



# FIVE ESTUARIES OFFSHORE WIND FARM

VOLUME 5, REPORT 2, ANNEX 2.1  
EVIDENCE PLAN TERMS OF REFERENCE

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## DEFINITION OF ACRONYMS

| TERM | DEFINITION                                    |
|------|---|
| AA   | Appropriate Assessment                        |
| AONB | Area of Outstanding Natural Beauty            |
| CIA  | Cumulative Impact Assessment                  |
| cSAC | candidate Special Areas of Conservation       |
| DCO  | Development Consent Order                     |
| dML  | Deemed Marine Licence                         |
| EACS | East Anglia Coastal Substation                |
| EIA  | Environmental Impact Assessment               |
| ExA  | Examining Authority                           |
| ETG  | Expert Topic Group                            |
| HRA  | Habitats Regulations Assessment               |
| JNCC | Joint Nature Conservation Committee           |
| MHWS | Mean High Water Springs                       |
| MMO  | Marine Management Organisation                |
| MPS  | Marine Policy Statement                       |
| NGO  | Non-Governmental organisations                |
| NPPF | National Planning Policy Frameworks           |
| NPS  | National Policy Statement                     |
| NSIP | Nationally Significant Infrastructure Project |
| NSN  | National Site Network                         |
| OREI | Offshore Renewable Energy Installations       |
| OTNR | Offshore Transmission Network Review          |
| PEIR | Preliminary Environmental Information Report  |
| PINS | Planning Inspectorate                         |



| <b>TERM</b> | <b>DEFINITION</b>                         |
|-------------|---|
| PLA         | Port of London Authority                  |
| PRoW        | Public Rights of Way                      |
| pSAC        | proposed Special Areas of Conservation    |
| pSPA        | potential Special Protection Areas        |
| SAC         | Special Area of Conservation              |
| SCI         | Sites of Community Importance             |
| SNCBs       | Statutory Nature Conservation Bodies      |
| SoCG        | Statements of Common Ground               |
| SPA         | Special Protected Area                    |
| WDC         | Whale and Dolphin Conservation            |
| WFD         | Water Framework Directive                 |
| VE          | Five Estuaries Offshore Wind Farm         |
| VE OWFL     | Five Estuaries Offshore Wind Farm Limited |



## 1. INTRODUCTION

### 1.1 PROJECT OVERVIEW

1.1.1.1. The Five Estuaries Offshore Wind Farm (VE) is a proposed extension to the operational Galloper Offshore Wind Farm, which is located 30 km off the coast of Suffolk, England. The proposed VE comprises an offshore generating station with a capacity of greater than 100 MW and therefore is a Nationally Significant Infrastructure Project (NSIP), as defined by Section 15(3) of the Planning Act 2008. The transmission infrastructure will link the generating station to a landfall location on the Essex coast and connect to National Grid's East Anglia Coastal Substation (EACS). The location of the EACS has not yet been confirmed by National Grid.

### 1.2 CO-OPERATION WITH OTHER PROJECTS

1.2.1.1. The Applicant, Five Estuaries Offshore Wind Farm Limited (VE OWFL), is aware of the ongoing consultation and review of the existing energy National Policy Statements (NPS) and its potential wider implications on future co-operation between projects (not just offshore wind farms).

1.2.1.2. Based on the OFGEM Offshore Transmission Network Review (OTNR) consultation, the Applicant is aware of other alternative options that could be considered in future, provided the relevant regulatory and support mechanisms were in place.

1.2.1.3. VE and the nearby North Falls Offshore Wind Farm are currently being developed as two distinct projects with separate ownership/shareholders. However, co-ordination of stakeholder engagement, construction, infrastructure and operations plans are being explored for the project development phase and will be progressed where this is considered practicable and feasible.

### 1.3 AIMS & PURPOSE OF THIS DOCUMENT

1.3.1.1. It should be noted that agreements, disagreements and discussions captured within this Evidence Plan (hereafter the "Plan") are applicable only to the sufficiency of the information provided to support the Development Consent Order (DCO) application. They do not represent a corporate position on recommendations to the Secretary of State (SoS) on whether the project should be granted consent.

1.3.1.2. This Evidence Plan (hereafter the "Plan") will be developed by Five Estuaries Offshore Wind Farm Ltd (hereafter the "Applicant") as a formal tool for agreeing the information that the Applicant will need to supply to the Planning Inspectorate (PINS) (hereafter referred to as PINS) to inform the DCO application for the Five Estuaries Offshore Wind Farm (hereafter the "Project" or VE). This Plan covers the potential impacts on relevant National Site Network sites, including Special Areas of Conservation, Special Protection Areas and Ramsars, to help VE comply with the requirements of the Habitats Regulations.

1.3.1.3. In addition, as the Applicant notes that much of the evidence required to inform the Habitats Regulations Assessment (HRA) is also relevant to the Environmental Impact Assessment (EIA), and that there may be specific areas of interest, the scope of this Plan has been expanded to include topics beyond the HRA. The topics covered are illustrated in Figure 1 below. The green boxes in Figure 1 relate to the ETGs which include HRA topics.

1.3.1.4. Moreover, the Evidence Plan seeks to ensure that the DCO Application meets the requirement to provide sufficient information, so the examining authority (ExA) can recommend to the SoS:

- Whether or not to accept the application for examination; and
- Whether an appropriate assessment (AA) is required.



- 1.3.1.5. The aim of this Plan is to seek consensus between all parties on the amount, type<sup>1</sup> and range of evidence required to be collected and address and agree issues early in the application process and as the DCO application evolves, allowing early identification of additional data requirements and seek to reduce issues to be taken into the Examination.
- 1.3.1.6. The Plan also seeks to make discussions more structured and efficient, allowing key environmental and consenting issues to be identified between multiple Interested Parties.
- 1.3.1.7. The Plan enables time and resources to be planned and allocated to this process by all participants.
- 1.3.1.8. The development of this Plan and involvement of all parties should also follow the following general rules:
- Advice relating to specific topics should be compliant with planning requirements and regulation and follow current guidance;
  - Evidence should be proportionate to the Project's potential impacts; evidence levels, assessment methodologies and interpretation criteria should be appropriate, and evidence requested should be justified and consistent with the matters being considered;
  - Evidence requirements should only change if new areas of concern are identified following initial assessment; if new relevant evidence or research comes to light that would affect what information is required; or there is a material change to the Project or new proposed nature conservation designations come to light prior to the agreed "cut-off" date;
  - All parties should engage pro-actively and constructively, aiming to resolve issues in the pre-application phase and adhere to agreed timelines specified in this Plan;
  - This Plan does not replace or duplicate existing requirements and will be developed to fit with the DCO application process as it evolves for this Project;
  - The Evidence Plan process is a voluntary informal process; and
  - This Plan will form a non-legally binding agreement<sup>2</sup> between the Applicant and the Interested Parties. This Plan will form the basis for many of the documents produced during the application process which will be consulted on formally as part of the DCO application (see Section 3.9 for further details). In addition, the meeting minutes will be used to inform the Evidence Plan and the Consultation Reports to be submitted with the DCO Application.
- 1.3.1.9. This document is intended to be a working document, provided initially as the Terms of Reference for the process the Applicant wishes to follow with all Interested Parties. Once the Terms of Reference have been agreed, any subsequent amendments will be made as an addendum to ensure that a clear and transparent audit trail is maintained. All updates are to be agreed by the Steering Group before being implemented.

## 1.4 THE EVIDENCE PLAN PROCESS

- 1.4.1.1. The Evidence Plan Process traditionally captured only HRA issues but acknowledging that there is some degree of overlap between EIA and HRA and that

<sup>1</sup> Where agreed with the ETG this could include evidence and knowledge based on both quantitative and qualitative assessments, as appropriate.

<sup>2</sup> The process should be entered into in good faith by all parties and as such it is the intention that all agreements made are upheld throughout the process (both pre- and post-application). It is understood that if, for example, significant new scientific research were published that contradicted the evidence supporting the EIA/HRA then parties may need to change their advice.





some of the potential issues encountered will be relevant to both, the principles are proposed to be applied to wider EIA topics included within this Plan.

- 1.4.1.2. Initially it is proposed that there are two workstreams as highlighted below. Topics within the workstreams will be grouped as outlined in Section 2.1 and Figure 1:
- Workstream 1 - covering all offshore and intertidal topics of interest to be assessed within the EIA and HRA up to and including Mean High Water Springs (MHWS)<sup>3</sup>; and
  - Workstream 2 - Covering all topics of interest to onshore stakeholders landward of MHWS.
- 1.4.1.3. The structure of Expert Topic Groups (ETGs) is proposed in Figure 1. The structure of ETGs during the Plan will be agreed with stakeholders. It is noted that during the process the structure of the ETGs may change, such as groups may be split further where necessary to facilitate more detailed discussion on a particular technical area.
- 1.4.1.4. The inclusion of some topics within the Plan may not be an efficient use of time. This will however be subject to discussion with all relevant Interest Parties and only scoped out with the agreement of the Steering Group. At the time of writing, no topics are anticipated to be removed from the Plan.
- 1.4.1.5. The following EIA topics are not included within this Plan due to the already established nature of assessments and consultation:
- Aviation and Ministry of Defence Interests; and
  - Commercial Fisheries.
- 1.4.1.6. If appropriate, the relevant key outcomes of these assessments (and consultation outwith this Plan) can be shared with the Plan process.
- 1.4.1.7. The process will be fully documented; meeting minutes will be taken for each meeting and decisions or points of discussion clearly stated. The meeting minutes will aim to capture key areas of agreement and disagreement between the parties<sup>4</sup> raised during the meeting and seek to provide a faithful record of the meeting. These will form relevant appendices to the Evidence Plan report (to be submitted with the DCO Application). Should the person attending the meeting not have authority to make such a decision or be in a position to offer advice, minutes will be ratified by the relevant person or organisation as an accurate reflection of discussions.
- 1.4.1.8. For the purposes of the Evidence Plan, the Applicant aims to ensure that the proposed evidence base and approach to data collection and subsequent assessment complies with local and national policy and guidance. It is not considered necessary to submit documents or get formal sign off by the Full Council<sup>5</sup> for each submission. However, the Applicant would request that within two weeks following the relevant Plan meeting the Council representatives will confirm that proposals are in accordance with local policy and guidance.

<sup>3</sup> Where a receptor may be effected by changes from the marine or terrestrial environment it will be agreed by members which is the most appropriate workstream this should be considered under. An example of this could be coastal erosion, flooding or change.

<sup>4</sup> It is acknowledged that some parties may only provide agreements in the form of a letter or email as opposed to verbally in a meeting. Where this is the case, the party should state this during the meeting and take an action accordingly. The relevant correspondence will then be referenced within the consultation log and may be submitted as appendices to the Evidence Plan Report. Alternatively, written confirmation of the accuracy of the consultation log, circulated after the meeting, may be provided to the ETG chair for inclusion in the Plan, in the place of a specific letter or briefing note if preferable.

<sup>5</sup> Full Council means any formal meeting to which all elected Members are summoned to attend.



- 1.4.1.9. A consultation log will be produced for each ETG to identify key areas of agreement or disagreement between the parties. The aim of these logs is to provide an aid to focus effort on those areas where there is uncertainty or further discussion is required under the Evidence Plan. Meeting minutes will be used as a basis to produce these logs, see Section 3.9 for further details. The final consultation log (as submitted within the Evidence Plan Report) is proposed to inform the initial drafting of the Statement of Common Ground (SoCG) during the examination phase as the logs should provide an accurate reflection of areas of agreement and disagreement between all parties during the Plan process. The Plan seeks to reduce the areas of disagreement with regards to evidence and methods to enable a consensus to be reached prior to submission of the DCO application and thus reduce resource requirements for all parties in examination.
- 1.4.1.10. The Evidence Plan process will be overseen by a Steering Group with ETGs established (Figure 1) to discuss and agree the evidence and assessment requirements for each EIA and HRA topic area identified.
- 1.4.1.11. The Evidence Plan process does not seek to replace any formal consultation requirements. As such due regard will be shown to all comments received during the Section 42 consultation. Section 42 responses will be discussed with the relevant ETG members.

## 1.5 THE STEERING GROUP

### 1.5.1 THE ROLE OF THE STEERING GROUP

- 1.5.1.1. The Steering Group will monitor and oversee the Evidence Plan process ensuring progress. Any technical issues raised by the Steering Group will be documented and discussed at the ETG meetings.
- 1.5.1.2. The Steering Group's main function will be to oversee the development of this Plan and ensure continual progress of the Evidence Plan process. In addition, they will be required to:
  - Oversee the resolution of issues<sup>6</sup> that may arise during the development of this Plan and through the ETG discussions (Section 2.1). Discussions will be recorded within the meeting minutes (and consultation log where appropriate) particularly where a consensus cannot be reached; and
  - Ensure that discussions taking place within the individual ETGs are consistent with the agreed approach for the EIA and HRA.
- 1.5.1.3. Decisions made by the Steering Group will be circulated to all participants in the Evidence Plan process.

### 1.5.2 THE STEERING GROUP MEMBERS

- 1.5.2.1. The following organisations will be invited to form the Steering Group.
  - The Planning Inspectorate (PINS) - An independent and impartial body will oversee the process;
  - The Applicant (including the VE Senior Consent Manager and relevant technical specialists supporting the DCO application), together with input from their consultants, will draft the Plan and any technical documents required as part of the process;
  - The Marine Management Organisation's (MMO) representative (such as the Case Manager) - Shall provide feedback to the drafting and agreement of this Plan and support the aims of the Steering Group (as described in Section 1.3) in relation to all offshore aspects of the Plan. Communications will be shared by the attendee of the

<sup>6</sup> It is acknowledged that the Steering Group require the clear and systematic documentation of agreements and disagreements in order to aid resolution of issues.



Steering Group meeting with those MMO colleagues that attend separate ETGs. Their role is outlined further in Section 1.5.1;

- Natural England's representatives (such as the Senior Responsible Officer and Case Officer) - Shall provide feedback to the drafting and agreement of this Plan and support the aims of the Steering Group (as described in Section 1.3) in relation to all aspects of the Plan. Communications will be shared by the attendees of the Steering Group meeting with those Natural England colleagues that attend separate ETGs;
- Historic England's representative - Shall attend Steering Group meetings to represent both onshore and offshore aspects of the proposed development for topics as relevant to management of the historic environment relating to the DCO application. Communications will be shared by the attendee of the Steering Group meeting with those Historic England colleagues that attend separate ETGs. They will provide feedback to the drafting of this Plan and support the aims of the Steering Group (as described in Section 1.3) in relation to archaeological and historical aspects of the Plan;
- Maritime & Coastguard Agency's (MCA) representatives (such as the Senior Responsible Officer and Case Officer) - Shall provide feedback to the drafting and agreement of this Plan and support the aims of the Steering Group (as described in Section 1.3) in relation to all aspects of the Plan;
- The Local Planning Authority (anticipated to be Essex County Council leading on behalf of Tendring District Council) will be invited to provide a case officer to attend the Steering Group meetings. At the time of writing, Essex County Council will represent Tendring District Council under the Plan through a Memorandum of Understanding. Communications would be shared by attendee of the Steering Group meeting with those colleagues that attend separate ETGs. The Local Planning Authorities will also be invited to provide feedback to the drafting and agreement of this Plan and support the aims of the Steering Group.

1.5.2.2. The Applicant will ensure that any relevant information arising from the Steering Group meetings is provided to ETG members to aid informed discussions.

1.5.2.3. It is anticipated that one individual from each organisation shall attend the Steering Group meetings.

#### JNCC DELEGATED AUTHORITY

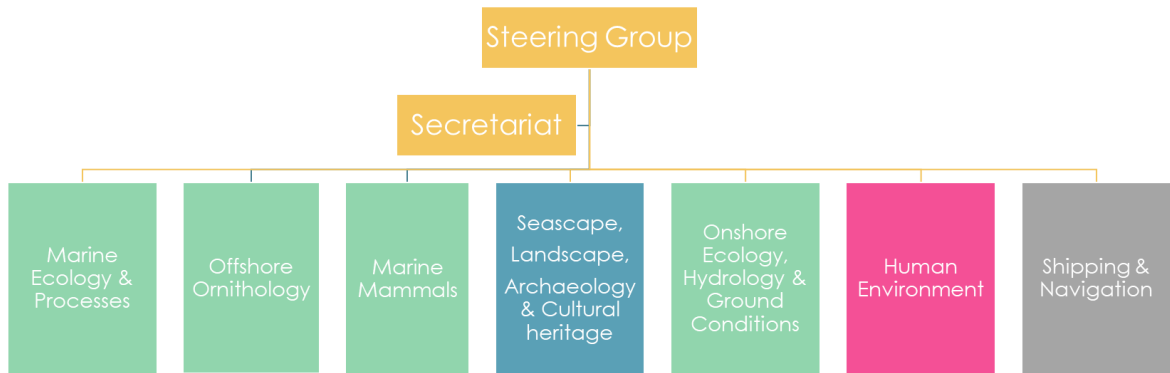
1.5.2.4. It should be noted that pursuant to an authorisation made on the 9th December 2013 by the JNCC under paragraph 17(c) of Schedule 4 to the Natural Environment and Rural Communities Act 2006, Natural England is authorised to exercise the JNCC's functions as a statutory consultee in respect of applications for offshore renewable energy installations in offshore waters (0 - 200 nm) adjacent to England. This project is included in that authorisation and therefore Natural England will be providing statutory advice in respect of that delegated authority.

1.5.2.5. JNCC retains responsibility for the (joint) management of offshore designated sites, and therefore (where applicable) Natural England will consult directly with JNCC to provide the Statutory Nature Conservation Bodies (SNCBs) advice to the Applicant/Examiners.

#### 1.5.3 MEETING FREQUENCY

1.5.3.1. The Steering Group will meet initially to agree this Evidence Plan and the process that will be followed going forward. Meeting frequency will be agreed by the Steering Group at the initial meeting.

1.5.3.2. The Applicant will provide each panel member a project "road map" which has been developed to outline logistics of meetings, specifically scheduling around key project milestones, possible locations and durations. The aim of the "road map" is to help members plan and manage resources accordingly. This "road map" may be updated from time to time as the pre-application programme develops.



**Figure 1 – The Evidence Plan Structure**



## 2. SCOPE OF THE PROCESS

### 2.1 EXPERT TOPIC GROUPS

2.1.1.1. In order to agree and discuss the EIA and HRA evidence requirements included within this Plan, ETGs will be established for each topic area with experts from relevant organisations. These have been grouped into two workstreams and meetings for these will take place on consecutive days where achievable.

#### 2.1.2 SCOPE OF THE EXPERT TOPIC GROUPS

2.1.2.1. The ETGs will be formed of experts from relevant organisations relative to the topics considered. They will have the following responsibilities:

- Agree methods for data collection (if not already agreed);
- Discuss and agree the appropriateness and sufficiency of data for the assessments to be undertaken;
- Agree realistic worst case parameters (applying a Rochdale Envelope) for assessment (where appropriate);
- Discuss and agree the scope of the EIA/HRA assessments through reference to the Scoping Opinion (and discussions held prior to the publication of the Applicant's Scoping Report);
- Discuss and agree the scope of assessment and analysis methods for both EIA and , including agreement on appropriate thresholds, and agreeing terms for interpretation of impact and levels of significance;
- Discuss and agree the sites to be screened in, analysis methods, including agreement on appropriate thresholds and conclusions of the assessment;
- Following assessment discuss and agree any requirements for additional data, this would be documented in this Plan; and
- If significant issues are present following assessment, discuss and agree the mitigation or management requirements to reduce adverse effects.

2.1.2.2. It is recognised that this process can be iterative as the process develops, each topic group should follow the above process and reach agreement as is reasonably practicable in the pre-application phase. Anything that cannot be agreed during pre-application will be documented in the consultation log (and within the Evidence Plan report).

2.1.2.3. Meetings will be undertaken as workshops to make the most efficient use of time. The proposed frequency of meetings is outlined within the "road maps" for each of the ETGs and will not be more frequent than required.

2.1.2.4. The facility to teleconference or video conference (such as Skype for Business or Microsoft Teams) will also be provided for those not able to travel to meetings, however face to face meetings are encouraged. Arrangements for meetings will align with safe working practices based on the latest UK government advice in response to the Covid-19 pandemic. Where restrictions do not permit face-to-face meetings alternative arrangements will be made using teleconference or video conference facilities.

#### 2.1.3 WORKSTREAM 1 (OFFSHORE AND INTERTIDAL)

2.1.3.1. Subject to Scoping, Workstream 1 will cover all topics related to offshore nature conservation and the identified EIA topics of relevance (seaward of MHWS) which are relevant to the HRA and EIA. It is being included here in its entirety until a Scoping Opinion has been received, after which some areas may be scoped out or topics removed from future revisions of this Plan with agreement from participants and the Steering Group. The topics to be covered in this Workstream are those which have the potential to affect features relevant to or designated under the following legislation and policy:





- Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the "Habitats Directive") as implemented by the Conservation of Habitats and Species Regulations 2010 (the "Habitats Regulations");
- Council Directive 2009/147/EC on the Conservation of Wild Birds (the "Birds Directive");
- Water Framework Directive (2000/60/E);
- Marine and Coastal Access Act 2009;
- National Policy Statements (EN-1 and EN-3);
- National Planning Policy Framework;
- The Infrastructure and Planning (Environmental Impact Assessment) Regulations 2017;
- Wildlife and Countryside Act 1981;
- Offshore Marine Conservation (Natural Habitats & c.) Regulations 2007 (as amended);
- Protection of Wrecks Act 1973;
- Protection of Military Remains Act 1986;
- Ancient Monuments and Archaeological Areas Act 1979 (as amended by the National Heritage Acts 1983 and 2002);
- MGN 654 (M+F) Offshore Renewable Energy Installations (OREI) safety response;
- MGN 372 Guidance to Mariners Operating in the Vicinity of UK OREIs;
- International Association of Marine Aids to Navigation and Lighthouse Authorities (IALA ASIM) 0-139 the Marking of Man Made Offshore Structures;
- Planning (Listed Buildings and Conservation Areas) Act 1990; and
- Local Authority's local plans and strategies.

2.1.3.2. In consideration of the above, potential effects on the following (and any additional receptors/ effects agreed through discussion in meetings) will be considered by the ETGs:

- Special Protection Areas (SPA) and potential Special Protection Areas (pSPA) and the bird features of interest. Rare and Vulnerable bird species as listed in Annex I of the Birds Directive will also be considered;
- Special Areas of Conservation (SAC), proposed and candidate Special Areas of Conservation (pSAC and cSAC) and Sites of Community Importance (SCI) as listed in Annex I of the Habitats Directive;
- Protected Species as listed in Annex II of the Habitats Directive;
- Protected Species and Habitats listed under UK BAP, OSPAR and NERC Act;
- Marine Conservation Zones;
- RAMSAR sites;
- Sites of Special Scientific Interest;
- Areas of Outstanding Natural Beauty;
- The East Marine Plans (inshore and offshore);
- Shoreline Management Plans;
- Protected wrecks and archaeological features;
- Conservation areas and historical listings (where appropriate);
- IMO routeing measures;
- Shipping routes (i.e. non-IMO routeing measures);
- Pilotage operations and any additionally identified shipping and navigational receptors;
- Water bodies and features protected under the WFD; and
- Indirect effects to designated features.

2.1.3.3. It is considered likely that discussions regarding transboundary impacts will be scoped out of this Evidence Plan (see Section 3.4).

2.1.3.4. The Applicant intends to use the Evidence Plan process to agree the scope and assessment for both EIA and HRA purposes as it is acknowledged that there is some overlap in the evidence requirements for the two assessments and some principles to be agreed are applicable to both EIA and HRA (e.g. cumulative impact assessment principles). Evidence will be collected to support EIA and HRA assessments in the following topic areas and the key stakeholders invited to form



the ETGs are listed below, with the roles and responsibilities of participants outlined in Section 2.2.4:

- Offshore and intertidal ornithology:
  - Natural England;
  - RSPB;
  - MMO;
  - Essex County Council; and
  - Tendring District Council.
- Marine Mammals:
  - Natural England;
  - MMO (and Cefas);
  - The Wildlife Trusts; and
  - Whale and Dolphin Conservation (WDC).
- Benthic Ecology and Fish & Shellfish Ecology, Physical Processes (including Water Quality, Water Framework Directive and coastal change):
  - Natural England;
  - MMO (and Cefas);
  - Environment Agency;
  - The Essex Wildlife Trusts;
  - Essex County Council;
  - Tendring District Council; and
  - Kent & Essex Inshore Fisheries and Conservation Authority
- Shipping and Navigation:
  - MCA;
  - Trinity House;
  - Port of London Authority (PLA);
  - Harwich Haven Authority;
  - Sunk User Group;
  - Chamber of Shipping;
  - BMAPA;
  - Commercial Ferry Operators and Regular Operators as identified through AIS analysis;
  - London Gateway;
  - The National Federation of Fishermen's Organisations; and
  - Royal Yachting Association.
- Seascape and marine archaeology:
  - Natural England;
  - Historic England;
  - National Trust;
  - Essex County Council;
  - Suffolk Coast & Heaths AONB team;
  - East Suffolk Council;
  - Suffolk County Council; and
  - Tendring District Council.

#### 2.1.4 WORKSTREAM 2 (ONSHORE)

2.1.4.1. Subject to Scoping, Workstream 2 will cover all onshore topics (above MHWS) to be covered in the EIA and HRA.

2.1.4.2. The proposed topics to be covered are those which have the potential to effect features (and any additional receptors/ effects agreed through discussion in meetings) relevant to or designated under the following legislation, policy and guidance:

- Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the "Habitats Directive") as implemented by the Conservation of Habitats and Species Regulations 2010 (the "Habitats Regulations");



- Council Directive 2009/147/EC on the Conservation of Wild Birds (the "Birds Directive");
- Water Framework Directive (2000/60/E);
- Groundwater Directive (80/68/EEC);
- Directive on the Protection of Groundwater Against Pollution and Deterioration (2006/118/EC);
- The National Planning Policy Framework (NPPF) (March 2012);
- National Policy Statements (EN-1 and EN-3);
- East Marine Plan;
- UK Marine Policy Statement;
- The Infrastructure and Planning (Environmental Impact Assessment) Regulations 2017;
- Wildlife and Countryside Act 1981;
- Protection of Badgers Act 1992;
- Countryside and Rights of Way Act 2000;
- National Parks and Access to the Countryside Act 1949;
- Natural Environment and the Rural Communities Act 2006;
- The Hedgerow Regulations 1997;
- The Landscape Institute with the Institute of Environmental Management and Assessment (2013). Guidelines for Landscape and Visual Impact Assessment, Third Edition (GLVIA3). Routledge;
- An Approach to Landscape Character Assessment (2014). Natural England;
- Landscape and Seascape Character Assessments published by Natural England and the Department for Environment, Food and Rural Affairs (2014);
- Landscape Institute (2017). Visual Representation of Development Proposals;
- Ancient Monuments and Archaeological Areas Act 1979 (as amended by the National Heritage Acts 1983 and 2002);
- Protection of Wrecks Act 1973;
- Planning (Listed Buildings and Conservation Areas) Act 1990;
- The Protection of Military Remains Act 1986;
- Local Authority's local plans and strategies;
- The Essex, Suffolk and South Suffolk Shoreline Management Plan;
- Suffolk Seascape Character Assessment;
- Natural Beauty and Special Qualities of the Suffolk Coast and Heaths AONB;
- Designation History Series; and
- Development in the setting of the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB).

2.1.4.3. The Plan will also consider the requirements of relevant National Policy Statements (NPS) and National Planning Policy Frameworks (NPPF) as appropriate. In consideration of the above, potential effects on the following (and any additional receptors/ effects agreed through discussion in meetings) will be considered by the ETGs:

- SACs;
- SPAs;
- SSSIs;
- Ramsar sites;
- Protected Species as listed in Annex II of the Habitats Directive;
- Archaeological features;
- Areas of Outstanding Natural Beauty;
- Heritage assets;
- Key transport infrastructure;
- Sensitive receptors for increases in ambient noise;
- Sensitive receptors to changes in air quality;
- Ancient woodland and veteran trees;
- Water bodies and features protected under the WFD;
- Protected Species and Habitats listed under UK BAP, OSPAR and NERC Act; and





- Indirect effects to designated features.

2.1.4.4. Evidence will be collected to support EIA and HRA assessments in the following topic areas and the key stakeholders invited to form the ETGs are listed:

- Onshore Ecology:
  - Natural England;
  - The Wildlife Trusts;
  - The Environment Agency;
  - Tendring District Council; and
  - Essex County Council.
  - Specialist interest groups where applicable
- Onshore Hydrology (including flood risk):
  - Environment Agency;
  - Natural England;
  - Tendring District Council; and
  - Essex County Council.
- Landscape, Archaeology and Cultural Heritage:
  - Natural England;
  - Historic England;
  - National Trust;
  - Suffolk Coast & Heaths AONB team;
  - Essex County Council;
  - Tendring District Council;
  - East Suffolk Council; and
  - Suffolk County Council.
- Human Environment<sup>7</sup>:
  - Highways England;
  - Suffolk Coast & Heaths AONB team<sup>8</sup>;
  - Tendring District Council; and
  - Essex County Council.

## 2.2 WORKING ARRANGEMENTS

### 2.2.1 PROJECT TIMELINE

2.2.1.1. Key project dates are presented in Table 1 below. Please note that these dates are correct at the time of writing but are subject to change. Any changes to this programme will be communicated by the Applicant to all Plan members via the Steering Group and ETG meetings.

2.2.1.2. The Applicant has circulated roadmaps, for each of the ETGs, outlining an indicative programme of meetings to enable each party to plan resource requirements.

<sup>7</sup> Including Traffic & Transport, Air Quality, Noise, Health, Climate Change, Tourism and Socio Economics

<sup>8</sup> The AONB team may attend owing to tranquility being a defined factor of the AONB. Their attendance will be resource dependent.



**Table 1 – Key indicative milestones for the project**

| MILESTONE  | DATE                     |
|--|--------------------------|
| Informal consultation (prior to submission of Scoping Report)  | 2019 to Q3 2021          |
| Scoping Report Submission                                      | October 2021             |
| Formal scoping consultation                                    | October to November 2021 |
| Preliminary Environmental Information Report (PEIR) Submission | Q4 2022                  |
| Formal consultation on the PEIR                                | Q4 2022                  |
| DCO Application Submission                                     | Q3 2023                  |

### 2.2.2 EVIDENCE PLAN TIMETABLE

- 2.2.2.1. The key dates for the Evidence Plan for each of the panels will be set out in the “roadmaps”. Each “roadmap” will be bespoke to the ETG or the Steering Group. The “roadmaps” are linked to key milestones within the pre-application process.
- 2.2.2.2. Where possible and appropriate the meetings listed in the road maps would be run as workshops, with separate meeting appointments per ETG, with multiple topics covered over a day, this will make the most efficient use of time as many Interest Parties are required to input to more than one topic area. Workstream 1 and 2 discussions will typically be held separately.
- 2.2.2.3. Further interim meetings may be required with specific ETGs in between the key meetings outlined above, for instance, where there are specific topics of concern. The requirement and timing of these meetings will be determined (and agreed) at the initial ETG meeting and kept under review throughout the process.
- 2.2.2.4. If consultation is required with a specific Interested Party (e.g. if they raise a specific area of concern or wish to discuss a commercial matter) ad hoc meetings can be scheduled, however no decisions should be taken without being openly discussed with all ETG<sup>9</sup> for that topic. Separate stakeholder meetings should be avoided wherever possible in order to make the best use of time available and ensure an efficient process. All items of discussions from bi-lateral consultation will be included within the consultation report (submitted with the DCO application) as opposed to the Evidence Plan report.
- 2.2.2.5. A final meeting may be required to complete and agree the consultation log for incorporation within the Evidence Plan report.

<sup>9</sup> Note where a consensus of the whole ETG cannot be reached the Applicant will adopt the advice provided by the Statutory Consultees.



### 2.2.3 EVIDENCE PLAN TIMESCALES

- 2.2.3.1. All timescales provided within this section will be met unless otherwise agreed with the Applicant. Extension, should one be needed based on the length, or complexity of a consultation or conflicting demands on resources may be requested. Any extension will be discussed in advance with the Applicant and should be agreed on a case-by-case basis.
- 2.2.3.2. The Applicant will also be responsible for providing the required pre-meeting documentation and circulating these materials at least two weeks in advance of the meeting. All pre-meeting materials should be reviewed by the case officer and technical expert (where appropriate) to enable discussion during the meeting. Final comments and opinions, on pre-meeting materials will be provided in writing within four weeks from receipt of information from the Applicant (i.e. two weeks after the meeting). If materials which are required to facilitate discussion cannot be provided two weeks prior to a meeting or parties are unable to review the materials; then the Applicant reserves the right to postpone the meeting to ensure productive discussions.
- 2.2.3.3. Meeting minutes will be taken for each meeting or workshop held during the Evidence Plan process, and the Applicant will circulate the minutes within two weeks following the meeting (see Section 3.9). Agreement of the minutes (or comments on them) are to be provided within two weeks of receipt unless agreed otherwise with the Applicant. If the minutes include agreements (or disagreements) made during the meeting, these will be recorded in the consultation log and should be ratified at the appropriate level within each organisation<sup>10</sup>. A response will be required on behalf of all parties in attendance to confirm that the minutes provide an accurate reflection of the meeting and subsequent outcomes.
- 2.2.3.4. Formal positions will be provided in writing within four weeks, from receipt of information from the Applicant, for any materials submitted which are not associated with a meeting; such as required by an action or request for further information.

### 2.2.4 ROLES AND RESPONSIBILITIES

- 2.2.4.1. This section details the roles and responsibilities of the parties under the VE Evidence Plan through the agreed of the terms outlined in this document.

#### THE STEERING GROUP CHAIR

- 2.2.4.2. The Applicant feels that having an impartial Chair to the Evidence Plan process is beneficial for ensuring progress and driving the process to a successful conclusion. However, if an impartial Chair cannot be attained this role will be undertaken by the Applicant (or their EIA Consultants). The Chair's main responsibilities will include:
  - Attendance at Steering Group meetings (sufficient notice will be provided);
  - Review material provided prior to the meetings;
  - Chair the meeting, including open and close of the meeting and run the agenda according to the allotted times;
  - Ensure good order is maintained at the meetings, including fairness and equality;
  - Ensure all discussions points and conclusions are understood by all parties;
  - Provide a summary of main points of agreement and disagreement and action points;
  - Ensure progress by prompting and discussing outstanding actions; and
  - Review the meeting minutes ensuring they accurately reflect the discussions and actions.

<sup>10</sup> It is the participants obligation to indicate in the meeting/workshop where a decision/opinion may not be ratified at an organisation level. Please also see footnote 4 for process of written formal agreements as required by some parties.



- 2.2.4.3. The Chair will not be expected to make the arrangements for the meetings or take the minutes of the meetings, these responsibilities lie with the Applicant. The Applicant will also be responsible for providing the required pre-meeting documentation and circulating this within the agreed timescales (see Section 2.2.3) prior to the meeting.
- 2.2.4.4. The Chair will not be expected to participate in the ETG meetings.
- 2.2.4.5. The Chair will also not act as arbiter or decision maker for any issues arising, they will act completely independently.

#### THE PLANNING INSPECTORATE

- 2.2.4.6. PINS will be invited to attend Steering Group meetings. When in attendance, the Planning Inspectorate will publish a note of the meeting on the PINS's webpage, which has been agreed by the Steering Group prior to publication, the note will be limited to the following information; attendees, location of meeting, high-level agenda items, and a summary of any Section 51 advice given. No summary of the discussions or comments made will be included.
- 2.2.4.7. If Section 51 advice is requested this should be provided during the meeting wherever possible, and a summary provided in the published note. If the advice is not able to be provided at the meeting due to the complexity of the request, the Planning Inspectorate should seek to provide this to the Steering Group within an agreed timeframe.

#### THE APPLICANT

- 2.2.4.8. The Applicant (or their lead EIA consultant) will provide the Secretariat (Figure 1) for the process, undertaking the organisation of all Steering Group and ETG meetings and all secretarial duties at these meetings, providing agendas, minutes and leading the discussions.
- 2.2.4.9. In addition to all secretarial duties, the Applicant (or their lead EIA consultant) will also provide all required evidence and documentation to facilitate discussions including the Evidence Plan itself and all other technical documents prior to meetings.
- 2.2.4.10. Documentation required to be discussed at meetings will be provided in a timely manner. All documentation provided under the Plan will be included as appendices to the Evidence Plan report.
- 2.2.4.11. The Applicant will endeavour to work to resolve any issues in the pre-application phase.

#### LOCAL AUTHORITIES

- 2.2.4.12. The Local Authorities, if required to sit on the Steering Group, will also be required to review and assess the evidence provided by the Applicant and provide advice on the evidence requirements and evidence provided, ensuring at all times consistency of advice and in accordance with paragraph 1.3.1.8. They will also be required to seek to resolve any issues in the pre-application phase.
- 2.2.4.13. The Local Authority will provide any relevant public domain information which may be relevant to the DCO application. The Local Authority will be required to take part in the ETGs as outlined in Section 2.1.3.
- 2.2.4.14. The Local Authority's planning controls extend to Mean Low water Springs (MLWS) and therefore, will also have interests within the intertidal zone. As such, they will be invited to all relevant ETGs within all workstreams to ensure their interests are covered.



## NATURAL ENGLAND

2.2.4.15. In addition to a role on the Steering Group, Natural England will be involved in those ETGs covering nature conservation and landscape topics. They will:

- Assess and evaluate evidence provided by the Applicant at agreed regular reviews, giving consistent feedback on progress in accordance with paragraph 1.3.1.8 above;
- Ensure that the representative(s) on the Steering Group or ETG have the authority and technical expertise to ensure that any position formally agreed in writing within the plan process is an agreed corporate position and not the advice of the officer only. This may require that meeting minutes are ratified following the meeting (see Section 2.2.3);
- Ensure that all materials that are provided in advance of the meetings have been reviewed by the case officer and technical expert (where appropriate) to enable discussion (see Section 2.2.3);
- Assess and review evidence, in order to provide final comments and opinions in writing on information provided the Applicant (see Section 2.2.3).
- Engage with the Applicant at the start of pre-application to discuss the Project's possible environmental impacts with a focus on potential likely impacts on a European site(s) and their conservation objectives and EIA topics as listed in Section 2.1;
- Discuss and engage with the Applicant with the aim of reaching agreement on the requirement and opportunities for environmental enhancement and/ or biodiversity net gain;
- Provide any relevant public domain information (e.g. conservation objectives, monitoring reports, site condition assessment data; grey literature) which they hold to inform the assessment within 21 days from the request for information;
- Review evidence requirements and propose changes, when applicable, which are realistic and proportionate. Clear rationale for any evidence changes will be required;
- Ensure consistency of approach to advice between this Project and other NSIPs;
- Provide advice to the Applicant on evidence requirements. Evidence requirements will only change following:
  - The assessment of evidence provided by the Applicant identifying new areas of concern;
  - Relevant evidence, information or research coming to light that would have an impact on what information is required;
  - Proposed changes to the evidence requirements which are proportionate and based on findings of the evidence assessed; and/ or
  - A material change to the NSIP proposal that is likely to change the potential impacts and therefore the evidence requirements to address these.
- Work with the Applicant to resolve as many issues as possible during pre-application, to agreed timescales; and,
- Consultation and timescales/deadlines should be agreed within ETGs or the Steering Group.

2.2.4.16. Natural England will provide written comments on documents. Any agreements made in by Natural England must be followed up with a written confirmation. Additionally, silence or no comment in a meeting should not be construed as agreement. (see Section 2.2.3).

## HISTORIC ENGLAND

2.2.4.17. Historic England will participate through the Steering Group and also in ETGs as set out in Section 2.1.1.1 and 2.1.3 above.

2.2.4.18. Historic England will engage with the Applicant in the early pre-application phase to discuss potential environmental impacts (positive and negative) relating to risk to the known and unknown historic environment as described by the UK Marine Policy Statement, the East Marine Plan and relevant National Policy Statements.



2.2.4.19. They will:

- Assess and evaluate evidence provided by the Applicant at agreed regular reviews, giving consistent feedback on progress in accordance with paragraph 1.3.1.8 above;
- Propose changes to the evidence requirements which are proportionate and based on findings of the evidence assessed at that stage of the pre-application assessment;
- Provide any public domain data that they hold which is relevant to this application;
- Ensure that the representative(s) on the Steering Group or ETG have the authority that any position formally agreed in writing within the plan process complies with the organisations requirements, expectations and current guidelines for data adequacy and assessment. Therefore, positions formed are not the advice of the officer only. This may require that meeting minutes are ratified following the meeting (see Section 2.2.3); and
- Work with the Applicant to resolve as many issues as possible during pre-application, to agreed timescales
- Consultation and timescales/deadlines should be agreed within ETGs or the Steering Group.

2.2.4.20. Historic England will endeavour to work with the Applicant to resolve any issues in the pre-application phase.

MMO

2.2.4.21. The MMO, in addition to participating in the Steering Group, will also take part in the ETGs as set out in Section 2.1.1.1 above, providing an overview as required and coordinating the input of Cefas.

2.2.4.22. The MMO (and Cefas) will be required to:

- Assess and evaluate evidence provided by the Applicant at agreed regular reviews, giving consistent feedback on progress in accordance with paragraph 1.3.1.8 above;
- Propose changes to the evidence requirements which are proportionate and based on findings of the evidence assessed;
- Provide any public domain data that they hold which is relevant to this application;
- Ensure that the representative(s) on the Steering Group or ETG have the authority that any position formally agreed in writing within the plan process is an agreed corporate position and not the advice of the officer only. This may require that meeting minutes are ratified following the meeting (see Section 2.2.3); and
- Work with the Applicant to resolve as many issues as possible during pre-application, to agreed timescales
- Consultation and timescales/deadlines should be agreed within ETGs or the Steering Group.

MCA

2.2.4.23. The MCA, in addition to participating in the Steering Group, will also take part in the Expert Topic groups as set out in Section 2.1 above.

2.2.4.24. The MCA will be required to:

- Assess and evaluate evidence provided by and/ or requested from the Applicant to resolve evidence based disagreements<sup>11</sup>. Responses received should reflect the MCA's position at both industry and project levels. Any changes in position should be avoided where previous agreements were made unless new information could change the outcomes of the assessment. Feedback should be provided accordance with paragraph 1.3.1.8 above;
- If required, the MCA should propose changes to the evidence requirements which are proportionate and based on findings of the evidence assessed;

<sup>11</sup> It is not anticipated that draft Navigational Risk Assessments will be submitted to the Shipping and Navigation ETG but position papers may be to further discussions.





- Ensure that the representative(s) on the Steering Group or ETG have the authority that any position formally agreed in writing within the plan process is an agreed corporate position and not the advice of the officer only. This may require that meeting minutes are ratified following the meeting (see Section 2.2.3);
- Work with the Applicant to resolve as many issues as possible during pre-application through the Evidence Plan process; and
- All timescales/deadlines, under the Evidence Plan, should be agreed within ETGs or the Steering Group.

#### ROLE OF THE OTHER OFFSHORE AUTHORITIES/ BODIES

- 2.2.4.25. Cefas will provide advice as requested by the MMO and will attend ETGs in order to provide advice to the MMO on the relevant ETGs. Cefas will assess and evaluate evidence provided by the Applicant at agreed regular reviews, giving consistent feedback on progress in accordance with paragraph 1.3.1.8.
- 2.2.4.26. Trinity House will endeavour to attend the shipping and navigation ETGs. Trinity House will assess and evaluate evidence provided by the Applicant at agreed regular reviews, giving consistent feedback on progress in accordance with paragraph 1.3.1.8

#### ROLE OF THE OTHER ONSHORE AUTHORITIES/ BODIES

- 2.2.4.27. Other authorities could be included within the process as deemed necessary.

#### ROLE OF AONB

- 2.2.4.28. It is acknowledged that the AONB staff team can provide valuable input into the EIA and HRA process reflecting the statutory purpose of the AONB designation. The applicant recognises the benefit of early engagement. In accordance with best practice the AONB staff team will be invited will be take part in relevant Evidence Plan process ETGs. It is worth noting that the AONB Partnership may engage during formal consultation.
- 2.2.4.29. The AONB team will be provided with the same documentation as other Interested Parties for relevant ETG and will be advised of the Evidence Plan process schedule, including deadlines for feedback. the AONB team may assess and evaluate evidence provided by the Applicant at agreed regular reviews, giving consistent feedback on progress in accordance with paragraph 1.3.1.7.

#### ROLE OF NGOS

- 2.2.4.30. It is acknowledged that NGOs, including but not limited to The Wildlife Trusts, RSPB and Port Authorities, provide valuable input into the EIA and HRA process and the Applicant recognises the benefit of early engagement. In accordance with best practice, NGOs will be invited to take part in relevant Evidence Plan process ETGs.
- 2.2.4.31. NGOs will be provided with the same documentation as other Interested Parties and will be advised of the Evidence Plan process schedule, including deadlines for feedback<sup>12</sup>. NGOs will assess and evaluate evidence provided by the Applicant at agreed regular reviews, giving consistent feedback on progress in accordance with paragraph 1.3.1.8.
- 2.2.4.32. If an NGO indicates they are not able to participate in the Evidence Plan process, the Applicant will provide relevant updates to the NGO as required.

<sup>12</sup> However, should feedback be received outside of these deadlines the Applicant will endeavour to incorporate it into the EIA wherever possible.



### 3. THE PROCESS

#### 3.1 GENERAL PRINCIPLE

3.1.1.1. This Evidence Plan process will abide by the following general rules:

- Meetings will always be scheduled with adequate advance warning to allow attendance. For official workshops at least one month notice will be provided and two weeks for topic specific or ad hoc meetings. Where possible the date for the next meeting will be agreed at the end of each meeting;
- All evidence prepared for discussion during meetings will be available at least two weeks prior to the meeting, to inform discussions, unless otherwise agreed (see Section 2.2.3);
- All documents, guidance and advice provided will be as comprehensive as possible and presented in a clear and unambiguous form;
- Deadlines for responses will be realistic and agreed by participants. It is noted that some participants may require longer to respond if they need to consult with advisors; where this is the case deadlines should be met, or alternative timescales agreed;
- Participants of meetings are expected to be fully prepared for meetings, having read the required information, in order to facilitate an efficient meeting;
- Participants of the meeting are expected to be able to provide advice on behalf of their respective organisation within the meetings within their remits; and
- Clear routes of communication should be established with the Applicant and other plan participants.
- All information presented under the Evidence Plan should be considered confidential unless explicitly stated otherwise. Therefore, any materials or information must not be shared beyond the members' organisation.

#### 3.2 PRINCIPLES OF THE ASSESSMENT APPROACH

##### 3.2.1 OVERVIEW

3.2.1.1. Detailed method statements for the analysis and assessment of specific topics covered within this Plan will be agreed as part of the process. However, this Plan also sets out the high level principles that are applicable to all topics, and these are detailed in the sections below.

##### 3.2.2 CHARACTERISATION DATA

3.2.2.1. It should be noted that this Plan has been developed to agree the data and evidence requirements for the purposes of the HRA and EIA, with the prime function of characterisation of all areas proposed for development. All positions reached, including both agreements and disagreements on the data and evidence requirements will be recorded in the consultation log (see Section 3.9). The collection of detailed baseline data for post construction compliance monitoring will be subject to further discussion post consent.

3.2.2.2. The Applicant is required to provide sufficient and timely information, as may reasonably be required to undertake the assessments within the HRA and EIA. The data should enable an adequate description of both contemporary conditions and historical change; and assessment of impacts on receptors at site specific level, and also the wider environment in order to quantify impacts. Discussions will be held to discuss the most appropriate best practice guidance for characterisation of the environment.

3.2.2.3. Data requirements (length of sampling regime and spatial extent etc.) may be agreed, if not already agreed via informal consultation prior to the Evidence Plan Process being established. In considering requests for additional data/evidence, this will be assessed in the context of the benefit to the overall assessment, i.e. would additional data change the likely outcome of the assessment.





### 3.2.3 DATA ANALYSIS AND IMPACT ASSESSMENT

- 3.2.3.1. The detailed method statements to be agreed within the ETGs may cover, but not be limited to, the following areas. Separate method statements will be agreed for each topic:
- EIA:
    - Study Areas (spatial and temporal);
    - Definition of terminology (magnitude, sensitivity, uncertainty);
    - Reference populations (if relevant);
    - Assessment methodologies, analysis techniques including statistical analysis tools or models to be used;
    - Sites and areas (both designated and non-designated) with the potential for significant effects in EIA terms; and
    - Opportunities for environmental enhancement and biodiversity net gain.
  - HRA:
    - Approach to Screening of sites for HRA (in and out);
    - Assessment methodologies, analysis techniques including statistical analysis tools or models to be used; and
    - Potential for LSE and the apportionment of impacts on mobile species to National Site Network (NSN) sites.
    - The findings assessment of potential impacts on NSN for the lifetime of the project i.e. construction, operation and maintenance, and decommissioning.

### 3.2.4 PROJECT DATA

- 3.2.4.1. It is acknowledged that statements by participants do not necessarily reflect statutory advice on the application or a final position, unless otherwise indicated.
- 3.2.4.2. Any information of a confidential nature will be treated accordingly by all parties, subject to legal duties of disclosure and GDPR requirements.
- 3.2.4.3. As noted above, project information presented under the Evidence Plan should be considered confidential unless explicitly stated otherwise. Any materials or information must not be shared beyond the members' organisation.

### 3.3 CUMULATIVE & IN-COMBINATION IMPACT ASSESSMENT PRINCIPLES

- 3.3.1.1. The requirements for Cumulative Impact Assessment (CIA) and in-combination assessment within the EIA and HRA, will be provided by regulators and advisors (e.g. Natural England) to ensure that there is a consistent approach between this project and other NSIPs.
- 3.3.1.2. The Applicant will ensure that the basis for assessment of impacts is transparent and clearly documented. In addition, the Applicant will clearly document the list of plans and projects that are scoped into the 'longlist' for consideration in the CIA. Where appropriate, discussions may be held on the 'shortlist' of plans and projects considered for a technical topic and the principles used to develop this list. It is noted that this will be an iterative process up to the assessment "cut-off" point detailed in Section 3.5.
- 3.3.1.3. All cumulative and in-combination assessments need to be underpinned by evidence both quantitative and qualitative (as appropriate and agreed through the Applicant and ETG). Where there is a lack of information regarding a plan or project, e.g. where a third party project may be in very early stage of development, it would not be appropriate to include this project as a detailed assessment could not be undertaken. It is not appropriate for the Applicant to make assumptions about the future development plans of a third party project. Inclusion of relevant projects will be agreed by the ETGs and based on relevant guidance at the time of application



such as PINS Guidance notes 10<sup>13</sup> and 17<sup>14</sup>. In such cases justification would be provided as to the exclusion of certain projects based on uncertainty and the inability to make a meaningful assessment.

- 3.3.1.4. Spatial (including the spatial scale for individual receptors and the potential extent of environmental change) and temporal (including duration of environmental change and recovery) boundaries should be appropriate, taking into consideration individual receptors and project specific parameters.

### 3.4 TRANSBOUNDARY

- 3.4.1.1. It is not anticipated that Transboundary consultation will be undertaken as part of the Evidence Plan where required. Transboundary stakeholders will be contacted according to best practice and current guidance outside of the Evidence Plan.
- 3.4.1.2. However, where transboundary effects have been Scoped in via the Scoping Opinion, the assessment of transboundary impacts, plans or project will be undertaken in the same manner as the assessment of UK based plans/projects and will follow the process described in Section 3.3.

### 3.5 CUMULATIVE ASSESSMENT 'CUT-OFF' POINT

- 3.5.1.1. It is reasonable to have a cut-off point within the cumulative impact assessment process, after which no more plans or projects will be included within the assessment and the assessment can then be finalised. A reasonable cut-off point would be the close of the Section 42 consultation following receipt of comments on the Preliminary Environmental Information report (PEIR), unless new information presented subsequent to this that would significantly change the outcome of the assessment (e.g. a new designation).
- 3.5.1.2. It is acknowledged that further information and cumulative assessment may be requested by the Examining Authority during the Examination in accordance with the Planning Inspectorates Advice note 17: Cumulative Effects Assessment<sup>15</sup>. This information will be submitted in the most appropriate form for the relevant examination deadline.

### 3.6 REVIEW OF PREVIOUS DECISIONS AND SUGGESTED CHANGES WITHIN THE PLAN PROCESS

- 3.6.1.1. In order that progress is made, decisions and agreements made during the Evidence Plan process will only be revisited by all parties under certain circumstances as outlined below, this will also inform the assessment cut-off point:
- The project design is significantly changed e.g. the project boundary or the infrastructure to be installed changes the worst-case parameters agreed;
  - Errors in the data or analysis are detected requiring re-assessment; and/ or
  - If considerable new evidence emerges during the EIA process which is likely to change the outcome of the original assessment. For example, a new designation, additional receptors identified, legislative requirements, protected species, and/or important habitats are found to be present in, or near, the site.

<sup>13</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/06/Advice-note-10v4.pdf>

<sup>14</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/12/Advice-note-17V4.pdf>

<sup>15</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/12/Advice-note-17V4.pdf>



### 3.7 APPROACH TO MITIGATION

- 3.7.1.1. The Applicant has committed to applying the mitigation hierarchy<sup>16</sup> across the design of the development. Where significant impacts in EIA terms are anticipated, mitigation is likely to be suggested and will be discussed through the Evidence Plan process. It is anticipated that mitigation measures will subsequently form Requirements within the DCO or Conditions in the deemed Marine Licence (dML).
- 3.7.1.2. Additional mitigation measures (i.e. those not inherently embedded into the projects design) must therefore be feasible from an engineering and cost perspective. They should be suitable, proven and proportionate to the level of identified impact. The requirement for mitigation should be flexible to allow the mitigation to be informed and developed based on best available scientific understanding and knowledge, noting that different mitigation could be applied at different phases of the project.
- 3.7.1.3. Where additional mitigation measures are required following completion of assessment, the residual impact with the proposed measures in place will be presented to the relevant members of the ETG. Where appropriate, these additional mitigation measures would be secured as a condition in the dML to provide certainty over its implementation.

### 3.8 APPROACH TO MONITORING

- 3.8.1.1. In addition to mitigation, there are likely to be potential monitoring requirements discussed through the Evidence Plan process and secured via DCO Requirements or dML Conditions. Future monitoring requirements should be sufficiently flexible, and should be informed and developed on the basis of best scientific understanding and knowledge. Monitoring requirements should be appropriate and proportionate for the different phases of the project.

### 3.9 MEETING MINUTES & CONSULTATION LOG

- 3.9.1.1. Meeting minutes will be taken for each meeting or workshop held during the Evidence Plan process, and VE OWFL will circulate the minutes within two weeks following the meeting. This meeting minutes will seek to capture all discussions held and advice provided to the Applicant.
- 3.9.1.2. If the minutes include agreements (or disagreements) made during the meeting, these should be ratified at the appropriate level within each organisation<sup>17</sup>. A response will be required on behalf of all parties in attendance to confirm that the minutes provide an accurate reflection of the meeting and subsequent outcomes.
- 3.9.1.3. In addition, a consultation log will be developed for each ETG to document areas of agreement and disagreement, and this will be updated as the Evidence Plan process progresses. The consultation log (and minutes) will provide an audit trail of discussions as a means to reduce the need for reiteration of previous discussion. A copy of the relevant aspects of the consultation log will be appended to meeting minutes for review and agreement.
- 3.9.1.4. It is acknowledged that the development and subsequent agreement of the SoCG is beyond the scope of this Plan as this will be undertaken during the examination phase (in accordance with the examination timetable).

<sup>16</sup> This hierarchy is based on the 'Guidelines For Ecological Impact Assessment In The UK And Ireland' (CIEEM, 2018) and is a sequential process to minimise the residual effects through the various potential stages until adverse significant effects are appropriately mitigated or remediated.

<sup>17</sup> It is the participants obligation to indicate in the meeting/workshop if agreement cannot be reached based on the information presented for discussion for ratification at an organisation level. Please also see footnote 4 for process of written formal agreements as required by some parties.



3.9.1.5. This document outlines an iterative process and will therefore be updated as the process progresses. If updates are required to this document they will be made as an addendum, thereby maintaining a clear and transparent audit trail. The Terms of Reference, as outlined in this document, will be agreed by all members of the Plan.

### 3.10 CONTACT DETAILS

3.10.1.1. Only if all parties of an ETG agree, the contact details of the members of the ETG will be shared with the other ETG members.

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