stabilisation point of 0.5nm rather than 0.75nm because use of a consistent policy across all platforms is important for reasons of safety, the Applicant highlighted that it is common practice at onshore airports for exceptions to be made. This is especially the case where onshore airports have difficult approaches or are situated amongst hills. All that is required is additional training and the crew would brief the approach before they fly to that side.</p> <p>G. In relation to the possibility of the parties reaching agreement on the conditions assumed by the calculations, the Applicant confirmed that agreement could be reached by using an evidence-based approach. Referring to Hornsea 4, Mr Prior (for the Applicant) had discussions with Perenco and agreed take-off mass, temperature and pressures based on the '90% worst case' of Perenco's own meteorological data. The Applicant submit that this approach could be applied again.</p>
8.iii	<p>The Applicant's Waveney Helicopter Access – Supplementary Assessment [REP4-039] suggests that access to Waveney in day Visual Meteorological Conditions would be available and would be only slightly affected by the anticipated Civil Aviation Authority regulations. However, are these realistic conclusions based on a sufficiently robust methodology, or would access to Waveney be affected to a greater extent due to a range of other factors, such as wind direction or the need for return flights for example?</p>	<p>A. In relation to the loss of potential flights to the Waveney platform as a result of the 1.01nm buffer zone and the new regulations coming in, the Applicant confirmed that the impact would be very small. From analysis of Perenco's flight data to measure the historical impact of these changes, only three flights would have been affected.</p> <p>B. In response to Perenco's submission that if the buffer zone was only 1.01nm, then without mitigating circumstances the reduction in access to the platform would render the platform uneconomic, the Applicant explained that in the IEA, Perenco had put a cost against ceasing operations at Waveney if the buffer was only 1.01nm but had not considered the cost of changing their flight operator. The Applicant noted that Perenco's current flight Operator, Bristow, uses a 0.5nm stabilised approach at the platform. If the current operator's figures were used, then 1.01nm would be safe. The Applicant emphasised that Perenco's view is an outlier on this point, given that there are other platforms with turbines much closer than 1.01nm which do not shut down. The Applicant also noted that the current law has been applied, which pilots are trained to fly to, which is clearly safe, and which already has a safety margin built into</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>it. The additional margin sought by Perenco, is therefore unnecessary. The Applicant also commented that if the CAA implements its rule change in full, because there are already turbines within 3nm of Waveney, the development will have no impact on IMC or night flying because both would be stopped in any case.</p> <p>C. In response to Perenco's point that Waveney is not normally a manned platform and therefore the accessibility of the platform depends on there being two windows of opportunity within a reasonable period of time to drop-off and then pick-up a crew from the platform, the Applicant responded that an evidence-based approach must be taken. The Applicant explained that, using Perenco's meteorological data, the Applicant measured the impact the development would have had on Perenco's flights, and this showed the impact for the platform was small. The bigger impact will occur if Perenco has a jack-up on site because more flights will be required. The Applicant explained, even for a jack-up, two flights are not needed – only one flight is required, which can be varied according to the weather. The Applicant submit that this is a robust approach and noted that Perenco has not challenged the Applicant's approach in Appendix A to the <a href="#">Helicopter Access Study</a> [APP-205].</p> <p>D. In response to the calculations submitted by Perenco in <a href="#">Responses to the Examining Authority's Second Written Questions (WQ2)</a> [REP3-155], which confirm that an approach of only 1.34nm would only be possible, when the wind direction is from east to the west, the Applicant questioned the reliability of the calculations provided by Perenco. The Applicant understood that much of the analysis was performed by Dr Row, who does not have an aviation background, which explains the incorrect use of figures and terms. For example, Dr Rowe uses the figure of 1.34nm despite the figure of 1.26nm having been agreed (being the distance to the turbine tip).</p>
8.iv	Perenco considers that the minimum obstacle-free space that would permit some helicopter operations would be 1.5nm as opposed to the 1nm proposed by the Applicant. What would be the impact to the Proposed Development of	<p>A. In relation to the impact of Perenco's proposed mitigation on the development, being the imposition of a 1.26nm buffer or a 1.5nm buffer with one turbine within that radius to be agreed between the parties, the Applicant reiterated that a buffer of 1.01nm is a suitable buffer which would only impact Perenco's routine access to Waveney during IMC. The</p>

I.D.	Stakeholder Comment	Applicant Response
	<p>a 1.5nm obstacle free space, and how would this improve helicopter access to Waveney as opposed to current levels?</p>	<p>Applicant confirmed its preference to have a set distance which is suitable rather than a point of flexibility. For context, at the preliminary environmental information stage, the Applicant explained that consultation was based on a 500 metre buffer but conceded to 1nm at submission, which was consulted on. This resulted in a 16-fold increase in the conceded area for the Waveney platform on the basis that this was a defensible and fair position. A further increase from 1nm to 1.26nm would take the Applicant to a 25-fold increase in the area conceded to Perenco from the Applicant's initial position. In this context, the Applicant explained that the additional concession would be required to mitigate Perenco's choice of helicopter operator and the change in the baseline which that operator will introduce. It is the Applicant's view that there would be more appropriate mitigation tools to bring the stabilized approach distance down which would not lead to the cessation of the Waveney activities.</p>
8.v	<p>Whether it would be possible and practical for rig operations alongside Waveney platform considering anticipated Civil Aviation Authority restrictions, the Proposed Development and the proximity of existing turbines.</p>	<p>A. In relation to the possibility of the CAA granting dispensation from the anticipated regulations to allow for continued night flights to the Waveney platform despite the single existing turbine within 2.7nm of the platform, the Applicant's view is that the CAA is becoming increasingly risk averse and tend to take a hard-line view on safety issues. In the Applicant's view, it is unlikely that the CAA would bring in new rules and immediately grant dispensation. The Applicant noted that the CAA fully enforces their guidance shown in CAP 437 at the Waveney station. For example, because Perenco did not invest in upgraded lights and automatic fire-fighting, there is a restriction on the number of flights permitted and they cannot land at night.</p> <p>B. In relation to the impact of reduced daylight hours during wintertime if a ban on night-time flying was introduced, the Applicant confirmed that its analysis has taken into account the number of daylight hours and how these change throughout the year. The Applicant noted that most flights tend to occur in the middle of the day and, if planned in advance, there would be no need to night-fly.</p> <p>C. [Post-hearing note: To clarify, the Applicant has carried out analysis on flight data based on historic flights that could only access the platform</p>

I.D.	Stakeholder Comment	Applicant Response
		during daylight hours (see Appendix A of the <a href="#">Helicopter Access Study [APP-205]</a> ).
<b>The extent, suitability and security of Habitats Regulation Assessment compensation for offshore ornithology</b>		
9.i	Update from Applicant on the compensation measure at Blakeney and expected progress before the close of the examination.	<p>A. The Applicant reported that it had discussed with Natural England and the National Trust during the pre-application process the potential of providing compensation at Blakeney Point. At that stage, Natural England's position was that it did not provide additional management to the normal management practices for the protection and management of the site. On that basis, Natural England's view was that it did not meet additionality requirements. Following that, the Applicant decided not to pursue the inclusion of compensation measures as part of the application. However, the Applicant explained that in recent weeks it had been approached by Natural England and the National Trust to re-open discussions on compensation at Blakeney Point following the abandonment of the breeding site at Blakeney Point by Sandwich tern following the 2022 season. This was attributed to the substantial increase in the rat population in the winter preceding the 2022 season. For this reason, Natural England and the National Trust are willing to reconsider compensation proposals at Blakeney. The Applicant confirmed that it is now taking up the opportunity to pursue those additional compensation proposals and reiterated that these are being progressed alongside the existing Farne Islands proposals. However, it is anticipated that only one, and not both, of these proposals will be taken forward to implementation in addition to the compensation proposals at Lock Ryan.</p> <p>B. The Applicant further reported that, subsequent to Natural England's approach, meetings were held between both parties on 8 (NE and NT) and 16 June (NT) to discuss the proposals. At present, the proposals would comprise research, monitoring and the implementation of trials to look at measures to control predators, primarily rats (but potentially other predators too) and, if successful, to take those measures to full implementation to deliver the required compensation. The Applicant confirmed that, in addition, it would publish best practice guidance on completion of the trials, which could then be applied elsewhere within the site network. The Applicant reported that Natural England is of the opinion</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>that this would meet the additionality test because the existing best practice measures have been exhausted and these proposals have the potential to deliver something above standard best practice and provide best practice which could be applied to the wider site network.</p> <p>C. In relation to next steps, the Applicant proposed to update the <b>Sandwich Tern Compensation Document</b> [APP-069] by the close of the examination on 17 July 2023. The Applicant had also drafted an update to that document, to be circulated on 22 June to members of the Expert Topic Group with a view to receiving comments from stakeholders by 29 June. In addition, the Applicant reported that it would provide an updated draft DCO including wording to secure the compensation at Blakeney and also update the <b>Derogation Funding Statement (Habitats Regulations and Marine and Coastal Access Act)</b> [APP-076]. The Applicant confirmed that a further meeting with National Trust and Natural England is scheduled on 30 June to discuss these matters once those parties have had opportunity to review the draft document to be circulated on 22 June.</p> <p>D. The Applicant noted that the revised position of Natural England and the National Trust arrived unexpectedly, and late in the Examination, but that the Applicant felt it was appropriate to positively engage, nevertheless. The Applicant noted the ExA's concern that, if the consultation is not completed by the end of the Examination, then, in view of the Secretary of State's decision letter on Hornsea Project 3, any consultation undertaken post-examination may not be relied upon. The Applicant reassured the ExA that it will do its best to assist the Examination with an earlier submission.</p>
9ii	Position from Natural England and National Trust on suitability and effectiveness of the proposed compensation measure.	<p>A. In the absence of Natural England and the National Trust from ISH7, the Applicant's views were invited on this agenda item.</p> <p>B. The Applicant reiterated that Natural England and the National Trust brought these measures forward and, by inference, are supportive of them. In the Applicant's view, the written submission provided by both parties [Post-hearing note: Natural England Deadline 6 (D6) Submission - Comments on any other information and submissions received at Deadline 5 [REP6-028] and National Trust Additional Submission</p>

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		<p>accepted at the discretion of the Examining Authority – Position Statement in Lieu of Attendance at ISH7 [AS-067]] is supportive of these measures and indicates their view that the measures are likely to provide suitable and effective compensation. The Applicant also reiterated that the measures of Blakeney are referred to by National England as a ‘secondary measure’ to the primary measures to be delivered at Loch Ryan. In that sense, the Applicant confirmed that the measures are forming part of the wider package and provide reassurance that those measures will be effective as part of that package.</p> <p>C. The Applicant also reiterated that measures are being developed and will be secured through the Sandwich Tern Compensation Implementation and Monitoring Plan [Post-hearing note: further to the <a href="#">Outline Sandwich Tern Compensation Implementation and Monitoring Plan</a> [APP-070]]. The Applicant confirmed that the detail of that plan would be agreed as part of the consenting process, which serves as an appropriate mechanism to ensure that the monitoring and effectiveness of the measure is delivered as required as part of the compensation set out.</p>
9iii	Views from Natural England and National Trust on the risks (if any) of the compensatory measure.	<p>A. In the absence of Natural England and the National Trust at ISH7, the Applicant’s views were invited on this agenda item.</p> <p>B. The Applicant reiterated that the measures, delivered as part of a package of measures, should provide real reassurance to the ExA that the overall package will deliver the required compensation.</p> <p>C. In relation to the specific risks associated with the delivery of compensation at Blakeney Point, the Applicant firstly noted that the birds can move between the two breeding colonies on the North Norfolk Coast: Blakeney Point and Scott Head. In some situations, as in 2022, there may not be birds present at Blakeney Point, which could present challenges for delivering additional measures at that location. The Applicant secondly noted the risk that, in the unlikely event that compensation trials fail to provide a more successful outcome, the required compensation may not be delivered. However, the Applicant confirmed that there is a high level of scientific certainty that the eradication / management of predators at</p>



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		<p>the nesting site will result in an increased population of Sandwich terns, which provides further reassurance.</p> <p>D. In relation to whether, if the Farne Island measures were not pursued and Blakeney is pursued, whether the same rate or resilience of mortality debt would be delivered, the Applicant highlighted that the Blakeney measures should be effective, quickly. The Applicant explained that after approximately 1 to 2 years of trialling methods, the measure could then be implemented and the response to those measures is expected to be very quick.</p>
9iv	Final thoughts on whether the Applicant's overall proposed package of compensatory measures is suitable and robust and meets the requirements of the HRA process.	<p>A. In relation to the level of confidence the ExA can have to report to the Secretary of State that the package of compensatory measures is suitably developed to offset the harm that will be caused by the proposed development, the Applicant re-iterated the comprehensive approach it has taken throughout the process. The Applicant had extensive pre-application discussions with Natural England and other parties in relation to Loch Ryan and developed a plan that was necessarily going to take a significant time to mature. The Applicant explained that it was encouraged to make the application at that point by Natural England. At that time the Applicant was mindful of the need for the package to be examined and the application was duly accepted with no issues raised on this point.</p> <p>B. The Applicant noted that it has given the ExA regular progress updates, the most recent one having been submitted at Deadline 6 [Post-hearing note: <a href="#">HRA Derogation and Compensatory Measures Update (Revision C) (Clean)</a> [REP6-009]].</p> <p>C. The Applicant noted that the DCO is set up on the basis that is facilitating a package or different packages including the without prejudice scenarios, the full details of which will be signed-off post-consent by the Secretary of State.</p> <p>D. The Applicant submits that, in accordance with the purpose of the Hornsea 3 decision and the new draft NPS wording, the Applicant has facilitated a meaningful examination of the proposals during examination and put the ExA in a position to make a meaningful evaluation of the credibility of the proposals put forward. In the Applicant's view, this will be</p>

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		<p>the case even if every element of the compensatory package is not in place by the end of the Examination.</p> <p>E. The Applicant was confident that it remains on track as originally suggested in the application documents [post-hearing note: namely the Compensation Documents for Sandwich tern [APP-069]; kittiwake [APP-072]; and guillemot/razorbill [APP-074]] and confirmed that additional documents had been submitted at Deadline 6 [post-hearing note: <b>HRA Derogation and Compensatory Measures Update (Revision C) (Clean)</b> [REP6-009]] and would be submitted before the end of the Examination (namely the updated Sandwich Tern Compensation Document to include the proposals at Blakeney).</p> <p>F. The Applicant emphasised the complexity of the application being pursued in the evolving position for offshore wind with respect to the Habitats Regulations and delivery of compensation measures. The Applicant explained that it is pursuing a project level strategy whilst also pursuing a collaboration dimension to the overall package and potentially an overarching intervention from the government through the draft Energy Bill (including powers to introduce a 'Marine Recovery Fund') that is in front of Parliament. In the Applicant's view, the Applicant is promoting a development during a complex, evolving legislative process and ecological situation in which it is inevitable that any given project will have some issues that are bespoke to it (such as with Sandwich tern, in this case). Other issues are caught up in a much bigger evolving picture, namely Guillemot and Razorbill due to the uncertain outcome of Hornsea 4. The Applicant submit that, as a single developer caught up in a complex, evolving situation and with the recognition by government and by Natural England that developing these measures is a complicated process that does take time, the Applicant has acted responsibly.</p> <p>G. Although the Applicant acknowledged it could have made further progress, the Applicant submit that it was comfortably within the expectation that the Department for Energy Security and Net Zero (formerly the Department for Business, Energy &amp; Industrial Strategy) was setting. The Applicant explained that the detail in this application can be contrasted with that in Hornsea 3, where everything forming part of the</p>

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		<p>derogation case was developed post-examination. The Applicant submit that it is in a very different situation.</p> <p>H. In relation to Mr Betts' concern regarding the validity of the Applicant's use of the draft NPS to justify its position, the Applicant clarified that under section 104 of the Planning Act 2008, the Secretary of State is required to make the decision in accordance with an adopted NPS. Those are the 2011 NPS. However, the Applicant explained that there is a further subsection which requires the Secretary of State to have regard to things that he considers important and relevant and it is established that draft NPS are capable of being important and relevant. The Applicant noted that a number of decisions have been made since the September 2021 drafts came out which indicate the approach taken by the Secretary of State in looking at those emerging policies. The Applicant explained that it is entirely legitimate for anybody in the Examination to reference the draft NPS and to make a case and urge the Secretary of State to consider precisely what weight should be given to the emerging statements. This is ultimately a matter of discretion for the Secretary of State but, in the Applicant's submission, it would be strange that a new emerging policy should not be taken into account, particularly when the existing NPS are as old as they are.</p>