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(Email only)

MMO Reference: DCO/2021/00003  
Planning Inspectorate Reference: EN010130  
Identification Number: 20048765

25 October 2024

Dear Rod Macarthur,

## **Planning Act 2008, GTR4 Limited, Proposed Outer Dowsing Offshore Wind Farm Order**

### **Deadline 1 Submission**

On 02 May 2024, the Marine Management Organisation (MMO) received notice under Section 56 of the Planning Act 2008 (the PA 2008) that the Planning Inspectorate (PINS) had accepted an application made by GTR4 Limited (the Applicant) for determination of a Development Consent Order (DCO) for the construction, maintenance and operation of the proposed Outer Dowsing Offshore Wind Farm (the DCO Application) (MMO ref: DCO/2019/00003; PINS ref: EN010130). The DCO includes Deemed Marine Licences (DMLs) in Schedules 10,11,12,13,14,15 and 16.

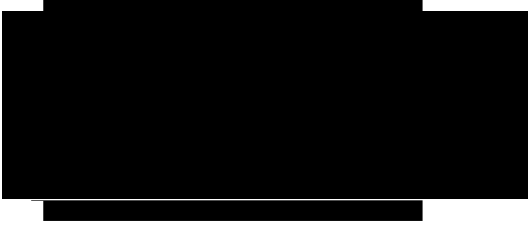
The Applicant seeks authorisation for the construction, operation and maintenance of DCO Application, comprising of up to 100 wind turbine generators together with associated onshore and offshore infrastructure and all associated development (the Project). The proposed development will comprise of up to four offshore substations, up to two offshore reactive compensation platforms (ORCPs) and an offshore export cable corridor running from the array area to landfall at Wolla Bank, to the South of Anderby Creek on the Lincolnshire coast. Onshore export cables will be installed underground and connect to the onshore substation (OnSS) located at Surfleet Marsh. 400 kilovolt (kV) cables will then connect the OnSS to a new National Grid substation (NGSS) which will connect the Project to the existing overhead lines.

This document comprises of the MMO's submission for Deadline 1. This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This



representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

Yours sincerely,



Amelia Clarke  
Marine Licensing Case Officer

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## 1. Comments on updates to application documents submitted by the applicant

Document reviewed:

### The Applicant's Responses to Relevant Representations (PD1-071)

#### 1.1. Marine Plans

1.1.1. The MMO acknowledges that the Applicant has produced a Policy Compliance Document (AS-012). Section 6, Table 1 includes an assessment of Marine Plan Policies. The MMO welcomes the signposting provided by the applicant and considers that the creation of an additional document would be duplication. However, policies E-ECO-1 and E-TR-3 appear to be missing.

#### 1.2. Timing of works

1.2.1. The MMO notes condition 13(1)(b) of Schedules 10 and 11 which details the submission of a Construction Programme to the MMO. We have made a further comment regarding this in point 1.20.2 below.

#### 1.3. Unexploded Ordinance

1.3.1. The MMO notes that the Applicant has stated that they are not seeking consent at this stage for the investigation of and clearance of Unexploded Ordinance (UXO) due to the degree of uncertainty regarding the number of UXO which require clearing.

1.3.2. The MMO notes the Applicant intends to apply for a marine licence application for the investigation of potential UXOs and their clearance prior to the commencement of offshore construction. A formal UXO Clearance Marine Mammal Mitigation Protocol (MMMP) will be drafted and submitted as part of the marine licence application. The MMO agrees with this approach.

#### 1.4. Arbitration

1.4.1. The MMO understands that arbitration does not apply to the MMO in this application. The MMO thanks the Applicant for clearly setting out that the Arbitration and Appeals procedures set out in the DCO do not apply to the DMLs. This is reflected in Article 38 (2):

*"38...(2) Any matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order shall not be subject to arbitration."*

#### 1.5. Transfer of Benefit of the Order

1.5.1. The MMO position in RR-042, points 3.4.1 - 3.4.5 has not changed. The MMO disagrees with the Applicant stance on this. The MMO is reviewing the comments made and will respond in due course.

#### 1.6. Materially

1.6.1. The MMO notes the Applicant's response and is reviewing the comments made and will respond in due course.



## 1.7. Determination Dates

- 1.7.1. Schedule 10 and 11, Part 2, Condition 14(4), includes a timescale to discharge documentation.

*...(4) The MMO must determine an application for approval made under condition 13 within a period of four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.*

The MMO maintains that it is inappropriate to put a timeframe on decisions of such a technical nature. The MMO would not willingly seek to constrain our ability to make an appropriate decision on post consent sign-off of plans and documentation, we would never include such a restriction on any other consent. With such tight timeframes, the MMO cannot be confident that all concerns during consultation can be sufficiently addressed.

- 1.7.2. The MMO understands that the Applicant wishes to ensure there is a specific time scale by which a decision is made, and that the decision does not continue without resolution. However, if discharge was not granted, the undertaker would have to provide updated documentation which would restart the process and potentially cause unnecessary delay.

## 1.8. Maintenance Reporting

- 1.8.1. The MMO notes the Applicant's comments regarding Schedule 10 and 11, Condition 13(1)(h) of the DMLs which requires an Offshore Operations and Maintenance Plan (OOMP), in accordance with the outline OOMP, to be submitted to the MMO prior to commencement and resubmission every three years during the operational phase. As the Applicant states, this is a forward-looking document. The MMO's request was to have an annual maintenance report submitted every three years (and a summary in year five) to provide a record of the licenced activities during the preceding years. The MMO maintains that it is imperative that this is submitted in order to reconfirm the applicability of the methodologies and frequencies of the licensable activities permitted by the licence and provides valuable information on whether further marine licences are required throughout the lifetime of the Project.

## 1.9. Stages of Construction

- 1.9.1. The MMO notes Schedules 10 and 11, Condition 13(1)(b) of which details the submission of a Construction Programme to the MMO. We have made a further comment regarding this is point 1.20.2 below.

## 1.10. Force Majeure

- 1.10.1. The MMO position in RR-042 point 3.9.1 has not changed. The Applicant maintains their position that the provision can be enforced alongside Section 86 of the Marine and Coastal Access Act (2009) as it is just a notification. The MMO is reviewing this response and will respond in due course.

## 1.11. Adaptive Management

- 1.11.1. The MMO notes the Applicant's comments, however, the MMO considers the proposed wording to be precise, enforceable, necessary, relevant to the



development and reasonable and this has recently been included in the Sheringham and Dudgeon Extension Order 2024. The MMO notes the Applicant's comments that a specific environmental effect to give rise to a concern has not yet been identified, leading the Applicant to consider the proposed condition wording to be unjustified, however sometimes impacts are unforeseen and further clarity is required in what is necessary from parties should impacts exceed what was assessed at this stage.

1.11.2. It is understood that Natural England will be providing further comment on the Project Environmental Monitoring Plan (PEMP) at Deadline 1. If Natural England are to state that monitoring doesn't fully link to outstanding risks and issues and the need to test effectiveness of mitigation measures, then the MMO advises that the adaptive management condition is considered.

1.11.3. The MMO would highlight that if any monitoring shows an impact higher than predicted within the Environmental statement (ES) the MMO may require additional monitoring or mitigation at the post consent stage.

1.11.4. The MMO will review the monitoring requirements, NE's comments and provide further updates in due course.

## **1.12. Coastal Processes**

1.12.1. MMO 4.2.2 and 4.2.3: With regard to the Applicant's responses to MMO points 4.2.2 and 4.2.3, the MMO is consulting with our technical advisors and will provide comments on these sections at Deadline 2.

1.12.2. MMO 4.2.8: The MMO welcomes the Applicant's consideration of our comments relating to figure scales and colour schemes in future. The MMO notes that the Applicant does not intend to revise these figures.

1.12.3. MMO 4.2.9 to 4.2.11: With regards to the Applicant's responses to MMO points 4.2.9 to 4.2.11, the MMO is consulting with our technical advisors and will provide comments on these sections at Deadline 2.

## **1.13. Dredge, Disposal and Chemical Use**

1.13.1. MMO 4.3.3 and 4.3.4: The MMO welcomes the Applicant's assurance regarding all chemicals which have the potential to enter the marine environment to be listed within the Chemical Risk Assessment (CRA) produced post-consent.

1.13.2. MMO 4.3.10 to MMO 4.3.18: With regards to the Applicant's responses to MMO points 4.3.10 to MMO 4.3.18, the MMO is with our technical advisors and will provide comments on these sections at Deadline 2.

## **1.14. Benthic Ecology**

1.14.1. MMO 4.4.1 to MMO 4.4.9: With regards to the Applicant's responses to MMO points 4.4.1 and 4.4.9, the MMO is consulting with our technical advisors and will provide comments on these sections at Deadline 2.



## **1.15. Fish Ecology**

- 1.15.1. MMO 4.5.1 to MMO 4.5.4: With regards to the Applicant's responses to MMO points 4.5.1 to MMO 4.5.4, the MMO is consulting with our technical advisors and will provide comments on these sections at Deadline 2.
- 1.15.2. MMO 4.5.10: The MMO welcomes the applicant's submission of revised figures showing IHLS heat maps for the most recent 10 years as requested by the MMO (RR-042). the MMO is consulting with our technical advisors and will provide comments on these sections at Deadline 2.
- 1.15.3. MMO 4.5.13 to MMO 4.5.33: With regards to the Applicant's responses to MMO points 4.5.13 to MMO 4.5.33, the MMO is consulting with our technical advisors and will provide comments on these sections at Deadline 2.

## **1.16. Shellfish Ecology**

- 1.16.1. MMO 4.6.1 to MMO 4.6.8: With regards to the Applicant's responses to MMO points 4.6.1 to MMO 4.6.8, the MMO is consulting with our technical advisors and will provide comments on these sections at Deadline 2.

## **1.17. Underwater Noise**

- 1.17.1. MMO 4.7.1 to MMO 4.7.5: With regards to the Applicant's responses to MMO points 4.7.1 to MMO 4.7.5, the MMO is consulting with our technical advisors and will provide comments on these sections at Deadline 2.
- 1.17.2. MMO 4.7.8: The MMO welcomes the agreement that the presentation of noise levels at 750 metres is more useful than the source levels.
- 1.17.3. MMO 4.7.9 to MMO 4.7.10: With regards to the Applicant's responses to MMO points 4.7.9 to MMO 4.7.10, the MMO is consulting with our technical advisors and will provide comments on these sections at Deadline 2.

## **1.18. Commercial fisheries**

- 1.18.2. MMO 4.10.1: The MMO welcomes the Applicant's continued engagement with NFFO, IFCA and local fishers.

## **1.19. Outline Fisheries Liaison and Coexistence Plan**

- 1.19.1. MMO 5.5.1 to 5.5.4: The MMO welcomes the updated Outline Fisheries Liaison Cooperation Plan (FLCP) (PD1-061) which now includes updates recommended by the MMO.

### **Document Reviewed:**

#### **Draft Development Consent Order Tracked (AS1-025)**

## **1.20. Timescales**

- 1.20.1. Timescales – Pre-Construction plans and documentation, Schedule 10 and 11, Part 2 Condition 13 (1) (c), Condition 13 (1) (g) and Condition 13 (1) (h) refers to a timescale of four months to submit documentation.

13.—(1)...



...*(c) A monitoring plan (which accords with the in principle monitoring plan) to include details of proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with conditions 17, 18 and 19 to be submitted to the MMO in accordance with the following—*

*(i) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed monitoring;*

*(ii) at least four months prior to construction, detail of construction monitoring;*

*(iii) at least four months prior to completion of construction, detail of post-construction (and operational) monitoring;*

*unless otherwise agreed in writing with the MMO.*

...*(g) A written scheme of archaeological investigation in relation to the offshore Order limits seaward of mean high water, which must be submitted to the statutory historic body at least six months prior to commencement of the licensed activities and to the MMO at least four months prior to commencement of the licensed activities and which must accord with the outline marine archaeological written scheme of investigation and industry good practice, in consultation with the statutory historic body.....*

...*(h) An offshore operations and maintenance plan, in accordance with the outline offshore operations and maintenance plan, to be submitted to the MMO at least four months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase.*

*14.—(2) Each programme, statement, plan, protocol or scheme required to be approved under condition 13 must be submitted for approval at least four months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.*

*The MMO have concerns that this is not enough time to fully assess and review documents and request this is changed to six months. Comments on timescales are below from 1.16.2 and 1.16.3*

Conditions 13 (1) and 14 (2) set out the requirements for the Applicant to submit all preconstruction documentation at least four months prior to the commencement of the construction works. The MMO does not agree that a four-month timescale provides sufficient time for the post consent documentation to be considered prior to the start of commencement of works. The MMO believes that a four-month pre-construction submission date is unrealistic and even counterproductive, as the pre-construction sign off process is not always straight forward. The documents in question require in depth analysis by both MMO staff and statutory consultees. There needs to be as much time as practically possible to allow this process to take place.

It is quite common that these documents are subject to multiple rounds of consultation and a more appropriate timeframe of six months would allow for this to take place. By allocating this time now, this will avoid delays to the construction timetable and thus reduce cost implications of this happening.





1.20.2. The MMO notes that the timescales presented are much shorter (three months) in Schedules 12, 13, 14 and 15. The MMO requests that the following should have a six-month timescale stipulation in all of the DMLs; Marine Mammal Mitigation Protocol, In Principle Monitoring Plan, Site Integrity Plan, Ornithological Plans and Operation and Maintenance Plans. The MMO would highlight that for some documents even six months is becoming difficult to consider all the impacts and requirements due to the information provided in the first instance or information gathered through consultation.

## **1.21. Definitions**

1.21.1. The MMO requests clarity on the Applicant's definition of 'inert', for example in Schedules 10 and 11 Part 2 Condition 11(5) and Schedules 12-15 Part 2 Condition 8(5). The MMO requests that the definition of 'inert' is added to the DMLs. If samples contain fine material, these may contain contaminants. It needs to be clear that any material containing contaminants cannot be disposed of within the disposal sites when listing the licensable activities under Part 1 of the DMLs.

1.21.2. The MMO requests that the definition of the term 'static' is added to Part 1 of the DMLs.

## **2. Comments on oral submissions made and written summaries of oral case put at the OFH (10 October 2024)**

2.1.1. The MMO has no comments to make on the Open Floor Hearing held on the 10 October 2024. The MMO will maintain a watching brief on future hearings and provide comments where required.

## **3. Comments on the Applicant's draft Statement of Common Ground**

3.1.1. The MMO received the Applicant's draft Statement of Common Ground (SoCG) with the MMO on 08 October 2024. The MMO is in the process of reviewing the Applicant's Procedural Deadline submissions along with its technical advisors to determine the status of ongoing discussions more accurately. The MMO will continue to work with the Applicant on the SoCG and provide comments when required.

## **4. Comments on any further information / submissions accepted by the ExA**

4.1.1. The MMO notes that there have been updates to Ordnance Survey (OS) mapping within the Order Limits and subsequent changes to Mean High Water Springs (MHWS) and Mean Low Water Springs (MLWS) that result from these updates.

4.1.2. The MMO notes the Applicant has updated relevant documents to account for these changes. This includes Land Plans and the Draft DCO. The MMO



welcomes the submission of the Schedule of changes to the DCO (AS1-026) to detail the changes made to the Draft DCO. The MMO is content that the grid coordinates have been updated within the relevant Deemed Marine Licences (DMLs) Schedules 10, 11, 12, 13, 14, 15 and 16 to reflect the updated position of the mean low and mean high water marks.

- 4.1.3. The MMO welcomes the updated documents and is satisfied with these refinements. The MMO considers that this does not change the assessment conclusions presented in the DCO application.

## **5. Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules**

- 5.1.1. A Rule 17 letter was issued on 31 July 2024. The MMO provided a response at the Procedural Deadline of 19 September 2024 (PD1-115) which included comments on Relevant Representations.
- 5.1.2. The MMO acknowledges the amendments made by the Applicant following the Rule 17 letter. The MMO is currently reviewing the updated documents and will provide comments on the other changes made by the Applicant, which are not outlined in this letter.

## **6. Additional Concerns**

### **6.1. Examination**

- 6.1.1. The MMO is working with the Applicant to resolve the issues highlighted in our Relevant Representations (RR-042) and would highlight that a lot of the issues have been ongoing throughout the Evidence Plan Process and further information requested has not been provided. At this stage the MMO would welcome any additional information requested in RR-042 to be provided as soon as possible and earlier in Examination, rather than the Applicant pushing back on our advice.

The MMO's experience is that the Examining Authority generally request this information during Examination, and this would be welcomed at the earliest opportunity as leaving major unresolved issues until later in Examination causes a risk to both the advice being provided and resource issues.

The MMO would highlight that even where the Applicant may disagree with our position that a without prejudice position would be welcomed to enable full review and provide the most robust response.

### **6.2. Offshore Restricted Build Area (ORBA) and Revision to the Offshore Export Cable Corridor**

- 6.2.1. The MMO is reviewing any information relating to this change and will provide comments in due course. We would highlight that any large change to the project should be fully assessed and included in the Environmental Statement chapters which become certified documents.



- 6.2.2. The MMO notes that previously the MMO has accepted ES addendums by applicants rather than redoing ES chapters. The MMO would highlight that this change may require further assessment to the impacts for different topics (e.g. Marine Processes) and this should be within the ES chapters to ensure the updates are transparent should the Secretary of State grant the consent.
- 6.2.3. The MMO will also review the documents and see how the changes will be secured within the DML.

Yours sincerely,



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