Morecambe Offshore Windfarm: Generation Assets

Examination Documents

Volume 9

Written Summary of the Applicant's Oral Submissions - Preliminary Hearing and Issue Specific Hearing 1

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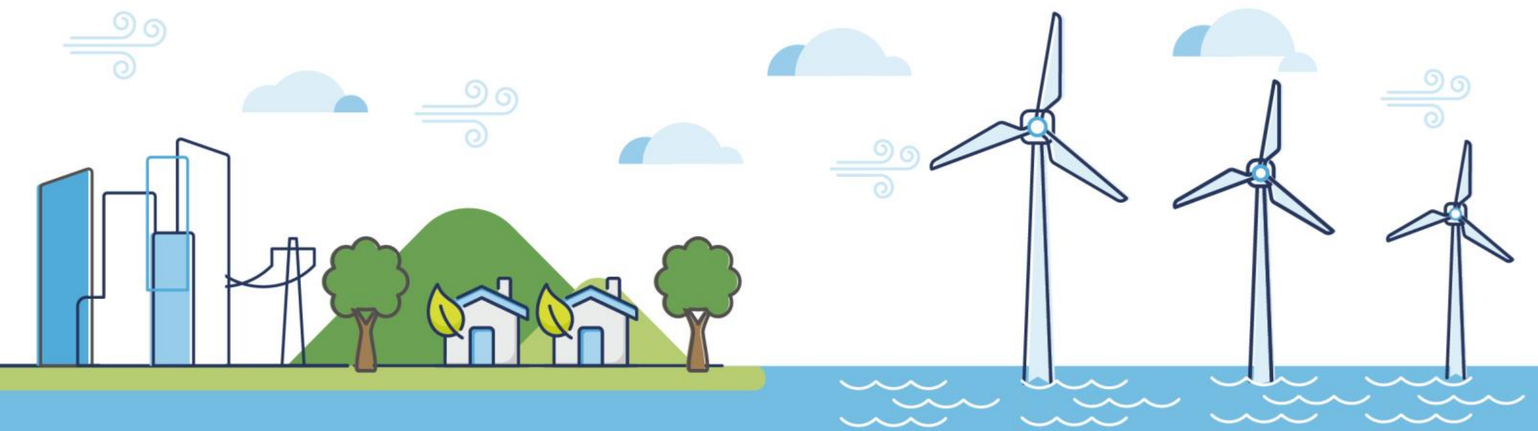

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MORECAMBE

Glossary of Acronyms

CfD	Contract for Difference
DCO	Development Consent Order
DLUHC	Department for Levelling Up, Housing & Communities
DML	Deemed Marine Licence
EIA	Environmental Impact Assessment
ExA	Examining Authority
ExQ1	The ExA's first written questions
HAT	Highest Astronomical Tide
HND	Holistic Network Design
HRA	Habitats Regulations Assessment
IFP	Instrument Flight Procedure
IPs	Interested Parties
ISH1	Issue Specific Hearing 1
JNCC	Joint Nature Conservation Committee
MGN	Marine Guidance Note
MMO	Marine Management Organisation
NRW	Natural Resources Wales
OFTO	Offshore Transmission Owner
PATP	Port Access and Transport Plan
SLVIA	Seascape Landscape and Visual Assessment
UXO	Unexploded ordnance

Glossary of Terminology

1989 Act	Electricity Act 1989
Applicant	Morecambe Offshore Windfarm Ltd
Generation Assets (the Project)	Generation assets associated with the Morecambe Offshore Windfarm. This is infrastructure in connection with electricity production, namely the fixed foundation wind turbine generators (WTGs), inter-array cables, offshore substation platform(s) (OSP(s)) and possible platform link cables to connect OSP(s).

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1 Written Summary: Preliminary Meeting (Wednesday 23 October 2024)

1. The document presents a written summary of Morecambe Offshore Windfarm Ltd's (the "**Applicant**") oral case at the Preliminary Meeting on the Examination Process, Initial Assessment of Principal Issues, Draft Examination Timetable and Procedural Decisions (**Table 1.1**).

2. The Preliminary Meeting on the Morecambe Offshore Windfarm Generation Assets (the "**Generation Assets**") took place on Wednesday 23 October 2024 starting at 14:00 at the Pullman Hotel Liverpool, King's Dock, Port of Liverpool, Liverpool L3 4FP and by virtual means using Microsoft Teams.

Table 1.1 Written summary of the Applicant's oral case at the Preliminary Meeting

ID	Agenda Item	Notes
1	Initial Assessment of Principal Issues	(1) The Applicant confirmed that, subject to specific points to be discussed below, it generally agreed with the initial assessment of principal issues as set out in Appendix C of the Rule 6 Letter (PD-007). (2) The Applicant confirmed that it was open to an Issue Specific Hearing on Aviation and Radar being incorporated into the Examination Timetable, if the Examining Authority ("**ExA**") considered it to be required. The Applicant stated that it hopes to resolve any aviation and radar specific issues through ongoing engagement with Blackpool Airport, Spirit Energy, and BAE Systems, such that any ISH would not be necessary. The Applicant requested that the ExA consider leaving sufficient opportunity for resolution of outstanding issues when scheduling future hearings. (3) The Applicant stated that it does not consider 'recreational sea users' to be a principal issue for the Project given that (a) no relevant representations have been submitted from 'recreational sea users' and (b) the Environmental Impact Assessment did not identify any significant effect on such group.
2	Draft Examination Timetable	(4) The Applicant referred to its response to the Examining Authority's Rule 6 Letter (PD1-010), suggesting minor amendments to the deadlines on either side of the holidays. The Applicant submitted its preference to bring deadlines forward rather than delay them due to the urgency to delivery these types of projects. (5) The Applicant noted its concern that office closures during the holiday period might have an impact on the ability of the Applicant and relevant parties to adequately respond to the ExA's first written questions ("**ExQ1**"). The Applicant submitted that it might be useful if the Examining Authority was to issue a draft ExQ1 before the proposed date of December 18, with the final version of the ExQ1 to follow on December 18. The Applicant explained that this would allow all relevant parties to make an early start on their responses to ExQ1 whilst relieving pressure around

ID	Agenda Item	Notes
		the holiday period. [**Post preliminary meeting note**: The Applicant notes that draft written questions were issued by the ExA in respect of the Immingham Green Energy Terminal DCO Examination (Application Reference TR030008, PD-006)[1], although these were issued in advance of the Preliminary Meeting in that case with the expectation that final written questions would be issued formally as soon as practicable after the close of the Preliminary Meeting.]
3	Procedural Decisions taken by the Examining Authority	(6) The Applicant confirmed that Statements of Common Ground have been issued to all relevant parties specified by the ExA, with the exception of: a. Natural England, who will submit a Principal Areas of Disagreement Statement supplemented by a risk issue log at each deadline, in lieu of a Statement of Common Ground, as proposed by Natural England in their response to the Rule 6 letter (PD1-017); b. Joint Nature Conservation Committee ("**JNCC**"), as Natural England has confirmed in its relevant representation that it is authorised to represent JNCC as a statutory consultee (RR-061 at para. 1.2) and no separate Statement of Common Ground with JNCC will therefore be submitted; c. Natural Resources Wales ("**NRW**"), as NRW had not provided detailed comments at the relevant representation deadline and was instead expecting to do so at Deadline 1. The Applicant therefore suggested Deadline 3 as the appropriate deadline for submitting the Statement of Common Ground;

[1] https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR030008/TR030008-000460-240112%20-%20IGET%20-%20Draft%20Written%20Questions.pdf

ID	Agenda Item	Notes
		d. Historic England, who had not yet fully reviewed the application and who instead proposed Deadline 2 to the Applicant as the appropriate target for submitting a Statement of Common Ground; and e. Mona Offshore Wind Farm and Morgan Offshore Wind Project: Generation Assets, as there was mutual agreement between all three parties (the Applicant, Mona and Morgan) that Statements of Common Grounds were not necessary for their respective applications. (7) The Applicant noted the ExA's preference to receive a one-sided Statement of Common Ground at Deadline 1 (i.e. where the counterparty to the statement has been unable to provide substantive input by that deadline). (8) The Applicant confirmed that it submitted a revised draft DCO (PD1-002 and PD1-003) at Procedural Deadline A to address comments made by several relevant representations. (9) The Applicant submitted that, given the substantial nature of Natural England's Relevant Representation, it reserves the ability to further comment on that relevant representation at Deadline 1. (10) The Applicant noted that Spirit Energy refer to a technical report in its relevant representation (RR-077) which has not yet been submitted into the Examination given that it is still subject to ongoing work. The Applicant submitted that it reserves the right to comment on this technical report once it is in its final form and that it will liaise with Spirit Energy to discuss the relevant timings for doing so. (11) The Applicant confirmed that, moving forward, it will submit both clean and tracked versions of any revised documents. (12) The Applicant confirmed that it will submit a report on the interrelationship with other infrastructure projects at Deadline 1. [**Post preliminary meeting note**: The

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		Applicant has provided this at Deadline 1, see Report on Interrelationships with Other Infrastructure Projects (Document Reference 9.20)] (13) The Applicant confirmed that it will submit a Statement on the Use of Artificial Intelligence at Deadline 1, noting that Microsoft Copilot was used by the Applicant in respect of one chapter of the Environmental Statement. [**Post preliminary meeting note**: The Applicant has provided this at Deadline 1, see Declaration of Artificial Intelligence (Document Reference 9.19)] (14) The Applicant noted the ExA's clarification that the obligation to disclose the use of AI is a positive one and that the Applicant is not required to confirm where AI has not been used. (15) The Applicant confirmed that it will amend its Environmental Impact Assessment and Habitat Regulations Assessment to take account of the updated Bird Collision Risk Modelling and submit the amended documents by Deadline 1. [**Post preliminary meeting note**: The Applicant has reviewed the published guidance issued by the Statutory Nature Conservation Bodies regarding collision risk modelling (August 2024) and provided commentary (noting that the draft guidance was provided to the Applicant by Natural England and used within the assessments submitted with the Application) at Deadline 1 in Environmental Impact Assessment (EIA) and Habitats Regulations Assessment (HRA) update notes: Offshore Ornithology Technical Note 1 (Document Reference 9.22) and Offshore Ornithology Technical Note 2 (Document Reference 9.23)]
4	Any other matters	(16) The Applicant confirmed that it will attend any future blended hearings in person with a preference for a blended format rather than solely Teams. (17) The Applicant confirmed that it will submit a Commitments Register at Deadline 1. [**Post preliminary meeting note**: The Applicant has provided this at Deadline 1, see Commitments Register (Document Reference 9.31)]]

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		(18) The Applicant confirmed that it will submit a note expanding on the decision-making rationale and the intended timings for unexploded ordnance ("**UXO**") surveys by Deadline 1. [**Post preliminary meeting note**: The Applicant has provided this at Deadline 1, see Response to Actions arising from Preliminary Meeting and Issue Specific Hearing 1 (Document Reference 9.28)] (19) The Applicant confirmed regular engagement with landowners and other interested parties in securing compensation measures and that it will provide a more substantive update at Deadline 1. The Applicant clarified that although it is exploring three options for lesser black-backed gull compensation measures, it will only proceed with one of the three. [**Post preliminary meeting note**: The Applicant has provided this at Deadline 1, see Update on Without Prejudice Compensatory Measures (Document Reference 9.30)]

2 Written Summary: Issue Specific Hearing 1 (Thursday 24 October 2024)

3. The document presents a written summary of Morecambe Offshore Windfarm Ltd's (the "**Applicant**") oral case at Issue Specific Hearing 1 ("**ISH1**") on the Scope and Description of the Proposed Development, Interrelationship with Other Projects, the Overall Structure of the dDCO and the Examining Authority's ("**ExA**") Questions on the DCO (**Table 2.1**).

4. ISH1 on the Morecambe Offshore Windfarm Generation Assets (the "Generation Assets") took place on Thursday 24 October 2024 starting at 10:00 at the Pullman Hotel Liverpool, King's Dock, Port of Liverpool, Liverpool L3 4FP and by virtual means using Microsoft Teams.

Table 2.1 Written summary of the Applicant's oral case at ISH1

ID	Agenda Item	Notes
Item 3: Scope and description of the Proposed Development		
1	Clarification of the Works as described in Schedule 1 of the draft Development Consent Order (dDCO)	(1) The Applicant explained that the Application is for the Morecambe Offshore Windfarm Generation Assets (the "**Project**"), which comprises wind turbine generators, the inter array cables, the interconnector cables and then either one or two offshore substations. The Application does not seek consent for transmission infrastructure, which will be the subject of a separate application for development consent, the Morgan and Morecambe Offshore Wind Farms Transmission Assets (the "**Transmission Assets**"). [**Post hearing note**: The Applicant notes that the Transmission Assets application was received on 21 October 2024 and accepted for Examination on 18 November 2024.] (2) The Applicant explained the rationale for the approach behind the separate applications for the two projects. The Applicant explained that the approach was designed to facilitate the coordination of the transmission assets between two projects, namely the Applicant's project and the Morgan Offshore Wind Farm (being promoted separately by Morgan Offshore Wind Limited). This coordination has been recently strongly supported by the new National Policy Statements[2] and directed by the Holistic Network Design ("**HND**"). HND is a new offshore network design by National Grid ESO [**Post hearing note**: now National Energy System Operator] which guides connection offers and aims to facilitate coordination in offshore transmission infrastructure to minimise costs and environmental impacts. (3) The Applicant explained the intersection of the Project and the Transmission Assets. The Applicant explained that it was helpful to think of this in terms of

[2] **Post hearing note**: See particularly NPS EN-1 at paragraphs 3.3.71, 74, 75 and 77; NPS EN-3 at paragraphs 2.8.25, 27, 51, and 53.

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		licensing regulations under the Electricity Act 1989 (the "**1989 Act**"). The Generation Assets will be the subject of a generation licence under one class of licensing. The Transmission Assets will be the subject of a separate transmission licence. The intersection, or interface, point is likely to be somewhere within the offshore substation itself. (4) The Applicant explained that the offshore substation could sensibly form part of either this Application (for the Project) or the application for the Transmission Assets, as the eventual division will be somewhere in the middle. However, it makes more practical sense to include it with this Application as, like the wind turbine generators, it is an above sea piece of infrastructure and is therefore more similar in nature to wind turbines than it is to subsea cables and onshore infrastructure. If it was included within the application for the Transmission Assets then a single piece of above sea infrastructure, along with cables and the substation onshore, would need to be assessed which practically would be much more challenging than including it with the Generation Assets. (5) The Applicant was asked to clarify its position in the event the Transmission Assets application should fail. The Applicant noted that it does not consider there to be an obvious reason why the application for the Transmission Assets would fail. (6) The Applicant explained that the two applications (this Application and the application for the Transmission Assets) and the two sets of infrastructure are commercially co-dependent in that the 'project financing' would take place for a project as a whole. The financing for an offshore wind project can run to billions of pounds and would not be released without there being certainty that there was a route to market for the electricity being generated. The commercial position of the projects would dictate that you would need both the Generating Assets and the

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		Transmission Assets to be fully consented and 'ready to go' before there would be any progress substantively with either part. (7) In response to a question from the ExA regarding grid connection, the Applicant explained that there is a need for low carbon energy. The Applicant stated that the ExA can be satisfied that there is no obvious impediment to the delivery of the grid connection because there is a well-developed application for the Transmission Assets. [**Post hearing note**: The Applicant notes that the Transmission Assets application was received on 21 October 2024 and accepted for Examination on 18 November 2024.] (8) The Applicant was asked to explain how the time limit for the commencement of development fit with the assessment period within its Environmental Statement. The Applicant explained the reason behind seeking a seven-year period for commencement of development. The Applicant explained that, as is common with all offshore wind farms, there are certain milestones that must be reached successfully post-consent to allow for the delivery of the project. The principal milestone is the Contract for Difference ("**CFD**") auction, in which the government enters into a contract with the developer to facilitate the pricing of the electricity that will be provided. (9) The Applicant explained that there is no reason to believe or suggest that the project would not be successful in an early round of CFD auctions. However, developers are required to be prudent, and the Applicant explained that it would be reasonable to build in a seven-year period for commencement of development to cater for the unlikely eventuality that there is an unforeseen delay to ensure ultimately that the project can still be realised. (10) The Applicant emphasised that it is very much the Project's realistic intention to have the project operational by 2030. The seven-year time period for commencing development is a fallback scenario. The Applicant explained that project planning

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		is well advanced with construction programmes that dictate a deliverable operational date by 2030. (11) Regarding the assessment period, the Applicant explained that the Environmental Impact Assessment ("**EIA**") contained within its Environmental Statement assessed the construction effects of the Generation Assets. The Applicant explained that the time period for construction of the Generation Assets will remain the same regardless of when, temporally, construction occurs. (12) The Applicant took an action to submit two Gantt-style charts: the first demonstrating the 'expected' timescale for construction and implementation of the DCO (i.e. operational by 2030) and the second demonstrating what delays or factors might necessitate the seven-year implantation period that has been sought. [**Post hearing note**: The Applicant has provided these charts at Deadline 1, see Response to Actions arising from Preliminary Meeting and Issue Specific Hearing 1 (Document Reference 9.28)] (13) In response to a question from the ExA regarding the operational life of the Project and whether this needed to be secured or specified under the DCO, the Applicant explained that the Information Memorandum for the Crown Estate's Leasing Round 4 auction states that a 60-year lease term is enough for "two full project cycles". The Applicant noted that this demonstrates a widely held view that c. 30 years is one life cycle for an offshore wind farm. [**Post hearing note**: The Applicant has provided this Information Memorandum at Deadline 1, see Response to Actions arising from Preliminary Meeting and Issue Specific Hearing 1 Appendix E: The Crown Estate Round 4 Information Memorandum (Document Reference 9.28.5)] (14) The Applicant explained that, from an engineering perspective, a repowering operation would include the replacement of foundations and not simply a replacement of the wind turbine generators. The Applicant explained that the

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		replacement of foundations is expressly excluded from the definition of 'maintain' in the draft DCO. The Applicant therefore believes that the draft DCO adequately ensures that repowering would be a separate licensable or consented activity (as foundations cannot be replaced under the powers sought in the draft DCO) and, accordingly, that the practical and realistic lifespan of the Project is limited to c. 30 years. The Applicant explained that the EIA assessed an appropriate worst-case scenario of 35 years. (15) The Applicant explained that both the wind turbine generators and the foundations have an operational life of c. 30 years. It is not the case that at the end of the life of the wind turbine generators a 'like for like' replacement could take place using the existing foundations. The Applicant explained the stresses and loads placed upon the foundations would be such that the foundations would need replaced at the end of their c. 30 year life. The Applicant took an action to provide evidence to support this. [**Post hearing note**: The Applicant has provided this evidence at Deadline 1, see Response to Actions arising from Preliminary Meeting and Issue Specific Hearing 1 (Document Reference 9.28)] (16) The Applicant expressed concern that if an operational time limit for the development is included in the DCO, and is unnecessary, then this could have unforeseen consequences. [**Post-hearing note**: By this, the Applicant means that it would set a precedent for other applications and that it would also apply an unnecessary control which could cause issues at a later stage in the Project, e.g. questions and concerns during project financing as to why this particular project has an operational time limit when this is not standard for other projects and the implications this may have.]
2	Design parameters as defined in Requirement 2 of the draft DCO and	(17) The Applicant explained that the maximum design parameters are secured in Requirement 2 of the draft DCO. The Applicant explained that a key constraint on the scale of the development is the total rotor swept area. At the maximum rotor

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	Condition 1 of the draft Deemed Marine Licences	diameter (280m), there can be up to 30 turbines within the total rotor swept area cap. At the maximum number of turbines (35), there could be a rotor diameter of up to 260m within the total rotor swept area. This is what determines the two 'worst-case scenarios' on which the Environmental Statement is based (i.e. 35 smaller turbines or 30 larger turbines). This approach also ensures that the Application is not based on an unrealistic design (e.g. 35 of the largest turbines) and that the Applicant is not asking for consent for something it does not need. The Applicant explained that the worst-case scenario within these parameters has been considered and assessed for each and every topic in the EIA. (18) In response to a concern expressed by the ExA that a mix of turbine sizes could be used, the Applicant confirmed that it would be happy with a requirement that ensured all turbines had the same parameters (i.e. same height, rotor diameter, etc.). The Applicant will include this in version of the dDCO submitted at Deadline 2. (19) The Applicant was asked to clarify the distance of the proposed infrastructure from the site boundary. In response, the Applicant confirmed that there is no intention that any part of the development, including blades of the wind turbine generators, would overlap or exceed the red line boundary (i.e. the Order limits). Similarly, none of the buffer zones set out in the DCO would go beyond this boundary. (20) The Applicant explained that safety zones can be distinguished from buffer zones: safety zones are required during the construction or maintenance of the wind turbine generators for a period of a few weeks. Safety zones ensure safe vessel operation during active construction and maintenance and will be the subject of their own application [**Post hearing note**: under the Energy Act 2004] in due course as required. As such, any safety zone of 500m which would extend beyond the red line boundary would be a temporary measure. Additionally, safety zones are not development in their own right (requiring development consent). [**Post**

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		hearing note: in contrast, buffer zones are restrictions on where parts of the authorised development may be located, secured in protective provisions in Schedule 3 of the draft DCO, for the protection of existing third party infrastructure in proximity to the Project.] (21) The Applicant explained that at the stage of detailed design the accuracy of the turbine co-ordinates would be to the degree of centimetres, and final placement would take into account any buffer zones in the DCO and the red line boundary. Turbine location would take into account the radius of the wind turbine generators to ensure there was no oversailing of blades outside the red line boundary. (22) The Applicant restated that no development could occur outside the red line boundary of the DCO. [**Post hearing note**: The Applicant notes that Article 3 of the draft DCO (PD1-002) secures that the authorised project can only be carried out within the Order Limits.] The Applicant explained that, under DML condition 9, the detailed design would require to be approved by the Marine Management Organisation (MMO) in consultation with statutory consultees such as Trinity House and the Maritime Coastguard Agency. This would include the centre point of each turbine and the rotor diameter, and the design would be subject to final approval (and use the level of detail, including coordinate decimal places, reasonably required by consultees). [**Post hearing note**: The Applicant notes that, following discussions with Trinity House, it is agreed that DML Condition 18 (Completion of construction) will be updated to also require the submission of the as built plans and WTG coordinates as part of the close out report. This will be included in the version of the DCO submitted at Deadline 2.] (23) With respect to construction activities taking place outside the red line boundary, the Applicant confirmed that all development that requires development consent will be inside the red line boundary. The Applicant explained that on occasion construction vessels may sit outside of the red line boundary (and would transit

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		outside of the red line boundary to reach the site) but this activity does not constitute development that requires development consent. The Applicant noted for the avoidance of doubt that construction activities have been assessed as part of the Environmental Statement.
3	Array layout principles including spacing and micro-siting	(24) The Applicant confirmed that two lines of orientation is secured within condition 9(1)(ii) of the DML included in the draft DCO. This condition requires that a design plan, which is submitted to the MMO for approval, shall provide for two lines of orientation and otherwise be in accordance with the recommendations for layout contained within Marine Guidance Note ("**MGN**") 654. In addition, condition 12 of the DML also provides that no development can commence until the MMO has confirmed, in consultation with the MCA, that the Applicant has taken into account, insofar as applicable, all the recommendations in MGN654. (25) In response to a question by the ExA, the Applicant confirmed that micro-siting is not as relevant an issue for offshore wind farms as it is for onshore wind farms and other onshore development. The Application has used an envelope approach, as is common for offshore wind farm applications, and the precise locations of the turbines are not identified in the Application. The exact locations of the turbines will be in the design plan once the precise location is settled, which is subject to later approval by the MMO. The DCO does not therefore need to include any concept of micro-siting. The DCO requirements and parameters ensure that the layout principles must be followed when finalising the design.
4	The Land Plan and status of Crown Land	(26) The Applicant confirmed it would submit a short explanatory note on the relevance of the *R (Parkes) v Dorset Council & Ors* [2024] EWHC 1253 (Admin) (the "**Bibby Stockholm case**"). [**Post hearing note**: The Applicant has provided this evidence at Deadline 1, see Response to Actions arising from Preliminary Meeting and Issue Specific Hearing 1 Appendix B: Note on the R (Parkes) v Secretary of State

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		for the Home Department [2024] EWHC 1253 (Admin) judgement (Document Reference 9.28.2)] (27) The Applicant confirmed that it did not include a Book of Reference with the Application. The Application does include an Offshore Order Limits and Grid Coordinates Plan (which shows the seabed required for the Project) (APP-008) and included, for the avoidance of doubt, a Crown Land Plan (AS-002, Rev 02). (28) The Applicant explained that the Bibby Stockholm case does not conclude on a complete definition of land. Instead, the case indicates that the relevant legislation and the specific context of the area in question are required to understand the definition of land. (29) The Applicant explained that the Bibby Stockholm case concerned the definition of 'land' within the Town and Country Planning Act 1990. This is a different act to the Planning Act 2008, although there are overlaps and similarities. In the present case, regarding a Book of Reference, Crown Land Plan and Land Plan, these all relate to compulsory acquisition of land. There are limits on the compulsory acquisition of Crown Land and there are particular requirements to identify Crown Land. The Bibby Stockholm case concerned the division between the low water mark and the territorial sea. The territorial sea extends out to 12 nautical miles and is the area beyond the low water mark. The Bibby Stockholm case concluded that the territorial sea was not "land" for the purposes of the Town and Country Planning Act 1990. In the present case, the Project is located wholly beyond 12 nautical miles. Seabed beyond 12 nautical miles is not capable of ownership. (30) It is the Applicant's position that seabed beyond the 12 nautical mile mark is not 'land' for the purposes of Regulation 7 of the Infrastructure Planning (Applications, Prescribed Forms and Procedure) Regulations 2009. Therefore, as it is not land under Regulation 7, a Book of Reference is not required. In addition, a Crown Land Plan and a Land Plan are also not strictly needed, though useful documents

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		to submit for interested parties. The Applicant explained that the Application pre-dated the Bibby Stockholm case and, as a matter of caution, the Applicant submitted both plans. The Applicant explained that there is a slight difference in the language between the requirements for a Book of Reference, which are all tied specifically to land, and the definition of Crown Land Plan and Land Plan, which explains the approach taken to submit both the plans, but not a Book of Reference. The Applicant agreed to consider withdrawing these documents. [**Post-hearing update**: The Applicant has set out its position on this point in its evidence at Deadline 1, see Response to Actions arising from Preliminary Meeting and Issue Specific Hearing 1 Appendix B: Note on the R (Parkes) v Secretary of State for the Home Department [2024] EWHC 1253 (Admin) judgement (Document Reference 9.28.2).]
5	Further discussion under this agenda item	(31) In response to a question from the ExA regarding UXO and the description of the whole development, the Applicant confirmed that the reference to 'development' within the EIA Regulations [**Post-hearing note**: the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017] is to the development applied for, not a broader concept. The Applicant noted however that broader, related infrastructure would be captured in the cumulative effects assessment. (32) The Applicant confirmed that UXO clearance operations are not part of the Application and will be the subject of a separate marine licence application as required (which, in turn, will be subject to its own requirements for an appropriate EIA assessment). There should be no impediment to the grant of the separate applications for UXO clearance. (33) The Applicant explained that the approach to UXO clearance was discussed through the pre-application and evidence plan process, and, while not part of the DCO, is assessed within the ES for information topics where is it relevant that there will be a pathway of effects. For example, within the Marine Mammals

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		Chapter (APP-048) there is an assessment of UXO, for information, for UXO clearance. (34) The Applicant explained that it was cognisant of 'salami slicing' and that the Applicant did not strategically remove elements of the project from the Application to avoid EIA, but rather follow most appropriate consenting strategy for the Project as information becomes available.
Item 4: Interrelationship with other projects		
6	▪ Interrelationship Report with other Infrastructure Projects – content and the Applicant's progress on the Report ▪ Interrelationship with examination of the Morgan Offshore Windfarm: Generation Assets project and alignment of data ▪ Expected timescales for submission of the Morgan and Morecambe Offshore Wind Farms: Transmission Assets project and implications for the commencement period proposed in Requirement 1 of the draft DCO	(35) The ExA requested clarity on cumulative effects as opposed to in-combination effects. The Applicant clarified that in the EIA-derived documents, including the Environmental Statement, the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 require an assessment of cumulative effects, which means to assess the project along with other projects. The term in-combination is used in the Habitats Regulations Assessment ("**HRA**") and related documents because the HRA Regulations[3] use the term "in-combination". (36) The Applicant confirmed that both terms have the same meaning but reflect the different pieces of legislation underpinning them. (37) The Applicant confirmed that in order to prepare the EIA documentation a 'cut-off' date was identified in order to assess the cumulative effects of other projects. After this 'cut-off' date, it falls for subsequent projects to assess the Applicant's Project in their own respective cumulative assessments.

[3] The Conservation of Habitats and Species Regulations 2017 and The Conservation of Offshore Marine Habitats and Species Regulations 2017

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	▪ Updates to the Cumulative Effects Assessment and In-Combination assessment	(38) The Applicant noted the new Planning Inspectorate Advice Note on cumulative effects assessment that was published in September.[4] Within this Advice Note there is a section on 'cut-off' dates that recognises this concept. The Applicant acknowledge that it is open to the ExA to ask for more information and request updates to the cumulative impact assessment to be made. (39) The Applicant stated that two updates will be made in respect of its cumulative assessment information, at the ExA's previous request. The first is in relation to ornithological information, to include an assessment of the historic wind farms for which quantitative data was not available. These were assessed qualitatively but the EIA information will now include projections for quantitative numbers for those. (40) The second update is in relation to the request for the interrelationship report for a revised cumulative assessment for the list of identified interrelated projects in the Rule 6 Letter (PD-007). The Applicant noted that it has reviewed the format of the Interrelationship Report submitted in the Examination for the Morgan Offshore Wind Project: Generation Assets (PINS reference EN010136, REP1-017) and intends to follow this approach. The Applicant will therefore include a sensitivity analysis to see if any new information in relation to the identified projects submitted after the Application as at the date of ISH1 has changed or otherwise influences the conclusions of the cumulative assessment completed to date. If the answer is 'possibly' then a review will be completed. If the answer is 'no' then the documents will not be revisited. (41) In response to a question from the ExA regarding the Applicant's cumulative visual impact assessment, the Applicant confirmed that the layout of the proposed windfarm, and the position of the up to two offshore substations, assessed in the

[4] Planning Inspectorate, Nationally Significant Infrastructure Projects: Advice on Cumulative Effects Assessment, 20 September 2024, https://www.gov.uk/guidance/nationally-significant-infrastructure-projects-advice-on-cumulative-effects-assessment

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		Seascape Landscape and Visual Impact Assessment ("**SLVIA**") (APP-055) is an indicative layout to demonstrate the theoretical worst-case. The theoretical worst-case would be positioning both offshore substations closest to shore where they would be most visible. The Applicant further confirmed that progress has been made on the detailed design since the Application was submitted and it is now likely that only one substation will be required. (42) The Applicant stated an understanding that no booster substations will be required for the Morgan Project as part of the Transmission Assets application, although this information is not widely known as the application for the Transmission Assets is not yet in the public domain on the date of ISH1. [**Post hearing note**: The Applicant notes that the Transmission Assets application was accepted for Examination on 18 November 2024. The Project Description chapter (Document Reference F1.3) confirms that no booster stations are required for the Transmission Assets] (43) The Applicant took an action to undertake, and submit a commentary on the results of, a sensitivity analysis on the potential SLVIA effects of the Project in the absence of the other existing baseline offshore wind farms that would be decommissioned and therefore removed within the operational life of the Project. The Applicant also took an action to submit a table listing heights of both nacelle and tip of all existing and consented wind farms in the area of the Project. [**Post hearing note**: The Applicant has provided this commentary at Deadline 1, see Response to Actions arising from Preliminary Meeting and Issue Specific Hearing 1 (Document Reference 9.28)] (44) Following representations from the Ørsted Interested Parties ("**IPs**") regarding wake loss, and in response to a request by the ExA, the Applicant took an action to submit a copy of the Frazer-Nash Study into the Examination, together with a briefing note which highlights where the evidence of 'vanishingly small' losses can

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		be identified, together with any other points the Applicant wishes to emphasise in respect of wake loss. [**Post hearing note**: The Applicant has provided the Frazer-Nash Study and this evidence at Deadline 1, see Response to Actions arising from Preliminary Meeting and Issue Specific Hearing 1 Appendix C: Frazer Nash Report (Document Reference 9.28.3). The Applicant will respond in further detail at Deadline 2 to reflect any further evidence set out in the Ørsted IPs' written representations submitted at Deadline 1.] (45) The Applicant directed the ExA to the summary of its position which can be found in responses to the relevant representations of the Ørsted IPs (PD1-011). The Applicant also highlighted the specific wording in the relevant NPS relevant to wake loss assessment. Specifically, NPS EN-3 at paragraph 2.8.179 states that "*where a potential offshore wind farm is proposed close to an existing operational offshore infrastructure, or has the potential to affect activities for which licenses have been issued by the government, the applicant should undertake an assessment of potential effects of the proposed development on such existing or permitted infrastructure or activities*". The Applicant explained its position that the Project is not 'close' to other offshore wind farms and, as such, the policy does not apply, and the detailed assessment assumed to be necessary by the Ørsted IPs is not proportionate in this case. The Applicant noted that the Ørsted IPs were applying the same policies as the Applicant. [**Post hearing note:** The Applicant has set out its position regarding the interpretation of policy in the Statement of Common Ground with the Ørsted IPs, see Draft Statement of Common Ground with the Ørsted IPs (Document Reference 9.14)] The Applicant took an action to submit a table showing distances of the Project to other Offshore Wind Farms and orientation thereto. [**Post hearing note**: The Applicant has provided this table at Deadline 1, see Response to Actions arising from Preliminary Meeting and Issue Specific Hearing 1 (Document Reference 9.28)]

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		(46) Regarding aviation impacts, the Applicant welcomed the explanations given by BAE Systems and BAE Systems Marine regarding the potential cumulative impact on radar by the Project together with other Round 4 developments in the East Irish Sea (specifically, the Morgan Project and the Mona Project). The Applicant requested that this information be set out in as much detail as possible in the Written Representations so it can consider and respond further. The Applicant also noted that there are requirements in the DCO to secure mitigation for aviation impacts. The Applicant is in discussions with both BAE Systems and BAE Systems Marine, as well as other aviation operators, to ensure that the requirements appropriately mitigate the issues. (47) In response to comments from the Ørsted IPs regarding potential radar and shipping and navigation impacts, the Applicant noted that the primary forum for these discussions will be directly between the Applicant and the Ørsted IPs, as these are commercial matters. The Applicant will engage with the Ørsted IPs (together any aviation IPs) to seek a resolution. The Applicant also noted that discussions on the suitability of and costs for mitigation that the Ørsted IPs had secured (e.g. in respect of the Warton PSR) were a commercial matter between the Ørsted IPs and the Ministry of Defence, BAE Systems and BAE Systems Marine. [**Post hearing note**: The Applicant's position on this is set out further in the Statement of Common Ground with the Ørsted IPs, see Draft Statement of Common Ground with the Ørsted IPs (Document Reference 9.14)] (48) With regards to comments from the Ørsted IPs on cumulative assessment, the Applicant highlighted that the Application has been designed to be a standalone application, fully assessed, including cumulative assessment, and is capable of being properly determined on a stand-alone basis. The Applicant notes that IPs will be able to comment on this, and the results of the Interrelationship Report to be submitted at Deadline 1, as required. [**Post hearing note**: The Applicant has

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		provided this report at Deadline 1, see Report on Interrelationships with Other Infrastructure Projects (Document Reference 9.20)]
Item 5: The Overall Structure of the dDCO		
7	The Applicant will be asked to explain its overall approach to the drafting of the dDCO and clarify if any matters are to be secured by alternative methods, such as Planning Obligations and other forms of agreement.	(49) The Applicant took an action to amend the referencing and cover pages of revised and track documents so they would have the same reference number as the new clean version. [**Post hearing note**: Documents with revised referencing and cover pages have been submitted at Deadline 1.] (50) The Applicant explained that in drafting the DCO it sought to rely on precedent and previous drafting, but this has been tailored as appropriate for the Project. The Applicant explained that changes made to the draft DCO submitted at Procedural Deadline A (PD1-002 and PD1-003) also reflected the comments made by the ExA in the Rule 6 Letter (PD-007). (51) Part 1 of the draft DCO sets out preliminary matters and interpretation. (52) Part 2 sets out the principal powers that are being sought by the Applicant. (53) Article 3 sets out that development consent has been granted for the authorised development – this is the fundamental purpose because the project is an offshore wind generating station in English waters over 100MW and so requires development consent under the Planning Act 2008. (54) Article 4 authorises the use and operation of the generating station (otherwise consent to operate would separately be required under section 36 of the 1989 Act). (55) Article 5 provides for the marine licence to be deemed granted as set out in Schedule 6 of the draft DCO (otherwise a separate marine licence would be required from the MMO as the Planning Act 2008 does not disapply the requirements of the Marine and Coastal Access Act 2009). (56) Article 6 provides for the power to maintain the authorised project.

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		(57) Article 7 sets out who shall have the benefit of the Order and that the undertaker may, with the consent of the Secretary of State, transfer the benefit of the Order to another person, including the DML. The Applicant noted that the provision of transferring the benefit of the Order is necessary to facilitate the disposal of the Transmission Assets to an Offshore Transmission Owner ("**OFTO**"). [**Post hearing note**: The Applicant notes that the only part of the Project that would be disposed of to an OFTO would be the offshore substation(s) for the rationale discussed at paragraphs (3) and (4) at ID entry 1 above.] (58) Part 3 then sets out the miscellaneous and general articles. The Applicant then highlighted several key articles. (59) Article 11 sets out that Schedule 3, the protective provisions, have effect. (60) Article 16 states that Schedule 7, HRA compensation measures, has effect. The Applicant emphasised that the compensation measures have been included on a without prejudice basis. (61) Schedule 1 sets out the description of the authorised development that would be authorised by the DCO. The reason for the two separate work numbers is simply for convenience, because there may be mitigation which relates specifically to the wind turbine generators. (62) Schedule 2 sets out the requirements which will apply to the authorised development. (63) Requirement 1 allows for a seven-year time period for commencement of development. Where a legal challenge is raised to the validity of the Order then this may be extended by up to an extra year. (64) Requirement 2 sets out the design parameters. These are the maximum design parameters which secure the worst-case scenario(s) that have been assessed. The operation of the parameters to constrain the scale of the development is as

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		explained at the earlier agenda item. The Applicant has made changes here, at the request of IPs, including a request by Natural England to add hammer energy. (65) Requirement 3 sets out various safety requirements for aviation. (66) Requirement 4 provides for primary radar mitigation schemes at Great Dun Fell, Lowther Hill and St Annes Primary Surveillance Radars. (67) Requirements 5, 6 and 7 provide that Instrument Flight Procedure ("**IFP**") schemes to address the potential impact of the turbines on IFPs at various airports and aerodromes, have been approved by the Secretary of State, with respect to Blackpool Airport, Barrow / Walney Island Airport [**Post hearing note**: this has been corrected to "Walney Aerodrome" to reflect comments made by BAE Systems and BAE Systems Marine in the next version of the DCO to be submitted at Deadline 2] and Warton Aerodrome and RAF Valley. These requirements are based on conditions within other consenting regimes (e.g. consents under section 36 of the 1989 Act) and have not, to date been in DCOs. These requirements secure mechanisms to mitigate for impacts on specified aviation assets. (68) Requirement 8 requires a decommissioning plan to be submitted to the Secretary of State for approval. (69) Requirement 9 sets out that a port access and transport plan will be required where the wind turbines and other major components will be delivered on land to a port. (70) Requirement 10 sets out that a skills and employment plan will be required. (71) Requirement 11 sets out that approvals under the DCO must be in writing. (72) Requirement 12 allows for approved changes to be made to details approved under this Schedule. (73) Schedule 3 of the draft DCO sets out the protective provisions. The Applicant noted it was cognisant of updated guidance issued by Department for Levelling

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		Up, Housing & Communities (DLUHC) on the content of DCOs[5] that states that it is not acceptable to submit a draft DCO with blank schedules for protective provisions on the basis these will be supplied during the Examination, which is why protective provisions are included, but these are intended to be a starting point for discussions with the commercial parties they are designed to benefit. The Applicant confirmed following comments from Spirit Energy that it is in discussions with Spirit Energy on the form and function of the protective provisions. (74) Part 1 of Schedule 3 sets out protections for offshore cables which cross or come close to the wind farm boundary. (75) Parts 2 and 3 provide for protections around oil and gas platforms operated by Harbour Energy and Spirit Energy respectively. These provide for a 1.5 nautical mile buffer from each of the Calder Platform and the Central Processing Complex Platforms. No above sea infrastructure will be placed within this buffer zones to enable helicopter and vessel safe access to the platforms. These also provide for a buffer zone around identified pipelines. They also provide for compensation in the event that additional costs are incurred as a result of restricted helicopter access when co-existing with wind farms. (76) Schedule 4 sets out the process to be followed for the approval of requirements in Schedule 2, noting that it does not apply to the approval of any conditions within the Deemed Marine Licence. The Schedule specifies a period of eight weeks for the discharging authority to determine the application but makes provision for a longer period to be agreed between the undertaker and the discharging authority.

[5] DLUHC, Planning Act 2008: Content of a Development Consent Order required for Nationally Significant Infrastructure Projects, 30 April 2024; https://www.gov.uk/guidance/planning-act-2008-content-of-a-development-consent-order-required-for-nationally-significant-infrastructure-projects

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		Provision is made for further information to be requested and submitted and provides timescales associated with this process. (77) Schedule 5 sets out the rules on arbitration. (78) Schedule 6 sets out the DML and its conditions. (79) The DML sets out the works that are authorised, which mirror the authorised works under Schedule 1. Condition 1 includes a table of design parameters which mirror those found under Schedule 1. (80) Condition 9 requires the undertaker to obtain the approval, before the commencement of licensed activities or any phase thereof, of a range of final documentation (which must be in accordance with outline versions submitted with the application and certified as part of the Order). This requires the Applicant to obtain approval before the commencement of licenced activities, or any specific phase, of a range of documents that have already been tested at Examination and that have been submitted with the Application and certified as part of the Order. (81) Condition 11 requires a safety zone application under the Energy Act 2004. These are needed for construction on a rolling basis (i.e. turbine by turbine) to provide a safe buffer zone for vessels in the vicinity of turbine installation) and also for maintenance. (82) The Applicant highlighted that two new conditions had been added to the deemed marine licence. (83) Specifically, Condition 19 requires the undertaker to submit information compliant with the Marine Noise Registry requirements to the MMO in relation to driven or part-driven pile foundation works. Condition 20 requires submission and approval of an underwater sound management strategy before commencement of any piling activities. The Applicant explained that these feature in the deemed marine

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		licence, and not as DCO requirements, as the preference from the MMO is to have MMO approval under them within the deemed marine licence. (84) The Applicant noted that Schedule 7 is provided on a without prejudice basis in the event the Secretary of State considers there is an adverse effect. It provides for a compensation and implementation monitoring plan to be approved and implemented, based on the outline compensation and implementation monitoring plan submitted with the application (APP-030). The outline plan includes two compensation options, but only one would actually be required which the Applicant would detail in the Compensation and Implementation Monitoring Plan. It also gives the option (i.e. a third option) to pay into the Marine Recovery Fund, if available. (85) Schedule 8 is the list of documentation which will be certified in due course. (86) The Applicant noted BAE Systems and BAE Systems Marine's comment regarding the incorrect naming of their assets and will liaise directly with both parties in that regard and update documentation accordingly. [**Post hearing note**: this has been corrected to "Walney Aerodrome" to reflect comments made by BAE Systems and BAE Systems Marine in the next version of the DCO to be submitted at Deadline 2]
Item 6: ExA's Questions on the DCO		
8	The ExA will ask questions about the dDCO and seek observations from IPs present	(87) The Applicant confirmed that several of the ExA's initial observations and queries on the drafting of the DCO included in Annex F(i) of the Rule 6 Letter (PD-007) had already been actioned or amended in the updated version of the draft DCO submitted at Procedural Deadline A (PD1-002 and PD1-003).
8	Definition of "offshore substation platform" (Art 2) (Appendix F(i) matter 4)	(88) The Applicant clarified for the ExA that high voltage refers to the equipment in the substation to undertake its function as a substation. Low voltage refers to the other equipment that might be needed, for example to run the air conditioning units.

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9	Approval of matters specified in requirements (Art 4) (Appendix F(i) matter 6)	(89) The Applicant clarified that this is Article 14 and not Article 4. The Applicant confirmed that this is not intended to capture decisions made by the Secretary of State. The Planning Act 2008 does not have a mechanism allowing for a DCO to place a decision maker above the Secretary of State, so were the Applicant to disagree with a decision of the Secretary of State, the only remedy would be judicial review. The Applicant confirmed it would consider altering the drafting of this Article to make it clear that it did not apply to decisions of the Secretary of State. [**Post hearing note**: In light of its submission made at ISH1, the Applicant does not consider that any further amendment to this Article is required.]
10	Offshore substation platforms (Sch 1 Part 1) (Appendix F(i) matter 7)	(90) The Applicant confirmed that the Project would be in excess of 100MW, the minimum required under the Planning Act 2008, and this is secured in paragraph 1 of part 1 of the DCO where there is a minimum capacity requirement of 100MW. The Applicant noted that generating capacity is not used to cap the scale of the development. This is because a wind turbine of a given physical size may have a variety of capacities depending on the manufacturer, and those capacities may increase over time as technology improves. The impacts of the development are based on the physical scale of the development, and so it is appropriate to define and constrain the development by reference to physical parameters such as swept rotor area, rather than capacity. (91) Not including a maximum capacity is a common approach in offshore wind DCOs, following the non-material change to The Dogger Bank Teesside A and B Offshore Wind Farm Order 2015 through The Dogger Bank Teesside A and B Offshore Wind Farm (Amendment) Order 2020. The Applicant took an action to provide a copy of the Amendment Order. [**Post hearing note**: The Applicant has provided this Amendment Order, together with the Secretary of State's decision letter and the amended Order at Deadline 1, see Response to Actions arising from

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		Preliminary Meeting and Issue Specific Hearing 1 Appendix D: Dogger Bank Amended Order (Document Reference 9.28.4)]
11	Design Parameters (Sch 2 Req 2) (Appendix F(i) matter 8)	(92) The Applicant stated that, in its view, the DML is the appropriate place to secure approval of the detailed design as it will be reviewed by the MMO, in consultation with the MCA. The Applicant considers there to be no onshore elements or significant impacts related to matters such as layout and the lines of orientation and, as such, it is not necessary for onshore consultation. The key drivers behind the Design Statement and the Design Principles are navigational safety and efficiency of the wind farm. (93) The Applicant confirmed that the separation distances are centre point to centre point of the wind turbine generator and that this parameter remains the same regardless of wind turbine generator size. The appropriateness of the separation distance is calculated on the basis of the largest rotor that could be installed, with some tolerance to account for the final location. (94) The Applicant took an action to include maximum helideck height as a parameter in the next draft of the DCO submitted at Deadline 2. (95) Regarding pile penetration depth, The Applicant confirmed that it has undertaken geophysical and intrusive surveys which have not identified any evidence of shallow gas. These intrusive surveys were to a depth of 60m. It is the Applicant's position that this is not a risk because no deposits have been identified close to the surface and, accordingly, there is no need to specify a maximum depth in the dDCO. (96) In response to the ExA's question on predrilling, the Applicant confirmed this is controlled through drill arisings. Part 1 of Schedule 1 of the DCO states that the disposal of drill arisings in connection with any foundation drilling up to a total of 55,863 m^3. This is the calculated maximum drill arising of a 50% drilling campaign.

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		[**Post hearing note**: The Applicant notes that this is confirmed in the Project Description chapter (APP-042) at para. 5.105.] (97) The ExA asked whether a parameter around the maximum height of cable burial required to be secured in the DCO. The Applicant explained that height is a function of the volume of material for cable protection. Furthermore, given the Project only relates to the Generation Assets and is exclusively within deep water, there would be no navigational impacts should greater cable burial heights be used (noting that cable burial would still need to comply with the specified maximum volume parameter for cable protection, which is set out in DCO Requirement 2). The Applicant took an action to consider whether further detail on this point was necessary. [**Post hearing note**: The Applicant notes that MGN654 requires that any consented cable protection works must ensure that existing and future safe navigation is not compromised, and reductions in surrounding charted depths will only be accepted up to 5% unless otherwise agreed with the MCA. As such, the Applicant considers that compliance with MGN654 (secured by condition 12 of the Deemed Marine Licence) has the effect of ensuring a maximum height of cable burial.]
12	Aviation Safety (Sch 2 Req 3) (Appendix F(i) matter 9)	(98) The Applicant clarified that subparagraph 1 of Schedule 2 Requirement 3 is an operational requirement for lighting during the life of the authorised project and that there are separate aviation lighting standards for both the Civil Aviation Authority ("**CAA**") and the Ministry of Defence ("**MOD**"). (99) The Applicant explained that the wording of this sub-paragraph is a specific request from the MOD to be included within the requirement. The Applicant notes that the CAA's lighting requirements for turbines over 150m are statutory (as this is stipulated within the Air Navigation Order 2016), so ongoing compliance is a matter of law. The MOD's lighting requirements are additional to the Air Navigation Order and so therefore not captured by virtue of ongoing legislative compliance.

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		(100) The Applicant clarified the difference between the Defence Infrastructure Organisation Safeguarding and the MOD. Defence Infrastructure Organisation Safeguarding is an administrative arm of the MOD and is therefore the administrative body that handles wind farm planning applications, or post-consent administrative matters, on behalf of the MoD. The references in sub-paragraph (1) to the MOD relate to setting the safety requirements or agreeing a deviation from those set requirements (which are matters of principle), which are distinguishable from the references in sub-paragraph (2) which deal with the administrative process of issuing notice. The Applicant would also note that this is a standard condition that the MOD requests be in this wording. (101) In response to the ExA's question as to why helideck buffer zones are provided for within the protective provisions and not the DCO Articles or requirements, the Applicant explained, as is set out in Chapters 16 (Civil and Military Aviation and Radar) and 17 (Infrastructure and Other Users) of the Environmental Statement (APP-053 and APP-054), there is no general legal requirement in aviation safety or compliance terms for a buffer zone around oil and gas platforms with active helidecks. (102) The reasoning for the restriction is to mitigate for operational effects that the proposed development may have on those platforms (because depending on the weather conditions (such as wind direction) and helicopter type and mass there are different recommended distances for safe approach and take-off). As the matter is not one relating to aviation safety legislative compliance, and is instead a matter between two commercial parties, the Applicant considers that this is best addressed in protective provisions. Protective provisions are the standard approach for incorporating protections into a DCO where third party infrastructure could be impacted by the development authorised by that DCO.

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		(103) It is also the case that the buffer is only required until the platforms are decommissioned, which is expected to occur early in the life of the windfarm, which is another reason for the buffer to remain in protective provisions. (104) The Applicant responded to Spirit Energy's point regarding a potential regulatory change with regards to helicopter access to oil and gas platforms. The Applicant noted that if there was a rule change then it would bind the parties, and there would be no need to pre-empt or duplicate that in the DCO drafting. [**Post hearing note:** If this rule change does go ahead, the Applicant's position (as set out in its Response to Spirit's Relevant Representation (PD1-011 at RR-077-36), is that there will be alternative means of compliance to that rule. As such, the rule change is not absolute and so it would not be appropriate to have an absolute distance specified within the DCO.]
13	Aviation Safety (Sch 2 Req 5, 6 and 7) (Appendix F(i) matter 10)	(105) The Applicant responded to BAE Systems Marine confirming that it is the intention with Requirements 5, 6, and 7 that all the relevant mitigations will need to be in place prior to the construction of the wind turbine generators. The Applicant will submit amended requirements to reflect this (incorporating any further changes following discussions with the relevant IPs) in the next version of the DCO submitted at Deadline 2.
14	Decommissioning (Sch 2 Req 8) (Appendix F(i) matter 11)	(106) In response to a question from the ExA regarding conflicting language as to whether certain safety zones would or would not be required during decommissioning in the Safety Zone Statement and the Planning, Development Consent and Need Statement, the Applicant clarified that there was a stray "not" included in the Safety Zone Statement. The Applicant took an action to submit a revised Safety Zone Statement at Deadline 1. [**Post hearing note**: The Applicant has provided this at Deadline 1, see Safety Zone Statement_Rev 02 Tracked (Document Reference 4.5.1)]

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		(107) Regarding the approval of the decommissioning programme, the Applicant explained that it is for the Secretary of State to serve a notice requiring a decommissioning programme to be submitted. The Applicant explained that the process for approving decommissioning programmes is under the Energy Act 2004. It is not considered appropriate for the DCO to duplicate this process or prescribe the timing of that notice. Under the Energy Act 2004 powers, if the Secretary of State considers that it is not necessary to have a decommissioning programme at this early stage of the Project's lifecycle then that is a matter for the Secretary of State. This is supported by guidance from the Department of Business Energy and Infrastructure on Decommissioning of Offshore Renewable Energy Installations under the Energy Act 2004.[6]
15	Port Access and Transport Plan (Sch 2 Req 9) (Appendix F(i) matter 12)	(108) At this stage, it is not yet known how the components for the Generation Assets will be delivered to the site, and it may be that there is no need for any components to be transferred over land. For example, components may directly arrive at a port via sea and then move directly from that port to site. (109) The Applicant proposed to amend this Requirement to clarify that the Port Access and Transport Plan (PATP) will be needed where major components are transported over land, with major components comprising the wind turbine generators, offshore substation platforms, and any foundations associated with either the wind turbine generators or the offshore substation platforms. Cable and scour protection would not be considered major components which constitute abnormal loads. This amendment will be included in the version of the draft DCO submitted at Deadline 2. The Applicant took an action to submit updated

[6] Department for Business, Energy & Industrial Strategy, Decommissioning of Offshore Renewable Energy Installations under the Energy Act 2004: Guidance Notes for Industry (England and Wales), March 2019; https://assets.publishing.service.gov.uk/media/5f5b2724e90e0718e212a22d/decommisioning-offshore-renewable-energy-installations-energy-act-2004-guidance-industry__1_.pdf

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		documents as necessary to reflect that the Port Access and Transport Plan will be submitted to the relevant highway authority rather than if requested. [**Post hearing note**: The Applicant is in discussions with local authorities regarding the wording of the DCO requirement.] (110) The Applicant also noted that the Planning, Development Consent and Need Statement erroneously notes that a PATP will be submitted. As is set out in the Traffic and Transport chapter (APP-059 at paras. 22.26 to 22.28), the Outline PATP (APP-151) and the draft DCO, there is an initial consultation with the relevant highway authority to determine whether a PATP is required, and it is only where one is required that it then must be submitted. The Applicant will address this in a revised version of the Planning, Development Consent and Need Statement to be submitted at Deadline 1. [**Post hearing note**: The Applicant has provided this at Deadline 1, see Planning, Development Consent and Need Statement _Rev 02 Tracked (Document Reference 4.8.1). As noted above, the Applicant is in discussion with local authorities regarding the wording of the DCO requirement. If those discussions conclude that further changes are needed to the DCO requirement, the Applicant will submit a corresponding further revision of the Planning, Development Consent and Need Statement.] (111) In response to a question from the ExA regarding the requirements of Schedule 4 to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, the Applicant confirmed that these requirements apply principally to the development applied for and not wider elements of a project that are not included within the application (noting cumulative assessment required in respect of development applied for). The Project will require deliveries from outside the red line boundary. To the extent these deliveries need separate consents (i.e. port consents), these will be sought by the port authority and any assessment required for the infrastructure required at the port, and the transit of goods to and from the

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		port, will be part of the port's application and corresponding EIA, as opposed to this Application.
16	Skills and Employment Plan (Sch 2 Req 10) (Appendix F(i) matter 13)	(112) The Applicant explained that the obligation to provide a skills and employment plan, where it has been in other offshore wind development consent orders, derives primarily from the onshore elements of the project. This is because the primary opportunities for skills and employment relate to work onshore and are realised through the construction and maintenance of onshore assets. (113) As such, the Applicant considers that this is primarily a matter which requires to be secured within the DCO for the Transmission Assets, and this has been included in the draft DCO submitted as part of that application. (114) The Applicant explained that the proposed drafting does meet the tests for a valid requirement. The Skills and Employment Plan needs to be in accordance with the Outline Skills and Employment Plan. Given the nature of the connectivity between the Skills and Employment Plan and the Project the Applicant explained that the notification requirements to the Local Planning Authority, as opposed to an approval requirement, was proportionate.
17	Amendments to approved details (Sch 2 Req 10) (Appendix F(i) matter 14)	(115) The Applicant agreed to amend the draft DCO so that 'amendment approvals' does not exclusively fall within the scope of the Secretary of State but instead with the relevant approving body. This will be actioned in the version of the DCO submitted at Deadline 2.
18	Approval of matters specified in requirements (Sch 4 para 4) (Appendix F(i) matter 15)	(116) The Applicant explained that paragraph 3 in Schedule 4 (specifically paragraph 3(3)) sets out the timescales for requesting further information by consultees that are different from the discharging authority (for example, a scenario in which a requirement is to be approved by the Secretary of State following consultation with the MMO). Paragraph 4 then sets out the periods for a final response from that consultee once any further information has been provided. Without the inclusion of

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		paragraph 4, there would be timescales for the request of further information (whether identified directly by the discharging authority or by a consultee) but there would be no period by which the consultee had to respond on such further information. Without any such deadline, it would be challenging for an application to be determined within the 8 weeks specified by paragraph 2(1)(b).
19	Approval of matters specified in requirements (Sch 4 para 5) (Appendix F(i) matter 16)	(117) In respect of paragraph 5, the Applicant explained that setting a period in which a decision must be made is important to provide certainty to all parties, particularly given that approvals of matters specified in requirements can be time-sensitive and important for consent implementation. Given the ExA's concern regarding this drafting, the Applicant proposed to leave a target date for a decision but make provision for departures from this when agreed by parties. This will be updated in the version of the DCO submitted at Deadline 2. (118) In respect of paragraph 12, the Applicant explained that it does not consider that there needs to be a power in the draft DCO by which the appointed person should be able to award costs on their own initiative. As noted in government guidance on planning appeals,[7] the Secretary of State may, on their own initiative, make an award of costs, in full or in part, in regard to appeals and other proceedings under the Planning Acts if they consider that a party has behaved unreasonably resulting in unnecessary expense and another party has not made an application for costs against that party.
20	Additional queries relating to the MMO's relevant representation	(119) In response to the ExA's question regarding a request by the MMO that a codicil regarding 'no new environmental effects' be added, the Applicant noted that it had responded to this drafting point in its Response to Relevant Representations (PD1-011 at ID RR-047-13).

[7] https://www.gov.uk/guidance/appeals#award-of-costs

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		(120) In response to a question from the ExA regarding any implications for providing false information, the Applicant clarified that this wording is preferred by the MMO. In addition, the consequence of missing or false information will be dictated by the nature of that information and the circumstances. The Applicant took an action to discuss this further with the MMO. [**Post hearing note**: the MMO had not reviewed the Applicant's Response to Relevant Representations on the draft DCO at the most recent meeting on 6 November 2024 and the MMO agreed to comment on this matter at Deadline 1.] (121) The ExA noted that the MMO suggested a restriction on piling during cod spawning but that the Applicant did not include such a restriction within the DML and instead included a condition regarding sound management. The Applicant clarified that a sound management plan could encompass different measures, which could include seasonal restrictions. The Applicant confirmed they were in discussions with the MMO on this point.
21	DML (Sch 6, Part 2 cond 6) (Appendix F(i) matter 18)	(122) The Applicant explained that this provision will be amended to include reference to 15m above Highest Astronomical Tide (HAT) unless otherwise directed by Trinity House. This will be added in the version of the DCO submitted at Deadline 2.
22	Additional queries relating to Natural England's relevant representation [Archaeological exclusion zones but not ecological exclusion zones]	(123) Regarding archaeological and ecological exclusion zones, the Applicant confirmed it had responded to Natural England's relevant representation on this point (PD1-011 at ID RR-061-43). The Applicant explained that there were no species of relevance found, as noted in Chapter 9 Benthic Ecology of the Environmental Statement (APP-046). The Applicant's position is that there has been nothing found within the surveys to date that would require micro-siting. (124) Regarding Natural England's position that four months is insufficient for condition approval and the suggestion that six months is required, the Applicant confirmed it had responded to Natural England's relevant representation on this point (PD1-011 at ID RR-061-37). The Applicant explained that four months has been

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		accepted by the Secretary of State in recent DCO examinations. [**Post hearing note:** For example, the Applicant notes that four months has been accepted in The Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024.] The Applicant confirmed that it was discussing timescales for approvals of various documentation with both Natural England and the MMO. (125) In response to the question regarding the lack of an implementation clause within Condition 9 of the DML, the Applicant confirmed that condition 10 contains timescales for submission of approval, and condition 10(3) contains a requirement for the licenced activities to be carried out in accordance with the approved plans. The ExA noted that 'tailpieces' in conditions such as "unless otherwise agreed in writing" are discouraged, and the Applicant took an action to consider rewriting the condition to reword this tailpiece. [**Post hearing note**: This will be addressed in the version of the DCO submitted at Deadline 2.]
23	Post-decommissioning monitoring (Sch 6, Part 2 conds 9 and 16) (Appendix F(i) matter 20)	(126) The Applicant explained that it would expect any post-decommissioning monitoring or obligations to be identified as part of the Decommissioning Programme required under DCO Requirement 8. A DCO should not duplicate controls from other regulatory regimes without good reason. For this reason, it is considered that the Decommissioning Programme would be the most appropriate method for securing any additional post-decommissioning obligations. (127) The Applicant also explained that the Energy Act 2004 contains provisions in high level terms on the information required to be in decommissioning programmes. This is also set out in guidance.[8]

[8] Department for Business, Energy & Industrial Strategy, Decommissioning of Offshore Renewable Energy Installations under the Energy Act 2004: Guidance Notes for Industry (England and Wales), March 2019; https://assets.publishing.service.gov.uk/media/5f5b2724e90e0718e212a22d/decommisioning-offshore-renewable-energy-installations-energy-act-2004-guidance-industry__1_.pdf

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		(128) The Applicant took an action to include a definition within the draft DCO of the decommissioning programme required under the Energy Act 2004. This will be incorporated in the version of the DCO submitted at Deadline 2.
24	Post consent monitoring (Sch 6, Part 2 cond 16) (Appendix F(i) matter 21)	(129) The Applicant clarified that the in principle monitoring plan, which secures various mechanisms for various stages, does set out provisions for post consent and post-construction monitoring where appropriate. 16(3)(a) and (b) are a standard marine licence condition that has been specifically requested by the MCA and is included in other precedents. The in principle monitoring plan serves as a 'collection' document that collates where monitoring measures have been secured elsewhere within the application documents, for example, the outline offshore operation and maintenance plan or the outline vessel traffic management plan, and it also proposes potential monitoring that would be carried out if deemed to be necessary. (130) The Applicant acknowledged that the in principle monitoring plan could be clearer in directly cross-referencing where committed monitoring measures have been secured, and the Applicant intends to submit an updated version of the IPMP at Deadline 3 to incorporate this. The reason for a Deadline 3 submission rather than an earlier Deadline is because Natural England have indicated in their relevant representation (RR-061 at paragraph 2.6) that further comments on the IPMP may be provided at Deadline 1, so Deadline 3 gives an opportunity for further discussion between the parties. (131) The Applicant explained that the only matter in the IPMP that is identified as being "outwith the IPMP" that may be considered necessary is in relation to commercial fisheries (and relates to the possible collation of fisheries landings and activity data before, during and after construction). However, should this be required, it is included in the Outline Fisheries Liaison and Co-Existence Plan (APP-147) and would therefore be secured under Deemed Marine Licence Condition 9(1)(k).

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		(132) In terms of marine mammals and seabirds, no further matters that are identified as “outwith the IPMP” are considered necessary to monitor the effects from the authorised project and, accordingly, they do not require to be secured.
25	Monitoring of cable burial integrity (Potential omission) (Appendix F(i) matter 22)	(133) The Applicant noted that the regular and routine monitoring of cable burial integrity and cable protection is included within the Outline Offshore Operation and Maintenance Plan (APP-150) which commits to a general inspection provision and is then secured by Condition 9(1)(g) of the Deemed Marine Licence This is also secured by virtue of Condition 9(1)(d), in particular sub-paragraphs (bb) and (cc) which require the Offshore Construction Method Statement to include details around cable specification and installation and future cable monitoring until decommissioning. Condition 16(5) of the DML requires this Statement, specifically the details of cable monitoring, to then be updated with the results of any post-installation surveys.
26	Emergency Response Cooperation Plan (Potential omission) (Appendix F(i) matter 23)	(134) The Applicant noted that the Emergency Response Cooperation Plan is included in the Schedule of Mitigation (APP-144) (at pages 46 entry 14.7 and 61 entry 16.3) which confirms that it is secured by Condition 12 (Offshore safety management) within the Draft DML (Schedule 6, Part 2). The production of an agreed Emergency Response Cooperation Plan is a requirement of MGN654 and will, therefore, be secured through compliance with MGN654 under Condition 12.
27	Additional question regarding HRA compensation	(135) The Applicant confirmed it had reviewed the alternative drafting (regarding strategic compensation) for the HRA compensatory measures schedule provided by Natural England in its relevant representation. The text provided relates to strategic compensation for benthic impacts, so is not directly analogous, but the Applicant is considering the alternative wording with a view towards incorporating changes in the DCO submitted at Deadline 2. (136) The Applicant confirmed that the compensation measures are secured within paragraphs 8 and 9 of Schedule 7 of the draft DCO. These explain that the

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		compensation measures will be maintained by the undertaker for the operational lifetime of the wind turbine generators in the development. The Applicant took an action to review the compensation provisions to cover off the situation where the operational life was less than 30 years, and the Applicant will incorporate any resulting changes in the version of the DCO submitted at Deadline 2.