



Five Estuaries Offshore Wind Farm Case  
Team  
Planning Inspectorate  
[FiveEstuaries@planninginspectorate.gov.uk](mailto:FiveEstuaries@planninginspectorate.gov.uk)  
**(By Email only)**

MMO Reference: DCO/2019/00008  
Planning Inspectorate Reference: EN010115  
Identification Number: 20049306

03 March 2025

Dear Sir or Madam,

**Planning Act 2008, Five Estuaries Offshore Wind Farm Ltd, Proposed Five Estuaries Offshore Wind Farm Order**

**Deadline 7 Submission**

On 23 April 2024, the Marine Management Organisation (the “MMO”) received notice under section 56 of the Planning Act 2008 (the “PA 2008”) that the Planning Inspectorate (“PINS”) had accepted an application made by Five Estuaries Offshore Wind Farm Ltd (the “Applicant”) for determination of a development consent order for the construction, maintenance and operation of the proposed Five Estuaries Offshore Wind Farm (the “DCO Application”) (MMO ref: DCO/2019/00008; PINS ref: EN010115).

The Applicant seeks authorisation for the construction, operation and maintenance of the DCO Application, comprising of up to 79 wind turbine generators together with associated onshore and offshore infrastructure and all associated development (“the “Project”).

As a marine licence has been deemed within the draft DCO, the MMO is the delivery body responsible for post-consent monitoring, variation, enforcement, and revocation of provisions relating to the marine environment. As such, the MMO has an interest in ensuring that provisions drafted in a deemed marine licence enable the MMO to fulfil these obligations.

This document comprises the MMO comments in respect of the DCO Application submitted in response to Deadline 7.

This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.



Yours sincerely,

[REDACTED]  
Emma Chalk  
Marine Licensing Case Officer

[REDACTED]@marinemanagement.org.uk

Copies to:

Nicola Wilkinson (MMO) – Case Manager: [REDACTED]@marinemanagement.org.uk

Rebecca Reed (MMO) – Senior Case Manager:

[REDACTED]@marinemanagement.org.uk



Marine  
Management  
Organisation

...ambitious for our  
seas and coasts



## Contents

1. MMO Comments on Draft Development Consent Order (DCO) – Revision G – REP6-007/REP6-008 .....	4
2. MMO Comments on Applicant’s Deadline 6 Submissions .....	16
3. MMO Comments on Interested Parties’ (IP) Deadline 6 Submissions.....	19
4. MMO Comments on PD-024 - Request for Further Information - Rule 17 - 27 January 2025.....	23
5. MMO Comments on PD-026 - Examining Authorities Written Questions 3 (ExQ3) ....	24
6. MMO Comments on Report on the Implications for European Sites (RIES).....	28



# 1. MMO Comments on Draft Development Consent Order (DCO) – Revision G – REP6-007/REP6-008

## 1.1. Schedule 10/Schedule 11 Deadline 6 Updates

- 1.1.1. Any reference to Schedule 10 also refers to any similar condition within Schedule 11 unless otherwise stated.

### Marine Mammal Monitoring

- 1.1.2. The MMO notes the amendment made to Schedule 10, Part 2, Condition 19 (1) and (2) where clarification is made to state *‘four of the first 12’* and *‘the first of the four of the first 12 piled foundations of each piled foundation type piled foundations monitored in accordance with sub-paragraph (1)’*. The MMO welcomes the clarification.
- 1.1.3. The MMO notes the amendment made to Schedule 11, Part 2, Condition 20 (1) and (2), clarifying *‘four of the first 12’* and *‘of the first piled foundation monitored in accordance with sub-paragraph (1)’*.
- 1.1.4. The MMO would highlight that other windfarms in reviewing the monitoring plans have agreed to monitoring the worst-case scenario piles post consent, so this is possible. However, noting the Applicant’s comments the MMO would welcome a commitment within the monitoring plan to ensure the piles monitored are of those that represent the maximum hammer energy.

### Navigable Depth

- 1.1.5. The MMO notes the amendment to Schedule 11, Part 2, Condition 4 (3) to include *‘other than in areas shown shaded yellow on the Deep water Route Cabel Installation Area (Future Dredging depths) plan where navigable depth may not be reduced to any extent’*.
- 1.1.6. The MMO notes that no other changes to conditions in the deemed Marine Licences (DMLs) have been made.
- 1.1.7. The MMO has been in discussions with the Port of London Authority in relation to the ongoing areas of disagreement and has requested updates to the DML to align with the DCO.
- 1.1.8. The MMO requests the following definitions are added to Schedule 11, Part 1, 1(1):  
*“Area of Interest” means the areas shown shaded in yellow on the Deep Water Routes Cable Installation Areas (Future Dredging Areas) plan, encompassing the cable corridor crossings of the Deep Water Routes*  
*“The Deep Water Routes Cable Installation Areas (Future Dredging Areas) plan” means the document certified such by the Secretary of State for the purposes of this Order under article 44 (certification of plans etc.);*





1.1.9. The MMO requests that the Port of London Authority is added to the list of organisations for Schedule 11, Part 1, 1(4).

1.1.10. The MMO requests that the following is added to Condition 3 (3):

*(3) That any part of Work No.2(c), any associated development or ancillary works located within the Sunk and Trinity Deep Water Routes, as shown shaded yellow on the Deep Water Route Cable Installation Area (Future Dredging depths) plan must be installed or placed and thereafter maintained, operated and decommissioned to a level which would not impede the dredging of those parts of the Sunk and Trinity Deep Water Routes:*

- (i) shown shaded in yellow and outlined in a bold black line (and labelled Sunk Area A (22m CD)) to a level of 22 metres below Chart Datum;*
- (ii) shown shaded in yellow and outlined in a blue dotted line (and labelled Trinity (22m CD)) to a level of 22 metres below Chart Datum; and*
- (iii) shown shaded in yellow and cross hatched in orange (and labelled Sunk Area B (19m CD)) to a level of 19 metres below Chart Datum.];*
- (iv) and in all cases (i) to (iii) makes allowance for an 'over-dredge' in addition to the stated depths attributable to standard dredging methodology*

1.1.11. The MMO requests that Condition 4(3) is updated to the following:

*(3) In undertaking activities under condition 4(2) (f), ), other than within the areas shown shaded yellow on the Deep Water Route Cable Installation Area (Future Dredging depths) plan where navigable depth may not be reduced to any extent, the undertaker must not reduce water depth by more than 5% unless agreed with the MMO in writing following consultation with the MCA.*

1.1.12. The MMO requests that the PLA is added as a consultee to the following conditions in Schedule 11, Condition 4 (4), 7 (9-15), 8 (2) and Condition 16.

1.1.13. The MMO requests that Schedule 11, 13 (1), (1)(a) and (g) is updated to include the following text:

*13.—(1) The licensed activities for each stage of construction of the authorised development must not commence until the following (insofar as relevant to that activity or stage of activity) has been submitted to and approved in writing by the MMO, in consultation with, where relevant, Trinity House, the MCA, and UK Hydrographic Office and relevant SNCB and in the case of Work No 2(c) or works within the Area of Interest the PLA —*

*(a) A design plan, prepared in accordance with the offshore project design principles document at a scale of between 1:25,000 and 1:50,000, or in such other format as may be appropriate, including detailed representation on the most suitably scaled chart, which shows for the relevant stage—*

*(i) the proposed location, including grid co-ordinates of the centre point of the proposed location for each offshore substation platform, subject to any micro-siting*



*required due to anthropological constraints, environmental constraints or difficult ground conditions discovered post approval under this condition and choice of foundation types for all offshore electrical installations;*

*(ii) the dimensions of all offshore electrical installations to be installed, including any antennae;*

*(iii) the length, **depth** and arrangement of cables comprised in Work Nos. 2, 2A and 3 **including cable crossings**;...*

*(g) a cable specification and installation plan for the relevant stage **in accordance** with the principles of the outline cable specification and installation plan, to include—*

*(i) technical specification of offshore cables (including fibre optic cable) below MHW within that stage, including a desk-based assessment of cable burial depth in accordance with good industry practice;*

*(ii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment **demonstrating compliance with condition 3(3) above in the case of cable protection within the Area of Interest and otherwise** encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA, **the PLA** and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection;*

*(iii) proposals for the volume, **depth** and areas of cable protection to be used for each cable crossing, and proposals for timing and methodology for reporting on actual volumes, **actual depths** and areas post construction;...*

1.1.14. The MMO notes that the PLA requested an update and addition to Condition 13 (1)(g) and understands as the definition is now included that only one cable laying plan is required. The MMO is content either way as long as it is clear the cable laying plans would be different and not cover the same areas, to reduce the duplication.

#### In accordance

1.1.15. The MMO would also ask that Condition 13 (1) is consistent – sometimes the wording states, ‘in accordance with the outline plan’ and sometimes states ‘which accords with the principles set out in the outline plan’. The MMO believes that this should always be ‘in accordance with’ and requests Condition 13 (i, j, k and l) are updated accordingly.

## **1.2. Decommissioning**

1.2.1. The MMO notes that decommissioning activities have not been fully considered the MMO requests an outline decommissioning plan to be part of the consenting



process. The recently published guidelines by Offshore Energies UK (OEUK, 2024) for 'Designing for Decommissioning of Offshore Wind' states that:

*"Assets should be designed to be decommissioned with a technology available at the time of commissioning"*

1.2.2. The MMO notes Examining Authority for Five Estuaries Offshore Wind Farm Limited (project EN010115) has requested from the Applicant that:

*"Decommissioning is required to be assessed in order that the Examining Authority (ExA) and Secretary of State can have regard to the likely significant effects of the whole project over its lifecycle in making a recommendation and determination."*

1.2.3. This can be achieved by following the OEUK 'Designing for Decommissioning of Offshore Wind' guidelines and assessing decommissioning based on available technologies now and not in the future.

1.2.4. The MMO understands that there is a requirement for a decommissioning programme to be submitted to the Secretary of State (SoS) in Schedule 2, Requirement 19 (now 21), however believes that this information should be provided at this stage.

1.2.5. However, in noting the stage in Examination the MMO would welcome a commitment within the commitment register to review the initial decommissioning programme and all updated programmes prior to the submission to the SoS. The MMO notes the SoS does consult on the initial programme but would welcome earlier engagement to ensure all comments can be actioned prior to the approval by the SoS.

### **1.3. Condition 6 Notifications and Inspections**

1.3.1. The MMO requests that for Schedule 10, Part 2, Condition 6(7) the notification is updated to 14 days. This is to allow coastal officers to have enough time to prepare and arrange coastal compliance inspections. This has been requested to be updated on all Marine Licences and all DMLs going forward and the MMO would note that the Applicant's programme of works will allow enough time for these notifications to be issued within the updated timescales. To assist with planning and resources this earlier notification would be welcomed even if any changes should occur to the activity start date.

1.3.2. The MMO has recently had a meeting with Kingfisher and requests that Schedule 10, Part 2, Condition 6 (8), has a minor update and is updated to

*(8) The Kingfisher Information Service of Seafish must be informed of details of the vessel routes, timings and locations relating to the construction of the authorised scheme or part thereof by include the information in a notice via their portal (<https://kingfisherbuletin.org/submit-notice>) and sent to [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk)—*

*(a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and*





*(b) as soon as reasonably practicable and no later than 24 hours after completion of the authorised scheme*

*and confirmation of notification must be provided to the MMO within five days.*

#### **1.4. Condition 22 Marine Noise Registry (MNR)**

- 1.4.1. The MMO notes that in REP6-043, the Applicant does not agree with the updated condition.
- 1.4.2. The MMO would highlight that the MNR has been and is continuously being updated to enable access to noisy activities with the view to assist with the management of noisy activities, especially within the Southern North Sea Special Area of Conservation (SNS SAC).
- 1.4.3. The MMO has liaised with the Joint Nature Conservation Committee (JNCC) and requests that Condition 22(1) is updated to the condition set out in REP4-052.
- 1.4.4. Part (a) ensures that there is a lead in time to enable all parties to understand what activities could be taking place in the following year, part (b) allows these activities to be updated when the programme has been refined to make sure any one utilising the information has the most up to date information. The MMO would highlight the information would be known as part of the submission of the SNS SAC SIP and therefore does not believe it is burdensome.
- 1.4.5. Part (c) allows for the recording of the activities and understands that this information has been provided earlier than the 12 weeks by many developers to date. This information is essential to enable review and reporting of the information as soon as possible. The MMO would note that 12 weeks may still be an option dependant on when the activities are completed.
- 1.4.6. The MMO would also highlight that reporting may change further to live or daily reporting. This is still in development as part of the MNR upgrades and at this stage the MMO believes that the updated timeframes in the requested condition are appropriate at this time.
- 1.4.7. The requested condition is the standard condition across all developments not just offshore windfarms and this should be included in the DMLs.

#### **1.5. Condition 11 Force Majeure**

- 1.5.1. The MMO notes that in REP6-043, the Applicant comments that they disagree with our position on Force Majeure.
- 1.5.2. The MMO still maintains its position. Currently the condition does not meet the five tests as set out in the National Planning Policy Framework, which the MMO explained the reasons in REP5-100. For Marine Licences, if a condition does not meet the five tests, then that condition cannot be included. Therefore, the MMO disagrees and requests the condition be removed from the DMLs.
- 1.5.3. The Applicant's response still does not refute that the use of 'any other cause' is a very broad statement. Conditions must be precise, which currently using this term, it is not precise and could cover anything.





- 1.5.4. As previously stated, the MMO has consistently challenged provisions of this nature in draft DCOs as the existing statutory procedure is to be preferred to mitigate risk on all parties by using established mechanisms. For instance, the MMO has contested this in the recent Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm (OWF) DCO, Rampion 2 OWF DCO, Immingham Green Energy Terminal DCO and the Immingham Eastern Ro-Ro Terminal. The MMO is also contesting these provisions in draft DCOs that are currently undergoing examination such as Morgan Generation DCO and Outer Dowsing DCO. Therefore, precedence should not be a reason the Secretary of State allows the provision.
- 1.5.5. The MMO highlights that this issue is not agreed and will not be resolved during examination.

## 1.6. Article 5 Transfer of Benefit of the Order

- 1.6.1. The MMO notes the Applicant's position as stated in REP6-043. The MMO still disagrees and maintains our position that this provision should not be included.
- 1.6.2. The MMO has pushed back on the inclusion of this provision for many of the DCOs and has continued to do so during the recent DCOs undergoing examination.
- 1.6.3. With regards to Transfer of Benefit being included in other DCOs and setting a precedent, the MMO considers that this does not mean the provisions that are in other orders should be repeated here, especially if there is good reason why they should not be included. The MMO had model provisions, however we have moved away from them now as our stance has changed, and we have provided our reasoning why we are against this provision in REP1-0 and REP5-100.
- 1.6.4. The MMO also notes that it is not clearly explained within the Sheringham and Dudgeon Extension Recommendation report or Decision document on the inclusion of the Transfer of Benefit. Since this Examination the MMO has provided further representation and counsel comments.
- 1.6.5. The MMO does not believe precedent and consistency is reason alone to keep including the DML within Article 5.
- 1.6.6. The MMO highlights that further comments have been provided in Section 5 of this document. This issue is not agreed and will not be resolved during examination.

## 1.7. Condition 10(1) Chemicals, drilling, debris

- 1.7.1. The MMO requested for Condition 10(1) to be updated in REP5-100 to:
- 'Unless otherwise agreed in writing by the MMO, all chemicals and substances, including paints and coatings, used below MHWS for the undertaking of the licensed activities must be approved in writing by the MMO prior to use. Submission for approval to the MMO must take place no later than ten weeks prior to use, unless otherwise agreed by the MMO in writing.'*



1.7.2. The MMO notes the Applicant's comments in REP6-043 (MMO-13), where the Applicant believes the offshore chemical regulations 2002(a) should be a point of reference for offshore wind and does not agree with the change of wording.

1.7.3. The MMO, after further review and comments in relation to the feasibility of the condition, requests for the condition to instead be removed and for Condition 12(1)(d) to be updated to the following:

*(ii) a chemical risk assessment, including information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance and standards;*

*(X) a chemical risk assessment for all chemicals that have a pathway to the marine environment used for the marine licensed activities, outside the course of normal navigation, and are not present on the OSPAR List of Substances Used and Discharged Offshore which Are Considered to Pose Little or No Risk to the Environment (PLONOR) including;*

*(i) the function of the chemical,*

*(ii) the quantities being used and the frequency of use,*

*(iii) the physical, chemical, and ecotoxicological properties.*

*Submissions for approval must take place no later than ten weeks prior to use.*

This would also include adding the following definitions to the 'interpretation' section of the DML:

*"pathway to the marine environment" open systems or closed systems that require top up.*

*"chemicals" comprise both substances and preparations.*

*"preparation" means a mixture or solution composed of two or more substances  
"substance" means a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition;*

1.7.4. The MMO notes that the current wording of Condition 12 (1)(d)(ii) states 'register' and can agree that this could remain for (ii) only.

1.7.5. Based on the best available evidence to date, the MMO aims to create a revised, consistent and thorough approach to chemical consenting for OWF. This should proactively avoid last minute delays and provide robust evidence regarding environmental impacts.

1.7.6. The current approach for consented OWF projects requires chemical information to be submitted in an inconsistent manner across different projects. This results in many chargeable hours from both the MMO and Centre for Environment Fisheries and Aquaculture Science (Cefas) for reviewing, assessing and requesting information from applicants.

1.7.7. Past DML's have referenced the Offshore Chemical Notification Scheme (OCNS) definitive ranked list of registered products (or otherwise incorrectly termed



“approved list of chemicals”) for offshore petroleum activities, stating that chemicals for use should be chosen from this list or consent sought where unable. However, the use of this list for offshore petroleum activities does not remove the need for approval and reporting, as such, the use of this list for OWF should also not remove the need for approval and reporting. Noting that the list contains chemicals considered to be a threat to the marine environment (Chemicals of Priority Action) (as reported by OSPAR), the list should not be relied upon for assumption of safe use. The MMO has reviewed this past way of working, alongside new available evidence and is proposing an improved process. The approach being sought through this new condition is explained below.

- 1.7.8. For all chemicals, written approval from the MMO must be obtained before their use, regardless of the risk of entering the marine environment. This is already standard practice and is conditioned by the requirement for a chemical risk assessment to be submitted to and approved by the MMO before the licensed activities or any phase of those activities may commence (usually held within the pre-construction plans and documentation of the DML conditions, e.g. the Project Environmental Management Plan). The condition generally reads as follows “chemical risk assessment including information regarding how and when all chemicals are to be used, stored and transported in accordance with recognised best practice guidance and standards”. For completeness, the MMO outlines that this should include information on chemical use including function (meaning what the chemical will be used for, e.g., use within engines, paint, degreaser), methodology, quantity, and frequency of use.
- 1.7.9. The MMO is proposing a change for chemicals with a pathway to the marine environment, where more information beyond the standard chemical risk assessment (above) is required.
- 1.7.10. A more detailed chemical risk assessment (CRA) should be provided for any chemical with a “pathway to the marine environment”, this includes chemicals used in both open systems, and closed systems where “top-up” is required (i.e., repeated use or maintenance). The CRA should include information on the physical, chemical, and ecotoxicological (bioaccumulation, biodegradability and aquatic toxicity) properties, and function of the chemical, alongside the quantities and frequency of use. This should be submitted to the MMO no later than 10 weeks prior to use. The review of this information and/or in consultation with Cefas, will allow the MMO to make a determination on an approval for chemicals use by a project.
- 1.7.11. The MMO is aware that concerns may be raised around the 10-week submission timescale proposed within the condition and provide the following justification. Based on the information intended to be assessed by Cefas obtained through this condition, the MMO has accounted for an 8-week-period for their review. The MMO further anticipates a 2-week period within which to review the submission, regard Cefas advice, and make a determination. This is deemed to be acceptable considering the current timeframes for which projects currently receive post-consent chemical discharges.
- 1.7.12. The definitions to be included within the consents pertaining to the new condition wording, come from the definition for ‘chemicals’, ‘preparation’ and ‘substance’





given within OSPAR Decision 2002/2 on a Harmonised Mandatory Control System for the Use and Reduction of the Discharge of Offshore Chemicals.

- 1.7.13. The MMO further includes clarity on where other regulations/ agreements exempt chemicals from this process.
- 1.7.14. This approach should exempt fluids used within gears and machinery (closed systems) from requiring a more detailed CRA, and disregards chemicals used on vessels and accommodation type chemicals (bleaches/toilet cleaners/grey water etc.), which are covered by alternative regulations.
- 1.7.15. As the OSPAR Commission considers that the substances on the “OSPAR List of Substances Used and Discharged Offshore which Are Considered to Pose Little or No Risk to the Environment (PLONOR)” pose little or no risk to the environment and that they do not normally need to be strongly regulated they have been exempted from the need for approval.
- 1.7.16. The MMO notes that the same CRA can be used for submission across both conditions, as long as they contain the necessary information and presented in a format allowing for clear distinction between the two requirements.
- 1.7.17. The MMO is committed to supporting all of the UK government's environmental goals, this includes both net zero targets and nature and biodiversity targets by promoting sustainable practices to protect and enhance the marine environment. This new condition enables both, by ensuring the proactive collection, assessment and management of evidence regarding chemical use post-consent.
- 1.7.18. This is the MMO's position and this has been set out in all current Examinations.

## 1.8. Condition 10 (10) – Dropped Objects

- 1.8.1. The MMO previously noted that the MCA requested for Condition 10 (10) to be reworded to the following:

*'All dropped objects must be reported to the MMO, UKHO and HMCG using the Dropped Object Procedure Form as soon as reasonably practicable and no later than 6 hours of the undertaker becoming aware of an incident. Immediate notification should be made to HM Coastguard via telephone where there is a perceived danger or hazard to navigation. On receipt of the Dropped Object Procedure Form, the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.'*

- 1.8.2. The MMO stated that we were reviewing this condition. The MMO proposes the following condition which is agreed with the Maritime and Coastguard Agency (MCA):

**10 (10) (a) Debris or dropped objects which are considered a danger or hazard to navigation must be reported as soon as reasonably practicable but no later than six hours from the undertaker becoming aware of an incident, to the relevant HM**





Coastguard Maritime Rescue Co-ordination Centre by telephone (add number), and the UK Hydrographic Office email: [navwarnings@btconnect.com](mailto:navwarnings@btconnect.com).

*(b) All dropped objects including those in (a), must be reported to the MMO using the Dropped Object Procedure Form (including any updated form as provided by the MMO) as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident, unless otherwise agreed in writing with the MMO.*

*(c) On receipt of notification or the Dropped Object Procedure Form the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the marine environment at the undertaker's expense if reasonable to do so.*

- 1.8.3. The MMO is currently reviewing the Dropped Object Procedure and there is a potential of a change of wording to align with Marine Directorate - <https://www.gov.scot/publications/offshore-renewables-accidental-deposit-of-an-object-at-sea-form-and-guidance/> (The MMO can PDF this webpage if requested by the ExA). This change should not alter the requirement by the Applicant or any changes to the DML as (b) identifies what should be submitted, it would just be a change in wording.
- 1.8.4. The aim of this update is to ensure that reports must be made no later than 6 hours after the incident has been discovered for more major 'deposits' i.e. those that may be hazardous to shipping and within 24 hours of the incident being discovered in all other cases. A defined list of major deposits cannot be provided due to the nature of the activity. If the Project is in doubt whether an object is a danger/hazard to navigation, then we would encourage them to assume it is and report it within 6 hours as per the condition.
- 1.8.5. The MMO notes that the current condition wording states 96 hours, this has not been the appropriate timeframe for a number of years as 24 hours is the standard. The MMO believes this change does not increase the reporting requirements as for major incidents/deposits the undertakers usually do contact the coastguard in less time than the 24 hours. All this updated condition is doing is ensuring it is clear for all parties on the expectations should an incident occur and does not believe this is burdensome.

## **1.9. Materiality and Maintain**

- 1.9.1. The MMO notes the Applicant's response to our comments on Materiality (REP5-100) in REP6-043. The MMO still disagrees with the Applicant however on this occasion has no further comments and considers this matter closed.
- 1.9.2. The MMO still does not agree with Part 1 Paragraph 7 and the reference to Transfer of Benefit as per the comments in Section 1.6 of this document.

## **1.10. Part 1, Paragraph 2a and Part 2, Condition 10 (5)– Disposal sites**



- 1.10.1. The MMO is still reviewing updated information in relation to sediment and disposals. It is for the MMO to designate disposal sites and until the MMO is content the reference number cannot be provided to be included in the DML.
- 1.10.2. It is standard to have the disposal site reference number on the DML. The MMO is hoping the information provided by the Applicant satisfies the disposal site designation however proposes two options, one if the reference can be provided prior to the end of examination and one if not.
- 1.10.3. Should the disposal site reference be provided Paragraph 2a and Condition 10(5) should be updated to the following:

*...(a) the deposit at sea within the Order limits seaward of MHWS of the substances and articles specified in paragraph 4 below and within Work No. 1 when combined with the disposal authorised within the cable corridor disposal site by the deemed marine licence granted under Schedule 11 of the Order, of up to 24,556,610 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable installation preparation works within the array area disposal site [reference XX](#);...*

*10(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation or seabed preparation for foundations, vessels or cables, and drilling mud is disposed of within [disposal site reference XX](#) within the Order limits seaward of MHWS.*

- 1.10.4. Should the disposal site reference not be agreed prior to the end of Examination Paragraph 2a and Condition 10(5) should be updated to the following:

*...(a) the deposit at sea within the Order limits seaward of MHWS of the substances and articles specified in paragraph 4 below and within Work No. 1 when combined with the disposal authorised within the cable corridor disposal site by the deemed marine licence granted under Schedule 11 of the Order, of up to 24,556,610 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable installation preparation works within the array area disposal site [as approved in writing by the MMO](#);...*

*10(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation or seabed preparation for foundations, vessels or cables, and drilling mud is disposed of within the Order limits seaward of MHWS [as approved in writing by the MMO](#).*

### **1.11. Condition 13(3) – Determination dates**

- 1.11.1. The MMO does not agree with the inclusion of a determination date for the MMO.
- 1.11.2. The MMO strongly considers that it is inappropriate to put timeframes on complex technical decisions of this nature. The time it takes the MMO to make such determinations depends on the quality of the application made, the complexity of the issues, and the amount of consultation the MMO is required to undertake with other organisations to seek resolutions. The MMO's position remains that it is inappropriate to apply a strict timeframe to the approvals the MMO is required to give under the conditions of the DML given this would create disparity between



licences issued under the DCO process and those issued directly by the MMO, as marine licences issued by the MMO are not subject to set determination periods.

- 1.11.3. Whilst the MMO acknowledges that the Applicant may wish to create some certainty around when it can expect the MMO to determine any applications for an approval required under the conditions of a licence, and whilst the MMO acknowledges that delays can be problematic for developers and that they can have financial implications, the MMO stresses that it does not delay determining whether to grant or refuse such approvals unnecessarily. The MMO makes these determinations in a timely manner as it is able to do so. The MMO's view is that it is for the developer to ensure that it applies for any such approval in sufficient time as to allow the MMO to properly determine whether to grant or refuse the approval application.
- 1.11.4. The MMO would also question on what would happen should the MMO not make the approval within the six months approval period?

### **1.12. Schedule 2 Requirement 1 – Time limits/Lifespan**

- 1.12.1. The MMO has noted that on some offshore windfarms that the ES has not assessed a number of years during the Operation and Maintenance (O&M) phase.
- 1.12.2. This is not the case for the Project. However, the MMO wanted to highlight to the ExA and SoS that there may be a benefit to including an end date of the O&M phase within the DCO and DML in relation to the lifespan of the project to ensure that it is clear that any repowering etc. would be subject to a new consent or variation. The MMO notes that Marine Licences have end dates for all construction and maintenance activities and there is a clear line when a new consent is required.
- 1.12.3. The MMO is still discussing a position internally and understands that it is too late to raise it with the Applicant but wanted to highlight to the ExA and SoS for consideration.





## 2. MMO Comments on Applicant's Deadline 6 Submissions

### 2.1. General Comments

- 2.1.1 The MMO notes the Applicant submitted the following documents in Deadline 6:
- a. REP6-011/012 – 6.5.6.2.1 Landfall Impact Piling Modelling - Revision B (Clean/Tracked)
  - b. REP6-013/014 – 6.5.6.4 Herring Seasonal Restriction Note - Revision D (Clean/Tracked)
  - c. REP6-020/021 – 9.12 Outline Cable Specification and Installation Plan - Revision C (Clean/Tracked)
  - d. REP6-022/023 – 9.15 Outline Southern North Sea Special Area of Conservation Site Integrity Plan - Revision B (Clean/Tracked)
  - e. REP6-024/025 – 9.16 Outline Fisheries Liaison and Co-existence Plan - Revision D (Clean/Tracked)
  - f. REP6-028/029 – 9.32 Offshore In Principle Monitoring Plan - Revision C (Clean/Tracked)
  - g. REP6-035/036 – 10.12 Marine Plan Policy Assessment - Revision D (Clean/Tracked)
  - h. REP6-037/038 – 10.20.1 Technical Note - Methodology for Determining MDS (Offshore) - Revision C (Clean/Tracked)
  - i. REP6 –041/042 – 10.30 Outline Sediment Disposal Management Plan - Revision B (Clean/Tracked)
  - j. REP6-043 – 10.40 Applicant's Comments on Deadline 5 Submissions
- 2.1.2. The MMO is currently still reviewing some of the documents above with our scientific advisors and will provide our comments to the Applicant on 7 March 2025.

### 2.2. REP6-011/012 – 6.5.6.2.1 Landfall Impact Piling Modelling - Revision B (Clean/Tracked)

- 2.2.1. The MMO welcomes the updates and will provide our specialist comments to the Applicant on 7 March 2025.

### 2.3. REP6-020/021 – 9.12 Outline Cable Specification and Installation Plan - Revision C (Clean/Tracked)

- 2.3.1 The MMO notes the updates have been made in relation to the outstanding concerns by the PLA and is content with the updates.

### 2.4. REP6-022/023 – 9.15 Outline Southern North Sea Special Area of Conservation Site Integrity Plan - Revision B (Clean/Tracked)





- 2.4.1 The MMO notes the changes made to REP6-023. In particular, the MMO welcomes the inclusion of the inclusion of the comments under Department for Environment Food and Rural Affairs (Defra) Noise Policy Paper in Section 4.3.
- 2.4.2 The MMO would advise that although the update is '*VE will demonstrate that they have utilised best endeavours to deliver noise reductions for pile driving activity*'. These updates should also be reflected in the outline MMMP.
- 2.4.3 The MMO would also highlight that the SIP considers in-combination effects with other Projects which may have suffered technical issues and programme changes which may mean that Noise Abatement will be required to be certain that noise thresholds are not breached. Further commitment should be clarified now. The policy is not just for the Marine Protected Areas but is to reduce noise as a whole and this should be taken into account.
- 2.4.4 In addition to the above the MMO would also advise that 'best endeavours' relates to wildlife licensing for disturbance and injury to protected species. This is a different legal test than following policy and being below the SAC thresholds and the MMO would strongly advise that Noise Abatement Systems (NAS) will likely be required for all piling in the coming years.
- 2.4.5 The MMO is currently having ongoing discussions on whether to include a NAS condition within DMLs. At this stage the MMO has no condition to provide and no position to provide to the Examining Authority (ExA) but understands that Natural England is requesting this commitment on the face of the DML and would welcome further discussions should a condition be provided.

## **2.5. REP6-024/025 – 9.16 Outline Fisheries Liaison and Co-existence Plan - Revision D (Clean/Tracked)**

- 2.5.1 The MMO welcomes the updates in relation to monitoring and will provide any specialist comment to the Applicant on 7 March 2025.

## **2.6. REP6-028/029 – 9.32 Offshore In Principle Monitoring Plan - Revision C (Clean/Tracked)**

- 2.6.1 The MMO welcomes the updates and notes there were changes to multiple sections.
- 2.6.2 The MMO defers to Natural England in relation to Ornithology and Bats.
- 2.6.3 The MMO defers to MCA and TH in relation to shipping and navigation monitoring.
- 2.6.4 The MMO welcomes the updates to clarify the monitoring that can be used by the commercial fisheries interested parties to review the impacts and will provide our specialist comments to the Applicant on 7 March 2025.
- 2.6.5 The MMO defers to Historic England in relation to Offshore Archaeology.
- 2.6.6 The MMO is reviewing the updates in relation to Coastal processes and Benthic matters and will provide our specialist comments to the Applicant on 7 March 2025.
- 2.6.7 The MMO notes that no update in relation to our comments in Section 2.5 of REP6-063 has been provided and would request that the following sentence is added to the plan, reference to the current standards should also be made.



*'The Applicant will give consideration to the MMO Standardisation of Offshore Wind Post-Consent Monitoring, forthcoming, to ensure that any standards or best practice is adhered to.'*

## **2.7. REP6-035/036 – 10.12 Marine Plan Policy Assessment - Revision D (Clean/Tracked)**

2.7.1 The MMO notes the update to the Marine Plan Policy Assessment to include a figure of the marine plan boundaries. The MMO welcomes this inclusion.

## **2.8. REP6-043 – 10.40 Applicant's Comments on Deadline 5 Submissions**

2.8.1 The MMO addresses some of the comments made by the Applicant relating to the DMLs in Section 1 of this response.

2.8.2 The MMO notes the Applicant's comment for MMO-16. The MMO provided further comments on some requested MCA conditions in our Deadline 6 response (REP6-063). The MMO agrees with all the updates requested by MCA and has provided further comments on the main dropped object condition in Section 1.8 of this response

2.8.3 The MMO notes outstanding issues relate to disposal sites and fisheries.

2.8.4 The MMO would highlight that these are major concerns and is not confident these issues will be agreed prior to the close of examination. The MMO will provide a response to the Applicant 7 March and closing position to the ExA on 8 March 2025.

## **2.9. REP6- REP6-045 - 10.41 Applicant's Summaries of Oral Submissions - ISH6, CAH3 and ISH7**

2.9.1 The MMO notes the Applicant's comments regarding a meeting with the MMO for the DML not being arranged. The MMO would like to highlight that due to resourcing this has not been able to occur and did request meetings were adequately planned in advance of Examination beginning. The MMO provided further comments on the DML in REP5-100 and have clarified the position in Section 1 and 5 of this document. The MMO agrees the concerns regarding Force Majeure and Benefit of the Order are not agreed and will remain that way at the end of Examination.



### 3. MMO Comments on Interested Parties' (IP) Deadline 6 Submissions

#### 3.1. Natural England (NE)

- 3.1.1. The MMO notes NE submitted the following documents in Deadline 6:
- a. REP6-066 – Cover Letter
  - b. REP6-067 – Appendix B6 - Natural England's Marine Processes advice on the Applicant's Deadline 4 Documents
  - c. REP6-068 – Appendix E6 - Natural England's Benthic Ecology Advice on the Applicant's Deadline 4 Documents
  - d. REP6-069 – Appendix I6 - Natural England's Comments on 10.29 Applicant's Comments on Deadline 3 Submissions [REP4-040]
  - e. REP6-070 – Appendix L6 - Natural England's Risk and Issues Log
- 3.1.2. The MMO notes in REP6-066 that NE has highlighted that it has been agreed the relevant statutory nature conservation body should be named as a consultee on relevant DML conditions. This is, as mentioned, to reduce potential misunderstandings in the post consent phase.
- 3.1.3. The MMO notes in REP6-067 that NE seeks further information on the anticipated proximity of cable crossings to Margate and Long Sands Special Area of Conservation (MLS SAC) and Annex I sandbanks.
- 3.1.4. The MMO notes that NE advises that text is updated in REP4-041 with protocol of how boulders will be deposited, especially in MLS SAC. The MMO would welcome this.
- 3.1.5. The MMO notes that NE advises that disposal should be in like for like sediment areas to minimise any impacts to priority habitats. A 50-metre exclusion zone included around *Sabellaria spinulosa* reef has also been advised.
- 3.1.6. In relation to REP4-041, the MMO notes NE advises the use of downpipe when disposing of sediments should be committed to in all instances instead of 'where possible', unless agreed with the MMO in consultation with the relevant Statutory Nature Conservation Body (SNCB).
- 3.1.7. The MMO notes NE has provided further comments on marine processes and benthic concerns/updates and the MMO will maintain a watching brief for any amendments made by the Applicant in response.
- 3.1.8. The MMO notes that multiple documents have been updated by the Applicant and hope these updates address NE's concerns.





### **3.2. London Gateway Port Limited (LGPL) – REP6-080 – Any further information requested by the ExA under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010**

- 3.2.1. The MMO notes that LGPL suggests that any condition regarding installation depth for the export cable within the Deep Water Routes (DWRs) should be secured by adding a standalone requirement in Schedule 2 and has provided reasoning for this.
- 3.2.2. The MMO notes that LGPL also suggests that the condition is repeated in the DML in Schedule 11, which the MMO requested in REP6-063.
- 3.2.3. The MMO notes that LGPL agrees that the PLA should be recognized in Condition 13 (1)(j).
- 3.2.4. The MMO notes the wording of the new requirement proposed by the LGPL. The MMO has reviewed this suggestion alongside the suggestions from the PLA and Harwich Haven Authority.

### **3.3. Port of London Authority (PLA) – REP5-107 – Comments on any submissions received at Deadline 4**

- 3.3.1. The MMO notes PLA submitted the following documents in Deadline 6:
  - a. REP6-059 – Any further information requested by the ExA under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010
  - b. REP6-060 – Post-Hearing submissions including written submissions of oral case as requested by Examining Authority
  - c. REP6-061 – Action Points from Issue Specific Hearing 7
  - d. REP6-062 – Comments on any submissions received at Deadline 5 and Deadline 5A
- 3.3.2. The MMO notes the PLA welcomes the use of authorised development within the ExA's suggested condition.
- 3.3.3. The MMO notes there are still areas of disagreements between the Applicant and the PLA. The MMO will maintain a watching brief for a resolution to these concerns. The MMO does note however that the PLA and Applicant have come to an agreement over the area where deeper cable burial needs to occur.
- 3.3.4. The MMO notes the PLA has provided preferred wording for the condition which is aligned with the London Gateway Port Limited.
- 3.3.5. The MMO notes the PLA requests any parameter is included as a condition within Schedule 11 to ensure the MMO has oversight during the licensing processes. The MMO similarly requested this in our deadline 6 response (REP6-063).





- 3.3.6. The MMO has been in discussion with the PLA and notes they request the following changes to Schedule 11.
- 3.3.7. The MMO notes the PLA requests amendment to Schedule 11. These have been set out in Section 1 of this document. , Condition 3:
- 3.3.8. *The undertaker must ensure that in the design, implementation, operation and maintenance of the authorised development and ancillary works, a dredged depth of the Deep Water Routes to a depth of:*
- 3.3.9. *a) 22 metres below Chart Datum within the area shown shaded in yellow and outlined in a bold black line (and labelled Sunk Area A (22m CD)) on [works plan [6]];*
- 3.3.10. *b) 22 metres below Chart Datum within the area shown shaded in yellow and outlined in a blue dotted line (and labelled Trinity (22m CD)) on [works plan [6]]; and*
- 3.3.11. *c) 19 metres below Chart Datum within the area shown shaded in yellow and cross hatched in orange (and labelled Sunk Area B (19m CD)) on [works plan [6]];"*
- 3.3.12. *is not precluded or impeded."*
- 3.3.13. However, the MMO notes the PLA requests the following wording should the ExA adopt the Applicant's drafting:
- 3.3.14. *(3) That any part of Work No.2(c), any associated development or ancillary works located within the Sunk and Trinity Deep Water Routes, as shown shaded yellow on the Deep Water Route Cable Installation Area (Future Dredging depths) plan must be installed or placed and thereafter maintained, operated and decommissioned to a level which would not impede the dredging of those parts of the Sunk and Trinity Deep Water Routes:*
- 3.3.15. *(i) shown shaded in yellow and outlined in a bold black line (and labelled Sunk Area A (22m CD)) to a level of 22 metres below Chart Datum;*
- 3.3.16. *(ii) shown shaded in yellow and outlined in a blue dotted line (and labelled Trinity (22m CD)) to a level of 22 metres below Chart Datum; and*
- 3.3.17. *(iii) shown shaded in yellow and cross hatched in orange (and labelled Sunk Area B (19m CD)) to a level of 19 metres below Chart Datum.];*
- 3.3.18. *(iv) and in all cases (i) to (iii) makes allowance for an 'over-dredge' in addition to the stated depths attributable to standard dredging methodology*
- 3.3.19. The MMO agrees with the PLA's request of the addition to Schedule 11, Condition 4(3) before 'the undertaker':

*'other than within the areas shown shaded yellow on the Deep Water Route Cable Installation Area (Future Dredging depths) plan where navigable depth may not be reduced to any extent,'*



- 3.3.20. The MMO notes the PLA requests for Schedule 11, Condition 13 (1) (a) (iii) is changed to *'(iii) the length, depth and arrangement of cables comprised in Work Nos. 2, 2A and 3 including cable crossings'*. The MMO would welcome this change and requested this in Section 1 of this response.
- 3.3.21. The MMO notes the PLA requests for Schedule 11, Condition 13 (1) (g) is changed to *'a cable specification and installation plan for the relevant stage substantially in accordance with the principles of the outline cable specification and installation plan, to include'* with the addition of a part (ii) that states *'a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment demonstrating compliance with condition 3(3) within the Area of Interest'*. Please see comments in relation to accordance in Section 1.1.13 of this document.
- 3.3.22. The MMO notes the PLA requests for Schedule 11, Condition 13 (1) (g) (ii) is changed to include *'demonstrating compliance with condition 3(3) above in the case of cable protection within the Area of Interest and otherwise'* after *'burial risk assessment'*, with the addition of the PLA as a named consultee. The MMO has clarified this requested update with the PLA and understands only one document will be provided.
- 3.3.23. The MMO notes the PLA requests for Schedule 11, Condition 13 (1) (g) (iii) is changed to *'(iii)(iv) proposals for the volume, depth and areas of cable protection to be used for each cable crossing, and proposals for timing and methodology for reporting on actual volumes actual depths and areas post construction'*. The MMO would welcome this update.
- 3.3.24. The MMO notes the PLA requests for Schedule 11, Condition 13 (1) (g) (iii) is changed to include *'is in substantial accordance with'* instead of *'accords with'*. Please see Section 1.1.13 of this letter for further comments on in accordance.



## 4. MMO Comments on PD-024 - Request for Further Information - Rule 17 - 27 January 2025

### 4.1. General comments

- 4.1.1. The MMO noted in our Deadline 6 response that the Examining Authority (ExA) proposed the following wording for a condition regarding installation depth for the export cable within the Deep Water Routes (DWRs):

*'The construction, operation or decommissioning of the authorised development within the Deep Water Routes, as shown on drawing/plan ?????, must at no time preclude the dredging of the Deep Water Routes to a depth of 22 metres below Chart Datum'.*

- 4.1.2. The MMO was asked to consider the following:

*a) Consider the abovementioned wording for a DWRs parameter and advise on whether they consider the suggested wording would be suitable as drafted or would require amendment, suggesting any amendments considered to be necessary.*

*b) Advise on how the abovementioned wording of a DWRs parameter could be incorporated into the provisions of a made DCO, ie as an additional parameter incorporated into Table 1 of Requirement 2 in Schedule 2, a new standalone requirement in Schedule 2 or as an additional condition with the DML for the Transmission Assets (Schedule 11) or a combination of changes to both Schedules 2 and 11.*

- 4.1.3. The MMO provided some comments in REP6-063, regarding the MMO's stance on the potential condition. The MMO stated that we would welcome a combination of changes to both Schedules 2 and 11.

- 4.1.4. The MMO also notes the PLA and LGPL have provided deadline responses (REP6-059 and REP6-080 respectively) to provide their responses to the Rule 17 letter for their suggested changes to the potential condition, which the MMO has commented on in Section 1 and 3 of this letter.

- 4.1.5. The MMO notes the Applicant has updated Schedule 2 in the draft DCO in deadline 6 to include Requirement 2(3) as:

*(3) Any part of Work No.2(c), any associated development or ancillary works located within the Sunk and Trinity Deep Water Routes, as shown shaded yellow on the Deep Water Route Cable Installation Area (Future Dredging depths) plan must be installed at a level which would not impede the dredging of those parts of the Sunk and Trinity Deep Water Routes:*

*(a) shown shaded in yellow and outlined in a bold black line (and labelled Sunk Area A (22m CD)) to a level of 22 metres below Chart Datum;*





*(b) shown shaded in yellow and outlined in a blue dotted line (and labelled Trinity (22m CD)) to a level of 22 metres below Chart Datum; and*

*(c) shown shaded in yellow and cross hatched in orange (and labelled Sunk Area B (19m CD)) to a level of 19 metres below Chart Datum.*

- 4.1.6. The MMO notes the LGPL includes mention of not relocating any boulders or archaeological finds to the DWR or the DWR buffer in their suggested new requirement.
- 4.1.7. The MMO will review the updates at Deadline 7 and provide any further comments to the Applicant on 7 March 2025 if required.

## 5. MMO Comments on PD-026 - Examining Authorities Written Questions 3 (ExQ3)

### 5.1. General Comments

- 5.1.1. The MMO notes the ExA has asked the MMO a number of questions to consider.

### 5.2. DCO.3.03 - Articles 5 (Deemed marine licences) and 7 (Benefit of the Order) Further to:

- a. Your response to ExQ2 DCO.02.03 in [REP4-052]; and
- b. The Applicant's response to ExQ2 DCO.2.02 in [REP4-039], which cites the provisions of multiple recently made DCOs that include deemed Marine Licences and articles giving the Secretary of State the authority to transfer the benefit of those made orders from one party to another, explain why you consider your continued objection to Article 7's inclusion of a power for the Secretary of State to transfer the benefit of deemed Marine Licences included in Schedules 10 and 11 remains tenable.

- 5.2.1. The MMO's stance on the Benefit of the Order has not changed since our relevant representation (RR-070) and we provided additional reasoning in REP5-100. The MMO would like to highlight that this has been our stance on all draft DCOs that is currently undergoing examination.
- 5.2.2. The MMO will not be providing a without prejudice position as fundamentally disagrees with the inclusion of the DML being part of Article 5.
- 5.2.3. The MMO has reviewed the Applicant comments in REP4-039 and does not believe this response adds any further reasoning on why Article 5 should remain.
- 5.2.4. The MMO acknowledges the ExA and SoS made amendments in Hornsea Four OWF recommendation report/decision and notes the only reasoning provided was to keep them consistent with other consents and the SoS removed the ability to transfer part of the DML. The MMO has provided further reasoning since that Examination including counsel comments from Rampion 2 Examination, that were incorporated into our relevant and written representations alongside further comments on the Planning Act.



- 5.2.5. The MMO does not believe that these comments have been replied to in detail by the Applicant.
- 5.2.6. The MMO does not agree that because there is a provision in other DCOs that this is reason enough to include it in this one, as the drafting process is iterative.
- 5.2.7. The MMO highlights that with the inclusion of the provision that there will be delays for any variation to the DML, as this would still have to occur as the SoS has no powers post consent to vary the DML. So, should the Article remain as drafted and although the SoS has approved a transfer of benefit the DMLs will still set out who the undertaker is:
- “undertaker” means Five Estuaries Offshore Wind Farm Limited, incorporated under company number 12292474 and having its registered office at Windmill Hill Business Park, Whitehill Way, Swindon, Wiltshire, United Kingdom, SN5 6PB; ‘the undertaker – including address*
- 5.2.8. Any update to this has to be undertaken by a variation, which would only take place once notice of the transfer had taken place. As the undertaker would be incorrect, the MMO may impose a suspension while undertaking this variation as there would be compliance liability.
- 5.2.9. This means that the process is not achieving the required streamlined version the Applicant is requiring and actually increases the work and risk to the process.

### **5.3. DCO.3.12 - Schedule 10 (Deemed marine licence – Generation Assets)**

- 5.3.1 Subparagraph (1) of Condition 14 (Site Integrity Plan) needs to be sense checked and corrected, with the second stating of “... *which accords with the principles set out in the ...*” in the third line appearing to be superfluous and/or incomplete.
- 5.3.2 Are subparagraphs (4) and (5) of Condition 14 sufficiently precise, most particularly is the inclusion of “satisfied” sufficiently precise? Would wording as follows be more appropriate?
- “(4) In approving the SIP the MMO must determine whether the authorised scheme at the preconstruction stage, in-combination with other plans and projects, would be in line with the JNCC Guidance.”*
- “(5) The approved SIP may be amended with the prior written approval of the MMO, in consultation with the relevant statutory nature conservation body, where the MMO determines that the authorised development, in-combination with other plans or projects at the pre-construction stage, would be in line with the JNCC Guidance.”*
- 5.3.3 Is subparagraph (2) of Condition 19 (Marine Mammal condition) sufficiently precise, most particularly is the inclusion of “... *reasonable opinion of the MMO ...*”? Would wording as follows be more appropriate? “... *If the MMO, in consultation with the statutory nature conservation body, determines the assessment shows impacts significantly in excess to those assessed in the environmental statement ...*”
- 5.3.4 The MMO agrees that subparagraph (1) of the Site Integrity Plan condition is incomplete currently.



5.3.5 The MMO understands the ExA concern with the use of ‘satisfied’ in subparagraphs (4) and (5) as is part of the condition. The MMO has no objections to the suggested changes.

5.3.6 The MMO welcomes the ExA’s suggested wording to subparagraph (2) of condition 19 and has no comments to add.

**5.4. DCO.03.14 – Condition 4 (Maintenance of the authorised development) of Schedule 11 (Deemed marine licence – Transmission Assets)**

5.4.1 Further to the ExA’s request for further information sought in [PD-024] and in the event of a minimum dredging depth parameter for the Deep Water Routes (DWRs) being incorporated into any made DCO, comment on any changes for the drafting of Condition 4 of Schedule 11, most particularly in respect of subsection (3), that might be necessary to ensure there would be no inconsistency between the water depths required in the DWRs and the parts of the authorised development that would be outside the DWRs.

5.4.2 The MMO notes that the PLA has included a suggested condition for Schedule 11, Part 2, Condition 4(3).

5.4.3 The MMO notes the Applicant has made an amendment in REP6-008 to Schedule 11, Part 2, Condition 4(3) to state:

*(3) In undertaking activities under condition 4(2)(f), other than in areas shown shaded yellow on the Deep water Route Cabel Installation Area (Future Dredging depths) plan where navigable depth may not be reduced to any extent, the undertaker must not reduce water depth by more than 5% referenced to Chart Datum unless agreed with the MMO in writing following consultation with the MCA.*

5.4.4 The MMO is content with this update.

**5.5. DCO.03.15 – Schedule 11 (Deemed marine licence – Transmission Assets)**

5.5.1 Subparagraph (1) of Condition 15 (Site Integrity Plan) needs to be sense checked and corrected, with the second stating of “... which accords with the principles set out in the ...” in the third line appearing to be superfluous and/or incomplete.

5.5.2 Are subparagraphs (4) and (5) of Condition 15 sufficiently precise, most particularly is the inclusion of “satisfied” sufficiently precise? Would wording as follows be more appropriate?

*“(4) In approving the SIP the MMO must determine whether the authorised scheme at the preconstruction stage, in-combination with other plans and projects, would be in line with the JNCC Guidance.”*

*“(5) The approved SIP may be amended with the prior written approval of the MMO, in consultation with the relevant statutory nature conservation body, where the MMO determines that the authorised development, in-combination with other plans or projects at the pre-construction stage, would be in line with the JNCC Guidance.”*

5.5.3 Is subparagraph (2) of Condition 20 (Marine Mammal condition) sufficiently precise, most particularly is the inclusion of “... reasonable opinion of the MMO ...”? Would wording as follows be more appropriate?





*“... If the MMO, in consultation with the statutory nature conservation body, determines the assessment shows impacts significantly in excess to those assessed in the environmental statement ...”*

- 5.5.4 The MMO agrees that subparagraph (1) of the Site Integrity Plan condition is incomplete currently.
- 5.5.5 The MMO understands the ExA concern with the use of ‘satisfied’ in subparagraphs (4) and (5) as is part of the condition. The MMO has no objections to the suggested changes.
- 5.5.6 The MMO welcomes the ExA’s suggested wording to subparagraph (2) of condition 20 and has no comments to add.

#### **5.6. DCO.03.16 – Consultation with the Port of London Authority when discharging conditions of the DML for the Transmission Assets (Schedule 11)**

- 5.6.1. The Port of London Authority has submitted (including during the course of Issue Specific Hearing 7 held on 23 January 2025) that it wishes to be a consultee of the MMO when relevant conditions of the DML for the Transmission Assets were being discharged. Would the MMO be agreeable to the Port of London being a consultee when relevant conditions in Schedule 11 were being discharged? If the MMO is not be agreeable to that, explain why that is the case.
- 5.6.2. The MMO notes that the PLA wishes to be a consultee of the MMO. The MMO is content to have the PLA as a consultee and would like to highlight that as part of the consultation process, the MMO consults with all relevant stakeholders which includes the PLA. The MMO has set out the agreed updates to the Schedule 11 in Section 1 of this document.

#### **5.7. ME.03.02 – Marine Ecology – On-going discussions**

Can the parties advise the ExA when they expect to conclude their discussions with respect to the drafting of Schedules 10 and 11 (the DMLs) within the dDCO?

- 5.7.1. Please see Section 1 in relation to the outstanding DCO/DML issues. The MMO believes that the majority of these issues will remain not agreed at the end of examination.
- 5.7.2. The MMO provided the Applicant with an updated Statement of Common Ground which should demonstrate which discussions are agreed, will not be agreed during Examination.
- 5.7.3. The MMO notes that the Applicant has now provided the MMO with the raw data in the MMO’s excel format as requested, which the MMO is currently reviewing and will provide an update to the Applicant on 7 March 2025. The MMO has provided comments in Section 1.10 on disposal sites, highlighting two routes forward on the DML. The MMO would highlight that an additional sampling condition may be requested should the information reviewed still cause concerns on designating the disposal site. This would be similar to that within East Anglia One North depending on the review of the information provided:



### *Sediment sampling*

*XX.—(1) The undertaker must not undertake dredge or disposal activities until the following have been submitted to and approved in writing by the MMO—*

*(a) details of an additional sediment contaminants sampling campaign; and*

*(b) a dredge and disposal process report detailing—*

*(i) the results of the sampling campaign referred to in sub-paragraph (1)(a); and*

*(ii) the requirements to be adhered to during any dredge and disposal activities.*

*(2) Any dredge and disposal activities must be undertaken in accordance with the dredge and disposal process report approved under sub-paragraph (1).*

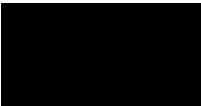
- 5.7.4. The MMO provided our response to the Herring spawning seasonal restriction discussion in REP5-100, which the Applicant has stated in REP6-43 that they maintain their position on. The MMO is reviewing all the updated documents and will provide a response to the Applicant on 7 March 2025. However, this will likely remain unagreed as a MMO major concern at the end of Examination.

## **6. MMO Comments on Report on the Implications for European Sites (RIES)**

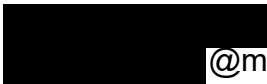
### **6.1. General Comments**

- 6.1.1. The MMO notes the questions asked to the Applicant, NE and Royal Society for the Protection of Birds (RSPB). The MMO will maintain a watching brief for any responses, in particular in relation to any conditions within the DMLs.

Yours sincerely,



Emma Chalk  
Marine Licensing Case Officer



@marinemanagement.org.uk





Five Estuaries Offshore Wind Farm Case  
Team  
Planning Inspectorate  
[FiveEstuaries@planninginspectorate.gov.uk](mailto:FiveEstuaries@planninginspectorate.gov.uk)  
**(By Email only)**

MMO Reference: DCO/2019/00008  
Planning Inspectorate Reference: EN010115  
Identification Number: 20049306

03 March 2025

Dear Sir or Madam,

## **Planning Act 2008, Five Estuaries Offshore Wind Farm Ltd, Proposed Five Estuaries Offshore Wind Farm Order**

### **Deadline 7 Submission Summary**

On 23 April 2024, the Marine Management Organisation (the “MMO”) received notice under section 56 of the Planning Act 2008 (the “PA 2008”) that the Planning Inspectorate (“PINS”) had accepted an application made by Five Estuaries Offshore Wind Farm Ltd (the “Applicant”) for determination of a development consent order for the construction, maintenance and operation of the proposed Five Estuaries Offshore Wind Farm (the “DCO Application”) (MMO ref: DCO/2019/00008; PINS ref: EN010115).

The Applicant seeks authorisation for the construction, operation and maintenance of the DCO Application, comprising of up to 79 wind turbine generators together with associated onshore and offshore infrastructure and all associated development (“the “Project”).

As a marine licence has been deemed within the draft DCO, the MMO is the delivery body responsible for post-consent monitoring, variation, enforcement, and revocation of provisions relating to the marine environment. As such, the MMO has an interest in ensuring that provisions drafted in a deemed marine licence enable the MMO to fulfil these obligations.

This document comprises the MMO’s summary of the submission for Deadline 7.

This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.





Yours sincerely,



Emma Chalk  
Marine Licensing Case Officer



@marinemanagement.org.uk

Copies to:

Nicola Wilkinson (MMO) – Case Manager: @marinemanagement.org.uk

Rebecca Reed (MMO) – Senior Case Manager:



@marinemanagement.org.uk



Marine  
Management  
Organisation

...ambitious for our  
seas and coasts



## Contents

1. MMO Comments on Draft Development Consent Order (DCO) – Revision G – REP6-007/REP6-008 .....	4
2. MMO Comments on Applicant’s Deadline 6 Submissions .....	4
3. MMO Comments on Interested Parties’ (IP) Deadline 6 Submissions.....	5
4. MMO Comments on PD-024 - Request for Further Information - Rule 17 - 27 January 2025.....	6
5. MMO Comments on PD-026 - Examining Authorities Written Questions 3 (ExQ3) .....	6
6. MMO Comments on Report on the Implications for European Sites (RIES).....	7



# 1. MMO Comments on Draft Development Consent Order (DCO) – Revision G – REP6-007/REP6-008

## 1.1. Schedule 10/Schedule 11 Deadline 6 Updates

1.1.1. The MMO notes the changes made to the recent draft DCO and has also requested further changes to be made to Schedule 11.

1.1.2. The MMO provided further comments regarding the following:

- Article 5 Transfer of Benefit of the Order
- Schedule 2 Requirement 1 – Time Limits
- Decommissioning
- Materiality and Maintain
- Paragraph 2(a) and Condition 10(5) – Disposal sites
- Condition 6 Notifications and inspections
- Condition 10(1) Chemicals, drilling, debris
- Condition 10(10) Dropped objects
- Condition 13(3)
- Condition 22 Marine noise registry condition
- Condition 11 Force Majeure
- PLA additional DLA updates

## 2. MMO Comments on Applicant's Deadline 6 Submissions

### 2.1. General Comments

2.2.1. The MMO notes the Applicant submitted the following documents in Deadline 6:

- a) REP6-011/012 – 6.5.6.2.1 Landfall Impact Piling Modelling - Revision B (Clean/Tracked)
- b) REP6-013/014 – 6.5.6.4 Herring Seasonal Restriction Note - Revision D (Clean/Tracked)
- c) REP6-020/021 – 9.12 Outline Cable Specification and Installation Plan - Revision C (Clean/Tracked)
- d) REP6-022/023 – 9.15 Outline Southern North Sea Special Area of Conservation Site Integrity Plan - Revision B (Clean/Tracked)
- e) REP6-023 – 9.15 Outline Southern North Sea Special Area of Conservation Site Integrity Plan - Revision B (Tracked)
- f) REP6-024/025 – 9.16 Outline Fisheries Liaison and Co-existence Plan - Revision D (Clean/Tracked)





- g) REP6-025 – 9.16 Outline Fisheries Liaison and Co-existence Plan - Revision D (Tracked)
- h) REP6-028/029 – 9.32 Offshore In Principle Monitoring Plan - Revision C (Clean/Tracked)
- i) REP6-029 – 9.32 Offshore In Principle Monitoring Plan - Revision C (Tracked)
- j) REP6-035/036 – 10.12 Marine Plan Policy Assessment - Revision D (Clean/Tracked)
- k) REP6-036 – 10.12 Marine Plan Policy Assessment - Revision D (Tracked)
- l) REP6-037/038 – 10.20.1 Technical Note - Methodology for Determining MDS (Offshore) - Revision C (Clean/Tracked)
- m) REP6-038 – 10.20.1 Technical Note - Methodology for Determining MDS (Offshore) - Revision C (Tracked)
- n) REP6 –041/042 – 10.30 Outline Sediment Disposal Management Plan - Revision B (Clean/Tracked)
- o) REP6-042 – 10.30 Outline Sediment Disposal Management Plan - Revision B (Clean)
- p) REP6-043 – 10.40 Applicant's Comments on Deadline 5 Submissions

3.4.1. The MMO is currently still reviewing some documents with our scientific advisors and will provide comments to the Applicant 7 March 2025.

3.4.2. The MMO provided comments on some of the documents above.

### 3. MMO Comments on Interested Parties' (IP) Deadline 6 Submissions

#### 3.1. Natural England (NE)

3.1.1. The MMO notes NE submitted the following documents in Deadline 6:

- a. REP6-066 – Cover Letter
- b. REP6-067 – Appendix B6 - Natural England's Marine Processes advice on the Applicant's Deadline 4 Documents
- c. REP6-068 – Appendix E6 - Natural England's Benthic Ecology Advice on the Applicant's Deadline 4 Documents
- d. REP6-069 – Appendix I6 - Natural England's Comments on 10.29 Applicant's Comments on Deadline 3 Submissions [REP4-040]
- e. REP6-070 – Appendix L6 - Natural England's Risk and Issues Log

3.1.2. The MMO notes NE has provided further comments on marine processes and benthic concerns/updates and the MMO will maintain a watching brief for any amendments made by the Applicant in response.

#### 3.2. London Gateway Port Limited (LGPL) – REP6-080 – Any further information requested by the ExA under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010



3.2.1. The MMO notes that LGPL has provided their suggestions for a new requirement and condition relating to installation depth for the export cable within the Deep Water Routes (DWRs).

### **3.3. Port of London Authority (PLA) – REP5-107 – Comments on any submissions received at Deadline 4**

3.3.1. The MMO notes PLA submitted the following documents in Deadline 6:

- a. REP6-059 – Any further information requested by the ExA under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010
- b. REP6-060 – Post-Hearing submissions including written submissions of oral case as requested by Examining Authority
- c. REP6-061 – Action Points from Issue Specific Hearing 7
- d. REP6-062 – Comments on any submissions received at Deadline 5 and Deadline 5A

3.3.2. The MMO notes the PLA has provided preferred wording for the condition which is aligned with the London Gateway Port Limited. The MMO's preferred wording is in Section 1 of the document.

3.3.3. The MMO has been in discussion with the PLA and notes they request the changes to Schedule 11.

## **4. MMO Comments on PD-024 - Request for Further Information - Rule 17 - 27 January 2025**

### **4.1. General comments**

4.1.1. The MMO provided some comments in REP6-063, regarding the MMO's stance on the potential condition.

4.1.2. The MMO also notes the PLA and LGPL have provided deadline responses (REP6-059 and REP6-080 respectively) to provide their responses to the Rule 17 letter for their suggested changes to the potential condition.

4.1.3. The MMO has provided further comments to respond to the Examining Authority's request for further information.

## **5. MMO Comments on PD-026 - Examining Authorities Written Questions 3 (ExQ3)**

### **5.1. General Comments**



5.1.1. The MMO notes the ExA has asked the MMO a number of questions to consider. The MMO has provided a response to each of the questions.

## 6. MMO Comments on Report on the Implications for European Sites (RIES)

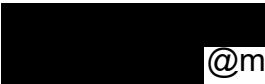
### 6.1. General Comments

6.1.1. The MMO notes the questions asked to the Applicant, NE and Royal Society for the Protection of Birds (RSPB). The MMO will maintain a watching brief for any responses, in particular in relation to any conditions within the DMLs.

Yours sincerely,



Emma Chalk  
Marine Licensing Case Officer



@marinemanagement.org.uk

