



Application by Morecambe Offshore Wind Limited for Morecambe Offshore Windfarm Generation Assets

The Examining Authority's further written questions and requests for information (ExQ2)

Issued on 27 February 2025

The following table sets out the Examining Authority's (ExA) further written questions and requests for information – ExQ2.

Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as Appendix C to the [Rule 6 letter](#) of 23 September 2024 and are in a similar order to those from the ExA's initial questions (ExQ1 [\[PD-011\]](#)). Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

Column 2 of the table indicates which Interested Parties (IPs) and other persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with 2 (indicating that it is from ExQ2) and then has an issue code and a question number. For example, the first question on General and Cross-Topic issues is identified as ExQ2GEN1. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact MorecambeOffshoreWindProject@planninginspectorate.gov.uk and include 'Morecambe Offshore Windfarm Generation Assets ExQ2' in the subject line of your email.

Responses are due by Deadline 5: Tuesday 11 March 2025.



Abbreviations used:

Abbreviation	Description
AEOI	Adverse Effects on Integrity
AMC	Alternative Means of Compliance
BML	Bodorgan Marine Limited
CAA	Civil Aviation Authority
CEA	Cumulative Effects Assessment
D	Deadline (eg D1 - Deadline 1)
(d)DCO	(Draft) Development Consent Order
DF	Direction Finding
(d)DML	(Draft) Deemed Marine Licence
EIA	Environmental Impact Assessment
ES	Environmental Statement
ExA	Examining Authority
HAT	Highest Astronomical Tide
HRA	Habitats Regulations Assessment
IFR	Instrument Flight Rules
IMC	Instrument Meteorological Conditions
IP	Interested Party
km	Kilometre
LBBG	Lesser Black Backed Gull

Abbreviation	Description
M&MTA	Morgan and Morecambe Offshore Wind Farms Transmission Assets
MMO	Marine Management Organisation
NAS	Noise Abatement System
NE	Natural England
NFFO	National Federation of Fisherman's Organisations
nm	nautical mile
NPS	National Policy Statement
NPS EN-1	Overarching NPS for Energy
NPS EN-3	NPS for Renewable Energy Infrastructure
NRW (A)	Natural Resources Wales (Advisory)
NWMP	North West Inshore and Offshore Marine Plan 2021
OEI	One Engine Inoperative
ORJIP	Offshore Renewables Joint Industry Programme
OSP	Offshore Substation Platform
OWF	Offshore Wind Farm
RaDIN	Range dependent nature of impulsive noise
RIAA	Report to Inform Appropriate Assessment
RR	Relevant Representation



Abbreviation	Description
s	Section
SoS	Secretary of State
SPA	Special Protection Area
UHF	Ultra High Frequency
UK	United Kingdom

Abbreviation	Description
VHF	Very High Frequency
VMC	Visual Meteorological Conditions
WR	Written Representation
WTG	Wind Turbine Generator

The Examination Library

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link:

[EN010121-000408-Morecambe Offshore Wind Farm - Examination Library.pdf](#)

It will be updated as the examination progresses.

Citation of Questions

Questions in this table should be cited as follows:

Question reference: issue reference: question number, eg ExQ2GEN1 – refers to question 1 in this table.



Index	
1. General and Cross-topic Questions (GEN)	5
Environmental Statement (General)	5
2. Biodiversity, Ecology and Marine Processes (BEM)	6
General	6
Fish and shellfish ecology	6
Marine mammals	8
Offshore Ornithology	9
3. Civil and Military Aviation and Radar (CAR)	9
Clarifications	9
4. Climate Change	11
Assessment	11
5. Commercial Fisheries (CF)	12
Compliance with Policy	12
6. Cultural Heritage (including Marine Archaeology (CH)).....	13
7. Development Consent Order [REP4-002] (DCO).....	13
General	13
Schedule 2 - Requirements	13
Schedule 6 – Deemed Marine Licence	14
Schedule 7 – Without prejudice compensation measures	15
8. Habitats Regulations Assessment (HRA).....	15
HRA Issues.....	15
9. Other offshore infrastructure (OOI)	18
Oil and gas	18
Ørsted assets	18
10. Seascape, Landscape and Visual (SLV)	19
Effect on National Landscapes.....	19
11. Shipping and Navigation (SN)	20
Clarifications.....	20
12. Socio-Economics, Tourism and Recreation (SETR)....	20
Operations and maintenance expenditure	20
13. Traffic and Transport (TT).....	21

ExQ2	Question to:	Question:
1. General and Cross-topic Questions (GEN)		
Environmental Statement (General)		
2GEN1.	The applicant	<p>Applicant status</p> <p>The ExA is aware of press reports that Copenhagen Infrastructure Partners has agreed to buy the proposed development from COBRA Group and Flotation Energy. In light of this, could the applicant please update the ExA on the current situation including any implications for funding of the proposed development.</p>
2GEN2.	The applicant	<p>Cumulative assessments</p> <p>In its D4 submission [REP4-074] NRW (A) makes the point at three locations to the effect that it considers that the applicant has undertaken assessments based on activities occurring simultaneously rather than cumulatively. The applicant is specifically requested to respond to this critique of its assessments and to comment on whether, if the activities were not to occur simultaneously, different significant or effects might result. The applicant in commenting is requested to note whether there are any effects on the RIAA in-combination assessment.</p>
2GEN3.	The applicant	<p>Mitigations</p> <p>The applicant is requested to review each of the following documents to ensure that there is certainty as to the mitigation(s) that are to be secured. For example, the use of “would” rather than “should” or “could”, and avoiding the use of “may”.</p> <ul style="list-style-type: none"> • Outline Project Environmental Management Plan [REP3-041] • Outline Fisheries Liaison and Co-Existence Plan [REP4-023] • In Principle Monitoring Plan [REP4-025] • Draft Marine Mammal Mitigation Protocol [REP4-027] • Outline Offshore Operation and Maintenance Plan [REP2-020] • Outline Port Access and Transport Plan [APP-151] • Outline Scour Protection and Cable Protection Plan [REP1-057] • Outline Vessel Traffic Management Plan [REP3-047] • Outline Offshore Written Scheme of Investigation [APP-154] • Outline Skills and Employment Plan [APP-155] • Outline Underwater Sound Management Strategy [REP4-049] • Outline Construction Method Statement [REP4-056]

ExQ2	Question to:	Question:
		<ul style="list-style-type: none"> • Commitments Register [REP4-047] <p>Please note that any measures that are relied upon for a conclusion to enable a competent authority to rely on its delivery and enable a conclusions of no AEoI beyond reasonable scientific doubt.</p>
2. Biodiversity, Ecology and Marine Processes (BEM)		
General		
2BEM1.	The applicant MMO NE	<p>Outline Underwater Sound Management Strategy</p> <p>The Outline Underwater Sound Management Strategy [REP4-049] in paragraph 34 states that the applicant is committed to deploying a NAS for its worst-case scenario (i.e. maximum strike rate with maximum hammer energy).</p> <p><u>To the applicant</u></p> <p>a) can the applicant explain why there is a commitment only for the worst-case scenario and thus any other scenarios which may require NAS are not so committed?</p> <p>b) in order to future proof the document, could the applicant consider including reference to potential future piling noise limits which may be imposed?</p> <p><u>To MMO and NE</u></p> <p>c) are there any other scenarios in which the applicant should be committed to applying NAS through the Outline Underwater Sound Management Strategy? If so, please identify which ones setting out the rationale. Alternatively, could the NE and MMO set out and explain any other criteria upon which the applicant should be committed to applying NAS.</p> <p><u>To the applicant, MMO and NE</u></p> <p>d) should there be different scenarios based on different sensitivities, species and times of year? For example, would it be appropriate for different criteria during the cod spawning season as opposed to at other times of year? (See also ExQ2BEM3.).</p>
Fish and shellfish ecology		
2BEM2.	NE MMO	<p>Site specific fish/ shellfish surveys</p> <p>In light of NFFO comments on the need for site specific fish and shellfish surveys (as set out in the SoCG between the NFFO and the applicant [REP4-034]), can NE and the MMO explain why they are satisfied with</p>

ExQ2: Thursday 27 February 2025

Responses due by Deadline 5: Tuesday 11 March 2025

ExQ2	Question to:	Question:
		the level of detail as indicated in their D3 and D4 submissions and why further detailed surveys are not necessary.
2BEM3.	The applicant MMO	<p>Cod spawning ‘season’</p> <p>In its D4 submission [REP4-064] the MMO maintains that a temporal restriction on piling activities should take place during the cod spawning season. The applicant makes the point in the Outline Underwater Sound Management Strategy [REP4-049] paragraph 53 that there is some uncertainty as to the extent of the season. The MMO seeks the January to April period to be excluded. The evidence of Maxwell <i>et al</i> (2012) cited refers to surveys undertaken in the end of January to April 2008 period, but the ExA has not been provided with the data and thus to what, if any, extent there is any variation in egg production during this period. The applicant notes that peak spawning occurred in the mid-February to mid-March period, although there was some variation of up to one week, but this occurred within this period.</p> <p>The applicant’s view is that the finalised Underwater Sound Management Strategy would provide sufficient protection for cod larvae so that a specific temporal restriction on the face of the DCO or DML is not necessary.</p> <p><u>To the MMO</u></p> <p>a) If the MMO is not satisfied that a finalised Underwater Sound Management Strategy would be sufficient, it is also asked to respond to the proposition that any restriction should be limited to the mid-February to mid-March period (15 February to 15 March) providing evidence, if it does not accept this proposition, as to why this would not be appropriate.</p> <p>b) The MMO is requested to provide an update/ final confirmation of the condition setting out specific dates. If alternative dates are to be proposed, then these too should be justified as being the minimum necessary.</p> <p><u>To the applicant and MMO</u></p> <p>c) The ExA notes that the MMO has provided a draft condition in its D4 submission [REP4-064] (pdf page 19). The ExA also notes that in its response to R17.1.18 (pdf page 95) it has made comments in relation to the use of ‘codicil’ phrases in conditions. The MMO is directed to the latest version of the dDCO [REP4-002] (and also the tracked change version [REP4-003] which more clearly shows the alterations made by the applicant) for alternative wording to “<i>unless otherwise agreed in writing by the MMO</i>” which shows other approaches to maintain the substance of a condition while providing for flexibility.</p> <p>The applicant, on a ‘without prejudice’ basis, and MMO are asked to provide agreed wording on a potential condition.</p>

ExQ2	Question to:	Question:
Marine mammals		
2BEM4.	The applicant	<p>Marine Mammal CEA Project Screening</p> <p>In paragraph 91 of the Marine Mammal CEA Project Screening [REP4-019] the applicant indicates that, because there was no detailed information available at the time of assessment on oil and gas infrastructure that could be decommissioned during the construction phase of the Project, precautionary assumptions about the expected impact load were used to provide a qualitative assessment of impacts that might be expected.</p> <p>If the SoS were to conclude that the construction of the proposed development could only take place if the Spirit Energy and Harbour Energy assets were in the decommissioning phase, could the applicant please set out what effect this would have on any cumulative and in-combination (HRA) effects?</p> <p>Please also see ExQ2DCO2. and ExQ2OOI1.</p>
2BEM5.	The applicant	<p>Marine Mammals</p> <p>Could the applicant please respond to the outstanding concerns of NRW(A) in [REP4-074] about the assessment of cumulative and in-combination effects to marine mammals. This should provide an assessment that addresses effects from repeated disturbance and cumulative stressor load, or justify the approach to taken to asses a single day of construction with reference to relevant guidance. In the response, could the applicant differentiate as necessary the implications for EIA and HRA.</p>
2BEM6.	NRW (A)	<p>Marine Mammals</p> <p>The ExA notes that the Outline Marine Mammal Management Protocol [REP4-027] and Outline Underwater Sound Management Strategy [REP4-049] refer to the Defra and JNCC guidance published in January 2025 and include commitments to NAS. Can NRW(A) explain what further mitigation it considers is needed in relation to marine mammals and piling and confirm whether this is for effects identified in the EIA, HRA or both.</p>
2BEM7.	The applicant	<p>Marine Mammals</p> <p>NRW(A) requested that the Outline Underwater Sound Management Strategy [REP4-049] includes a commitment to consider Offshore Renewables Joint Industry Programme (ORJIP) Range dependent nature of impulsive noise (RaDIN). Could the Applicant please provide an updated version with this commitment or explain why it is not needed.</p>

ExQ2	Question to:	Question:
Offshore Ornithology		
2BEM8.	NRW (A)	<p>Guillemot and Razorbill</p> <p>In paragraphs 21 and 23 of its D4 submission [REP4-074] NRW (A) indicates that it considers that the apportionment of 100% of birds as adults should be used for guillemots and razorbills rather than the stable age structure of 57% as adults. Given the whole population will extend over a whole life-cycle, could NRW (A) please explain why the 100% figure should be used rather than the real-case percentage, otherwise does not the analysis risk becoming over-precautionary?</p>
3. Civil and Military Aviation and Radar (CAR)		
Clarifications		
2CAR1.	The applicant	<p>Applicant's supporting evidence and distance calculations</p> <p>Spirit Energy ([REP4-069], paragraph 5.5) has stated that it has not been able to verify the distance calculations, methodology and supporting information used by the applicant for calculating the landing approach for day/ night Visual Meteorological Conditions (VMC); day/ night VMC One Engine Inoperative (OEI) take-off or day/ night Instrument Meteorological Conditions (IMC) OEI take-off. Similarly the OEI take-off distances in Tables 3.1 and Table 3.2 of section 3.2.6 of the applicant's D3 Anatec Report [REP3-071] are not supported by any calculations and so cannot be verified.</p> <p>Please can the applicant provide the information requested in order to support and evidence its position?</p>
2CAR2.	The applicant	<p>Outstanding Assessments</p> <p>In the event that the assessments in relation to Very High Frequency (VHF), Ultra High Frequency (UHF) and Direction Finding (DF) have not been undertaken and (if necessary) mitigation identified and agreed by the close of this examination, there would be insufficient information on the potential impacts of the proposed development on these systems.</p> <p>Whilst a Requirement is proposed to address these matters, what assurance can be given that the requirements of NPS EN-1 (notably paragraphs 5.5.37, 5.5.50 and 5.5.60) would have been complied with and that any such Requirement would be reasonable and meet the necessary legal tests?</p>
2CAR3.	The applicant Blackpool Airport	<p>VHF Communication</p> <p>At ISH3 representatives of Blackpool Airport commented that in addition to a project alone assessment of effects on VHF communications, it considered a cumulative effects assessment, being in conjunction with the</p>

ExQ2	Question to:	Question:
		<p>proposed Mona Offshore Wind Farm and the proposed Morgan Offshore Wind Farm, was required. In response the applicant confirmed that cumulative effects were not being assessed because project alone assessments have only been carried out for those other projects and this is confirmed in the applicants post hearing written summary ([REP4-061], Item 36). The ExA notes in the applicant’s response to the action points of the February hearings ([REP4-061], item 24) that it understands Blackpool airport has commissioned its own cumulative assessment, and that the applicant intends to provide its project alone assessment to the airport so that this can be taken into account if required.</p> <p><u>To the applicant:</u></p> <ul style="list-style-type: none"> a) whilst the ExA understands project alone assessments may have been conducted for the other projects, can you explain why you consider a cumulative assessment is not required given for other topics within the ES cumulative effects assessments have been carried out? b) if project alone assessments have been undertaken for the other offshore wind projects, could these not be used in order to carry out a cumulative assessment? If not, please can the applicant explain why this is the case. c) if a cumulative assessment is not undertaken as part of the ES or received before the close of the examination, how can the ExA/ SoS be satisfied that the potential effects of all the proposed offshore wind farms currently being proposed within the Irish Sea (if granted) would not give rise to significant effects or ensure mitigation appropriate measures are secured to address any such impacts? <p><u>To the applicant and Blackpool Airport:</u></p> <ul style="list-style-type: none"> d) at ISH3 the parties indicated that it was their intention to make a written submission at D4 setting out their positions and reasons for requiring a cumulative VHF assessment. No such submission was received at D4. Can the applicant and Blackpool Airport therefore please let us have any comments by D5 along with a copy of the cumulative assessment in order that all parties have an opportunity to comment on this before the close of the examination.
2CAR4.	CAA	<p>New CAA rule change</p> <p>In its D4 submission ([REP4-069], paragraph 5.23) Spirit Energy comments that the CAA has not committed to the proposed 3nm restriction being secured as an Acceptable Means of Compliance (AMC) and so this could be secured as a regulation change. If the latter option is taken, then Spirit states that non-compliance with the regulation is not an option.</p> <p>Noting the CAA’s previous response [REP3-075] to our first written question EXQ1CAR5, we understand that the new restriction is likely to be introduced as an AMC. For the avoidance of doubt, can the CAA therefore</p>

ExQ2	Question to:	Question:
		confirm its position as to whether the restriction would be secured as an AMC or a change to the regulations themselves?
2CAR5.	Spirit Energy	<p>Minimum distance from platform(s) in VMC / Visual Flight Rules (VFR)</p> <p>In Spirit Energy’s WR at D1 and D3 ([REP1-116], paragraph 2.22 and [REP3-102] paragraph 2.12) it states that a minimum distance of 1.9nm would be required to ensure safe approach and OEI take off in VMC using VFR. Without prejudice to Spirit Energy’s wider position that a minimum 3.76nm buffer is required, should the SoS be minded to make the DCO in favour of the applicant accepting that this would restrict access to daytime VMC/ VFR only, can Spirit Energy advise:</p> <p>a) whether a minimum distance of 1.9nm would be acceptable and, if not, what minimum distance would be required and why?</p> <p>b) whether this should be secured by way of a Protective Provision and if so, can you please provide drafting of such a provision?</p>
4. Climate Change		
Assessment		
2CC1.	The applicant	<p>Carbon analysis</p> <p>In response to the Action Point 20 [REP4-061] the applicant maintains its position that around 24% of the carbon emissions from the M&MTA project should be allocated to the proposed development. In paragraph 21.183 of the Climate Change chapter of the ES [APP-058] it is clear that this is done on the basis of a proportional analysis based on nominal capacities of the Morgan and Morecambe generation projects. However, in Appendix A of the Post-hearing submissions on behalf of Spirit Energy [REP4-070] on pdf page 20 it is made clear that the two cable corridors are “<i>entirely separate</i>”.</p> <p>While appreciating the applicant’s case about the relevant nature of the carbon assessment, in light of this comment, could the applicant please provide a more nuanced, quantitative assessment of the carbon assessments for those elements of the M&MTA project associated with the proposed development?</p>
2CC2.	The applicant	<p>Climate Change</p> <p>Could the applicant please update Chapter 21 of the ES [APP-058] in light of the latest submissions, including the ‘Written Summary of the Applicant’s Oral Submissions – Issue Specific Hearings 2, 3 and 4’ [REP4-059], ‘Response to Actions arising from Issue Specific Hearings 2, 3 and 4’ [REP4-061], the ‘Greenhouse Gas</p>

ExQ2	Question to:	Question:
		Assessment Technical Note' [REP4-062] , the response to ExQ2CC1 and any responses to the D4 submissions from Ørsted IPs [REP4-075] , [REP4-076] and [REP4-077] .
5. Commercial Fisheries (CF)		
Compliance with Policy		
2CF1.	BML	<p>Compliance with NPS EN-3</p> <p>Paragraph 2.8.154 of NPS EN-3 states that “<i>Applicants should undertake early consultation with a cross-section of the fishing industry..... and actively encourage input from active fishers to provide evidence of their use of the area to support the impact assessments.</i>” (emphasis added).</p> <p>Paragraph 2.8.197 of NPS EN-3 states that “<i>Where a potential offshore wind farm..... has the potential to affect activities for which a licence has been issued by government, the applicant should undertake an assessment of the potential effects of the proposed development on such existing or permitted infrastructure or activities</i>” (emphasis added).</p> <p>In your D4 submission you acknowledge that you are not currently in a position to apply for a marine licence and that “<i>co-located aquaculture needs to follow OWF development</i>” [REP4-068], paragraph 8].</p> <p>Without repeating arguments or submissions already made, can you therefore explain why you consider the applicant has failed to comply with the above requirements of NPS EN-3 given your aquaculture activities are not actively being carried out and you have no existing licence or consent that allows those activities to take place?</p>
2CF2.	The applicant BML	<p>Compliance with North West Inshore and Offshore Marine Plan 2021</p> <p>Paragraph 2.8.319 of NPS EN-3 states that “<i>The Secretary of State should consider the extent to which the proposed development occupies any recognised important fishing grounds, and whether the project would prevent or significantly impede protection of sustainable commercial fisheries or fishing activities.</i>”</p> <p>Policy NW-AQ-1 of the North West Inshore and Offshore Marine Plan 2021 (NWMP) seeks to protect both existing aquaculture operations as well as potential future opportunities for aquaculture within spatially defined strategic areas of sustainable aquaculture production (emphasis added). The Technical Annex that supports the NWMP adds that if sited within existing or potential strategic areas of sustainable aquaculture production (as identified in the similarly named layer on the Explore Marine Plans digital service), proposals will need to demonstrate how they will avoid significant adverse effects. If significant effects cannot be avoided than measures should be identified to minimise and mitigate such effects.</p>

ExQ2	Question to:	Question:
		<p><u>To the applicant and BML:</u></p> <p>a) given no aquaculture activity is taking place within the footprint of the wind farm site or within ICE 36E6, does aquaculture constitute a commercial fishery and fishing for the purposes of NPS EN-3 and does the proposal site constitute a “<i>recognised important fishing ground</i>”?</p> <p>b) as the proposed development lies outside a strategic area of sustainable aquaculture as identified within the NWMP, does Policy NW-AQ-1 apply in this case?</p> <p><u>To BML:</u></p> <p>c) if Policy NW-AQ-1 does apply, how has the applicant failed to apply the mitigation hierarchy correctly in terms of avoiding potential significant adverse effects on aquaculture if no such activity exists? In other words, if no aquaculture activity is taking place why would mitigation and enhancement be necessary (having regard to paragraph 2.8.251 of NPS EN-3)?</p>
6. Cultural Heritage (including Marine Archaeology (CH))		
The ExA has no questions on this issue at this time.		
7. Development Consent Order [REP4-002] (DCO)		
General		
2DCO1.	The applicant	<p>Drafting</p> <p>As a general rule “and/ or” should not appear in Statutory Instruments due to uncertainty. There are currently 26 occurrences of this. Could the applicant please look at where these occur with a view to removing them as necessary.</p>
Schedule 2 - Requirements		
2DCO2.	The applicant Spirit Energy Harbour Energy	<p>Potential additional requirement</p> <p>Without prejudice to its consideration, the position of the parties and further representations, in the event that the ExA or SoS were to conclude that the objections of Spirit Energy and Harbour Energy were overriding to prevent development in proximity to the existing oil and gas installations, could the applicant, Spirit Energy and Harbour Energy all produce an additional requirement (on a ‘without prejudice’ basis where appropriate) to prevent development taking place within the relevant area until decommissioning activities would no longer represent an impediment to construction of the proposed development.</p>

ExQ2	Question to:	Question:
		<p>Such a requirement should consider:</p> <ul style="list-style-type: none"> • a defined point or points (if phased) in time relating to decommissioning activities at which the proposed development could take place • distance from the outer extremity edge of the Calder Platform (or other defined structure, such as the CPC) • height above HAT beyond which no development could be installed • height above HAT beyond which no temporary equipment could be located <p>If possible, the ExA would appreciate agreed drafting of the basic text, even if there may be differences over the precise criteria. See also ExQ20011.</p>
Schedule 6 – Deemed Marine Licence		
2DCO3.	The applicant	<p>Condition 2(5) and 2(7) – maintenance of authorised project</p> <p>Under the revised drafting submitted at D4 [REP4-002] maintenance reports need to be submitted to the MMO following “completion of construction”. Given the discussions in relation to whether other OWFs in the Irish Sea have been fully constructed, or ‘complete’, would a more appropriate marker be ‘first operation’? If so, could the dDCO please be amended as appropriate.</p>
2DCO4.	The applicant MMO NE	<p>Determination under DML - timings</p> <p>The ExA has read and understood NE’s comments in its ‘Comments on Rule 17 letter to Natural England and the Marine Management Organisation’ [REP4-065] at point R17.1.16 <i>“The necessity for the increased consultation time to 6 months is to avoid delays to the start of construction and is mainly due to; a) the quantity of pre-construction condition discharge consultations we are now receiving per project (compared with OWF NSIPs consented 10 years ago), and b) the potential requirement for multiple consultations in relation to each marine licence condition. It is Natural England’s view that the additional rounds of consultations have become common place due to the complexity of the issues included within the licence discharge process and in many cases the necessity to address unresolved issues from consent, before the discharge of the condition can progress”</i>. However, this presupposes that the MMO is not willing to refuse matters where an inappropriate proposal is put forward. The ExA has also noted the MMO’s response to the same question at [REP4-064].</p> <p>The ExA is considering recommending a 56 day determination period for all consents within the DML. The applicant, MMO and NE are asked for comments.</p>

ExQ2	Question to:	Question:
Schedule 7 – Without prejudice compensation measures		
2DCO5.	The applicant NE NRW (A)	Notification procedures In paragraph 2(1) of both Parts 1 and 2 of Schedule 7 there is a time period of six months set in a square bracket. Could the applicant, NE and NRW (A) please confirm this provision, removing the square bracket.
8. Habitats Regulations Assessment (HRA)		
HRA Issues		
2HRA1.	NE	<p>Lesser black backed gull (LBBG)</p> <p>The ExA notes the applicant’s ‘Comments on Deadline 3 Submissions by Interested Parties’ [REP4-058] in relation to the progression of proposed compensation at Steep Holm to enable commencement of delivery in 2025 with the options of Banks Marsh and South Walney being retained. NE [REP4-066] identifies that the assessments have been updated by the applicant and is waiting for these to be incorporated into the application documentation for a potential solution.</p> <p>a) Can NE confirm:</p> <ul style="list-style-type: none"> • whether these updates would enable it to make a conclusion of no AEol alone or in combination for LBBG at Morecambe Bay and Duddon Estuary SPA and Ribble and Alt Estuary SPA; or • whether these updates are to be made to the derogations case to enable NE to agree the without prejudice derogations case for the conclusion of AEol in-combination for the LBBG qualifying feature of Morecambe Bay and Duddon Estuary SPA and Ribble and Alt Estuary SPA? <p>b) In light of NE’s comment regarding baseline surveys for LBBG and what it considers to be underestimates of impacts, would NE comment as to whether additional compensation may be necessary in respect of LBBG.</p>
2HRA2.	NE	<p>Red-throated diver conservation objective</p> <p>The conservation objectives for the red-throated diver in respect of Liverpool Bay SPA in respect of ‘distribution’ are: <i>“Restore the distribution of the feature; preventing further deterioration, and where possible, reduce any existing anthropogenic influences impacting feature distribution”</i>.</p> <p>Footnote 16 (after the word ‘restore’) states: <i>““Restore” is used here because existing evidence shows the feature to have been displaced from previously used areas of the site. Therefore, we have set the target to prevent further displacement, while recognising current impacts to the feature, and where possible existing influences should be addressed.”</i>.</p>

ExQ2	Question to:	Question:
		<p>The Explanatory information indicates that <i>“there are detectable displacement effects from the Burbo Bank extension windfarm in Liverpool Bay/Bae Lerpwl SPA (HiDef, 2020). As a result of wind farm development, red-throated divers in Liverpool Bay SPA have experienced a reduction in available supporting habitat. Although the physical supporting habitat may still be present, disturbance and displacement from wind farms has meant that some areas are no longer accessible for red-throated diver”</i>.</p> <p>NE is asked to explain how preventing the proposed development from being constructed within 10km of the original (2010) boundary of the SPA would ‘restore’ the distribution of red-throated divers, as ‘restore’, by definition, can only be a putting back of a previously existing something (in this case location) which has been lost.</p> <p>In light of this, should the objective for the purposes of the consideration of the proposed development be that of ‘maintain’ only? If not, could NE explain why ‘restore’ is suitable.</p>
2HRA3.	The applicant NE	<p>Red-throated diver</p> <p>The ExA has noted the representations put forward by the applicant and IPs in relation to the conclusions of in-combination AEol for the red-throated diver qualifying feature of the Liverpool Bay SPA, noting the distribution objective and effect on supporting habitat. It remains a matter of disagreement. The applicant has provided two further technical notes [REP1-082] [REP4-054] in relation to this matter. [REP1-082] includes Figure 2.1 which shows an area of the original Liverpool Bay SPA boundary which the applicant states that it and NE have agreed as being the area potentially impacted.</p> <p>The applicant has explored a number of factors [REP1-082] [REP4-054] which in its view should be considered and which enable a conclusion of no AEol in-combination. These include (but are not limited to):</p> <ul style="list-style-type: none"> • consideration of current uses of the area in and around Liverpool Bay SPA which exert a displacement effect on red-throated diver • consideration of removal of these uses in future years • application of the Crown Estate Round 4 Plan level HRA conclusions • size of the area being in its view, inconsequential to the in-combination assessment • presence of red-throated diver within the area. <p>The applicant notes [REP4-054] that due to the distance of 6.5km supporting habitat would not be impacted. NE reaffirms in [REP4-066] that, to enable a conclusion of no AEol for red-throated diver at Liverpool Bay SPA, a change in boundary for which wind turbines are located is required. The applicant [REP3-064] has set out that a reduction in boundary would make the proposed development unviable.</p>

ExQ2: Thursday 27 February 2025

Responses due by Deadline 5: Tuesday 11 March 2025

ExQ2	Question to:	Question:
		<p><u>To NE</u></p> <p>a) Could NE please confirm its position in light of the latest position from the applicant. b) The ExA notes that NE’s D4 response suggests that minimising overlap with the 10km buffer could resolve the issue. Can NE confirm whether there is a specific change in the level of displacement between 10km and 7km that might be used to inform the choice of a slightly smaller buffer than 10km whilst still enabling a conclusion of no AEol.</p> <p><u>To the applicant</u></p> <p>c) Can the applicant set out the reasons why the same power output cannot be achieved without this area (for example amending the proposed turbine spacing, size, or other criteria within the assessed parameters) (see also question ExQ2HRA5.).</p>
2HRA4.	NE	<p>Vessel effects on red-throated diver</p> <p>NE has referenced seasonal restrictions on vessel movements, which the applicant considers to be not necessary. Could NE explain what seasonal restrictions it considers could be imposed on vessel movements to reduce impacts on red-throated diver in light of the applicant’s proposals to use existing vessel channels and to avoid transiting through the SPA where possible.</p>
2HRA5.	NatureScot	<p>‘Without prejudice’ red-throated diver compensation measures</p> <p>On 10 February 2025 the ExA wrote a Rule 17 letter [PD-014] to NatureScot requesting comments on the applicant’s ‘Habitats Regulations Assessment Without Prejudice Derogation Case – Red-Throated Diver at Liverpool Bay / Bar Lerpwl SPA’ [REP3-065].</p> <p>NatureScot is asked to respond to this letter.</p>
2HRA6.	The applicant NE	<p>Location of WTGs and OSPs</p> <p><u>To the applicant</u></p> <p>a) The applicant has indicated that preventing the location of WTGs within 10km of the originally designated Liverpool Bay SPA would mean that the proposed site would no longer be viable. Can the applicant respond to the proposition that if the siting of WTGs and OSPs were to be restricted to an area within, in each case, 9km, 8km and 7km of the originally designated Liverpool Bay SPA, particularly if the area in the northwestern part of the application site in the vicinity of the existing oil and gas equipment were to be made available for WTGs and OSPs following decommissioning.</p>

ExQ2	Question to:	Question:
		<p><u>To NE</u></p> <p>b) NE is asked to set out its position were the proposal to be so restricted. It is asked specifically to respond to each of the three specified distances and whether in each case the proposed development would be likely to result in likely significant effects on integrity of the Liverpool Bay SPA in respect of the red-throated diver.</p>
2HRA7.	The applicant	<p>Underwater noise</p> <p>a) The first sentence of section 9.4.4.1 paragraph 3462 (previously 3405) of the RIAA [REP4-009] does not appear to make sense. Please amend the drafting of this paragraph as necessary; and</p> <p>b) section 9.4.4.1 paragraph 3465 of the RIAA [REP4-009] states that “<i>The combined results from these assessments have been summarised in Table 9.20 and Table 9.20.</i>”. Is this correct? Please amend the drafting as necessary.</p>
9. Other offshore infrastructure (OOI)		
Oil and gas		
200I1.	Spirit Energy	<p>Decommissioning of existing assets</p> <p>At ISH3, and in Spirit Energy’s post hearing summary ([REP4-070], paragraph 2.47) it states that the cessation of production for the Central Processing Complex (CPC) is 2027, plus or minus two years, but that Spirit are looking to extend the life of the asset to 2030 and beyond.</p> <p>a) Please can you advise for what future purpose the CPC is proposed to be used and whether a new consent or licence would be required for any such new use?</p> <p>b) Given the age of the platform, would any new development or works be required to extend the life of the asset?</p> <p>c) If the decision is taken to decommission the CPC (and Calder CA1 platform), how long would it take to remove the infrastructure?</p> <p>See also question ExQ2DCO2.</p>
Ørsted assets		
200I2.	The applicant Ørsted IPs MMO	<p>Effect on nearby OWFs</p> <p>The Ørsted IPs ([REP4-077], paragraph 1.22) consider that any need to obtain or vary an existing marine licence is considered business-as-usual and would not impact on decision making regarding extending the lifetime of the assets. Having regard to the recent <i>C G Fry & Son Limited vs Secretary of State for Housing,</i></p>

ExQ2	Question to:	Question:
	NE	<i>Communities and Local Government</i> [2024] EWCA Civ 730 judgment, could the Ørsted IPs, MMO, NE and the applicant respond to the proposition that any new marine licence would be likely to require a HRA to be carried out. As a result, parties are invited to comment on how certain the ExA/ SoS can be that any such consent/ approval would be forthcoming?
200I3.	Ørsted IPs	<p>Effect on nearby OWFs</p> <p>In its latest submission ([REP4-076], paragraph 2.5) the Ørsted IPs maintain that the predicted wake effects are a commercial consideration that will affect decisions about the lifetime extension of the existing Ørsted projects and therefore their future viability.</p> <p>For the avoidance of doubt, can the Ørsted IPs confirm whether their position is that the potential wake effects identified would affect the financial viability of the existing Ørsted projects up and until their ‘earliest possible decommissioning date’ or that your concerns are about financial viability relating to future decisions about lifetime extensions only?</p>
200I4.	Ørsted IPs	<p>Financial viability of existing Ørsted assets</p> <p>In first written question EXQ1.OOI13 the ExA asked the Ørsted IPs to provide evidence to substantiate their position that the proposed development would affect the viability of the existing Ørsted assets. The Ørsted IPs’ response [REP3-109] stated that calculating the financial consequences from wake loss is complex and commercially sensitive but that Ørsted would investigate how to submit a robust assessment of the financial impact using public sources for a later submission. No such information has been provided.</p> <p>Can you provide the information requested in order to support your position that the ExA/SoS should give substantial weight to those effects as directed by paragraph 2.8.347 of NPS EN-3.</p>

10. Seascape, Landscape and Visual (SLV)

Effect on National Landscapes

2SLV1.	The applicant	<p>S245 Levelling up and Regeneration Act</p> <p>In light of the SoS’s ‘minded to’ letter in relation to the second runway proposals for Gatwick Airport concerning the amended duty set out in s85 of the Countryside and Rights of Way Act 2000 (as amended by s245 of the Levelling Up and Regeneration Act 2023), the Applicant is requested to consider further potential enhancement measures to further the purpose of conserving and enhancing the natural beauty of the areas of outstanding natural beauty (National Landscapes) which may be affected by the proposed development. If appropriate, the applicant is requested to provide additional provisions within the dDCO.</p>
--------	---------------	---

ExQ2	Question to:	Question:
11. Shipping and Navigation (SN)		
Clarifications		
2SN1.	The applicant MMO	<p>Contaminants and navigation</p> <p>It its response to RR-047-18 the MMO indicates that <i>“The MMO would like to understand what the process will be on deciding the source of the rock to ensure there is no navigational concerns or contaminants risk and where this detail will be provided post consent”</i> in relation to rock material used in the construction of the proposed development.</p> <p><u>To the MMO</u></p> <p>a) Could the MMO please explain how the source of a rock could affect navigation, as opposed to its volume, which is another matter?</p> <p><u>To the applicant</u></p> <p>b) Can the t the applicant to identify anywhere in a document, or to be secured in a control document, where this choice is limited in terms of parameters assessed</p>
2SN2.	The applicant	<p>Navigation</p> <p>In paragraph 73 in Appendix A of the outline Construction Method Statement [REP4-056] the applicant has committed to <i>“identify the risk of needing any cable protection that may exceed 5 percent of navigable depth referenced to Chart Datum”</i>. Could the applicant please confirm how Chart Datum relates to the other sea level measurements utilised in the Environmental Statement and draft DCO? For example, Highest Astronomical Tide, Lowest Astronomical Tide. The applicant is also asked to set out the difference between Highest Astronomical Tide and Lowest Astronomical Tide. If this varies across the application site, then this may be best displayed graphically.</p>
12. Socio-Economics, Tourism and Recreation (SETR)		
Operations and maintenance expenditure		
2SETR1.	The applicant	<p>Operations and maintenance expenditure</p> <p>Paragraphs 20.240 and 20.243 of Chapter 20 ([APP-057], pdf page.83) state that the annual costs associated with the operations and maintenance of the Generation Assets would be approximately £19 million per year and that it is estimated that 59% of spending would occur in the Local Economic Area. Paragraph 20.244</p>

ExQ2: Thursday 27 February 2025

Responses due by Deadline 5: Tuesday 11 March 2025

ExQ2	Question to:	Question:
		however provides a breakdown of the average annual expenditure as being £11 million in the Local Economic Area and £17 million in the UK. Can you please explain the difference in the two figures cited and, if required, update and correct accordingly.
13. Traffic and Transport (TT)		
The ExA has no questions on this issue at this time.		