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MORGAN OFFSHORE WIND PROJECT: GENERATION ASSETS

Written Summaries - Issue Specific Hearing 2

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Image of an offshore wind farm

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Glossary

Term	Meaning
Applicant	Morgan Offshore Wind Limited.
Development Consent Order (DCO)	An order made under the Planning Act 2008 granting development consent for a Nationally Significant Infrastructure Project (NSIP).
Morgan Array Area	The area within which the wind turbines, foundations, inter-array cables, interconnector cables, scour protection, cable protection and offshore substation platforms (OSPs) forming part of the Morgan Offshore Wind Project: Generation Assets will be located.
Morgan Offshore Wind Project: Generation Assets	This is the name given to the Morgan Generation Assets project as a whole (includes all infrastructure and activities associated with the project construction, operations and maintenance, and decommissioning).

Acronyms

Acronym	Description
ACP	Airspace Change Procedure
ALARP	as low as reasonably practicable
CRRNA	Cumulative Regional Navigation Risk Assessment
DCO	Development Consent Order
DML	Deemed Marine Licences
ExA	Examining Authority
IAPs	Instrument Approach Procedures
IFP	Instrument Flight Procedures
IoM	Isle of Man
IoMSPC	Isle of Man Steam Packet Company
MCA	Maritime and Coastguard Agency's
MGN	Marine Guidance Note
MMO	Marine Management Organisation
MSA	Minimum Sector Altitude

MV	Mooir Vannin
NAS	Noise Abatement Systems
NRA	Navigation Risk Assessment
NRW	Natural Resource Wales
OFLCP	Outline Fisheries Liaison and Coexistence Plan
PEIR	Preliminary Environmental Information Report
PSR	primary surveillance radar
RSPB	Royal Society for the Protection of Birds
SMZ	Scallop Mitigation Zone
SNCB	Statutory Nature Conservation Bodies
SSA	Strategic Sea Agreement
TMZ	Transponder Mandatory Zone
UWSMS	Underwater Sound Management Strategy
UXO	Unexploded ordnance
VHF	Very High Frequency communications

1 WRITTEN SUMMARY ISSUE SPECIFIC HEARING 2

1.1 ISSUE SPECIFIC HEARING 2: 26th and 27th November 2024

1.1.1.1 Issue Specific Hearing (ISH 2) on the Morgan Offshore Wind Project: Generation Assets (hereafter referred to as the 'Morgan Generation Assets') Development Consent Order (DCO) application took place on 26th and 27th of September 2024 at Delta Hotels, Queen Square, Liverpool.

1.1.1.2 This document presents a written summary of Morgan Offshore Wind Limited's (the Applicant) oral case at ISH 2 on the following topics from the hearing agenda (EV4-001):

- Shipping and navigation
- Other Offshore Infrastructure and marine operations
- Civil and military aviation and radar
- Commercial Fisheries
- Offshore ecology and ornithology (including Habitats Regulations Assessment)
- Draft Development Consent Order (DCO) and Deemed Marine Licences (DML) (Table 2.1).

Table 1.1: Written summary of the Applicant's oral submission at ISH2.

ID	Agenda Item	Notes
3. Shipping and navigation		
a)	**Effects on navigational safety** The Examining Authority (ExA) will focus on the transition from English waters to Isle of Man (IoM) waters, with questions for Mooir Vannin Offshore Wind Farm and the IoM Government about their submissions made at Deadline 3 in relation to the process for Navigational Risk Assessment of the proposed Mooir Vannin development.	1. The Applicant provided detail as to the results of the Vessel Traffic Surveys undertaken for the project. The Applicant noted that guidance recommends that two Vessel Traffic Surveys consisting of 14 days each are undertaken that are seasonally representative [**Post hearing note**: Maritime and Coastguard Agency's (MCA) Marine Guidance Note (MGN) 654 Section 4.6 issued in 2021]. The Applicant confirmed that it has gone beyond the guidance and conducted four surveys, with a further survey targeting peak fishing periods and an additional top up survey. The surveys illustrated the vessel traffic within the study area, including fishing vessels, ferries, recreational vessels and tug and service vessels etc. 2. The Applicant outlined vessel activity by reference to Figure 1.14 (Vessels by draught). The Applicant explained that this analysis illustrates the draught of the vessel as indicated by AIS during the entire period of 2022. The Applicant explained that this was undertaken to enable the Applicant to understand where the deep draught vessels were operating in the study area. The Applicant highlighted that the deep draught vessels in the study area are exclusively bound for Liverpool, passing to the southwest of the Morgan Array Area. The Applicant clarified that some of the illustrative tracks through the Morgan Array Area are likely showing a deeper draught than the vessel is in reality, as a result of human data input errors. [**Post hearing note**: The Applicant identified a fishing vessel within the Morgan Array Area in Figure 1.14 as having an erroneous draught, an updated analysis of deep draught vessels is provided in the Applicant's response to Hearing Action Point 2]. 3. The Applicant noted that where there are strong north-westerly winds there are means to mitigate dangers to pilotage by undertaking those activities in more sheltered waters offered by the Isle of Man (IoM) although it was noted that this is not a frequent occurrence. The Applicant confirmed that the Morgan Array Area would not constitute an anchorage, and that the principal anchorage outside of port limits in the region is east of Anglesey and outside of the 10 nm boundary but is noted in the Cumulative Regional Navigation Risk Assessment. The Applicant confirmed that there is a pilotage service within Douglas and that the boarding position is not far off the entrance of Douglas Harbour with this being far to the west of the proposed Morgan Generation Assets. 4. The Applicant confirmed its approach to the consideration of hazard identification in respect of the presence of occasional large vessels. This involved conducting two hazard workshops considering the impacts of all marine users in the region, including deep draught commercial vessels and those undertaking pilotage at Douglas, and concluded that the risk to those types of vessels were 'medium' based on the risk controls that were proposed. The Applicant directed the ExA to Figure 1.32 of the NRA [APP-060] to isolate those vessels undertaking that activity.

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		All tracks identified would pass to the Southwest of the Morgan Array Area (most of which already pass well clear of the Morgan Array Area) and thus the NRA concluded that the potential impact on this area to be minor. [**Post hearing note**: The Applicant has provided additional detail on these activities shown in Figure 1.32 in the Applicant's response to Hearing Action Point 2]. 5. The Applicant outlined by reference to Figures 4.3 and 4.4 of Environmental Statement - Volume 1, Chapter 4 Site selection and consideration of alternatives [APP-011] the hard constraints that the Applicant had to consider as part of The Crown Estate's leasing process and siting of the Morgan Generation Assets. The Applicant outlined the refinement of the boundaries of the proposed Morgan Generation Assets that had taken place through the pre-application period, including extensive shipping and navigation studies and stakeholder feedback. The Applicant noted that the 'Northern hump' of the initial boundary was removed, which increased the sea room between Morgan and Walney Extension, but that the primary motive for doing so was to improve navigational safety. The Applicant also noted that this had the incidental effect of increasing the distance between the Morgan Generation Assets and the proposed Mooir Vannin (MV) offshore wind farm Agreement for Lease area in Isle of Man waters. 6. The Applicant explained that it had undertaken bridge simulations to test the validity of the boundary refinement with the key stakeholders in hazard workshops and found that all previously unacceptable risks had been reduced to tolerable and as low as reasonably practicable (ALARP). The Applicant noted that MV had an Agreement for Lease since 2015 and at the time of undertaking the NRA there was no scoping report in the public domain. As soon as the scoping report became public, the information within it was incorporated into the NRA and was taken into account with a separate addendum specifically relating to MV. The refinement of the Proposed Development boundary after statutory consultation happened in January 2023, and at that stage there was no MV scoping report in the public domain. 7. The Applicant explained Figure A.1 of Environmental Statement Volume 2, Chapter 7 Shipping and navigation [APP-025] showed the existing passage plans in typical conditions for the ferry operators and what the Applicant considers to be the future typical routes with the inclusion of the Morgan Array Area, the Mona Array Area and the Morecambe Array Area. The Applicant noted the minor nature of the deviations in typical conditions. These future case passage plans where validated with the individual operators through the navigation bridge simulations. The Applicant confirmed that when navigating in the Irish Sea it is mainly the wave conditions that are likely to result adverse weather routing, with wind conditions a constraint on entry, exit and berthing in harbours. 8. The Applicant outlined the position as illustrated in Figure A.2 of [APP-025]. The Applicant confirmed that for the deviations of the less frequently used routes, the respective increase in distance and therefore journey time did not cause substantial operational impacts to those

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		commercial users having regard to the total length of journey time and that there was sufficient searoom between the projects to safely navigate. 9. The Applicant outlined the position as illustrated in Figure A.3 of [APP-025]. The Applicant explained that they had sought to take a worst-case scenario as the base case for adverse weather routes and explained that captains tend to 'feel their way' through such conditions. The Applicant considered that a prudent passage plan in adverse weather would be not to pass between the Morgan and Walney Extension areas and instead be to head past the Morgan Array Area before turning up towards Douglas, which could increase journey time. The Applicant noted that, whilst in typical conditions a ferry operating between Heysham and Belfast may choose to pass to the east of West of Duddon Sands, in adverse weather that can be a potentially hazardous passage. Again, the Applicant noted that such passage routes may wish to continue west of the Morgan Array Area, but the Applicant noted that, in this particular passage plan, the Applicant has shown the operators choosing to head east of the Isle of Man instead. Whilst it would be quicker for them to pass west of the Isle of Man, the Applicant has taken a more conservative approach in terms of the impact on their passage planning. The Applicant noted that there are a number of potential routes that could be used. 10. The Applicant provided an outline of how the passage plans were developed by the Applicant. The Applicant noted that the operators participated in the workshops with navigation simulation and the assumptions around routing were based on their inputs. The Applicant also added that the conclusions are based on a precautionary approach and, particularly for Stena Line, it was noted that the moderate adverse impact assessed was based on the loss of optionality in passing to the east of the Proposed Development, but ultimately Stena Line would not be prevented from continuing its operations between Liverpool and Belfast. 11. The Applicant confirmed that the boundary shown for the Morgan Generation Assets in the figures presented in the NRA is the refined boundary that took account of the boundary reductions following statutory consultation. 12. The Applicant stated that it has not undertaken an NRA for MV as that will be the responsibility of the developer of that project. The Applicant understands that a draft NRA has been prepared, but has not been provided to the Applicant as it has to other consultees, therefore the Applicant cannot comment as to the specific impacts of MV. 13. The Applicant explained the context for development of its own NRA [APP-060] and the status of the MV project at that time. During 2022 when the Applicant was undertaking its PEIR assessment, it had not received any further information from MV since the agreement for lease in 2015 (seven years prior). MV was therefore set as a 'tier 3' project [**Post hearing note**: tiering is assigned in terms of the Planning Inspectorate Advice Note on Cumulative Effects Assessment] and not considered in simulation assessments or the hazard workshops. It was only in September 2023 that some information was received from MV, after the boundary amendments in January 2023 and navigation simulations with stakeholders and less than a

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		month before the Isle of Man Steam Packet Company (IoMSPC) navigation simulations and hazard workshop. At this late stage, the Applicant sought to involve MV as much as it could in the NRA. The MV scoping boundary was considered in the hazard workshop undertaken in September 2023 and it was concluded that the risk of collisions and allisions would not be acceptable in respect of the passage between the MV Scoping Boundary and Morgan Array Area, as set out in the addendum to the NRA. 14. The Applicant clarified that the MV information was information made available at the very late stages of the NRA. The Applicant does not accept that it is "playing catch up", as there is no current application for consent for the MV project indicating how that project intends to address this issue of navigational safety, or if further refinements to the MV scoping boundary will take place. The Applicant confirmed that no draft of the MV NRA has been provided for review. 15. The Applicant confirmed that principal movements in the corridor in question (i.e. between the Morgan Generation Assets and the MV scoping boundary) are the IoMSPC operations between Heysham and Douglas. There is very little commercial traffic that would use this passage and some small numbers of fishing, recreational and other vessels. The Applicant confirmed that it would not categorise this area with the addition of the Morgan Generation Assets and the MV scoping boundary as "a crossroads". 16. The Applicant confirmed that two sets of navigation simulations (those in 2022 with each operator) were based on the PEIR boundaries and treated MV as a tier 3 project, as there was no information from MV. The second set of navigation simulations was in 2023 based on the revised Morgan Array Area boundaries. It was only in September 2023 when more information was provided that MV could be included in navigation simulations. The Applicant added that, whilst the MV scoping boundary could not be included in all the simulations, the various operators were present at the hazard workshop when the MV development was discussed to obtain comments on the validity of the particular findings in respect of the corridor between the Morgan Generation Assets and the MV scoping boundary. 17. The Applicant was asked how safety zones might further reduce the effective corridor between the Morgan Generation Assets and the MV scoping boundary. The Applicant noted that safety zones are voluntary and not a legal requirement. They are typically used during construction and during ad-hoc maintenance activities, rather than a permanent imposition. The Applicant intends to impose rolling safety zones to prevent closure of the entire area of the Morgan Generation Assets. The Applicant confirmed that it will submit a written response to the Examining Authority's questions on this point [**Post hearing note**: The Applicant will provide a response to this as part of Action Point 6 (EV5-014) at Deadline 5. The Applicant also notes that the Safey Zone Statement (APP-106) sets out the approach that the Applicant intends to take in a future application for safety zones]. 18. The Applicant was asked if a traffic routing measure could be imposed in the corridor as mitigation. The Applicant considered that there is likely insufficient space to do so, but in any

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		event, it would serve little benefit, as there is little two-way traffic. The most likely user of the area would be the IoMSPC, which is a single vessel and cannot collide with itself. With regards to vessel traffic management, the Applicant noted there is no precedent for such a scheme and that the best means of mitigating potential impacts would be by increasing the sea room. 19. The Applicant noted that the MV project is an unrefined project boundary that does not take into account any mitigation that may be required in respect of that project. The Applicant understands that there is a hazard workshop planned for 12th December which the Applicant has been invited to. The Applicant expects MV to present something that recognises the issues between the projects and that proposes mitigation in respect of the Morgan Generation Assets, in the same way that the Applicant did in respect of the Walney Extension Offshore Wind Farm. The Applicant noted that the Morecambe and the Mona projects also refined their boundaries, informed by the NRAs for those projects. The Applicant considered that to produce a note detailing further information on the corridor between the Morgan Generation Assets and MV scoping boundary would be disproportionate and unnecessary prior to the MV hazard workshop taking place. The Applicant noted that it is not for the Applicant to undertake MV's NRA and to seek to identify what that project should do to mitigate its potential impacts. The Applicant's view is that MV needs to do something to increase the distance between the projects in the same way that the Applicant did for the Morgan Generation Assets before application submission. 20. The Applicant noted that it is important to separate the jurisdictional matters, as to how the boundary between UK and IoM waters operates, and what the key considerations are for the sea space between the Morgan Generation Assets Order Limits and the MV scoping boundary. The Applicant noted that the legislation required to implement a suitable consenting regime in the IoM only came into force in October of this year (2024), and there is a lack of clarity as to what policy and procedure will exist for the MV project at the time it applies for consent. 21. The Applicant considered it clear from the submissions by MV and the IoM Government that they do not expect the application for MV to be submitted prior to the end of the examination of the Morgan Generation Assets. In this context, it is important that the Applicant is not being asked to do an assessment for the MV project, as it is not the role of the Applicant to do so. The Applicant suggested that in the absence of further information from the MV project, the ExA may need to make a recommendation to the SoS that they seek further information in the determination phase to take account of any update. It would then be for the SoS to request this information, consider this further material and determine if further mitigation was required. 22. The Applicant confirmed that its understanding is that the MV project intends to submit its application in March 2025. Assuming this is the case, the Applicant understands that the earliest there would be a decision from the Council of Ministers would be one year (i.e. March 2026). [**Post hearing note**: The Applicant notes that MV in its Deadline 3 submission (REP3-041) to ExA CE1.5 suggests that a Marine Infrastructure Consent application would be determined approximately 18 months after submission of the application].

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		23. In respect of engagement with MV, the Applicant confirmed that there is engagement, but it is in absence of any material having been shared. The Applicant has not been provided with the NRA, so there is nothing tangible that the Applicant can engage on. 24. The Applicant emphasised that the final layout of the Morgan Array Area is a post-consent activity and any safety zones to be used during construction would be determined at that time. 25. The Applicant noted that there is no layout proposed at this time for the Morgan Generation Assets, and the Applicant's position is that it has already mitigated the effects of shipping and navigation in the Irish Sea. The Applicant confirmed that it was not considering a change to the boundary of the Morgan Generation Assets. The Applicant also noted that, as MV will not be submitting its application before the close of the examination for the Morgan Generation Assets, it would be inappropriate for permanent changes to be made to the boundary of the Morgan Generation Assets when they may not ultimately be required.
b)	**Effects related to adverse weather maritime route deviations for scheduled ferry operations** The ExA will seek further information on Strategic Sea Services Agreement commitments and how frequently the IoM Steam Packet Company considers that the effects identified in its Deadline 3 submission page 4 [REP3-034] might occur, and whether each of these effects would be relevant to the Douglas-Heysham or Douglas-Liverpool service, or both.	26. The Applicant noted that Environmental Statement - Volume 2, Chapter 7 Shipping and navigation [APP-025] concluded there would be a residual moderate adverse impact on the IoMSPC route. However, the Applicant does not agree that the presence of the Proposed Development would diminish any ability to route in adverse weather. There would remain optionality to pass west of the Morgan Generation Assets, albeit with impacts to journey times and with some possibility of cancellations. The Applicant re-iterated that there would not necessarily be cancellations as a result of the Morgan Generation Assets. The Applicant noted that, in respect of the recent Storm Bert, the decisions to cancel services was a decision made on the basis that it would have been unsafe to sail in those conditions. That decision would have been taken in such conditions irrespective of the presence of the Morgan Generation Assets. 27. The Applicant was asked to comment on the Strategic Sea Agreement (SSA). The Applicant noted that there are a required number of sailings as specified in the SSA to meet the economic and social needs of the IoM. The Applicant understands that through the analysis of historic traffic data, the IoMSPC currently exceed that specified sailing requirement by a reasonable margin and therefore it is conceivable that, even if a small number of cancellations did arise as a result of very specific and marginal conditions caused by the Morgan Generation Assets, this would not threaten compliance with the SSA.
c)	**Any other shipping and navigation or emergency response effects** To include any comments on array layout principles of lines of orientation, spacing and micro-siting.	28. The Applicant stated that it did not consider it necessary to include specific reference to the Orsted IPs as part of the post-consent development of the Vessel Traffic Management Plan. The Applicant noted that the Outline Vessel Traffic Management Plan [REP2-017] already includes in section 1.6.2.1 that consultation will be undertaken with various groups of stakeholders including existing users of the relevant sea area. This would include the Orsted IPs. Further, the Applicant notes that the MMO is the appropriate competent authority for discharging the final plan submitted in accordance with the condition in the deemed marine licence (condition 20(1)(i) in each DML), and that the MMO will consult with the MCA on all the

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		relevant matters. The Applicant submits that this is sufficient to ensure the plan includes appropriate mitigations, and therefore it is not appropriate or necessary for the Orsted IPs to be noted as a formal consultee as part of the plan approval process. 29. The Applicant confirmed that there are currently five SoCGs with shipping and navigation stakeholders. The Applicant confirmed that these are with the Chamber of Shipping (with two points outstanding), the MCA (with all matters agreed pending final DCO), Trinity House (with one point outstanding otherwise with all other matters agreed pending final DCO), Stena Line (with an update to the SoCG regarding the definition of 'Traffic Separation Scheme' to be discussed further as part of weekly meetings with the stakeholder), and IoMSPC (with one outstanding point and the Applicant is committed to further engagement). Therefore, engagement on the relative SoCGs is ongoing and final SoCGs will be submitted at Deadline 6. 30. The Applicant noted Section 7.6.3 of the CRRNA (APP-060) which provided details of constrained passages between two adjacent offshore wind farms elsewhere in the UK, including Ormonde/Barrow-Walney/WoDS, Hornsea Four-Hornsea Two and Five Estuaries-East Anglia Two.
4. Other Offshore Infrastructure and marine operations		
a)	**Potential wake/ energy yield effects for other offshore wind farms in the Irish Sea** The Applicant is to provide summarised comments on the Ørsted Interested Parties (IPs) Deadline 3 submissions (a full written response is expected at Deadline 4).	31. The Applicant confirmed that it would not be providing a line-by-line review of the substantive material submitted at Deadline 3 by the Orsted IPs but would respond to the key points, as set out below. 32. The existence of wake effects beyond 20km: The Applicant does not seek to claim that wake effects do not exist beyond 20km. The Applicant maintains its position that a wake effect decreases with distance and that other factors may come into play as the distance increases to minimise the wake effect to a negligible one. The Applicant stated that, as illustrated by papers submitted by the Applicant and those by the Orsted IPs, the biggest wake effects are experienced when turbines are close together, which means that the internal wake effect within any project far exceeds anything that may be experienced over greater distances from separate wind farms. **The need for a wake loss assessment from a policy perspective and environmental impact assessment (particularly in the context of a greenhouse gas assessment)** 33. The Applicant noted that it had previously set out its case in detail in respect of the application of NPS-EN3 paragraph 2.8.197. The Applicant noted that the usual principles of legal interpretation should be applied to consideration of the meaning of the policy, with words given their ordinary meaning where undefined. There is no definition of the word 'close' within the NPS. 'Close' is defined in the Oxford Dictionary as "proximate" or "not far from". The Applicant does not agree with the Orsted IPs submissions at Deadline 3 that "close" should be interpreted on the basis of its potential effects on existing infrastructure. The Applicant contends that if this

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		was the intention of the drafting, then the word 'close' would not be used to limit or qualify the reasons for an assessment being required. 34. The Applicant submitted that it does not consider the site of the Morgan Generation Assets to be close to the existing Orsted IP infrastructure, on the basis that it exceeds the Crown Estate's Round 4 spacing of 7.5km. The second part of paragraph 2.8.197 is whether the Morgan Generation Assets could affect activities for which a licence has been issued by government. The Applicant does not consider this aspect of the policy to be engaged. The activities authorised by the Orsted IP's infrastructure licences are not impacted by the Morgan Generation Assets in any way. 35. Further, NPS EN-3 at paragraph 2.8.198 states that where an assessment is needed it must be undertaken for all stages of the lifespan of the proposed windfarm in accordance with guidance. As there is no appropriate guidance for offshore windfarm EIAs in this context, there is no agreed means of assessing the potential impact. The Applicant also highlighted that the suggestion of a need for an assessment is not being driven by the regulators, as is the case for marine mammal or ornithological assessments for example, it is being driven by the Orsted IPs. The Applicant stated that even if this was a policy requirement, which the Applicant considers it has made clear that it is not, it is not for individual examinations to invent the approach for such assessment. Further, there is no suggestion as to how an assessment should be undertaken; the only suggestion that the Orsted IPs have noted is the inclusion of this assessment in the Applicant greenhouse gas assessment. If the Orsted IPs provide information to justify the figures included in their Deadline 3 submissions, and the Examining Authority considered a further greenhouse gas assessment appropriate, then the Applicant could provide a technical note on calculation of the net effects on GHG emissions without prejudice to the acceptance of the numbers in and of themselves. **The ability to undertake an assessment and particular comments around the provision of confidential information** 36. The Applicant noted that the information required to undertake an assessment would require the use of confidential information. The Orsted IPs have offered to provide this confidential information under a non-disclosure agreement and have suggested that similar arrangements do exist with other stakeholders in respect of different projects, such as commercial fisheries. The Applicant confirmed that assumption was incorrect and that no information that underpins the EIA was provided on a confidential basis. The Applicant does not consider it appropriate for an assessment or examination to be undertaken on the basis of confidential information. The Applicant submitted that data sets should be open and transparent. Further, the Applicant stated that, should wake effects require to be assessed, then the Applicant would require information from all parties within the vicinity to undertake such an assessment, not just the Orsted IPs. This would require all projects in the vicinity to provide a non-disclosure agreement which the Applicant considers they are unlikely to do.

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		The extent to which the SoS can determine their compliance with NPS-EN3 paragraph 2.8.3.4 - 2.8.3.5 in relation to site section and design, effectively minimising disruption, economic loss or adverse effect on the safety of other offshore industries 37. The Applicant noted it had set out a detailed response to INF 1.4 within the Applicant's response to first written questions (REP3-006) that addressed this point. This response highlights that it is the distance between the turbines that is the key factor for wake effects and the greater the distance the less interaction there will be. In terms of the test in paragraphs 2.8.3.4 – 2.8.3.5 and the Applicants response to INF 1.4 the Applicant noted that the Morgan Generation Assets would be located in a higher windspeed area and will have a higher hub height than the wind farms in which the Orsted IPs have an interest. This means that the Morgan Generation Assets will have the benefit of these high windspeed areas and the benefit of the higher hub height creating a gross capacity factor higher than that of the Orsted IP projects, as well as being more efficient. Therefore, the Morgan Generation Assets will create more energy per MW of installed capacity than the Orsted IP's projects. The location of the Morgan Generation Assets is limited to the extent of the agreement for lease area from the Crown Estate. The only way to achieve greater distance between the Morgan Generation Assets and the Orsted IP projects is to reduce the size of the Morgan Generation Assets (to increase distance), which would have a disproportionate effect on capacity of the Morgan Generation Assets when compared with the impact on the Orsted IPs, reducing the scale of new carbon savings and clean energy generation capacity of the Morgan Generation Assets. 38. The Applicant stated that it is not correct, as the Orsted IPs suggested, that wake loss is on the agenda of this hearing due to a growing basis of evidence within the offshore wind industry. The issue is that what the Orsted IPs are now claiming this is a policy matter has not previously been raised in earlier leasing rounds. The Crown Estate leased 'zones' in Round 1 and 2 Extensions and Round 3 where numerous projects were developed, many in closer proximity than the Morgan Generation Assets to the Orsted IPs assets. Further, the Applicant noted that for the upcoming Round 5 leasing rounds there is intention for the specified proximities to be closure then the 7.5km that applied in Round 4. Those previous projects did not undertake wake loss assessments as part of their application or examinations submissions. The Applicant noted that the wording of the relevant policy in the previous version of NPS EN-3 (2011) was the same as the current version (2023). There has been no substantive change to the EIA Regulations. Despite this, the Applicant was not aware of any wake loss assessments having been undertaken for historic offshore wind farm projects. 39. The Applicant noted and directed the ExA to its response to INF 1.4 in which it considered factors relevant to wake effects and loss of yield.

<table>
<tr><th>ID</th><th>Agenda Item</th><th>Notes</th></tr>
<tr><td>b)</td><td>Co-existence and co-operation
The ExA will seek comments from the Applicant and any IPs present on any ongoing and requested agreements with other sea users and existing and proposed infrastructure in the Irish Sea.</td><td>40. The Applicant stated that it will negotiate a proximity agreement with Manx Utilities as reflected in the Commercial Side Agreements Tracker [REP3-023] and stated that discussions with Manx Utilities have been positive. The Applicant confirmed that the intention is to execute this pre-construction, once the detailed design is known. The Applicant intends to share a proximity agreement template in the coming months. This proximity agreement will be executed prior to construction, and engagement regarding the routing of a second interconnector is currently ongoing.
41. The Applicant confirmed that regarding NATS (Services) Limited and NATS (En Route) plc, it is currently negotiating a suitable form of agreement with NATS. The Applicant noted that no concerns regarding timescales have been raised at this stage.
42. In respect of Harbour Energy, the Applicant stated that these discussions are ongoing. The Applicant is discussing the appropriate mechanism so that there is an agreed position between the parties on how to address matters raised. It may be an agreement, or it may be an alternative mechanism. The Applicant seeks to establish this with Harbour Energy as soon as possible and confirmed that this will feed into the SoCG in due course.
43. The Applicant confirmed that there will not be an agreement with Morecambe Offshore Wind Limited and that the parties have agreed that it is not needed.</td></tr>
<tr><td>c)</td><td>Other Inter-relationship and cumulative effects matters
To include:
• Consideration of the progress of other Development Consent Order and Marine Infrastructure Consent applications within and around the Irish Sea.
• The ExA will ask questions of Mooir Vannin Offshore Wind Farm and the IoM Government regarding their responses to the Examining Authority's first written questions (ExQ1).
• The Applicant is to brief the ExA on any forthcoming updates to the Interrelationship Report, Cumulative Effects Assessment and In-Combination Assessment.</td><td>44. The Applicant noted that it had submitted a Review of Cumulative Effects Assessment and In-Combination Assessment [REP2-023] at Deadline 2 that reflected updates to the status of a number of Irish Sea projects since the submission of the Morgan Generation Assets application. This included the submission and acceptance of the DCO application for the Morecambe Offshore Windfarm: Generation Assets and the submission of the application for a number of Irish projects. The Applicant confirmed that it is carrying out a further cumulative effect assessment review and intends to submit an update at Deadline 4. This will include consideration of the DCO application for the Morgan and Morecambe Offshore Wind Farms: Transmission Assets (the "Transmission Assets") which has now been submitted to and accepted by the Planning Inspectorate for Examination.
45. The Applicant confirmed that it will also submit an update to the Report on Interrelationships with Other Infrastructure Projects [REP1-017] at Deadline 4. The updates to the 'Interrelationships Report' will include:
a. Signposting to the cumulative effects assessment reviews submitted at Deadline 2 [REP2-023], Deadline 3 [REP3-019] and to be submitted at Deadline 4
b. An update to include a specific table for Scenario 2 of the cumulative effects assessment (Morgan Generation Assets, plus the Morgan and Morecambe Offshore Wind Farms: Transmission Assets plus Morecambe Offshore Windfarm: Generation Assets), similar to that provided in section 1.7 for Scenario 1; and</td></tr>
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		c. An update to the Morgan and Morecambe Offshore Wind Farms: Transmission Assets application status/timelines. 46. In respect of Mooir Vannin, the Applicant explained that there was not sufficient detail in the public domain to undertake any further updates to the cumulative effects assessment. If an application was made by Mooir Vannin before the end of the Examination for its proposed development, this would be considered by the Applicant in the context of further CEA review. The Applicant confirmed that it can update the timelines within the 'Interrelationships Report' based on information that has been submitted into this Examination but noted that these are only indicative at this point, and that the Applicant has no control over Mooir Vannin's application timeline.
5. Civil and military aviation and radar		
a)	**Mitigation** The Applicant and any aviation and radar IPs present are to provide an update regarding discussions on mitigation proposals with the stakeholders listed in ExQ1 AR 1.3 [PD-004], including next steps and timescales.	47. The Applicant gave a summary of where discussions were ongoing with interested parties that have raised matters relating to aviation: a. **BAE Walney (IFP and MSA considerations):** The Applicant confirmed that discussions relate to Instrument Flight Procedures (IFP) and Minimum Sector Altitude (MSA), and that engagement continues regarding all matters covered within the SoCG. To support the process and assessment of the impacts to IFP and MSA the Applicant had commissioned a study by Osprey (the Applicant's aviation consultant). However, the operator at BAE Walney has deemed the study conducted by Osprey to be insufficient as, despite Osprey being a CAA Approved Procedure Design Organisation (APDO), it is not the APDO for the BAE Walney Aerodrome. The Applicant noted that Osprey found that there was no barrier to mitigation. The Applicant confirmed that NATS, as the APDO for the BAE Walney Aerodrome, are to be appointed to undertake the required assessment at the expense of the Applicant. The Applicant noted that the potential for impact will be dependent on the scale of the turbines. The Applicant notes that no impact was assessed within the PEIR, where the turbine tip height was noted as 324 meters, but that a rise to 364 meters within the application created the potential for impact requiring mitigation. The Applicant explained that mitigation is best deployed once the procurement process has confirmed the scale of the wind turbines and that the mitigation, which is a low-cost administrative process and does not require the provision of new assets to manage the airspace, will be by application to the CAA to change the IFP and MSA for this area. The Applicant confirmed that the mitigation cost will be met by the Applicant. b. **BAE Warton (IFP and MSA considerations):** The Applicant confirmed that discussions relate to Instrument Flight Procedures (IFP) and Minimum Sector Altitude (MSA), and that engagement continues regarding all matters covered within the SoCG. The Applicant stated that situation at BAE Warton largely mirrors the position as set out

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		above regarding BAE Walney. The Applicant outlined the main difference being that Osprey are, in respect of the BAE Wharton Aerodrome, the APDO and are considered the correct party to undertake the IFP and MSA assessments. Osprey are to further update the necessary report with information that is only privy to the operator. As with BAE Walney, the Applicant confirmed that the mitigation cost will be covered by the Applicant. c. **DIO / BAE Warton (PSR considerations):** In respect of the primary surveillance radar (PSR) at Warton, the Applicant explained that it has engaged with the DIO jointly with the Mona Offshore Wind Farm and has agreed upon a requirement that will be inserted into both the Morgan and Mona DCOs. The Applicant confirmed that it is intended that this update will be reflected in the SoCG to be submitted at Deadline 4, subject to dialogue with DIO. d. **Ronaldsway Airport (PSR considerations):** The Applicant explained that the impacts at Ronaldsway Airport relate to PSR services and that the mitigation measures as outlined in the Volume 2 Chapter 11 of the Environmental Statement (APP-015) and the Commitments Register (previously the Mitigation and Monitoring Schedule (APP-076)) are appropriate. With those measures in place, there would be minor adverse residual impacts, which are not considered significant in EIA terms, a conclusion supported by Ronaldsway Airport. The Applicant confirmed that it has received an executive summary of a surveillance strategy report, produced by Ronaldsway Airport, that sets out how it would manage air traffic safeguarding taking account of the Morgan Generation Assets and other expected changes to the baseline caused by other offshore wind farms. The Applicant confirmed that it will continue to engage with Ronaldsway to establish and agreed technical solution and has in the meantime provided Ronaldsway with draft wording in respect of a DCO requirement. e. **Ronaldsway/Blackpool/Warton (VHF considerations):** The Applicant confirmed that Ronaldsway Airport, Blackpool Airport and BAE Warton have all raised concerns as to the potential impacts on Very High Frequency communications (VHF). The Applicant noted that impacts on VHF assets were scoped out of the EIA and that this position had not been disputed at PEIR or on the initial submission of the application. The Applicant explained that it is aware of a NATS consultancy report that has been undertaken by Ronaldsway Airport that indicates that mitigation measures would not be required, which is significant given it is the closest aerodrome to the Morgan Array Area. The Applicant noted that this matter had been raised relatively recently by parties and that it would continue to engage with them and provide the ExA with an update in due course. f. **Blackpool Airport:** The Applicant submitted that there is no indication or expectation of impact of Blackpool Airport's assets regarding IFP and MSA. However, the Applicant noted that it is aware that Blackpool Airport is currently undertaking its 5-year review

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		process with the CAA of its flight procedures and that there may be, as an outcome of that report, changes to the Instrument Approach Procedures (IAPs) in response to that review. The Applicant confirmed that it has agreed to support Blackpool Airport in the management of those changes and anticipates that this will be by commercial agreement, not by DCO requirement. g. **NATS:** Mitigation on affected sites has been proposed by NATS relate to the Large Blanking and an Airspace Change Procedure (ACP) and to implement a Transponder Mandatory Zone (TMZ). The Applicant confirmed that it will work through the details of the mitigation measures received and will continue to provide updates in the SoCG. 48. The Applicant explained that there are a number of technical reports ongoing to identify the exact mitigation solutions required, but in all cases, it is the case that a mitigation solution is being worked through and the parties are confident, at this stage, that an appropriate mitigation solution can be identified and implemented. Where no solution is in place or agreement is in place by the end of the examination, then the Applicant would seek to address this from a consenting perspective through inclusion of a DCO requirement. Including such a requirement would provide the ExA with the confidence that that mitigation will be in place before the operation of the turbines commences. The Applicant confirmed that the procedural and technical solutions are still being worked through with each of the parties. 49. The Applicant confirmed that signed SoCGs will be submitted at Deadline 6. The agreements between the parties (where commercial in nature) will not be submitted but where there have been requirements included in the DCO the Applicant's intention will be to share these with the ExA at Deadline 5. 50. The Applicant confirmed in response to points raised by BAE Systems that the approach for requirements within a DCO requiring mitigation for aviation and radar assets is entirely standard, with the mitigation solutions and testing done post consent. 51. In response to the ExA's question regarding monitoring, and the Applicant's response to its first written question AR 1.5, the Applicant explained that that parties are in agreement that before a mitigation solution can be deemed successful, there needs to be adequate testing against the new baseline of the new assets. The Applicant stated that once this has been undertaken and accepted, there is no need for further monitoring so long as mitigation is demonstrated to be effective. [**Post hearing note**: this position was agreed by BAE Systems in the hearing]
6. Commercial Fisheries		
a)	**Mitigation**	52. The Applicant stated that it has committed to a suite of commitments to enable coexistence with the fishing stakeholders. The Applicant confirmed that some of its primary commitments relate to cable protection, with the need for such protection being dependent on the cable burial risk assessment that will be completed post-consent.

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	The Applicant and any IPs present are to provide comments on mitigation of effects to Queen Scallop and other commercial fisheries.	53. The Applicant confirmed that it will seek to ensure that where and how cables are installed will take account of the known towing directions of the fishing stakeholders, with cables being buried beneath the seabed wherever possible. The Applicant will use cable protection where absolutely necessary (and as a last resort measure), but will seek to ensure that snagging risks have been considered in the design phases (e.g. shallow profiles, smooth edges etc.). The Applicant stated that it has committed to limit the protection of the interconnector cables across the entire array area to 20% and 10% for inter-array cables, but the cable burial risk assessment will provide further information once completed on the actual amount required. 54. In respect of the protection in or around the SMZ, the Applicant explained that the finalised extent of the cable protection is not known at this stage and will depend on further site investigation studies. The Applicant explained that in respect of peripheral turbines, there would be approximately 10 turbines located on the permitter of the SMZ and that the likelihood of the full 10% of inter-array cable protection to be required within the SMZ is unrealistic. 55. The Applicant explained that a number of additional commitments had been made at Deadline 3. In response to a query on the use of guard vessels, the Applicant re-iterated the intention to bury cables. The Applicant clarified that if a cable did become exposed, it is not the intention to use guard vessels to circle round exposed cable to avoid fishing snagging. The intended solution would be to rebury the cable. A guard vessel would only be deployed as an emergency action if considered necessary as an interim measure until the reburial works had been completed. 56. In respect of the SoCG, the Applicant said that the key issues have been discussed over a long period as part of the Applicant's commitment to engagement with the industry. The Applicant explained that following the request for a SoCG in the Rule 6 Letter, the Applicant has sought to combine the commitments in the Outline Fisheries Liaison and Coexistence Plan (OFLCP) [REP3-021] into the SoCG to draw out discussions of key issues. The approach was to have a wide SoCG with as many fisheries stakeholders with individual SoCGs also being developed where requested or necessary. The Applicant confirmed that it has, throughout the process of engagement, continued to update the OFLCP to ensure it is reflective of commitments made throughout the examination process so far, including making sure the cable burial depths are determined to minimise snagging and exposure risks in consideration of seabed conditions. 57. In respect of the mechanics for having SoCG's signed as a final version at Deadline 6, the Applicant would endeavour to have them signed either physically or electronically, however, if that is not possible the Applicant will provide, where possible, email confirmation that all parties have agreed to the final text.
b)	**Monitoring and co-existence commitments** The ExA will seek further details of monitoring and co-existence commitments.	58. In respect of comments made by SFF regarding pelagic vessels, the Applicant confirmed that the methodologies raised are known. The Applicant noted that the second figure included within the written representation by the Scottish Fishermen's Federation [REP1-059] appeared to

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		show that where there was pelagic fishing activity in the area it was focused on the very edge of the array, with the majority of activity being in IoM waters. The Applicant explained that it was fully aware of the spatial overlapping of scallop and pelagic fishing, which had been taken into account in the Environmental Statement assessments. The Applicant's understanding is that this area has not been particularly active in recent years, especially in respect of the Scottish fleet(s); although the Applicant noted that its assessment of vessels in the area is not limited to just Scottish vessels. The Applicant also confirmed that many of the mitigation measures set out in the OFLCP (i.e., turbine spacing and cable burial) were designed with pelagic fishing as well as the scallop fleets in mind. 59. The Applicant stated that it has committed to scallop monitoring in the last update of the OFLCP, which was in acknowledgement of the concerns raised by fishing stakeholders about scallop recovery. The details of this monitoring will be determined post-consent. The Applicant confirmed that the engagement is ongoing with the fishery stakeholders as picked up in our SoCG. The Applicant noted that it was confident that there would be recovery of scallops within the area, and the assessments undertaken within the Environmental Statement support that, but the commitment to monitoring was made to help address the concerns of fisheries stakeholders. The Applicant confirmed that monitoring had been designed to specifically deliver as much beneficial knowledge to the interaction of offshore wind development and scallop grounds as possible by adopting a regional approach through aligning with other similar scallop monitoring programmes throughout the Irish Sea. 60. In response to queries raised by SFF in respect of the MMO's role as an arbitrator / moderator, the Applicant explained that the MMO's concern was that it did not wish to act as an arbitrator / mediator in commercial negotiations. Parties would be open to agree that an independent third party could fulfil such a role, if considered necessary in future. In respect of the OFLCP more generally, the Applicant noted that the MMO confirmed in Deadline 3 written submissions that it considered the FLCP to be enforceable. The final version will be submitted to the MMO as part DCO conditions and once approved they will have an enforcement role.
7. Offshore ecology and ornithology (including Habitats Regulations Assessment)		
a)	**Outstanding matters of contention with the Statutory Nature Conservation Bodies** The Applicant is to provide updates on discussions with the Statutory Nature Conservation Bodies and the content of (and timescales) for any additional submissions which seek to address the points raised in submissions both from the SNCBs (Natural England, Natural Resources Wales and the	61. The Applicant summarised the engagement with the SNCBs, MMO and RSPB and set out the points that the Applicant believed were the key issues marked as outstanding by the SNCBs. The Applicant noted that all of these outstanding matters are considered capable of resolution and that there is an agreed way forward with the SNCBs. The Applicant stated that it has made significant progress resolving issues and particularly, in respect of Natural England (NE) in comparison to other previous projects. The Applicant and NE are in advanced stages in addressing matters identified as 'significant risks' so that only three items remain categorised as 'red' in NE's Risk and Issues Log [REP3-049], these being:

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	JNCC) as well as the Royal Society for the Protection of Birds at Deadline 3. The ExA may ask follow up questions of the Applicant.	a. ornithological methodological matters, which the Applicant anticipates will be resolved by Deadline 5 following the presentation of data in a different format, b. underwater sound and noise abatement systems (NAS), which the Applicant expects to be resolved by the end of the examination; and c. time periods for the submission and determination of post-consent plans which the Applicant is continuing to engage with the MMO on. 62. The Applicant expressed its appreciation for the engagement it has had and provided an outline of the existing, current and intended engagement with the SNCBs, the MMO, the RSPB: a. **NE:** NE have stated they will remain engaged on the project and throughout examination as the lead SNCB. However, the Applicant notes that NE, due to resource limitations as a result of multiple offshore wind farm examinations, will only be able to focus their engagement on the key issues. NE have flagged to the Applicant that they will therefore no longer be providing full marine mammal advice. b. **Natural Resource Wales (NRW):** NRW will continue to provide advice on all ecological matters as deemed relevant to their statutory function in Wales. NRW have developed a SoCG with the Applicant [REP2-026]. c. **MMO:** The MMO will remain engaged throughout examination and continue to provide advice from Cefas where required. The MMO have a developed a SoCG with the Applicant [REP3-028]. d. **JNCC:** The JNCC have confirmed that they intend to defer to NE as lead SNCB, as confirmed in their Deadline 3 response and therefore will not look to develop a SoCG with the Applicant. e. **RSPB:** The RSPB remain engaged and have engaged in the development of a SoCG with the Applicant [REP1-039], as confirmed in their Deadline 3 response. The Applicant is currently arranging a further meeting with the RSPB to update the SoCG. f. **NatureScot:** The Applicant notes no response to the examination contact and therefore the presumption is that their priority lies with Scottish projects. 63. The Applicant noted that it has sought a SoCG with three parties (NRW, MMO, RSPB) and that NE will progress a Principal Areas of Disagreement and development of the Risk and Issues Log. The Applicant continues to engage with all parties between deadlines as appropriate, having regard to their stated resource constraints. 64. The Applicant noted that it considers the Morgan Generation Assets has far less ecological risk than other offshore wind farms developed in recent years across the UK. The Proposed Development is well sited, outside of any designated site, the nearest site being over 8km away, and it does not support a high number of seabirds that are connected to designated sites. The

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		Applicant also noted that there are no Annex I habitats that have been recorded in the Morgan Array Area. 65. Therefore, despite the challenges caused by resource constraints, the Applicant has made significant progress in resolving issues across the various topics with the SNCBs. The Applicant notes that it is understood by most stakeholders that this project has overall very low ecological impacts. 66. The Applicant advised that there are a number of existing outline plans submitted with the Application that will be updated and additional plans that will be submitted at Deadline 4. The Applicant listed the additional plans to be provided: a. Outline Offshore Environmental Management Plan (which will include the Marine Pollution Contingency Plan, outline measures to minimise the potential spread of non-invasive non-native species and the measures to minimise disturbance for marine mammals and rafting birds); b. Outline Construction Methods Statement (as requested which will include the Outline Cable Specification and Installation Plan); c. The Applicant also anticipates submitting the Great Orme SSSI Note, which will include cumulative aspects (alongside the justification note explaining why the cumulative effects differ in comparison to other projects) as requested by NRW; and d. The Applicant will also provide the conservation objectives, as requested by the ExA, and e. the Commitments Registers (which is the updated version of the Mitigation and Monitoring Schedule). 67. The Applicant confirmed that it will also be providing, at Deadline 5, an Ornithological Methodological issues document to present the information in a format as discussed with NE which is expected to resolve all the ornithological outstanding matters. 68. Further to the above, the Applicant provided greater detail in respect of the issues noted by each of the stakeholders, as outlined below, with a particular focus as to NE, MMO and NRW. **Natural England** 69. The Applicant stated that it has been engaging with NE as much as possible and has made significant progress. The Applicant hopes NE will confirm matters as resolved following review of various clarification documents. The Applicant noted that there are two fundamental points on the ornithological methodological issues with NE which make up the first of the ‘red’ issues noted by NE on the Principal Areas of Disagreement: • the position of the parties and the presentation of the numbers in respect of ornithology impacts and

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		• perceived differences regarding presentation of the cumulative assessment. The Applicant explained that there a number of ways of conducting these ornithological assessments and that they are all technically correct. The Applicant has conducted its assessments based on the best available scientific information and does not feel that these need to be updated or new assessments provided, but has sought to provide clarification as to how to present the information in a way that satisfies the SNCBs. The Applicant noted again that there is general agreement across the SNCBs that the ornithological risk from this project is low, but the Applicant is keen and committed to providing as much clarificatory information as possible. This includes seeking to calculate the impact from historic projects, which have not be done at this scale for an offshore wind farm in the UK. The Applicant is committed to supporting the industry and bettering available ecological data, which has been appreciated by the stakeholders. 70. The Applicant clarified that NE has not requested an updated chapter and impact assessment, but instead are seeking a table or spreadsheet to show what NE consider to be the most appropriate parameters compared with the Applicant's position. The Applicant also confirmed that NE has not requested a complete reassessment of the cumulative environmental assessment and instead only require a final table or spreadsheet with the updated CEA numbers included. The Applicant will continue to work with NE to provide the agreed information in a format which resolves this issue. 71. The Applicant confirmed that NE agree that there is a low risk of adverse effects on integrity on any site in the National Site Network, as set out in NE's response to the ExA's question HRA 1.1 [REP3-048] and that NE do not anticipate a Habitats Regulations Assessment derogation case being required. The Applicant confirmed that NRW also agree that there are unlikely to be any adverse effects on integrity on any European sites [REP3-051]. The Applicant stated that it has looked to reduce effects of ornithological receptors as much as possible throughout the consenting process and therefore the impact on ornithological receptors is very low compared to other offshore wind farms in the UK. The Applicant noted that it has committed to an air gap that is well above the minimum industry standard to ensure that risks are minimised. The Applicant's position is that the impact on ornithological receptors in general is very low and when the quantified impacts are apportioned to individual special protection areas (SPAs), impacts on those SPA features equates in many cases to a fraction of a single bird; in some instances these impacts equate to one bird impacted over a period of 5 – 20 years depending on the species and site being considered. 72. The second 'red' issue noted by NE on the Principal Areas of Disagreement is in regard to Noise Abatement Systems (NAS), where NE wish the Applicant to commit now to the use of NAS. The Applicant confirmed that NAS is proposed as one of the available mitigation measures in the Underwater Sound Management Strategy (UWSMS) alongside other measures to reduce the magnitude of underwater sound with a specific consideration as to the key species

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		at risk. The Applicant noted the positive engagement regarding the UWSMS with the SNCBs and the MMO. 73. The third and final red flag issue on the NE Principal Areas of Disagreement relates to the signing off of plans in the post-consent phase and related timings. The Applicant noted that it is in ongoing discussions with the MMO on this point and will discuss with NE. **Marine Management Organisation** 74. The Applicant noted that outstanding issues with the MMO include discussions around the UWSMS, seasonal piling restrictions relating to potential impacts on fish species and the use of NAS for high order UXO clearance. The Applicant noted that all these key points, as well as those other points included in the MMO SoCG, continue to be discussed with the MMO and that the Applicant is confident that all issues will be resolved by the end of the examination. **Natural Resources Wales** 75. The Applicant confirmed that NRW have raised similar comments on the ornithological methodology to NE and that engagement with NRW is ongoing on these points. The Applicant stated that it is hopeful that the path identified with NE to resolve their concerns will also assist in resolving issues raised by NRW. The Applicant confirmed that it is continuing to provide a number of clarifications in respect of assessment of impacts on marine mammals, but that NRW are in agreement with the proposed mitigation of developing the UWSMS post-consent. **Response to ExA comments regarding HRA derogation** 76. The Applicant was informed that the ExA would be requesting a ‘without prejudice’ derogation case if the SNCBs are unable to rule out an adverse effect on integrity. The Applicant re-iterated its position that it was unnecessary to submit a ‘without prejudice’ derogation case at this time as there will be no adverse effect on integrity (alone or in-combination) on any sites in the National Site Network. The Applicant stated that doing so will cause further difficulty in respect of the existing resourcing constraints of the SNCBs given it would not be clear what site(s) or what species any such case should be developed. Further, the Applicant stated that it is not unusual for the SNCBs to not out rule adverse effects on integrity until all their methodological concerns have been addressed, even where they considered it highly unlikely and that they will be able to conclude that adverse effects and integrity can be ruled out by the end of the examination (which is the Applicant’s understanding of the situation here). 77. The Applicant noted that in terms of the relevant policy within the NPS on when a derogation case should be produced [**Post hearing note**: see EN-1 paragraph 5.4.26; EN-3 paragraph 2.8.267 and 2.8.268], the SNCBs continue to give no indication that adverse effects on integrity are likely and therefore it is the Applicant’s position that such a derogation case is not needed by reference to the NPS or otherwise. The Applicant anticipates that the methodological concerns will be addressed by Deadline 5 where the applicant will provide NE with the

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		requested table or spreadsheet. Until this is provided, the Applicant does not consider that NE will be willing to say definitively that there is no adverse effect on integrity until these points are addressed and therefore it is unlikely that the confirmation requested by the ExA will be able to be provided at Deadline 4. The Applicant stressed that this application is not a situation where the SNCBs are suggesting that there is derogation required; it is simply a case that they cannot rule this out until their concerns have been suitably addressed. The Applicant committed to continue to work with the SNBCs to try and resolve matters as soon as possible. The ExA requested that the Applicant set out its response on why a derogation case is not required for this project.
b)	**Mitigation and Monitoring Plans** The ExA will ask for the Applicants response to the Marine Management Organisation (MMO) comments at Deadline 3 on Mitigation and Monitoring plans to include: • Development of the Underwater Sound Management Strategy (UWSMS). • The request for additional consideration of potential UWS effects to scallop larvae. • The request for all monitoring to be collected in the Outline In-Principle Monitoring Plan.	78. The Applicant was asked to respond to comments raised by the MMO in respect of seasonal piling restrictions as a mitigation measure. The Applicant noted that, at this point in the design of the Morgan Generation Assets, it is not confirmed that piling will be used. The Applicant acknowledged that the need for mitigation should piling be used may be necessary, but greater certainty on what was required (if anything) would be better understood following detailed design being completed. 79. The Applicant noted that the UWSMS currently contains the options to use seasonal piling or NAS as a mitigation measure for the species of concern. Both seasonal piling and NAS serve the same objective or reducing sound from piling for fish species (i.e. cod and herring), and as such the Applicant does not consider it ecologically necessary nor appropriate to employ the use of both measures. The Applicant notes that an updated policy position on underwater sound and NAS is anticipated, and the Applicant will react to this once it is available. The UWSMS provides flexibility if the policy landscape changes with regard to NAS. 80. The Applicant explained that through the process of discharging conditions of the DMLs and approving the final plans, the MMO has fundamental control. There is no disagreement that appropriate measures are available (and set out within the UWSMS) and that there can be no construction of the Proposed Development unless and until the appropriate mitigation measures are in place. The Applicant considers the process for establishing these mechanisms is tried and tested (it is entirely common place for the detail of specifics relating to mitigation to be established post consent once the final design is known), and therefore does not consider there to be any fundamental risk in respect of this matter. 81. Following a query from the ExA as to the need of a condition in the DCO addressing the need for NAS or seasonal piling restriction, the Applicant does not consider it correct to include restrictive conditions that are based on an assumption of what future policy may contain, or potentially pre-judge what the final design may necessitate. The Applicant noted that at this stage it does, therefore, not consider it necessary to put forward a 'without prejudice' position, as it considers the UWSMS the appropriate and pragmatic mechanism to deal with this matter. The Applicant submitted that the ExA can have confidence that suitable mitigation will be in

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		place, based on the fact that the Applicant has put forward measures within an outline plan where the MMO has the final determination as to which measures to be secured based on the final design. The Applicant stated that, for that reason, the SoS can be satisfied that suitable mitigation will be in place as the MMO, as the discharging authority, will retain the ultimate control. The Applicant confirmed that it will continue to engage with the MMO on this point but that it considers the current position to be correct. 82. The Applicant was asked to comment on the MMO's reference to a cited 2013 paper at Deadline 3 as to impacts to scallop larval from sound. The Applicant outlined that the impact assessment for the Proposed Development has considered the impact of shellfish (in both adult and larval stages) and did consider evidence of the cited paper. The Applicant stated that it has given specific consideration as to shellfish and invertebrates within the Environmental Statement within the Fish and Shellfish Chapter [APP-055] at 3.9.3.73 (again with reference to the 2013 paper cited by the MMO) and has also considered the particle motion sensitivity as detailed in the Underwater Sound Technical Report [APP-028] at section 10.5. 83. In terms of effects on scallop larvae, the Applicant stated that it would expect there to be limited effect to scallop larvae at a population level and noted that the experiment conditions in the cited 2013 paper exposed the scallop larvae to continuously high noise levels with experimental tanks over a period of 90 hours. The effect of this continual exposure led to deformities and slow larval growth rates. That experiment is not a comparable scenario to the potential conditions that would be experienced during construction of the Morgan Generation Assets. The Applicant stressed that piling, if employed, would be intermittent across the whole array area and elevated noise levels would never occur continuously over a period of 90 hours. In addition, taking into account the water movements within the Irish Sea, the scallop larvae would never be within a particular impact range for even a full piling sequence. Further, the Applicant does not consider it necessary to include scallop larvae within the UWSMS on the basis that the UWSMS has been designed to consider such activities which exhibit potential <u>significant</u> effects on particular sensitive receptors, as identified in pre-application consultation and the outcomes of the impact assessment. As there are no potential for significant effects identified, the Applicant does not consider it appropriate to include scallops (either as adults or larvae) within the UWSMS as a species to be considered. 84. The Applicant noted that as a general point, although the UWSMS has been designed to specifically target certain fish and marine mammal species, the benefits in terms of reduction in the magnitude of noise emissions on those species will also benefit other mammal, fish and shellfish species, including scallop. 85. The Applicant stated that it has proposed a 5-year scallop monitoring programme, which is cognisant of work ongoing in the region to obtain a regional perspective and provides broader context to enable the Applicant to appropriately draw workable conclusions to avoid isolated findings.

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		86. The Applicant confirmed that its position is that it has fully assessed all of the potential impacts on scallops as outlined in the Environmental Statement within the Fish and Shellfish Chapter [APP-055] during the construction, O&M and the decommissioning phases. The Applicant stated that it has relied on the best available scientific evidence (including monitoring from historic wind farms and various scientific studies as can be clarified in written submissions). Overall, the Applicant stated that the evidence presented in the EIA strongly indicates that both queen and king scallops will return to the impacted areas and will not face significant effects, even within a precautionary approach undertaken within the EIA (i.e. assuming a maximum design scenario which may not be fully realised). 87. The Applicant expressed that its reason to undertake monitoring in respect of the scallops has not been determined by the findings of the EIA, which has identified no significant effects. The reason to undertake monitoring is based on the understandable concerns of the fishing stakeholders on this matter, as well as to provide a better evidence base to inform any future development coming forward and to better enable future dialogue with the fishing stakeholders on this specific matter. 88. The Applicant confirmed that it continued to engage with NE regarding the need for other ecological monitoring, including that for marine mammals. The Applicant noted that the need for monitoring has to have regard to the legal and policy context, with the Applicant considering it has committed to a suitable level of monitoring as part of the application. that the Applicant referred to regulation 21(3) of the Infrastructure Planning (Environmental Impact Assessment Regulations) 2017 that sets out that measures *“should be proportionate to the nature, location and size of the proposed development and the significance of its effects on the environment”.* The Applicant stated this is consistent with the approach that the Applicant has taken. The Applicant has looked at impacts where there is the potential for significant effects, as well as where there is associated uncertainty, or has looked to include monitoring to address a specific concern of a stakeholder (such as in respect of fisheries). The Applicant’s position in respect of the wider requirements for monitoring that have been put forward by NE is that they are not necessary on the evidence of the assessment that has been undertaken. 89. The Applicant recognised that it has been common-place for ornithology to be a key consent risk item for many of the offshore wind farm projects that have come forward in the UK in recent times, and therefore, there has rightly been a focus around monitoring for these projects. However, that does not mean it should be a default that ornithological monitoring is a given, and the Applicant’s position remains that ornithological monitoring is not required in this instance, as supported by the data included in the Applicant’s assessments. The Applicant submitted that given the low bird numbers present at site any ornithological monitoring would be unlikely to have the power to deliver meaningly results, and without having regard to wider data means that such monitoring would be likely to fail to set out findings in context which is paramount for any wider ranging receptor. The Applicant gave a specific example as to how monitoring of Manx

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		shearwater as proposed by NE would very likely (based on what is known about their usage in the Morgan Array Area vicinity) to fail to deliver any meaningful outputs. The Applicant confirmed that it would respond in writing to the NE's request at Deadline 4.
8. Draft Development Consent Order (DCO) and Deemed Marine Licences (DML)		
a)	The Applicant is to summarise the updates to the draft DCO as submitted at Deadline 3 [REP3-013] and answer any subsequent questions from the ExA on such updates.	90. The Applicant summarised the updates to the draft DCO and DMLs submitted at Deadline 3. The Applicant explained that the main changes were to align the drafting with previous precedent that had been referred to by the ExA in written questions and to address some outstanding questions from the MMO and NE on some points of the drafting. The Applicant did not speak to all of the changes but outlined the following notable changes that have been made. a. The Applicant has, following concerns raised by the MMO and NE, amended the definition of 'maintain' to specifically relate the definition to what was assessed within the Environmental Statement. b. The Applicant has, within Schedule 2 Requirement 2, added a specific provision that no part of the wind turbine generators will be constructed beyond the Order Limits. This amendment was made in response to a point of clarification raised by the ExA. c. The Applicant has, again to align the DCO and DMLs with what was assessed in the Environmental Statement, added a number of new parameters into the DCO at Schedule 2 in the requirement section and in the conditions of the DMLs. The parameters that have been added include: i. maximum hammer energy; ii. minimum distance from highest astronomical tide to the lowest point of the turbine blades; iii. maximum number of turbines with jacket pin pile foundations; iv. maximum total volume of extracted seabed material that will be used in gravity-based foundations; v. maximum total of cable protection; and vi. maximum total seabed footprint area for cable protection.
b)	The Applicant is to update the ExA on any changes to the draft DMLs including security for proposed mitigation and monitoring and answer any subsequent questions from the ExA.	91. Specific to the DMLs, the Applicant has made the following notable changes: a. **Schedule 3 and 4 at Paragraph 2:** a new definition has been added in Paragraph 1 for "UXO". This reflects that UXO clearance works is now as a specific activity authorised under the DML, following a request from the MMO.

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		b. **Schedule 3, Condition 20(1)(a)(2):** there has been a change to the micro siting figure from 125m to 55m to address comments raised by various parties in respect of previous precedent and maximum allowances. c. **Schedule 3 Condition 20(1)(a)(5):** amendment to micro siting requirements in respect of benthic habitats (identified as Annex 1 reef habitats) to align with standard drafting in precedent for offshore windfarm DCO and DMLs. The Applicant explained that this change was made at the request of NE, however, the Applicant noted that no annex 1 reef habitat have been identified in the baseline studies for the Proposed Development. d. **Schedule 3 and 4, Condition 23(6):** a new sub paragraph has been added to limit the number of UXO that can be cleared as part of the Proposed Development 13, following request from the MMO. 92. The Applicant clarified that the reason for including UXO clearance in the DMLs is that it allows those activities to commence promptly post-consent without a further licencing process. The Applicant noted that consideration of UXO clearance in applications had been driven at the request from the MMO over the last decade (as it was deemed a reasonably foreseeable activity). The industry has moved to align itself with that request, and now ensuring that the DMLs covers this activity is the next logical step. Any information required to support a licence application has been included in the assessment, therefore, the Applicant does not see the rationale for the MMO to not agree to its inclusion. The Applicant explained that it has put forward mitigation measures which, pursuant to conditions secured in the DCO / DML (underwater sound management strategy and marine mammal mitigation protocol) would mitigate any potential for significant adverse impacts of UXO clearance. The Applicant explained that it would continue engagement with the MMO on this point and the Applicant understood that the inclusion of UXO clearance in the DML was not of itself a key concern for the MMO. However, if this was a fundamental point, then the Applicant could apply for a standalone marine licence for those works. 93. The Applicant confirmed that it would review its Deadline 3 responses to the MMO [REP2-029] (101-139) and consider the ExA's comments that more detail may be required on these.
c)	The Applicant is asked to provide comment on the MMO's response to ExQ1 GEN 1.21 [PD-004] regarding a potential new standard DML condition for decommissioning.	94. The Applicant explained that the MMO's response to ExQ1 GEN 1.21 [PD-004] was the first notice to the Applicant of this DML condition. 95. The Applicant submitted that its preliminary view is that such a condition is unnecessary, as outlined in the Applicant's own response to ExQ1 GEN 1.21 [REP3-006]. The key point being that the decommissioning of offshore windfarms is already governed by separate legislation (see Section 105 of the Energy Act 2004).

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		96. There are well-established legal and policy tests as to when conditions should be imposed on a consent (see Paragraph 4.1.16 of NPS EN-1) and from a general planning practice perspective (see Planning Practice Guidance, Use of Conditions). There are clear tests to be considered, these being that the conditions should be necessary, relevant to planning, relevant to the development to be permitted, enforceable and reasonable in all other respects. 97. The Applicant's initial view (without having seen the condition in question) is that it does not see how such condition could meet the relevant tests especially where the process is already provided for in separate legislation. In particular, how this could be meet the tests of being necessary, relevant to planning and reasonable. 98. Further NPS EN-3 at paragraph at 2.8.88 and 2.8.89 provides commentary regarding decommissioning of offshore windfarms referencing Section 105 of the Energy Act 2004, but makes no suggestion that this should be secured by condition. The Applicant submitted that the lack of reference to requiring a condition suggests that no condition is required. 99. Finally, the Applicant considers that, subject to the terms of such a condition, it could cause some difficulties for developers if the Secretary of State and the MMO disagree as to what is acceptable in a decommissioning plan. Such a position could create complication in reconciling the Secretary of State's legislative role under the Energy Act 2004 and the MMO's regulatory role under the terms of the DML, causing unnecessary complication where the Secretary of State is already in control of this process. The Applicant will continue to engage with the MMO on this point, but the Applicant is unlikely to agree this through the Examination.
d)	The ExA will ask for a summary of any further updates expected to be made to the draft DCO and DMLs.	100. The Applicant confirmed that it is in discussion on the need for requirements with various parties that have raised matters relating to aviation and radar. Regarding radar, the Applicant noted that there are standard and well precedented requirements used in DCOs and so expects a non-complex variation on such standard wording where a requirement was determined to be needed. The Applicant confirmed it will continue engagement with BAE Systems with a view to reaching an agreed requirement by Deadline 5 but where this is not possible then the Applicant will provide their preferred form and will make submissions on where there are points of disagreement.